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Friday
May 2, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.; New Orleans, La.; Salt Lake City, Utah; Seattle, Wash.; Chicago, Ill.; St. Louis, Mo.; and Pittsburgh, Pa.**, see announcement in the **Reader Aids** section at the end of this issue.

29287 **Iranian Assets Control** Treasury/Foreign Assets Control amends rules to add certain licenses and licensing policy, and interpretative and procedural provisions; effective 4–30–80

29546, 29553 **Gasoline** DOE/ERA issues rules and proposed rules regarding pricing by resellers and reseller-retailers; effective 5–1–80; comments by 7–1–80 (Part VIII of this issue) (2 documents)

29380, 29381 **Minority Business** Commerce/MBDA seeks applications for project grants in various locations; closing dates 5–14 and 6–1–80 (4 documents)

29416 **Law School Clinical Experience Program** HEW/OE extends the closing date for transmittal of applications for new projects for FY 1980; apply by 6–16–80

29414 **Organizational Processes in Education** HEW/OE accepts applications for grants in program research; apply by 6–5–80

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29527 **Public Laws** List of Acts requiring publication in Federal Register, 1979 (Part III of this issue)

29535 **Medicare and Medicaid** HEW/HCFA corrects proposed rules on utilization review procedures for hospitals; comments by 7–1–80 (Part V of this issue)

29277 **Insured Home Mortgage Loans** HUD/FHC decreases FHA maximum interest rate; effective 4–28–80

29292 **Home and Condominium Loans** VA decreases maximum interest rate; effective 4–28–80

29277 **Mortgage and Improvement Loans** HUD/FHC requests comments on interim rule allowing amortization periods of other than five-year intervals for Mutual Mortgage Insurance and Insured Home Improvement Loans; effective 5–22–80; comments by 7–1–80

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29280 **Outer Continental Shelf** Interior/GS issues rules assuring prompt and efficient exploration and development of oil, gas and sulphur in leased areas; effective 6–30–80

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Rules and Regulations

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 351

Reduction in Force

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: These final regulations provide for agency use of performance appraisal systems prescribed by the Civil Service Reform Act to determine the weight of performance as a reduction in force retention factor.

EFFECTIVE DATE: May 2, 1980.

FOR FURTHER INFORMATION CONTACT: Theodore R. Dow or Thomas A. Glennon (202) 632–4422.

SUPPLEMENTARY INFORMATION:

Background

On February 5, 1980, OPM published proposed regulations in the Federal Register (45 FR 7818) that would provide for agency use of performance appraisal systems prescribed by Section 203 of the Civil Service Reform Act in determining the weight of performance as a reduction in force retention factor. The 60-day period for interested parties to submit written comments ended on April 7, 1980.

Discussion of Comments

Sixteen written comments were received: nine from agencies, five from individuals, and two from unions. In addition, there were a number of telephone inquiries concerning specific provisions of the proposed regulations. The written comments may be summarized as follows:

(1) Four agencies believed that § 351.504(c) of the proposed regulations would give agencies too much latitude in assigning service credit for retention purposes to employees with performance appraisals that exceed the minimum standards, but are less than "Outstanding." However, another two agencies believed that OPM should permit agencies to give greater consideration to performance as a reduction in force retention factor. Finally, one individual and one union commented that performance appraisals should not be given any consideration in the determination of retention standing.

After full consideration of the comments we received and our own further review of the proposed regulations, we have adopted the proposed § 351.504(c) with only editorial changes for clarification of the material. The proposed § 351.504(c) provides agencies with a proven method of distinguishing between the performance of both "Outstanding" and minimally acceptable employees for reduction in force purposes. In addition, § 351.504(c) gives agencies the responsibility and flexibility to credit other employees with amounts of service for retention purposes in accordance with each individual agency's individual performance appraisal system.

We plan to give additional consideration to the comments we received concerning the proposed regulations published at 45 FR 7818 in carrying out a thorough review of the present reduction in force system. As part of this review, we plan to consider whether additional weight should be given to performance in reduction in force and, if so, what procedures should be followed to award this credit. However, these final regulations are intended to meet an immediate need by providing a means for agencies to use new performance appraisal systems authorized by the Civil Service Reform Act in the determination of employee reduction in force retention standing.

(2) Four comments from agencies and two from individuals were concerned that certain provisions of the proposed regulations published at 45 FR 7818 would either prematurely remove certain employees from reduction in force competition, or would be cumbersome for agencies to administer. Specifically, there was concern with the proposed § 351.404(c)(2), which would have removed from reduction in force competition an employee with a notice of proposed removal under § 432.204(a) of this title, based on "Unacceptable Performance" as defined in § 432.202 of this title.

The final regulations reflect these concerns. We have revised § 351.404(c)(2) to provide that an employee with a written decision, rather than a proposed notice, of removal for "Unacceptable Performance" is excluded from reduction in force competition. In addition, we have added a new § 351.405 to clarify that an employee who has received a written decision of demotion because of "Unacceptable Performance" is not in reduction in force competition on the basis of the position from which he or she will be demoted.

(3) One agency suggested that reduction in force retention credit for performance be based upon a full year of performance rather than upon periods as small as 90 days, the minimum appraisal period that is permitted by the controlling regulations published at Part 430 of this title. However, § 351.504(a) has long provided that an employee's performance appraisal of record on the date specific reduction in force notices are issued is used to determine the employee's entitlement to additional service credit for retention purposes. We believe that this arrangement is fair to all parties, and that an employee's current performance appraisal should be used in the determination of his or her retention standing, subject to the provisions of § 351.504(a).

(4) One agency suggested that OPM clarify how agencies establish and maintain reduction in force retention registers. Another suggested that we revise our regulations concerning reemployment priority lists. In fact, we are presently considering a revision of certain other material found in Part 351. However, any further revision of the Part 351 regulations would be published separate from the proposed regulations published at 45 FR 7818.

(5) One agency that submitted written comments, along with several other agencies that made telephone inquiries, noted a typo in the proposed § 351.504(c): in the fifth sentence, ". . . and amount . . ." was erroneously printed instead of ". . . any amount . . ." This has been corrected in the final regulations.

(6) The remaining two comments were received from individuals. One believed that the proposed regulations published

at 45 FR 7818 would allow outstanding employees to retire before the normal retirement age. In fact, there is no authority under Part 351 to award credit for the purposes of any retirement system.

The remaining comment was concerned that the proposed reduction in force regulations might be discriminatory, particularly if discrimination is present in an agency's performance appraisal system. Under 5 U.S.C. 3502(a)(L), agencies are required to consider each employee's performance rating in determining his or her retention standing. These final regulations allow agencies to use new performance appraisals authorized by the Civil Service Reform Act in the determination of the employee's retention rights under Part 351. Agencies are expressly prohibited from engaging in discriminatory practices by other statutes and related controlling regulations, which offer specific remedies for individuals who believe that they have been discriminated against.

Modification of the Proposed Regulations

As a result of the written comments we received and our own further consideration of the proposed regulations published at 45 FR 7818, we have made the following specific changes in the final regulations, as indicated below:

(1) § 351.404(c)(2) is revised to provide that an employee with a written decision of removal under § 432.204(a), based upon "Unacceptable Performance" as defined in § 432.202, is a noncompeting employee for reduction in force purposes. This approach gives better recognition to an employee's right to administrative due process that the proposed regulations, which would have provided that an employee with a notice of proposed removal because of "Unacceptable Performance" would have been a noncompeting employee for reduction in force purposes.

(2) § 351.405 is added to clarify how employees faced with demotion because of "Unacceptable Performance," as defined in § 432.202, compete under Part 351. Specifically, the new § 351.405 provides that an employee who has received a written decision under § 432.204(a) to demote him or her because of "Unacceptable Performance" competes under Part 351 on the basis of the competitive level to which he or she will be demoted.

(3) § 351.504(c) is revised to clarify how agencies give service credit for retention purposes based on employee performance appraisals. Specifically, § 351.504(c) still provides that each employee who has an "Outstanding" performance rating (or its equivalent) will receive 4 additional years of service for retention purposes. However, the revised § 351.504(c) provides that each employee whose performance meets, but does not exceed, the minimum performance standards for the critical elements of his or her position may not receive any additional service credit for retention purposes. Under the revised § 351.504(c), agencies may use employee performance appraisals authorized under Subpart B of Part 430 of this title to assign other employees, whose performance is less than "Outstanding" (or its equivalent) but nonetheless exceeds the established minimum performance standards for the critical elements of their positions, an amount of service credit for retention purposes ranging from 0 to less than 4 years.

The revised § 351.504(c) eliminates a specific reference to the employee whose performance is "fully acceptable" and should thus be clearer for agencies to implement by using language that is closer to Part 432 of this title.

Pursuant to 5 U.S.C. 553(d)(3), the Director finds that good cause exists for making this amendment effective on the date of publication to provide continuity of operations.

OPM has determined that these are significant regulations for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR Part 351 is revised to read as follows:

(1) § 351.404 is revised as set out below:

§ 351.404 Retention register.

(a) Each agency shall establish a separate retention register from the current retention records of employees in, and employees temporarily promoted from, each competitive level affected when a competing employee is to be released from a competitive level under this part.

(b) The agency shall enter on the retention register in the order of his or her retention standing the name of each competing employee in, and each competing employee temporarily promoted from, a competitive level (whether in duty, leave, or furlough status), except an employee on military duty with a restoration right.

(c) The agency shall enter on a list apart from the retention register the name and expiration date of the appointment or promotion of each employee serving in a position under specifically limited temporary appointment or temporary promotion, followed by the name of each employee serving in the competitive level with, as applicable:

(1) A performance rating of less than "Satisfactory" in an agency that has not implemented a performance appraisal system meeting all the requirements of 5 U.S.C. 4302 and Subpart 430–B of this title; or

(2) A written decision under § 432.204(a) of this title to remove him or her because of "Unacceptable Performance" as defined in § 432.202 of this title.

(2) § 351.405 is added to read as follows:

§ 351.405 Employees demoted because of unacceptable performance.

An employee who has received a written decision under § 432.204(a) of this title to demote him or her because of "Unacceptable Performance," as defined in § 432.202 of this title, competes under this part from the position to which he or she will be demoted.

(3) § 351.504 is revised as set out below:

§ 351.504 Credit for performance.

(a) Each employee's performance rating of record on the date of issuance of specific reduction in force notices shall determine the employee's entitlement to additional service credit for performance under this section.

(b) An agency that has not implemented a performance appraisal system meeting all the requirements of 5 U.S.C. 4302 and Part 430 Subpart B of this title, and assigns summary adjective performance ratings, shall credit the following employees with additional service, which is added to each employee's creditable service under this part:

(1) Each employee who has an "Outstanding" performance rating shall receive 4 years of additional service; and

(2) Each employee who has a performance rating between "Satisfactory" and "Outstanding" shall receive 2 additional years of service.

(c) An agency that has implemented a performance appraisal system meeting all the requirements of 5 U.S.C. 4302, and Part 430 Subpart B of this title, is responsible for using employee performance appraisals to credit employees with additional service toward retention standing. This additional service is added to each employee's creditable service under this part. Each employee who has an "Outstanding" or highest appraisal

under the agency's system, shall receive 4 additional years of service. Each employee whose performance meets, but does not exceed, the established minimum performance standards for the critical elements of his or her position shall be credited with no additional years of service. Agencies may use employee performance appraisals to assign other employees whose performance exceeds the established minimum performance standards for the critical elements of the position, but is less than "Outstanding" or the highest equivalent appraisal under the agency's system, an amount of service credit ranging from 0 to less than 4 years.

Each agency is responsible for ensuring that these provisions are:

(1) Consistent with Part 430 Subpart B of this title; and

(2) Uniformly and consistently applied in any one reduction in force.

(5 U.S.C. 1302, 3502)

[FR Doc. 80-13633 Filed 5-1-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 250; Lemon Reg. 249, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period May 4–10, 1980, and increases the quantity of such lemons that may be so shipped during the period April 27–May 3. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective May 4, 1980, and the amendment is effective for the period April 27–May 3, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 31, 1979. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on April 29, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is slightly better.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 910.550 is added as follows:

§ 910.550 Lemon regulation 250.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period May 4, 1980, through May 10, 1980, is established at 265,000 cartons.

(b) As used in this section, "handled" and "cartons" mean the same as defined in the marketing order.

2. Paragraph (a) of § 910.549 Lemon Regulation 249 (44 FR 27910) is amended to read as follows: "The quantity of Lemons grown in California and Arizona which may be handled during the period April 27, 1980, through May 3, 1980, is established at 275,000 cartons."

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

Dated, May 1, 1980.

D.S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-13770 Filed 5-1-80; 12:05 pm]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1945 and 1980

Insured and Guaranteed Economic Emergency Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations on insured and guaranteed economic emergency (EE) loans. This action is required for immediate implementation of certain pertinent provisions of Public Law 96–220, including the extension date for making such loans under the insured and guaranteed authorities.

EFFECTIVE DATE: May 2, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. William Krause, USDA, FmHA, Room 5344, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. Telephone: (202) 447–6257.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified as "significant." The emergency nature of this action warrants publication of this final action without completion of a Draft Impact Analysis.

Mr. Alex P. Mercure, Assistant Secretary for Rural Development, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action in order to provide proper notification to the public and to continue the economic emergency (EE) loan program under existing regulations. The insured and guaranteed economic emergency (EE) loan regulations will be further revised in accordance with the new legislation (Pub. L. 96–220) and published in the **Federal Register** on or about May 15, 1980. An Impact Analysis will be prepared on the extension of this loan program as reflected in the revised regulations and will be made available at that time.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause

that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.**

On March 30, 1980, the President signed Public Law 96–220 amending Title II of Pub. L. 95–334 (Emergency Agricultural Credit Act of 1978). This law provides for the extension of the insured and guaranteed economic emergency (EE) loan programs from May 15, 1980, through September 30, 1981, and contains certain other provisions to further the objectives of the EE loan program. Therefore, FmHA amends Subpart C of Part 1945 and Subpart F of Part 1980, Chapter XVIII, Title 7, Code of Federal Regulations, as follows:

1. §§ 1945.102 and 1980.502 to show that Public Law 95–334 has been amended to reflect "September 30, 1981," as the new expiration date for making economic emergency loans, and to delete the phrase "national or area wide" as a description of the economic stresses necessary.

2. §§ 1945.104(a)(1) and 1980.504(a) to show that Pub. L. 95–334 is amended by Pub. L. 96–220.

3. § 1980.515(d) to change "May 15, 1980", to "September 30, 1981".

4. § 1980.518(e) to insert "September 30, 1981", as a replacement date wherever "May 15, 1980," appears in this subsection.

5. § 1980.520(c)(2) to change "May 15, 1980" on the first line to "September 30, 1981".

Accordingly, Chapter XVIII is amended as follows:

PART 1945—EMERGENCY

Subpart C—Economic Emergency Loans

1. § 1945.102 is amended to read as follows:

§ 1945.102 Program objectives.

The objective of EE loans is to make adequate financial assistance available during the period authorized by Title II of Public Law 95–334, as amended, (authority expires September 30, 1981) in the form of loans insured or guaranteed by FmHA for bona fide farmers and ranchers who are primarily and directly engaged in agricultural production so that they may continue their farming or ranching operations during the economic emergency which has caused a lack of agricultural credit due to economic stress such as a general tightening of agricultural credit *or* an unfavorable relationship between production costs and prices received for agricultural commodities. *It is the policy of FmHA to consider making insured EE loans only when guaranteed EE loans are not available through a local conventional agricultural lender.*

* * * * *

2. § 1945.104 (a)(1) is amended to read as follows:

§ 1945.104 Definitions and abbreviations.

(a) *Definitions.*

(1) *Act.* Emergency Agricultural Credit Adjustment Act of 1978 (Title II of Pub. L. 95–334, as amended by Pub. L. 96–220).

* * * * *

PART 1980—GENERAL

Subpart F—Economic Emergency Loans

3. § 1980.502 is amended to read as follows:

§ 1980.502 Program objectives.

The objective of EE loans is to make adequate financial assistance available during the period authorized by Pub. L. 95–334, as amended, (authority expires September 30, 1981) in the form of loans insured or guaranteed by FmHA for bona fide farmers and ranchers who are primarily and directly engaged in agricultural production so that they may continue their farming or ranching operations during the economic emergency which has caused a lack of agricultural credit due to economic stresses such as a general tightening of agricultural credit *or* in the alternative, an unfavorable relationship between production costs and prices received for agricultural commodities. *It is to be the policy of FmHA to make guaranteed EE loans before insured EE loans.*

* * * * *

4. § 1980.504 (a) is amended to read as follows:

§ 1980.504 Definitions. * * *

(a) *Act.* The Emergency Agricultural Credit Adjustment Act of 1978 (Title II of Pub .L. 95–334, as amended by Pub. L. 96–220).

* * * * *

5. § 1980.515 (d) is amended to read as follows:

§ 1980.515 Type of guarantee.

* * * * *

(d) *Program termination date.* A Loan Note Guarantee or Contract of Guarantee will not be executed after *September 30, 1981.*

* * * * *

6. § 1980.518 (e) is amended to read as follows:

§ 1980.518 Loan rates and terms.

* * * * *

(e) *Advances under a Contract of Guarantee—line of credit.* Prior to September 30, 1981, an outstanding guaranteed advance may be paid off before the end of its term with funds from a new guaranteed advance, provided the line of credit ceiling is not exceeded. However, no advance may be made for a term which exceeds the period remaining in the original or extended line of credit term. The line of credit term may be up to 7 years, but it is limited to the term established in the "Line of Credit Agreement." FmHA consent is not needed to make these line of credit advances under a Contract of Guarantee. After September 30, 1981, no new advances will be made. Advances outstanding at that time may be rescheduled for an additional 7 years with FmHA's consent. When deemed to be in the best interest of the Government and the borrower, and with FmHA's approval, advances rescheduled on September 30, 1981, may be rescheduled for an additional 7 years provided such rescheduling will not extend the loan terms beyond 14 years from the date of the original "Line of Credit Agreement."

* * * * *

7. § 1980.520 (c)(2) is amended to read as follows:

§ 1980.520 Collateral requirements.

* * * * *

(c) *Additional requirements.*

* * * * *

(2) Any extension of credit by the lender after September 30, 1981, will not be covered by the guarantee and, if it is to be secured, a lien must be taken on other collateral or the lien position taken on the existing collateral must be junior to any liens taken for the guaranteed EE advances.

* * * * *

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Authorities: 7 U.S.C. 1989; 5 U.S.C. 301; Title II of Pub .L. 95–334, as amended by Pub. L. 96–220; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23;

delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

Dated: April 17, 1980.

Thomas L. Burgum,

Acting Deputy Assistant Secretary for Rural Development.

[FR Doc. 80-13506 Filed 5-1-80; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 78

Brucellosis Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments add the county of Bannock in Idaho to the list of Certified Brucellosis-Free Areas and delete it from the list of Modified Certified Brucellosis Areas. It has been determined that this county qualifies to be designated as a Certified Brucellosis-Free Area. The effect of this action will allow for less restrictions on cattle moved interstate from this area. These amendments also add the county of Carroll in Arkansas, to the list of Modified Certified Brucellosis Areas and delete it from the list of Certified Brucellosis-Free Areas because it has been determined that this county now qualifies only as a Modified Certified Brucellosis Area. The effect of this action will provide for more restrictions on cattle and bison moved interstate from this area. These amendments also add the counties of Hardee and Hernando in Florida and the parishes of Cameron and Lafourche in Louisiana to the list of Noncertified Areas and delete such counties and parishes from the list of Modified Certified Brucellosis Areas because it has been determined that these counties and parishes now qualify only as Noncertified Areas. The effect of this action will provide for more restrictions on cattle and bison moved interstate from these areas.

EFFECTIVE DATE: May 2, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. A. D. Robb, USDA, APHIS, VS, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8713.

SUPPLEMENTARY INFORMATION: A complete list of brucellosis areas was published in the **Federal Register** (44 FR 76751-76754) effective December 28, 1979. These amendments add the county of Bannock in Idaho to the list of Certified Brucellosis-Free Areas in § 78.20 and delete this county from the list of Modified Certified Brucellosis Areas in § 78.21, because it has been determined that such county now comes within the definition of a Certified Brucellosis-Free Area contained in § 78.1(1) of the regulations. These amendments add the county of Carroll in Arkansas to the list of Modified Certified Brucellosis Areas in § 78.21 and delete this county from the list of Certified Brucellosis-Free Areas in § 78.20, because it has been determined that it now qualifies only as a Modified Certified Brucellosis Area as defined in § 78.1(m) of the regulations. These amendments add the counties of Hardee and Hernando in Florida and the parishes of Cameron and Lafourche in Louisiana to the list of Noncertified Areas in § 78.22 and delete such counties and parishes from the list of Modified Certified Brucellosis Areas in § 78.21 because it has been determined that such counties and parishes now qualify only as Noncertified Areas. This list is updated monthly and reflects actions taken under criteria for designating areas according to brucellosis status.

Accordingly, Part 78, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 78.20 [Amended]

1. In § 78.20, paragraph (b) is amended by adding: *Idaho.* Bannock; and deleting: *Arkansas.* Carroll.

§ 78.21 [Amended]

2. In § 78.21, paragraph (a) is amended by deleting *Louisiana.*

§ 78.21 [Amended]

3. In § 78.21, paragraph (b) is amended by adding: *Arkansas.* Carroll; *Louisiana.* Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Catahoula, Claiborne, Concordia, De Soto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson, Jefferson Davis, Lafayette, La Salle, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Orleans, Ouachita, Plaquemines, Pointe Coupee, Rapides, Red River, Richland, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John The Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Tensas, Terrebonne, Union, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana, Winn; and by deleting: *Florida.* Hardee, Hernando; *Idaho.* Bannock.

§ 78.22 [Amended]

4. In § 78.22, paragraph (b) is amended by adding: *Florida.* Hardee, Hernando; *Louisiana.* Cameron, Lafourche.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111-113, 114a-1, 115, 117, 120, 121, 125, 134b, 134f, 37 FR 28464, 28477); 38 FR 19141, 9 CFR 72.25)

The amendment designating areas as Certified Brucellosis-Free Areas relieves restrictions presently imposed on cattle moved from the areas in interstate commerce.

The restrictions are no longer deemed necessary to prevent the spread of brucellosis from such areas and, therefore, the amendment should be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions.

The amendment designating an area as a Modified Certified Brucellosis Area imposes restrictions presently not imposed on cattle and bison moved from that area in interstate commerce. The restrictions are necessary in order to prevent the spread of brucellosis from such area.

The amendment designating areas as Noncertified Areas imposes restrictions presently not imposed on cattle and bison moved from that area in interstate commerce. The restrictions are necessary in order to prevent the spread of brucellosis from such area.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Paul Becton, Director, National Brucellosis Eradication program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C. this 28th day of April 1980.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-13503 Filed 5-1-80; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 92

Importation of Certain Animals and Poultry and Certain Animal and Poultry Products; Inspection and Other Requirements for Certain Means of Conveyance and Shipping Containers Thereon; Harry S. Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document publishes the fees and amends and clarifies the method of collection of the fees from importers for the second importation of cattle to be imported through the Harry S. Truman Animal Import Center (HSTAIC). This action is necessary in order to ensure that importers will be advised of the expected costs for importing cattle through the HSTAIC and the manner of payment. This action should also make possible the coordination and allocation of personnel and resources for the operation of the HSTAIC and ensure its availability to receive cattle.

EFFECTIVE DATE: April 24, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, MD 20782, 301-436-8170. Actions of this kind were anticipated under the provisions of 9 CFR Part 92.41 and are specifically considered in the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8695.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Dr. Milton J. Tillery, Director, National Program Planning Staffs has determined that an emergency situation exists which warrants publication without opportunity for public comment period on this final action because these amendments impose additional restrictions relating to the issuance of special permits for quarantine of cattle at the Harry S. Truman Animal Import Center and are essential in order to allow the Department to better coordinate and allocate personnel and materials to the facility. The cattle must pass a three month pre-entry quarantine in their country of origin and certain required inspections and tests prior to being allowed to enter the HSTAIC. The importers of the cattle must make arrangements for the pre-entry quarantine in the country of origin, as well as obtain clearance for this Department's personnel to observe the pre-entry quarantine and conduct the inspection and tests.

The fees prescribed herein for the second quarantine period are based upon full utilization of the facility. If there is less than full utilization of the facility during this quarantine period, then it will not be self-supporting to the fullest extent possible as Congress intended. However, whether or not the facility will actually be fully utilized is dependent on several factors, the first of which is the ability of all prospective importers to obtain the necessary financing to enter into the required cooperative agreement. If a prospective importer cannot obtain such financing the facility will not be fully utilized, unless there is time for another importer to be offered the space in accordance with the regulations and he has time to make all the necessary financial and pre-entry quarantine arrangements. Since the second importation of cattle into HSTAIC is scheduled for October 1980, and the cattle must have successfully completed a three-month pre-entry quarantine period in their country of origin, it is necessary to publish these regulations as a final rule, to become effective immediately, in order to allow the importers of cattle to (1) secure the necessary financing; (2) enter into a cooperative agreement with the Department; and (3) make the necessary arrangements for the required pre-entry quarantine procedures. This is necessary in order to insure that the space available in HSTAIC is as fully utilized as possible.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.**

On Friday, February 16, 1979, there was published in the **Federal Register** (44 FR 10052-10056) an amendment to 9 CFR Part 92.41 that published the fees and the method of collection of the fees from importers of cattle to be imported through the Harry S. Truman Animal Import Center (HSTAIC).

On Friday, November 2, 1979, there was published in the **Federal Register** (44 FR 63082) an amendment to the regulations that established a specific date for receipt of applications for special permits to be drawn on a lottery basis for the allotment of quarantine space for the second group of cattle to be imported through the Harry S. Truman Animal Import Center.

The costs associated with the operation of the Harry S. Truman Animal Import Center are to be borne by the importers using this facility and will vary in accordance with the actual number of animals utilizing the facility. Based upon the number of applications for special permits received by APHIS, the facility should be fully utilized for the second importation, and the rate for this importation will be $4,571 per animal. Each importer who has been authorized a permit in the drawing, must sign a cooperative agreement which sets forth the payment requirements prior to being awarded a special permit to import cattle into HSTAIC.

In order to provide sound financial management both for the prospective importers and the Department, it is essential that the importers, prior to issuance of the special permits, assume fiscal responsibility for the expenses to be incurred. Due to the unusual nature of the service and the need to have adequate funds on a fee basis available to the Department for the cost of the significant services which will be performed in connection with the importation of animals into the HSTAIC in accordance with the provisions of section 1 of the Act of May 6, 1970 (21 U.S.C. 135), the Department presently requires either advance payment or a payment bound meeting the requirements specified in the cooperative agreement.

The Department is adding a new paragraph A.1.c. to the cooperative agreement in order to give the importers another option to fulfill their obligation of insuring the Department full reimbursement for its services associated with HSTAIC at as low a cost to them as possible. Accordingly, paragraph A.1.c. is added to allow an importer to deposit with the Service upon execution of this agreement, a letter of credit from a Commercial Bank to the Service in an amount equal to the established fee multiplied by the number

of cattle for which an import permit is to be issued to the cooperator. Payment will be due one month prior to the day the cattle are scheduled to be released from quarantine, or one month prior to the termination of this cooperative agreement, whichever occurs first. The letter of credit shall be in effect from the date of the issuance of the import permit to the date the cattle are scheduled to be released from quarantine. The letter of credit must be irrevocable for the period except through the mutual consent of the Service and the Cooperator. Billings will be made to the issuer of the letter of credit.

This will provide the importer the options of either depositing the amount due in cash, a payment bond, or a letter of credit. The letter of credit will, in effect allow the importer to establish an interest bearing account with a commercial bank to insure the Department of full reimbursement for the operating costs of HSTAIC.

The following table depicts the anticipated costs which will be incurred at the Harry S. Truman Animal Import Center for the second quarantine period at its full capacity of 400 animals. The costs are based upon the best information and data available. The costs of personnel have been increased to take into account the cost of living salary increases of October 1979. The increase in travel costs is due to increased airline travel and per diem rates for Veterinary Services employees. The cost in utilities have been increased to take into account increased energy costs. Laboratory costs have been increased due to increased costs of conducting required tests by Plum Island National Animal Disease Laboratory. The costs of supplies were increased to take into account the increased costs of supplies (feed, bedding, disinfectants, contact test animals and miscellaneous supplies for the animal care, maintenance and testing at HSTAIC). These costs will be reviewed following the second importation, and any adjustments necessary will be made for subsequent importations.

Items of cost	Total Direct cost	Total plus O/H	Total fixed costs	Total variable costs	Cost per animal; full capacity 400 animals
Personnel	$347,481	$405,897	$405,897		$1,014
Travel	72,744	84,972	84,972		213
Utilities	393,120	459,203	459,203		1,149
Laboratory costs	540,108	626,525	473,405	$153,200	1,566
Supplies	215,548	251,781	104,601	147,180	629
Total cost			1,526,078	300,380	
Cost per animal			3,820	751	
Fee			4,571		

Other Pertinent Information:
APHIS OH Rate = 16.81%
Cost of additional tests = $383
O/H = Overhead

The costs of operations associated with the HSTAIC are either fixed or variable costs. The fixed costs are those which are absolutely necessary to prepare cattle for entry into HSTAIC and to prepare HSTAIC for receiving cattle. Regardless of the success an importer has in qualifying cattle for HSTAIC or in completing a quarantine at HSTAIC, the fixed costs become the responsibility of the importer upon execution of the cooperative agreement. While the Department believes that the regulations are clear regarding these fixed costs, paragraph C.8. has been added at the request of several importers to avoid any misunderstandings in this area. The new paragraph will provide that upon execution of the Cooperative Agreement, the Cooperator will become liable for an amount equal to the fixed costs portion of the established fee multiplied by the number of cattle for which an import permit is to be issued to the Cooperator regardless of the disposition of the Cooperator's cattle. These monies are necessary to prepare cattle for entry into HSTAIC and to prepare HSTAIC for receiving cattle.

The cooperative agreement also makes it clear that the Department is not liable for any loss occasioned by the destruction of any of the animals because of being infected with or exposed to any communicable disease of livestock or for any other loss or damage to the animals. The Act of May 6, 1970 (21 U.S.C. 135–135b) providing for the Harry S. Truman Animal Import Center and its legislative history indicate that any such risk of loss to the animals would be the responsibility of the importers. The payments of indemnities by the Department for animals destroyed would be contrary to the intent of Congress that the Harry S. Truman Animal Import Center be self-supporting to the fullest extent possible.

The procedures provided in the regulations are considered necessary since the importation of cattle from countries infected with foot-and-mouth disease require compliance with special nonroutine pre-entry requirements, transportation requirements and port of entry requirements, under the supervision of veterinarians of this Service and the cooperation and assistance as required of the veterinarians employed by the country of origin, to collect samples, perform laboratory procedures, complete examinations, conduct inspections and supervise the isolation, quarantine, and care and handling of the animals to insure that they meet the animal quarantine requirements for entry into the United States.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

In § 92.41, paragraph (b)(7) is amended; and the Cooperative Agreement in paragraph (c) is amended by adding new paragraphs A.1.c. and C.8. to read as follows:

§ 92.41 *Requirements for the importation of animals into the United States through the Harry S. Truman Animal Import Center.*

* * * * *

(b) * * *

(7) The fee for each animal for the second importation is $4,571.

(c) *Cooperative Agreements.* * * *

A. * * *

1. * * *

c. To deposit with the Service upon execution of this agreement a letter of credit from a Commercial Bank to the Service in the amount of ———— (equal to the established fee multiplied by the number of cattle for which an import permit is to be issued to the cooperator). Payment will be due one month prior to the day the cattle are scheduled to be released from quarantine, or one month prior to the termination of this cooperative agreement, whichever occurs first. The letter of credit shall be in effect from the date of the issuance of the import permit to the date the cattle are scheduled to be released from quarantine. The letter of credit should be irrevocable for the period except through the mutual consent of the Service and the Cooperator. Billings will be made to the issuer of the letter of credit.

* * * * *

C. * * *

8. Upon execution of this Cooperative Agreement, the Cooperator will become liable for ———— (equal to the fixed costs portion of the established fee multiplied by the number of cattle for which an import permit is to be issued to the Cooperator) regardless of the disposition of the Cooperator's cattle. These monies are necessary to prepare cattle for entry into HSTAIC and to prepare HSTAIC for receiving cattle.

(Section 2, 32 Stat. 792, as amended; sec. 1, 84 Stat. 202 (21 U.S.C. 111 and 135); 37 FR 28464, 28477; 38 FR 19141).

Done at Washington, D.C. this 24th day of April 1980.

Pierre A. Chaloux, VMD,

Deputy Administrator, Veterinary Services.

[FR Doc. 80-13310 Filed 5-1-80; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 94

Importation of Carcasses, Parts, or Products of Poultry, Game Birds, and Other Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment provides for the importation of carcasses, or parts or products of carcasses, of poultry, game birds, and other birds into the United States when such carcasses have been thoroughly cooked. This action is taken because it appears that such cooking would prevent the risk of the introduction and spread of viscerotropic velogenic Newcastle disease (VVND).

The effect of this final rule is to facilitate the importation of carcasses, or parts or products of carcasses, of poultry, game birds, and other birds into the United States by providing another manner by which such carcasses may be imported without risk of the introduction and spread of VVND.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. W. J. Turner, USDA, APHIS, VS, Federal Building, Room 824, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8379

On Tuesday, October 23, 1979, there was published in the **Federal Register** (44 FR 61048) a proposed amendment to the regulations (9 CFR Part 94). A period of 60 days was provided for comment which expired December 24, 1979. Only one comment was received, in which the respondent supported the proposal. Accordingly, the Department has decided to amend the regulations as proposed without change.

Therefore, Part 94, Title 9, Code of Federal Regulations, is amended in the following respects.

In § 94.6, new paragraphs (b)(5) and (d)(4) are added to read:

§ 94.6 Carcasses of poultry, game birds, and other birds, parts or products thereof, and eggs other than hatching eggs; restrictions, exceptions.

* * * * *

(b) * * *

(5) *Thoroughly cooked.* A carcass or any part or product thereof which has been heated so that its flesh and jucies have lost all red or pink color.

* * * * *

(d) * * *

(4) Carcasses, or parts or products of carcasses, of poultry, game birds, and other birds may be imported if thoroughly cooked, and if, upon inspection by a representative of the United States Department of Agriculture at the port of entry, the carcasses or parts or products thereof have a thoroughly cooked appearance throughout.

* * * * *

(Sec. 306, 46 Stat. 689, as amended; sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132, (19 U.S.C. 1306; 21 U.S.C. 111, 134a, 134b, 134c, 134f) 37 FR 28464, 28477; 38 FR 19141)

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A final Impact Statement has been prepared and is available from Program Services Staff, Room 870, 6505 Belcrest Road, Federal Building, Hyattsville, MD 20782, 301–436–8695.

Done at Washington, D.C., this 25th day of April 1980.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 80-13504 Filed 5-1-80; 8:45 am]

BILLING CODE 3410-34-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions; Borrowed Funds From Natural Persons

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend § 701.38 in accordance with the February 19, 1980, order issued by the United States District Court, Central District of California. This action is necessary based on the NCUA Board's decision not to seek an appeal from that order. The Board is thus repealing that provision contained in § 701.38 that provides that a Federal credit union can borrow from a natural person only if that natural person is also a member of the Federal credit union.

EFFECTIVE DATE: May 2, 1980.

ADDRESS: National Credit Union Administration, 1776 G St., NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: James J. Engel, Assistant General Counsel, at the above address. Telephone: (202) 357–1030.

SUPPLEMENTARY INFORMATION: On December 12, 1978, the National Credit Union Administration (NCUA) published a proposed rule (43 FR 58096) to limit Federal credit union borrowing from natural persons to only those persons who are members of the Federal credit union. After reviewing comments submitted on the proposed rule, NCUA published the final rule on June 6, 1979 (44 FR 32358). The rule was subsequently challenged in the U.S. district court in Los Angeles, California. After several hearings on the matter, the court determined that, based on the language contained in section 107(9) of the Federal Credit Union Act, 12 U.S.C. 1757(9), the NCUA could regulate Federal credit union borrowing but could not limit the source of borrowed funds for Federal credit unions.

In so ruling, the court invalidated paragraph (a)(1) of § 701.38, which read "the individual is a member of the credit union," and upheld the remaining provisions of the regulation. As a result, a Federal credit union may borrow from individuals who are not members of the credit union, but all borrowing from individuals, whether members or nonmembers, is subject to the terms, conditions and limitations contained in the regulation.

The change to § 701.38 made by this amendment is based upon the NCUA Board's decision not to seek an appeal from the district court ruling. This does not mean, however, that the Board is in agreement with the district court's findings. Instead, the Board has determined that its interests and that of Federal credit unions would be better served through the monitoring of certificate of indebtedness use by Federal credit unions and, when deemed necessary, correcting abuses or unsafe and unsound practices either through administrative actions on a case by case basis or by regulation.

The Board based its decision not to appeal on policy considerations including the amount of time required to

pursue an appeal and present economic conditions facing Federal credit unions. The legal issue involved, which is basically one of statutory construction, is not as clearly resolved as claimed during the litigation process. The Board is indeed concerned that the district court chose to base its decision solely on the language of a specific provision of the Federal Credit Union Act without expanding its consideration to read the provision in light of the overall intent of the Act. In effect, the court chose not to consider the unique features of Federal credit unions and their role in the marketplace as a distinct type of financial institution. While it is certainly recognized that the court's decision is based upon acceptable rules of statutory construction, so too, was the position of NCUA as summarized in the preamble to the final regulation.

Notwithstanding support for its position on the principal legal issue involved, the Board concluded that its ability to regulate borrowing, as recognized by the court, provided a sufficient, though less desirable method for assuring the integrity of the overall intent of the Act. However, the Board does not at this time intend to issue further regulations governing borrowing. Future regulation will depend on the manner in which Federal credit unions utilize their borrowing power.

Due to the fact that this amendment results from a court order, public comment is unnecessary and impracticable. In addition, because this amendment relieves a restriction it is made effective immediately. Finally, this ruling is exempted from NCUA procedure under the Final Report on Improving Government Regulations because it is issued pursuant to a court order. This determination was made by James J. Engel, Assistant General Counsel.

Accordingly, § 701.38, 12 CFR 701.38, is amended to read as set forth below.

April 29, 1980.

Rosemary Brady,

Secretary of the Board.

(Sec. 107(9), 91 Stat. 49 (12 U.S.C. 1757), Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

§ 701.38 Borrowed Funds From Natural Persons.

(a) Federal credit unions may borrow from a natural person, provided:

(1) The borrowing is evidenced by a signed promissory note which sets forth the terms and conditions regarding maturity, prepayment, interest rate, method of computation, and method of payment;

(2) The promissory note and any advertisement for such funds contains conspicuous langauge indicating that:

(i) The note represents money borrowed by the credit union;

(ii) The note does not represent shares and, therefore, is *not* insured by the National Credit Union Share Insurance Fund; and

(3) The maturities, rates and denominations are consistent with those prescribed for share certificates in § 701.35(c)(1) and § 701.35(g) of this part.

[FR Doc. 80-13337 Filed 5-1-80; 8:45 am]

BILLING CODE 7535-01-M

METRIC BOARD

15 CFR Part 502

Standards of Conduct for U.S. Metric Board Employees

AGENCY: United States Metric Board.

ACTION: Final Rule.

SUMMARY: The United States Metric Board adopts amendments and additions to its Regulations which govern the Standards of Conduct required of its employees.

EFFECTIVE DATE: April 18, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel B. Peyser, Office of General Counsel, 1815 North Lynn Street, Suite 600, Arlington, Virginia 22209 (703) 235-2917.

SUPPLEMENTARY INFORMATION: The United States Metric Board at its April 18, 1980 meeting considered and voted on amendments and additions to its Regulations governing Standards of Conduct for United States Metric Board Employees, Title 15, Chapter 15, Part 502. These Regulations implement 18 USC 207 and 5 CFR Part 737. They have been approved by the Office of Government Ethics, Office of Personnel Management.

Final Rule.

Accordingly, under authority of 15 USC 205a-k, the United States Metric Board duly adopts these amendments and additions to its Regulations governing Standards of Conduct for United States Metric Board Employees (15 CFR Part 502), as follows:

1. ADD to the index preceding the substantive provisions of this Part the following subparts L and M:

Subpart L—Provisions Relating to Senior Employees

502.1201 Definition of Senior Employees
502.1202 Additional Prohibitions

Subpart M—Post Employment Violations

502.1301 Administrative Enforcement Proceedings
502.1302 Initiation of Administrative Disciplinary Hearing
502.1303 Adequate Notice
502.1304 Presiding Official
502.1305 Time, Date and Place
502.1306 Hearing Rights
502.1307 Burden of Proof
502.1308 Hearing Decision
502.1309 Administrative Sanctions
502.1310 Judicial Review

Authority: 15 USC 205a-k

2. Correct "§ 502.203" to read "§ 502.303."

3. Change "1 year" to "2 years" in the first line of 15 CFR § 502.502(a)(3).

4. Add the following:

Subpart L—Provisions Relating to Senior Employees

§ 502.1201 Definition of Senior Employees.

Senior employees include the Executive Director and those employees so designated by the Director, Office of Government Ethics, Office of Personnel Management, in accordance with 18 U.S.C. 207 (d) (1) (c).

§ 502.1202 Additional Prohibitions.

(a) In addition to the disqualification described in § 502.501 and the prohibitions in § 502.502, senior employees are subject to the following prohibitions:

(1) A senior employee may not, for 2 years after Government employment has ended, assist in the representation of another person by personal presence at an appearance before the Government on any particular matter in which he or she personally and substantially participated while in Government employment (18 USC 207 (b)).

(2) A senior employee may not, for 1 year after Government employment has ended, represent another person or himself in attempting to influence the Board on a matter pending before, or of substantial interest to, the Board: Provided, that this prohibition shall not apply to a communication made on behalf of a state or local government, a degree-granting institute of higher education, or a nonprofit hospital or medical research institution by an elected official of such a government, or a person principally employed by such government, institute or medical organization (18 U.S.C. 207 (c)).

Subpart M—Post Employment Violations

§ 502.1301 Administrative Enforcement Proceedings.

These procedures are for the administrative enforcement of restrictions on post employment activities; they implement 5 CFR Part 737.

§ 502.1302 Initiation of Administrative Disciplinary Hearing.

(a) Whenever the Executive Director determines after appropriate review that there is reasonable cause to believe that a former Government employee has violated any of these regulations, 5 CFR Part 737, or 18 U.S.C. 207 (a), (b), or (c), he or she may initiate an administrative disciplinary proceeding by providing the former Government employee with notice as defined in § 502.1303.

(b) On receipt of information regarding a possible violation of 18 U.S.C. 207, and after determining that such information appears nonfrivolous, the Executive Director shall expeditiously provide such information, along with any comments or agency regulations, to the Director of the Office of Government Ethics and to the Criminal Division, Department of Justice. The Executive Director will coordinate any investigation on administrative action with the Department of Justice to avoid prejudicing criminal proceedings, unless the Department of Justice advises that it does not intend to initiate criminal prosecution.

§ 502.1303 Adequate notice.

(a) A former Government employee will be provided with adequate notice of an intention to institute a proceeding and an opportunity for a hearing.

(b) Notice to the former Government employee will include:

(1) A statement of allegations (and the basis thereof) sufficiently detailed to enable the former Government employee to prepare an adequate defense,

(2) Notification of the right to a hearing, and

(3) An explanation of the method by which a hearing may be requested.

§ 502.1304 Presiding official.

(a) The presiding official at proceedings under this subpart shall be an attorney assigned to the Office of General Counsel or other individual to whom the Executive Director has delegated authority to make an initial decision (hereinafter referred to as "examiner").

(b) The examiner shall be an attorney or a person with substantial experience in legal, personnel and administrative matters.

(c) The examiner shall be impartial. No individual who has participated in any manner in the decision to initiate the proceedings may serve as an examiner in those proceedings.

§ 502.1305 Time, date, and place.

(a) The hearing shall be conducted at a reasonable time, date, and place.

(b) In setting a hearing date, the examiner shall give due regard to the former Government employees' need for:

(1) Adequate time to prepare a defense properly, and

(2) An expeditious resolution of allegations that may be damaging to his or her reputation.

§ 502.1306 Hearing rights.

A hearing will include the following rights:

(a) To represent oneself or to be represented by counsel,

(b) To introduce and examine witnesses and to submit physical evidence,

(c) To confront and cross-examine adverse witnesses.

(d) To present oral argument, and

(e) To a transcript or recording of proceedings, on request.

§ 502.1307 Burden of proof.

In any hearing under this subpart, the Board has the burden of proof and must establish substantial evidence of a violation.

§ 502.1308 Hearing decision.

(a) The examiner shall make a determination exclusively on matters of record in the proceedings, and shall set forth in the decision all findings of fact and conclusions of law relevant to the matters at issue.

(b) Within 14 calendar days of the date of an initial decision, either party may appeal the decision to the Executive Director. The Executive Director shall base his or her decision on such appeal solely on the record of the proceedings or those portions thereof cited by the parties to limit the issues.

(c) If the Executive Director modifies or reverses the initial decision, he or she shall specify such findings of fact and conclusions of law as are different from those of the hearing examiner.

§ 502.1309 Administrative sanctions.

The Executive Director may take appropriate action in the case of any individual who was found in violation of 18 U.S.C. 207 (a), (b), or (c), 5 CFR Part 737, or these regulations after a final decision or who failed to request a hearing after receiving adequate notice by:

(a) Prohibiting the individual from making, on behalf of any other person (except the United States), any formal or informal appearance before, or with the intent to influence, any oral or written communication to, the Board on any matter of business for a period not to exceed 5 years, which may be accomplished by directing Board employees to refuse to participate in any such appearance or to accept any such communication.

(b) Taking other appropriate disciplinary action.

§ 502.1310 Judicial review.

Any person found to have participated in a violation of 18 U.S.C. 207 (a), (b), (c), 5 CFR Part 737, or these regulations may seek judicial review of the administrative determination.

Dated at Arlington, Virginia this 28th day of April 1980.

For United States Metric Board.

Malcolm E. O'Hagan,

Executive Director.

[FR Doc. 80-13614 Filed 5-1-80; 8:45 am]

BILLING CODE 6820-94-M

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15 CFR Part 503

U.S. Metric Board Organization

AGENCY: United States Metric Board.

ACTION: Final Rule.

SUMMARY: The United States Metric Board adopts Regulations describing the organization established to discharge its duties and responsibilities.

EFFECTIVE DATES: April 18, 1980, except that § 503.10, Committees, is effective June 20, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel B. Peyser, Office of General Counsel, 1815 North Lynn Street, Suite 600 Arlington, Virginia 22209 (703) 235-2917.

SUPPLEMENTARY INFORMATION: The United States Metric Board at its April 18, 1980 meeting considered and voted on Regulations describing the organization established to discharge its duties and responsibilities which would amend Title 15, Chapter 5, by adding Part 503. Final Rule.

Accordingly, under the authority of 15 USC 205a-k, the United States Metric Board hereby adopts the Regulations describing the organization established to discharge its duties and responsibilities (15 CFR Part 503), which read as follows:

PART 503—U.S. METRIC BOARD ORGANIZATION

Sec.

503.1 General
503.2 Agency Headquarters
503.3 Definitions
503.4 Policy
503.5 Functions
503.6 Chairman and Vice
503.7 Executive Director and Deputy Executive Director
503.8 Delegations of Authority
503.9 Acting Executive Director
503.10 Committees
503.11 Executive Committee
503.12 Planning and Coordination Committee
503.13 Research Committee
503.14 Public Awareness and Education Committee
503.15 Administrative and Budget Committee
503.16 Committee Chairpersons and Committee Members.
503.17 Committee Procedures
503.18 Board Staff
503.19 Office of Research, Coordination and Planning
503.20 Office of Public Awareness and Education
503.21 Office of General Counsel
503.22 Office of Administrative Services and Finance
503.23 Effective Date

Authority: 15 U.S.C. 205a–k.

§ 503.1 General.

This Part describes the organization established by the United States Metric Board to discharge its duties and responsibilities.

§ 503.2 Agency Headquarters.

The headquarters and principal place of business of the Agency is located at 1815 North Lynn Street, Suite 600, Arlington, VA 22209 telephone (703) 235–1933.

§ 503.3 Definitions.

For purposes of this Part, the following definitions apply:

(a) Act—The Metric Conversion Act of 1975 (P.L. 94–168, 15 U.S.C. 205a–k).

(b) Sunshine Act—The Government in the Sunshine Act P.L. 94–409, 5 U.S.C. 552b).

(c) Board—The collegial body composed of a chairman and sixteen members constituting the United States Metric Board.

(d) Agency—The Board and its staff.

(e) Chairman—The chairman of the Board.

(f) Member—A member of the Board.

§ 503.4 Policy.

The Agency was established by the Act to coordinate and plan the increasing voluntary use of the metric system in the United States and coordinate voluntary conversion to the metric system.

§ 503.5 Functions.

The functions of the Agency are delineated in the Act, summarized as follows:

(a) Execute a broad program of planning and coordinating voluntary conversion to the metric system.

(b) Conduct research and submit recommendations to the President and the Congress.

(c) Conduct a program of education and information to assist the public to become familiar with the meaning and applicability of metric terms and measures in daily life.

§ 503.6 Chairman and Vice Chairmen.

(a) The Chairman is the administrative head of the Agency. Subject to the general policies of the Board and to such regulations, findings and determinations as the Board may make, he or she exercises all of the executive functions of the Agency and acts as its principal spokesperson.

(b) One or more Vice Chairmen may be appointed by the Chairman with the approval of the Board to assist in the performance of these duties. A Vice Chairman shall be appointed for a term of one year and may be reappointed; however, he or she may not serve more than two consecutive terms.

§ 503.7 Executive Director and Deputy Executive Director.

The Executive Director is the principal agent of the Board and, subject to the general policies of the Board and to such regulations, findings, determinations and delegations of authority as the Board may make, he or she exercises the operational and professional functions of the Agency. The Executive Director and Deputy Executive Director are appointed and removed by the Board or a committee designated by the Board. The Board and its committees deal formally with the staff through the Executive Director.

§ 503.8 Delegations of Authority.

Pursuant to Section 7(5) of the Act, the Executive Director is delegated authority to:

(a) Accept, hold and administer gifts, donations, bequests of personal property and personal services in an amount not to exceed $10,000 per individual gift for the purpose of aiding or facilitating the work of the Agency.

(b) Accept funds apportioned to the Agency by the Office of Management and Budget; to incur obligations against such appropriated funds; and to control those funds, observing all pertinent laws, directives and policies.

(c) Approve and promulgate in final form any proposed Agency regulation approved by the Board when no substantive public comment is received.

(d) Award contracts and interagency support agreements in an amount not to exceed $100,000 if in accord with an existing operating and financial plan approved by the Board. Each such contract and agreement is to be reported to the Board at its next regular meeting.

(e) Appoint Agency employees and fix their compensation except that the Board or a committee designated by the Board must first be consulted regarding the appointment and removal of the Director of Research, Coordination and Planning; Director of Public Awareness and Education; General Counsel; and Director of Administrative Services and Finance. To take all other personnel actions regarding Agency employees including, but not limited to, promotion, leave, demotion, discipline and reassignment. To approve official staff travel and suggestion program awards.

(f) Employ experts and consultants. Each employment is to be reported to the Administrative and Budget Committee at its next regular meeting.

(g) Arrange for supplementary financial and administrative services.

§ 503.9 Acting Executive Director.

During the absence or disability of the Executive Director, the Deputy Executive Director is the Acting Executive Director and may exercise all the authority of the Executive Director unless withheld by the Executive Director or the Board in writing. During the absence or disability of the Executive Director and Acting Executive Director, the Executive Director or Acting Executive Director may appoint in writing a Temporary Acting Executive Director and delineate his or her authority.

§ 503.10 Committees.

The Board may establish standing, *ad hoc* and advisory committees. Current standing committees of the Board are:

(a) Executive Committee.

(b) Planning and Coordination Committee.

(c) Research Committee.

(d) Public Awareness and Education Committee.

(e) Administrative and Budget Committee.

§ 503.11 Executive Committee.

The Executive Committee is comprised of the chairpersons of each standing committee and the Board Chairman, or designee, who is the chairperson of this committee. The committee's duties are to insure that

efforts by all the committees are complementary and that each is in accord with established Board policies and directions; to provide, for the Board's consideration and approval, long range plans and goals implementing the Act; and to seek out, review and report to the Board for approval, innovative measures that can be utilized in furtherance of the Board's goals. This committee reviews the Agency's annual report and operating plan and submits them to the Board for approval. This committee also reviews the agency's annual budget and annual financial plan.

§ 503.12 Planning and Coordination Committee.

This committee is responsible to the Board for recommending policy, developing procedures and providing oversight over the Board's activities associated with coordination of private and public sector voluntary metric conversion planning. The committee also monitors and recommends appropriate action by the Board in response to actual voluntary metric conversion. It recommends policy, provides oversight and reports to the Board regarding metric standards matters. This committee also encourages the timely development of metric standards. The annual operating plan and annual financial plan regarding staff planning and coordination functions are reviewed by this committee prior to review by the Executive Committee and presentation to the Board.

§ 503.13 Research Committee.

The Research Committee has the responsibility for establishing the framework for the Board's research program, recommending policy for the Board's research activities and providing oversight for the Board's research program. This committee is consulted before any changes are made in previously approved research priorities or research program fund allocations. The annual operating plan and annual financial plan regarding staff research fu. .tions are reviewed by this committee prior to review by the Executive Committee and presentation to the Board.

§ 503.14 Public Awareness and Education Committee.

The Public Awareness and Education Committee recommends policy, and provides guidance and oversight regarding an effective public awareness and education program. The annual operating plan and annual financial plan regarding staff public awareness and education functions are reviewed by this committee prior to review by the Executive Committee and presentation to the Board.

§ 503.15 Administrative and Budget Committee.

The Administrative and Budget Committee considers and provides guidance and oversight on all matters pertaining to the administrative, financial and logistical support of the Agency. It also considers all matters connected with the Congressional liaison activities of the Agency, and reviews and reports to the Board on the annual budget, including revisions thereof, and on proposed Agency regulations. The annual operating plan and annual financial plan regarding staff administration and support functions are reviewed by this committee prior to review by the Executive Committee and presentation to the Board.

§ 503.16 Committee Chairpersons and Committee Members.

The Chairman appoints the chairperson and members of each committee subject to the approval of the Board. Whenever possible, a Member will be appointed to only one standing committee other than the Executive Committee. The chairperson and members of each standing committee, other than the Executive Committee, shall be appointed for a term of one year and may be reappointed.

§ 503.17 Committee Procedures.

(a) Meetings may be called by the chairperson upon reasonable notice to committee members.

(b) Committee meetings are subject to the Sunshine Act. Notice of meetings are to be sent by committee chairpersons to the Staff Assistant to the Executive Director, with a copy to the General Counsel, for publication in the Federal Register. (See 15 CFR Part 500).

(c) A written summary of the proceedings of each committee meeting as approved by the committee and signed by the chairperson will be filed with the Staff Assistant to the Executive Director as soon as possible after each committee meeting.

(d) A meeting of a committee never constitutes a meeting of the Board.

(e) A standing committee may establish subcommittees.

§ 503.18 Board Staff.

The Board staff is comprised of the principal units listed below:

(a) The following unit reports directly to the Chairman:

(1) Office of the Executive Director.

(b) The following units report directly to the Executive Director:

(1) Office of Research, Coordination and Planning.

(2) Office of Public Awareness and Education.

(3) Office of General Counsel.

(4) Office of Administrative Services and Finance.

§ 503.19 Office of Research, Coordination and Planning.

(a) This office supports the technical outreach and coordinating role of the Board. As such, it is the primary point of contact for the Board with private sector, public sector, and individuals and international organizations who are seeking information or who are engaged in organizing planning, participating in, or are conducting voluntary metric conversion and standards activity.

(b) This office organizes and conducts in-house research, contracted research, and grant program activities to gather information, investigate, and better understand the potential advantages and disadvantages of voluntary metric conversion.

(c) It monitors metric planning and conversion activities and provides technical assistance and information upon request as well as serving as general coordinator for voluntary metric conversion activity when appropriate or in the national interest. It gathers and organizes information about ongoing as well as potential metric planning, standards and conversion activity. This function is carried out by surveys and regular communications with private and public sector organizations, groups, and individuals in the domestic and international economy as well as through hearings and special meetings convened to gather information, and to act, where necessary, to resolve conflicting interests or positions. It also assists interested parties in examinations of advantages and disadvantages inherent in metric conversion through provision of research results and other available relevant information and data. This assistance includes consultation with and coordination for individuals, groups and organizations regarding their requests for assistance in development of conversion plans and their subsequent exposure for public notice. Finally, it reviews conversion plans and the process through which such plans were developed and reviewed by interested parties. Through process review, a judgment will be made by this office and submitted to the Board for action regarding the practicality of the plan and the existence of a consensus of interested and affected parties that the plan is in their best interests, and not inconsistent with the public interest.

§ 503.20 Office of Public Awareness and Education.

The Office of Public Awareness and Education is headed by a Director who is the principal advisor to the Executive Director on public awareness matters and is reponsible for the overall public awareness and educational activities of the Agency. It plans and implements a national education and information program; provides for the production of public awareness services including news conferences, public hearings and forums; produces publications, exhibits, audio-visual material, advertising and educational programs; and manages special events and activities, as required.

§ 503.21 Office of General Counsel.

The General Counsel is the final legal authority of the Agency and is responsible for providing all legal and related policy guidance to the Agency in accomplishing its mission under the Act. In addition to the duties normally associated with legal staff, the Office of General Counsel has two unique functions: to provide appropriate guidelines whereby traditionally direct competitors with a particular sector of the economy may undertake the necessary planning, coordination and interaction required to develop a voluntary metric conversion plan without becoming subject to antitrust proceedings, and to develop a structural mechanism which permits conversion from customary units of measurement to metric units in laws and regulations at all levels of government.

§ 503.22 Office of Administrative Services and Finance.

This office develops and implements plans, policies and procedures for personnel and labor-management relations, organizational and administrative analysis and control, contracting and procurement, and administrative functions which provide the support required by the Board's program offices to assure their effective and efficient operation. It also develops the budget and manages the Agency's financial resources.

§ 502.23 Effective Date.

This Part is effective April 18, 1980 except that § 503.10, *Committees,* shall take effect on June 20, 1980.

Dated at Arlington, Virginia this 28th day of April 1980.

For United States Metric Board.

Malcolm E. O'Hagan,

Executive Director.

[FR Doc. 80-13515 Filed 5-1-80; 8:45 am]

BILLING CODE 6820-94-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release Nos. 33-6189; 34-16589, File No. S7-758]

Collection and Dissemination of Transaction Reports and Last Sale Data

Correction

In FR Doc. 80-5851 appearing at page 12377 in the issue of Tuesday, February 26, 1980, make the following correction:

On page 12391, center column, six lines from the bottom of paragraph (b)(1) of § 230.148, ". . . (e)(1)(ii) of this section . . ." should have read ". . . (b)(1)(ii) of this section . . .".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 101

[Docket No. 77N-0404]

Protein Products; Warning Statement; Correction

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: In FR Doc. 80-10270 appearing at page 22904 in the **Federal Register** of April 4, 1980, the Food and Drug Administration issued certain label warning requirements for protein products used in very low calorie diets. This document makes certain corrections to that document.

DATE: Effective August 4, 1980.

FOR FURTHER INFORMATION CONTACT: Victor P. Frattali, Bureau of Foods (HFF-202), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1561.

SUPPLEMENTARY INFORMATION: The warning statements in § 101.17(d) (1) and (2) should be set apart from the rest of the text and appear in distinct type. The warning statements should read as follows:

PART 101—FOOD LABELING

§ 101.17 Food labeling warning statements.

* * * * *

(d) * * *

(1) * * *

Warning.—Very low calorie protein diets (below 800 Calories per day) may cause serious illness or death. DO NOT USE FOR WEIGHT REDUCTION WITHOUT MEDICAL SUPERVISION. Use with particular care if you are taking medication. Not for use by infants, children, or pregnant or nursing women.

* * * * *

(2) * * *

Warning.—Use only as directed in the diet plan described herewith (the name and specific location in labeling of the diet plan may be included in this statement in place of "diet plan described herewith"). Do not use as the sole or primary source of calories for weight reduction.

* * * * *

Dated: April 24, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-13147 Filed 5-1-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Butorphanol Tartrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The regulations are amended to reflect approval of a new animal drug application (NADA) filed by Bristol Laboratories, Div. of Bristol-Myers Co., providing for the safe and effective use of butorphanol tartrate injection for the treatment of dogs for relief of chronic nonproductive cough originating from inflammatory conditions of the upper respiratory tract.

EFFECTIVE DATE: May 2, 1980.

FOR FURTHER INFORMATION CONTACT: Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Bristol Laboratories, Div. of Bristol-Myers Co., P.O. Box 657, Syracuse, NY 13201, filed an NADA (102-990V) providing for the use of butorphanol tartrate aqueous injection for the treatment of dogs for the relief of chronic nonproductive cough associated with tracheobronchitis, tracheitis, tonsillitis, laryngitis and pharyngitis originating from inflammatory conditions of the upper respiratory tract.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a

summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the of the Hearing Clerk (HFA–305), Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended by adding new § 522.246 to read as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.246 Butorphanol tartrate injection.

(a) *Specifications.* Each milliliter of aqueous solutions contains 0.5 milligram of butorphanol base activity.

(b) *Sponsor.* See No. 000015 in § 510.600(c) of this chapter.

(c) *Conditions of use.* The drug is used for the treatment of dogs as follows:

(1) *Amount.* 0.025 milligram of butorphanol base activity per pound of body weight (equivalent to 0.5 milliliter per 10 pounds).

(2) *Indications for use.* For the relief of chronic nonproductive cough associated with tracheo-bronchitis, tracheitis, tonsillitis, laryngitis, and pharyngitis associated with inflammatory conditions of the upper respiratory tract.

(3) *Limitations.* For subcutaneous injection in dogs only. Repeat at intervals of 6 to 12 hours as required. If necessary, increase dose to a maximum of 0.05 milligram per pound of body weight. Treatment should not normally be required for longer than 7 days. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. this regulation is effective May 2, 1980.

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

Dated: April 24, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80–13334 Filed 5–1–80; 8:45 am]

BILLING CODE 4110–03–M

21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Potassium Phenoxymethyl Penicillin Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulation for potassium phenoxymethyl penicillin tablets to indicate those conditions of use for which applications for approval of identical products need not include certain types of effectiveness data. These conditions of use were classified as effective as a result of a National Academy of Science/National Research Council (NAS/NRC) Drug Efficacy Study Group evaluation of the product. In lieu of certain effectiveness data, approval may require submission of bioequivalency or similar data. An earlier **Federal Register** publication has reflected this product's compliance with conclusions of the review.

EFFECTIVE DATE: May 2, 1980.

FOR FURTHER INFORMATION CONTACT: Henry C. Hewitt, Bureau of Veterinary Medicine (HFV–110), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the **Federal Register** of July 22, 1970 (35 FR 11715). In that document, the Academy concluded, and the Food and Drug Administration (FDA) concurred, that the product was probably effective for treating infections in dogs and cats when such infections are caused by pathogens sensitive to the antibiotic.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Abbott Laboratories, North Chicago, IL 60064, responded to the notice by submitting a supplemental NADA (65–275V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the product for the treatment of certain infections caused by organisms susceptible to the antibiotic in dogs and cats. The application was approved by a regulation published in the **Federal Register** of December 17, 1974 (39 FR 43628). The regulation reflecting this approval amended the regulations to establish a new § 135c.133 (21 CFR 135c.133), recodified at 21 CFR 540.173b. The section did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which applications for approval of identical products need not include certain types of effectiveness data required for approval by § 514.111(a)(5)(vi) of the new animal drug regulations. In lieu of those data, approval of applications for such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83(a)), Part 540 is amended in § 540.173b by adding after paragraph (c)(3) (i), (ii), (iii) and (iv) the footnote reference "[1]" and by adding at the end of the section the footnote to read as follows:

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

§ 540.173b Penicillin tablets.

* * * * *

(c) * * *

(3) * * * (i) * * *[1]

(ii) * * *[1]

(iii) * * *[1]

(iv) * * *[1]

Effective date. This regulation shall be effective May 2, 1980.

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

Dated: April 24, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80–13336 Filed 5–1–80; 8:45 am]

BILLING CODE 4110–03–M

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 213, and 234

[Docket No. R-80-806]

Mortgage Insurance and Home Improvement Loans; Changes in Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: The change in the regulations decreases the FHA maximum interest rate on insured home mortgage loans. This action by HUD is designed to bring the maximum interest rate on HUD/FHA-insured loans into line with current market conditions.

EFFECTIVE DATE: April 28, 1980.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202–426–4667).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to decrease the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on FHA home mortgage insurance programs has been lowered from 14.00 percent to 13.00 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

1. In § 203.20 paragraph (a) is amended to read as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

§ 203.20 Maximum interest rate

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum, except that where an application for commitment was received by the Secretary before April 28, 1980, the mortgage may bear interest at the maximum rate in effect at the time of receipt of the application.

* * * * *

2. In § 203.74 paragraph (a) is amended to read as follows:

§ 203.74 Maximum interest rate

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 13.00 percent per annum, except that where an application for commitment was received by the Secretary before April 28, 1980, the loan may bear interest at the maximum rate in effect at the time of receipt of the application.

* * * * *

1. In § 213.511 paragraph (a) is amended to read as follows:

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart C—Eligibility Requirements Individual Properties Released From Project Mortgage

§ 213.511 Maximum interest rate

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum, except that where an application for commitment was received by the Secretary before April 28, 1980, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

1. In § 234.29 paragraph (a) is amended to read as follows:

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements Individually Owned Units

§ 234.29 Maximum interest rate

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.00 percent per annum, except that where an application for commitment was received by the Secretary before April 28, 1980, the mortgage may bear interest at the maximum rate in effect at the time of receipt of the application.

* * * * *

(Section 3(a), 82 Stat. 113; 12 U.S.C. 1709–1; Section 7 of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Issued at Washington, D.C., April 25, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 80-13492 Filed 5-1-80; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Parts 203, 213, 221, 227, 234, and 235

[Docket No. R-80-790]

Mutual Mortgage Insurance and Insured Home Improvement Loans

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Interim rule with request for comments.

SUMMARY: The regulation change will permit HUD to allow amortization periods other than in just five-year intervals as is presently required. This authority will enable HUD to accommodate innovative types of financing. The amortization period may not be in excess of the term of the mortgages. The maximum term permitted for mortgages is not being changed.

DATE: Effective June 2, 1980.

Comment due date: Written comments and suggestions will be accepted on or before July 1, 1980. The Department will make any modifications it deems appropriate in the final regulations.

ADDRESS: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Each person submitting a comment should include his/her name and address, refer to the docket number indicated by the headings, and give reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above. The proposal may be changed in light of the comments received.

FOR FURTHER INFORMATION CONTACT:
Mr. John J. Coonts, Acting Director, Single Family Development Division, Room 9270, Department of Housing and Urban Development, Washington, DC 20410. (202) 755–6720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:
Historically, HUD has established amortization periods of either 10, 15, 20, 25, 30, or 35 years, by providing for either 120, 180, 240, 300, 360, or 420 monthly amortization payments. These terms have the effect of limiting the availability of insured financing involving bond issues where the mortgage terms which are required are less than 30 and not in intervals of five years. While such bond issues which require amortization periods other than those which HUD has stipulated are unusual, HUD believes the authority should exist to adjust HUD mortgage term requirements to accommodate these financing arrangements. It is imperative that this change be implemented immediately because there are several instances where bonds have been issued and mortgages are ready to close. Continuing to postpone the closing on these and future mortgages will result in financial hardships to the homebuyers which are not necessary.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address listed above. This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, it is proposed that 24 CFR, Parts 203, 213, 221, 227, 234, and 235 be amended as follows:

1. Section 203.17 is amended by revising paragraphs (c)(2), paragraphs (d), (d)(1), (2) and (3), deleting paragraphs (d)(3)(i), (d)(3)(ii), (d)(3)(ii)(*a*), (*b*), and (*c*), and by the addition of new paragraph (e) to read as follows:

§ 203.17 Mortgage provisions.

* * * * *

(c) * * *

(2) Contain complete amortization provisions satisfactory to the Secretary and an amortization period not in excess of the term of the mortgage.

* * * * *

(d) *Maturity.* The mortgage shall have a term of not more than 30 years from the date of the beginning of amortization, except that the mortgage may have a term not in excess of 35 years from the date of the beginning of amortization if the following requirements are met:

(1) The mortgagor is an owner-occupant of the property and is not able as determined by the Secretary, to make the required payments under a mortgage having a shorter amortization period; and

(2) The dwelling was approved for mortgage insurance by the Secretary prior to the beginning of construction or approved for guaranty, insurance or direct loan by the Administrator of Veterans Affairs prior to such construction.

(e) The mortgage shall have a maturity not in excess of three-quarters of the remaining economic life of the building improvements.

2. Section 203.43c is amended by revising paragraph (h)(3) to read as follows:

§ 203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.

* * * * *

(h) * * *

(3) Contain complete amortization provisions satisfactory to the Secretary and an amortization period not in excess of the term of the mortgage.

* * * * *

3. Section 213.510 is amended by revising paragraph (b) to read as follows:

§ 213.510 Mortgage maturity.

* * * * *

(b) The mortgage shall contain complete amortization provisions satisfactory to the Secretary and an amortization period not in excess of the term of the mortgage.

4. Section 221.40 is revised to read as follows:

§ 221.40 Amortization period of the mortgage.

The mortgage shall contain complete amortization provisions satisfactory to the Secretary and an amortization period not in excess of the term of the mortgage.

5. Section 227.535 is revised to read as follows:

§ 227.535 Maximum mortgage amounts—individual mortgage.

The mortgage shall involve a principal obligation in multiples of $50 and must not exceed the unpaid balance of the project mortgage allocable to the property as security.

6. Section 227.550 is revised to read as follows:

§ 227.550 Amortization period.

The mortgage shall contain complete amortization provisions satisfactory to the Secretary and an amortization period not in excess of the term of the mortgage.

7. Section 234.25 is amended by revising paragraphs (b), (c) (2) and (3) to read as follows:

§ 234.25 Mortgage provisions.

* * * * *

(b) Mortgage multiples. The mortgage shall involve a principal obligation in multiples of $50.

(c) * * *

(2) Have a maturity satisfactory to the Secretary of not to exceed three-quarters of the Secretary's estimate of the remaining economic life of the property. The mortgage shall have a term of not more than 30 years from the date of the beginning of amortization, except that the mortgage may have a term not in excess of 35 years from the date of the beginning of amortization if the following requirements are met:

* * * * *

(3) The mortgage shall contain complete amortization provisions satisfactory to the Secretary and an amortization period not in excess of the term of the mortgage.

* * * * *

8. Section 235.22 is amended by revising paragraphs (c)(2) and (d)(2) to read as follows:

§ 235.22 Mortgage provisions.

* * * * *

(c) * * *

(2) Contain complete amortization provisions satisfactory to the Secretary and an amortization period not in excess of the term of the mortgage.

(d) * * *

(2) No mortgage shall have a maturity exceeding three-quarters of the Secretary's estimate of the remaining economic life of the building improvements.

(Section 211 of the National Housing Act (12 U.S.C. 1709, 1715 b))

Issued at Washington, D.C., March 24, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Secretary.

[FR Doc. 80-13513 Filed 5-1-80; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Part 275

[Docket No. R-80-805]

Low-Rent Public Housing

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Revocation of Part 275.

SUMMARY: This rule would revoke 24 CFR Part 275. At the time this Part was adopted on December 22, 1971, (36 FR 24671), the Cherokee Terrace Apartments in Enid, Oklahoma, was the only remaining Federally-owned low-income public housing project. This Part informed the public about where to address inquires regarding applications for tenancy and other information about the project. Sale of this project by the Federal Government on May 31, 1979, terminated the special character of this project.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT: Wayne Hunter, Office of Public Housing, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6460. (This is not a toll free number).

Accordingly, 24 CFR Part 275 is hereby revoked.

(Sec. 7(d), 79 Stat. 670, 42 U.S.C. 3535(d)).

Issued at Washington, D.C., April 25, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-13511 Filed 5-1-80; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Part 841

[Docket No. N-80-996]

Public Housing Program; Development Phase; Prototype Cost Limits for Low-Income Public Housing

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of Prototype Cost Determination under 24 CFR Part 841, Appendix A.

SUMMARY: On June 6, 1979, the Department published a revised schedule of "Prototype Cost Limits for Low-Income Public Housing." After consideration of additional factual data, revisions are necessary to increase the per unit prototype cost limits for thirteen prototype areas in the State of Kentucky.

EFFECTIVE DATE: May 2, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Jack R. VanNess, Director, Technical Support Division, Office of Public Housing, Room 6248, 451 7th Street SW., Washington, D.C. 20410, (202) 755-4956 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: These schedules establish per unit limits (published in accordance with Section 841, Appendix A) on the dwelling construction and equipment costs (prototype costs) for the development of new Low-Income Public Housing under the United States Housing Act of 1937 (Section 6(b)).

Timely written comments will be considered and additional amendments will be published if the Department determines that acceptance of the comments is appropriate. Comments with respect to cost limits for a given location should be sent to the address indicated above.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, 451 7th Street, S.W., Washington, D.C. 20410.

Accordingly, the per unit cost schedules setting Prototype Cost Limits for Low-Income Housing are amended as follows:

At 44 FR 32536-32538, revise the per unit prototype cost schedules for detached and semi-detached, row, and walk-up, Region IV, Louisville, Ashland, Bowling Green, Corbin, Covington, Frankfort, Hopkinsville, Lexington, Middlesboro, Murray, Newport, Owensboro and Paducah, Kentucky.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d); Sec. 6(b) U.S. Housing Act of 1937, 42 U.S.C. 1437(d))

Issued at Washington, D.C. on April 25, 1980.

Clyde T. J. McHenry,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

Region IV.—*Kentucky*

	0 bedroom	1 bedroom	2 bedroom	3 bedroom	4 bedroom	5 bedroom	6 bedroom
Louisville:							
Detached and semidetached	14,800	17,700	21,850	26,200	31,550	34,950	36,700
Row dwellings	14,050	16,800	20,750	24,900	29,950	33,200	34,850
Walkup	13,750	16,450	20,300	24,350	29,350	32,500	34,150
Ashland:							
Detached and semidetached	15,250	18,250	22,500	27,000	32,500	36,000	37,800
Row dwellings	14,450	17,300	21,350	25,650	30,850	34,200	35,900
Walkup	14,150	16,950	20,900	25,100	30,250	33,500	35,150
Bowling Green:							
Detached and semidetached	14,800	17,700	21,850	26,200	31,550	34,950	36,700
Row dwellings	14,050	16,800	20,750	24,900	29,950	33,200	34,850
Walkup	13,750	16,450	20,300	24,350	29,350	32,500	34,150
Corbin:							
Detached and semidetached	14,800	17,700	21,850	26,200	31,550	34,950	36,700
Row dwellings	14,050	16,800	20,750	24,900	29,950	33,200	34,850
Walkup	13,750	16,450	20,300	24,350	29,350	32,500	34,150
Covington:							
Detached and semidetached	15,250	18,250	22,500	27,000	32,500	36,000	37,800
Row dwellings	14,450	17,300	21,350	25,650	30,850	34,200	35,900
Walkup	14,150	16,950	20,900	25,100	30,250	33,500	35,150
Frankfort:							
Detached and semidetached	14,800	17,700	21,850	26,200	31,550	34,950	36,700
Row dwellings	14,050	16,800	20,750	24,900	29,950	33,200	34,850
Walkup	13,750	16,450	20,300	24,350	29,350	32,500	34,150
Hopkinsville:							
Detached and semidetached	14,650	17,500	21,650	25,950	31,250	34,600	36,350
Row dwellings	13,900	16,650	20,550	24,650	29,650	32,850	34,500
Walkup	13,600	16,300	20,100	24,100	29,050	32,200	33,800
Lexington:							
Detached and semidetached	14,800	17,700	21,850	26,200	31,550	34,950	36,700
Row dwellings	14,050	16,800	20,750	24,900	29,950	33,200	34,850
Walkup	13,750	16,450	20,300	24,350	29,350	32,500	34,150
Middlesboro:							
Detached and semidetached	17,000	20,350	25,150	30,150	36,300	40,200	42,200
Row dwellings	16,150	19,300	23,850	28,650	34,450	38,200	40,100
Walkup	15,800	18,900	23,350	28,000	33,750	37,400	39,250
Murray:							
Detached and semidetached	14,950	17,900	22,050	26,450	31,850	35,300	37,050
Row dwellings	14,200	16,950	20,950	25,150	30,250	33,550	35,200
Walkup	13,900	16,600	20,500	24,600	29,650	32,850	34,500
Newport:							
Detached and semidetached	15,250	18,250	22,500	27,000	32,500	36,000	37,800
Row dwellings	14,450	17,300	21,350	25,650	30,850	34,200	35,900
Walkup	14,150	16,950	20,900	25,100	30,250	33,500	35,150
Owensboro:							
Detached and semidetached	14,800	17,700	21,850	26,200	31,550	34,950	36,700
Row dwellings	14,050	16,800	20,750	24,900	29,950	33,200	34,850
Walkup	13,750	16,450	20,300	24,350	29,350	32,500	34,150

Region IV.—*Kentucky*—Continued

	0 bedroom	1 bedroom	2 bedroom	3 bedroom	4 bedroom	5 bedroom	6 bedroom
Paducah:							
Detached and semidetached	14,950	17,900	22,050	26,450	31,850	35,300	37,050
Row dwellings	14,200	16,950	20,950	25,150	30,250	33,550	35,200
Walkup	13,900	16,600	20,500	24,600	29,650	32,850	34,500

[FR Doc. 80-13472 Filed 5-1-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF LABOR

Office of The Secretary

29 CFR Part 56

Work Incentive Programs for AFDC Recipients Under Title IV of the Social Security Act; New Procedures To Determine the WIN Sanction Period

Correction

In FR Doc. 12385, appearing in the **Federal Register** of Tuesday, April 22, 1980, at page 27414, make the following corrections:

On page 27414, in the first column in the Summary, lines 8 and 9 which read, "published eslewhere in this separate Part XI)." Should be changed to read "published elsewhere in separate Part XII)."

Also on page 27414, in line 10, the word "fixed" should be inserted between "impose" and "periods".

In the same document on page 27416, the third column, under the paragraph designated "(iv)" and before "2.", the following heading should be inserted: "Subpart G—The WIN Adjudication System"

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, U.S. Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule incorporates the modifications of §§ 250.50, 250.51, and 250.52 of Chapter II of Title 30 of the Code of Federal Regulations required to implement the Department of the Interior's responsibility to assure prompt and efficient exploration and development of leased areas and to issue regulations "for unitization, pooling, and drilling agreements (43 U.S.C. 1334)." A proposed rule was published on August 10, 1979, in the **Federal Register** (44 FR 47109). The proposed rule described the modified practices and procedures which were proposed to be used by the Geological Survey in its exercise of the Secretary of the Interior's discretionary authority to approve unitization, pooling, and drilling agreements. Issuance of this rule implements changes that conform to the Department of the Interior's efforts to assure prompt and efficient exploration and development of leased areas.

DATES: This rule becomes effective June 30, 1980.

ADDRESSES: A copy of §§ 250.50, 250.51, and 250.52 of Title 30 of the Code of Federal Regulations may be obtained from the following offices of the Geological Survey:

Deputy Division Chief, Offshore Minerals Regulation, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 640, 12201 Sunrise Valley Drive, Reston, Virginia 22092;

Conservation Manager, Alaska Region, U.S. Geological Survey, 800 "A" Street, Suite 109, Anchorage, Alaska 99501;

Conservation Manager, Pacific OCS Region, U.S. Geological Survey, 1340 West Sixth Street, Room 160, Los Angeles, California 90017;

Conservation Manager, Eastern Region, U.S. Geological Survey, 1725 K Street NW., Suite 204, Washington, D.C. 20244;

Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 336 Imperial Office Building, P.O. Box 7944, Metairie, Louisiana 70010.

FOR FURTHER INFORMATION CONTACT: Gerald D. Rhodes, Senior Staff Assistant, Branch of Marine Oil and Gas Operations, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 640, Reston, Virginia 22092 (703) 860-7531, FTS 928-7531.

SUPPLEMENTARY INFORMATION:

Background

In April 1978, the Department of the Interior initiated a review of the past and current criteria and procedures used in the unitization of operations under OCS oil and gas leases. The results of that review led to: (1) The proposed revisions of 30 CFR 250.50 and 250.51 that were published August 10, 1979; and (2) the development of the model unit agreement that was also published in the **Federal Register** on August 10, 1979 (44 FR 47169). Issuance of this rule completes the revisions to 30 CFR Part 250 which were initiated to implement the requirements of the OCS Lands Act Amendments of 1978.

Comments

Twenty-one sets of comments and recommendations were submitted in response to the invitation contained in the Notice of proposed rule published August 10, 1979. All of the comments and recommendations that were received came from oil and gas companies and trade organizations.

Differences Between Proposed Rule and Final Rule

The differences between the provisions of the final rule and the provisions of the proposed rule are the result of the Department's efforts to incorporate the comments and recommendations that were received, to make the provisions of the final rule more clear, and to assure conformance with the OCS Lands Act, as amended, 43 U.S.C. 1331, et seq. (herein referred to as the "Act").

The proposed rules set forth all unitization provisions in § 250.50, and pooling and drilling agreement provisions were set forth in § 250.51. For the final rule, two sections are devoted to unitization, §§ 250.50 and 250.51, and the text of § 250.52, published October 26, 1979, has been deleted in favor of the proposed provisions for § 250.51, "Pooling and drilling agreements," published August 10, 1979. Definitions have been added to § 250.2 for use with the final rule. The authority and guidelines for unitization are set forth in § 250.50, while the procedures to be followed to accomplish unitization are set out in § 250.51. The model unit agreement will be published as a separate **Federal Register** Notice at a later date.

Section-by-Section Analysis

Definitions have been added to improve clarity and to respond to several commenters' suggestions. Definitions of unit agreement, unit area, unitized substances, unitization, and pooling and drilling agreements have been added to 30 CFR 250.2, where the definitions of other terms relevant to the regulations in this Part are located. To the extent practicable, the definitions

being added to § 250.2, "Definitions," are consistent with the definitions of similar terms set forth in 30 CFR Parts 226 and 271.

Section 250.50 Authority and guidelines for unitization.

Subsection 250.50(a) sets forth the basic authority for unitization, which is the conservation of the natural resources of the OCS. The natural resources of the OCS include all natural resources of the OCS, not just mineral resources (see subsection 2(e) of the Submerged Lands Act (43 U.S.C. 1301–1315)). Hence, in addition to being authorized for the purpose of preventing waste of mineral resources, unitization is also authorized to conserve living resources of the OCS and to protect the marine environment.

Generally, unitization will not be authorized solely to protect correlative rights. A lease does not grant lessees the ownership of minerals in place, and the Law of Capture applies to the development and production of OCS minerals. However, where development rights are constrained so that different lessees with separate rights to develop a common resource have unequal development opportunities, and the inequality was not apparent at the time the leases were offered, unitization may be authorized to protect correlative rights. Protection of correlative rights expressly includes Federal interests such as royalty interests, which is now of greater importance due to the different types of bidding systems authorized by the Act.

Three different unitization situations are recognized:

(1) Voluntary unitization;

(2) Compulsory unitization initiated by less than all affected lessees; and

(3) Compulsory unitization initiated by the Director.

Subsection 250.50(b) sets forth the basic guideline for unitization. Unitization must be related to a mineral reservoir or potential hydrocarbon deposit and the technical considerations for developing that reservoir or deposit. The purpose for authorizing unitization is to allow the optimal number of artificial islands (or other devices) necessary for efficient exploration, development, and production of a reservoir or potential hydrocarbon deposit. These are the primary technical constraints. Unitization is authorized for the minimum area necessary to accomplish this purpose so that unproductive portions of leases are not unitized.

Development constraints may be imposed by other considerations such as preservation of environmental quality (including water quality, biological resources, and ecosystems) of areas in and above the OCS and in adjacent areas of State jurisdiction. Considerations relating to State coastal zone management programs and air and water quality impacts in areas of State jurisdiction may impose constraints on the development of OCS minerals. Such constraints may place lessees in an unexpectedly unequal position with respect to leased resources subject to correlative rights. These constraints may reduce the number of artificial islands or other devices that can be used, or may limit the locations where such facilities may be constructed. Unitization, either compulsory or voluntary, can provide for the most optimally efficient development of mineral reservoirs and also provides protection for correlative rights in such situations.

Unitization for exploratory purposes is not highly encouraged, but it is expressly authorized. The provisions for the adjustment of the unit area are addressed primarily to explo.atory units. After exploration has been completed, a better delineation of the mineral reservoir will be available, and adjustments prior to development and production may be warranted. In keeping with the minimum area standard, the portions of leased areas that do not overlie the more precisely delineated reservoir should be excluded from the unit area in an adjustment. In response to comments, the word "adjustment" is used in lieu of "contraction" to accommodate an expansion if reservoir or field delineation indicates that an enlargement of the unit area is warranted. Approval of development and production plans for the unit area is contingent on acceptance of any adjustments in the unit area required by the Director.

Generally, units will be formed for single reservoirs or structures where potential hydrocarbon accumulations are anticipated. However, exploration may prove the presence of several noncontiguous reservoirs in a single structure or nongeological constraints may require the unitization of an area containing more than one reservoir or an area containing less than a complete reservoir in order to use the optimum number of platforms or artificial islands. Where unitization is approved for exploration and noncontiguous reservoirs are discovered, the unit area should be adjusted to eliminate nonreservoir areas. Reservoirs need not be eliminated from the unit area even if a noncontiguous unit area results. The provision of the proposed rule which indicated that lessees can reapply for unitization if a reservoir eliminated from a unit area has been deleted as unnecessary. It is not anticipated that a productive reservoir will be eliminated from a unit area.

Subsection 250.50(c) requires the reasonable delineation of a reservoir or of a potential hydrocarbon accumulation before unitization can be approved or required. In the exploration context, delineation can be established by geological and geophysical data that the Director determines is reasonably reliable. For development and production unitization, delineation must be established through the results of exploratory drilling.

Subsection 250.50(d) sets out what a unit agreement must contain. Although a model unit agreement will be published at a later date, variations from the model unit agreement are expected. The requirements of this subsection govern all unit agreements whether they conform to the model unit agreement or not. This subsection also provides that the Director may appoint the unit operator and prescribe a basis on which to allocate costs and benefits in the absence of an agreement on those matters among the lessees. In addition to governing the compulsory unitization situation, these provisions permit the Director to step in to preserve unitization that was initially undertaken on a voluntary basis but which is in danger of dissolution as a result of a disagreement among the lessees.

Subsection 250.50(e) has been written to make it clear that the purpose of unitization is not to continue leases in force beyond their primary term. One of the effects of unitization is that a lease that is subject to a unit agreement may be continued in force by unit operations conducted on the unit in behalf of the lease. However, when there is no drilling, production, or well reworking activities in the unit area, leases expire, as does the unit agreement. Upon the expiration of a unit agreement, leases that were in the unit area also expire unless they are not beyond their primary term, or unless the lessee independently commences drilling or well reworking on the lease within the time frame allowed in 30 CFR 250.35. Subsection 250.50(e) also points up the need to obtain a suspension under 30 CFR 250.12 to avoid the lapse of unitized leases due to a temporary cessation of drilling, production, and workover operations in the unit during a time period that is required for the design, fabrication, or installation of development and production facilities.

Subsection 250.50(f) provides that a unit agreement is to be effective on the

date set forth in the agreement. Subsection 250.50(f) also provides that a unit agreement shall terminate when drilling operations, actual production, or well reworking operations are not being carried out. The issuance of a suspension of production for one or more leases that are subject to the unit agreement will also continue those leases in effect. The unit agreement will also continue for the life of the suspension of production when the suspension covers two or more leases.

Subsection 250.50(g) specifically provides for the segregation of unitized leases. This provision is necessary to permit maintenance of the minimum area standard for unitization. OCS leases usually apply to tracts which exceed 5,000 acres. Often, reservoirs cross tract boundaries and include relatively small portions of lease tracts. Whole leases should not be included in a unit area unless they are reasonably thought to entirely overlie a reservoir or group of reservoirs. Rather, only the portion of a lease overlying a delineated reservoir should be unitized, and the remaining portion should be explored and developed separately. This effects a splitting or segregation of a lease into two separate leases under principles long followed for onshore Federal oil and gas leases.

The justification for segregation is more persuasive for OCS leases than for onshore leases. Lease tracts in general are far larger and lease ownership is far less diverse on the OCS. On the OCS, there is one mineral owner and the identity of the surface manager is the same as the mineral owner. The segregation of OCS leases prevents large areas from being tied up in nonproductive leases due to unitization of a small portion of two or more lease tracts. Segregation will encourage prompt and efficient exploration and development because lessees must explore segregated nonunitized portions of leases or relinquish them.

Subsection 250.50(g)(2) spells out that a segregated portion of a lease that is not included in a unit area is treated as a separate lease. It is not continued in force beyond its primary term by operations in the unit area, even if the operations occur on the other segregated portion of the same original base lease. A segregated portion of a lease not included in a unit area must be explored and developed independently of the segregated portion of the lease that is included in the unit area in order to be extended beyond its primary term.

Subsection 250.50(h) provides that at the expiration or termination of a unit agreement each lease lapses unless its initial term has not expired, or unless drilling, production, or well reworking activities are underway on the lease. This applies to the segregated portions of a lease which are treated as separate leases. Production on the segregated nonunitized portion of the lease will not maintain in force the segregated unitized portion of the segregated lease.

Provisions of other regulations are incorporated. Generally, if drilling, production, or well reworking activities are underway on a lease in a unit area, the unit agreement will remain in force. In the event that a unit agreement is terminated, or where a lease is eliminated from a unit area due to an adjustment, any lease with operations on it would not lapse on termination (see 30 CFR 250.35). With respect to a lease on which operations are not underway at the time of elimination or termination, lease expiration could be avoided by obtaining approval for a suspension of production or other operation under 30 CFR 250.12 in conjunction with a development plan under 30 CFR 250.34.

Subsection 250.50(i) makes it clear that unitization will not continue a lease in force beyond its primary term unless there are actual activities being conducted under the unit agreement that earn a continuance. This is of primary importance for exploratory units. This section encourages prompt and efficient exploration and development of a unit area after approval of a unit agreement.

Subsection 250.50(j) is a grandfather clause designed to protect lessees whose leases were unitized prior to the publication of these regulations. Specifically, it is designed to prohibit retroactive application of the segregation provisions of these regulations to a preexisting lease that is partly within and partly outside a unit area when there is actual production from any part of that lease. Of course, if a lessee consents to the retroactive application through voluntary unitization, the segregation provisions of those regulations can be applied to leases in effect on June 2, 1980. This section cannot be construed, however, as preventing the Director from requiring that a lessee drill or develop specific portions of a lease under other provisions of the regulations in this Part or under provisions of the lease.

Subsection 250.51–1(a) describes the procedures for accomplishing voluntary unitization. It requires that lessees follow the model unit agreement, unless the Director approves a variation at or before the approval of unitization.

Subsection 250.51–1(b) requires the lessee who seeks approval of voluntary unitization to provide supporting information that shows that approval would comply with § 250.50. The fact that lessees can agree on unitization is not in and of itself enough, and the criteria in § 250.50 must still be met. The Director may approve an application for voluntary unitization without a hearing.

Subsection 250.51–2(a) spells out the fact that compulsory unitization can be initiated in two ways, either by one or more lessees who seek to couple the unitization of nonconsenting lessees with correlative rights to a common reservoir, or by the Director for reasons set out in § 250.50. In either event, unitization must be in accordance with a unit agreement whether the unit agreement reflects an actual agreement among some or all of the lessees, or whether it represents a plan developed or approved by the Director. The unit agreement should follow the model unit agreement, and where practicable should reflect any agreement reached between all the lessees, although variation from these principles is authorized for good cause.

Under § 250.51–2(b), compulsory unitization, like voluntary unitization, must conform to the criteria of § 250.50. Supporting information is required. When lessees seek compulsory unitization, they should reach agreement on as many issues as possible between as many lessees as possible before filing a request. Copies of the request must be served on nonconsenting lessees by the lessees requesting unitization. In those instances where the Director initiates unitization, he must notify all affected lessees.

Subsection 250.51–2(c) incorporates provisions which assure a lessee the opportunity for a hearing prior to the issuance of a compulsory unitization order. If no hearing is requested, compulsory unitization may be ordered without a hearing. If a hearing is requested, it shall be held after at least 30 days notice to all lessees of leases to be unitized. Any such hearing shall be informal in nature, but must, as a minimum, provide an opportunity for owners of interests to present information and to question lessees requesting unitization. The words "evidence," "witnesses," and "cross examination" have intentionally been avoided to stress the informal nature of such a hearing. A record shall be compiled by the Director, and any participant may arrange for the proceedings to be transcribed. When proceedings are transcribed, three copies of the transcript are to be provided to the Director within 10 days following the hearing.

Under § 250.51–2(d), the Director's decision on unitization, whether voluntary or compulsory, shall be in the

form of a written order and shall include a statement of reasons. An order to accomplish compulsory unitization shall be subject to the appeal provisions of 30 CFR Part 290.

This provision of the final rule and § 250.51(c) constitute the Department's response to the petition for rulemaking dated June 8, 1978, filed by Exxon Corporation.

Section 250.52 has been modified by deleting the text of the regulations in § 250.52 as published October 26, 1979, and substituting the text of § 250.51 as published August 10, 1979. Pooling and drilling agreements are authorized by this section. They must be filed with the Director, but they need not be approved by him. Such agreements may not excuse a lessee from any of the requirements of the regulations in Part 250. These agreements are distinguished from unit agreements in that they do not create a unit area or affect the terms of the leases concerned, and they are not limited by the criteria for unit agreements.

Discussion of Major Comments

Extend Comment Period and Hold Informal Meeting. A number of respondents suggested that the comment period for the proposed regulation be extended and that informal meetings be held to afford industry representatives and other representatives an opportunity to participate in a free exchange of views with representatives of the Department of the Interior. Any person interested in an opportunity to participate in a discussion of the proposed regulations with representatives of the Department of the Interior was free to make a specific request for such a meeting during the comment period set out in the Federal Register Notice of August 10, 1979. The Offshore Operators Committee requested and obtained such a meeting in order to present its comments and recommendations on the proposed rule. This meeting was held in Reston, Virginia, on October 5, 1979, and was attended by representatives of the Department of the Interior, the Offshore Operators Committee, Mobil, Gulf, Shell, Exxon, Texaco, and Chevron. In addition, we note that in response to a specific request from the Western Oil and Gas Association, the comment period was extended from October 9, 1979, to November 5, 1979 (44 FR 60109).

Develop Separate Regulations for the Three Major Categories Under Which the Unitization of Operations may be Classified. A number of respondents suggested that the proposed regulations be restructured to more clearly address three different types of unitization:

(a) Unitization of operations initiated and agreed to by all lessees and approved by the Director;

(b) Unitization of operations by order of the Director where the action is on the Director's initiative; and

(c) Unitization of operations ordered by the Director at the request of one or more (but less than all) lessees.

This suggestion has been adopted. The provisions of proposed § 250.50 have been reorganized into new §§ 250.50 and 250.51. Section 250.50, "Authority and requirements for unitization," contains conditions to be met before the unitization of operations will be permitted or required. It distinguishes between voluntary unitization ((a) above) and compulsory unitization ((b) and (c) above), although the conditions for each are similar. Section 250.51, "Procedures for unitization," sets out the different procedures to be followed and requirements to be met in all three situations.

Identify the Nature of the Area Unitized. A number of respondents questioned whether the proposed rule envisioned a unit area to be 2-dimensional or 3-dimensional in nature and suggested that the final rule should clarify the nature of a unit area. The proposed rule and this final rule are designed to permit the unit area to be viewed as either 2-dimensional or 3-dimensional in nature. The nature of the specific unit area addressed in a specific unit agreement will be settled during the time that the unit agreement is being developed. In the event there should be a disagreement over the nature of a specific unit area, the approving officer may determine whether the unit area is for a limited depth. The unit agreement contains a description of the unit area which will define whether the unit area is limited by depth.

Provide for Unitized Operation of Less than an Entire Reservoir. One respondent recommended that the proposed rule be clarified to permit unitized operation of a portion of a reservoir. Generally, unitization should encompass an entire reservoir, or for exploration purposes, a geological structure expected to evidence the possible presence of a potential hydrocarbon accumulation. However, there may be unusual situations, for example, near a Federal/State boundary, near a marine sanctuary, or near some natural feature where unitization of a portion of a reservoir or potential hydrocarbon accumulation would be appropriate. Accordingly, this suggestion has been adopted.

However, it should be noted that it is not the Department's intent to authorize or to require that an area be developed and produced under a unit agreement when the objectives that would be obtained through unitization are being or can be obtained without a unit agreement. Similarly, where the objectives that would be obtained through unitization of an entire structure or reservoir are obtainable through unitization of a portion of the structure or reservoir, unitization may be limited to that portion of the structure or reservoir where unitization is necessary to obtain the desired objectives.

Unitization for Exploration as Well as for Development and Production. A number of commenters expressed concern that the proposed rule did not appear to specifically recognize the need to conduct exploratory operations under a unit agreement. The proposed rule was designed to specifically recognize that there may be instances where unitized exploration of geologic structures that may provide trapping mechanics for potential hydrocarbon accumulations may be appropriate (see §§ 250.50(f) and (g) of the proposed rule). Use of the term "potential hydrocarbon accumulation" was specifically intended to authorize unitization for exploration by covering the situations where the existence of a potential hydrocarbon bearing geologic structure has been reasonably delineated on the basis of reliable geophysical data, but the existence of a reservoir has yet to be proved. Hence, both the proposed rule and final rule recognize that there may be circumstances which support the conduct of exploration activities under a unit agreement.

Where an area is unitized to conduct exploratory activities, there must be a reasonable expectation that those exploratory activities will be sufficiently complete to permit the unit operator to submit a development and production plan to develop and produce hydrocarbons from the unit area prior to the expiration of the primary 5-year term of any lease that is made subject to the unit agreement. A lease which is subject to an approved unit agreement may expire when it reaches the end of its primary term, in the absence of approved drilling activities, actual production, or a suspension of operations or production pursuant to § 250.12 for the unit area. The Department has consistently maintained that the commitment of an OCS oil and gas lease to a unit agreement in and of itself does not serve to earn an extension of an OCS oil and gas lease. Lease extensions must be earned by actual production, drilling, or well reworking operations in the unit area

pursuant to a plan approved in accordance with 30 CFR 250.34.

Unitization of Operations Ordered by the Director at the Request of One or More (but less than all) Lessees. A number of respondents expressed concern that the proposed rule did not appear to establish procedures under which lessees might initiate a request that unitized operations be ordered by the Director. As described in the comments above, the regulations have been revised to clarify the procedures in this situation.

The absence of specific regulations to permit lessees to initiate a request that the Director order unitization has not prevented the initiation of similar requests in the past. At any time during the development of a proposal for voluntary unitization, one or more lessees may request that the Director initiate proceedings which may lead to an order for compulsory unitization. In those instances where the Director, at the request of one or more lessees, initiates proceedings which result in compulsory unitization, essentially the same procedures are to be followed as are followed when the Director initiates such proceedings on his own initiative. In such situations, the unit agreement ordered by the Director may differ from the proposed unit agreement agreed to by the lessee(s) that requested compulsory unitization, but only if the Director makes findings supported by reasons set forth in a statement incorporated in the order requiring unitization.

Maintenance of Lease Acreage by Unit Production. Several respondents expressed concern that implementation of the proposed rule would result in the splitting or segregating of those leases which cover lands that are partly within and partly outside the area that is subject to the unit agreement. That the regulations would authorize segregation of leases is entirely correct, and this is more explicitly stated in the final rule.

The segregation of leases as to lands which are subject to a unit agreement and lands that are not subject to the unit agreement is a well established practice with respect to oil and gas leases issued under the Mineral Leasing Act. The Mineral Leasing Act specifically requires that leases which cover lands that are partly within and partly outside the unit area be segregated (30 U.S.C. 226). With respect to leases covering OCS submerged lands, the Congress gave the Secretary of the Interior broad power to prescribe such rules and regulations as may be necessary to administer the provisions of the Act. The OCS Lands Act of 1953 authorized the Secretary to issue regulations which provide for unitization, pooling, and drilling agreements (43 U.S.C. 1334(a)(1976)). This authority is even more explicitly stated in the 1978 Amendments to the Act (43 U.S.C. 1334(a)(4)). The discretion delegated to the Secretary to adopt regulations governing unitization is extremely broad and clearly authorizes the segregation of OCS oil and gas leases for OCS submerged lands which are partly within and partly outside a unit area.

Many of the commenters who addressed this issue focused on the retroactive application of the segregation provision to existing leases. This is a separate issue from that of the Secretary's authority to adopt regulations providing for the segregation of leases. Persons obtaining leases with knowledge that they are subject to segregation for unitization purposes cannot complain that the regulations effect a taking of property rights. With respect to leases that are now partially unitized and which have production from the unitized portion of the lease, retroactive application of the segregation provisions of these regulations could give rise to a claim that property rights have been "taken." Although the Secretary has adequate authority to accomplish the purposes of segregation by requiring drilling on a specific portion of any lease, the segregation provisions are made nonretroactive absent the consent of the affected lessees. Thus, existing contractual relations under currently approved unit agreements are not affected by the provision.

Authority to Promulgate Proposed Rules. A number of respondents questioned the Secretary's authority to issue the proposed rule because it was viewed as relating to diligence, a responsibility which has been assigned to the Department of Energy under section 302 of the Department of Energy Organization Act. The Department is confident that the proposed rule and this final rule are within the authority of the Secretary of the Interior to prescribe rules and regulations necessary to administer the provisions of the Act. Under the 1978 Amendments to the OCS Lands Act, adopted after the Department of Energy Organization Act, the Secretary is required to assure by regulation the "prompt and efficient exploration and development of a lease area" (see 43 U.S.C. 1332(3), 1334(a)(7)). These sections and the previously cited authority for unitization regulations provide the requisite authority. These regulations are not incompatible with the authority of the Department of Energy.

Selection of Unit Operator. Several respondents expressed concern that the proposed rule and proposed model unit agreement dealt with the selection of the unit operator. Some respondents characterize the service as unit operator as a privilege, while others characterized it as a private affair to be handled exclusively by the lessees. The Department has no intention of interfering unnecessarily in the selection of unit operators. On the other hand, the Department will not permit differences over who should be unit operator to jeopardize a necessary unit operation. To this end, the Department has adopted the suggestion that the final rule empower the Director to assign the responsibility for the conduct of unit operations. We find this option preferable to being forced to terminate a unit agreement where the lessees are unable to reach an agreement on who should be the successor unit operator. We reject the contention that the resignation and selection of a unit operator should be governed exclusively by provisions of the unit operating agreement and by agreement of the lessees. The authority to order that lease operations be conducted under a unit agreement carries with it the authority to order a lessee to serve as unit operator. Similarly, the right to hold a lease which may be ordered to be unitized carries with it the responsibility to serve as unit operator under a unit agreement ordered by the Director.

Definitions. A number of respondents suggested that the final rule should define certain terms which the commenters considered basic. These suggestions have been adopted to the extent that § 250.2, "Definitions," has been expanded to include definitions of "unitization," "unit area," "unit agreement," "unitized substances," and "pooling or drilling agreements." These definitions are similar to the definitions found in 30 CFR Parts 226 and 271. The suggestions that "prevention of waste," "protection of correlative rights," and "conservation of natural resources" be defined have not been adopted because they have settled meanings in the law relating to mineral leases in general, and OCS mineral leases in particular. Some terms including "correlative rights," "lessee," and "lease," are already defined in 30 CFR 250.2. Suggestions for other definitions have not been adopted because the terms are not used in the regulations.

Several commenters objected to the use of the term "Federal royalty interests" in § 250.50(a) on the grounds it is included in the term "correlative rights." The current definition of

"correlative rights" in 30 CFR 250.2 specifically relates to relationships between lessees and does not include Federal royalty interests. Therefore, the reference to Federal royalty interests is retained in the final rule.

Application of Rule to Pending Proposals. A number of respondents suggested that the requirements of the proposed rule should not be applicable to those unitization proposals that may be pending before the Department of the Interior. This suggestion has not been adopted. To the extent that this rule reflects the Secretary's policy on prompt and efficient exploration and development of OCS oil and gas leases and unit areas, the requirements of this final rule are presently being applied to unit proposals and have been applied to such proposals for a number of months. However, the final rule does set forth those instances where specific provisions of the final rule are not applicable to leases which were issued and unitized prior to the publication of the final rule, e.g., the compulsory segregation of leases issued and unitized prior to the publication of this final rule.

Delete § 250.52. The suggestion to delete the text of § 250.52 as published October 26, 1979, has been adopted and the provisions of proposed § 250.51 which were published August 10, 1979, have been substituted as a new § 250.52. The provisions that were published as a proposed rule on August 10, 1979, and identified as § 250.50 have been reorganized and clarified. This reorganization results in a separation of the provisions into two new sections, §§ 250.50 and 250.51, as explained in greater detail above.

Principal Authors

John Griggs, Office of the Solicitor, U.S. Department of the Interior; David Page, Office of the Assistant Secretary—Energy and Minerals; and Gerald D. Rhodes, Geological Survey.

Environmental Impact and Regulatory Analysis Statements

The Department of the Interior has determined that the revisions of the regulations in 30 CFR 250.50, 250.51, and 250.52, by the issuance of this rule, will not have a significant impact on the quality of the human environment and, therefore, will not require preparation of an Environmental Impact Statement. The Department has also determined this rule is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: April 29, 1980.

Joan M. Davenport,

Assistant Secretary.

30 CFR Part 250 is amended as follows:

§ 250.2 [Amended]

Section 250.2 is amended by the addition of the definitions of the following terms:

* * * * *

(ggg) "Unit agreement" means an agreement providing for the exploration for and development and production of minerals from OCS submerged lands as a single consolidated entity without regard to separate ownerships and for the allocation of costs and benefits on a basis defined in the agreement.

(hhh) "Unit area" means the area described in a unit agreement.

(iii) "Unitization" means the combining or consolidation of separately owned lease interests for the joint exploration or development of a reservoir or potential hydrocarbon accumulation under the terms of a unit agreement.

(jjj) "Unitized substances" means the minerals produced from OCS submerged lands in accordance with a unit agreement.

(kkk) "Pooling or drilling agreement" means an agreement providing for the exploration for and development and production of minerals from OCS submerged lands subject to separately owned mineral leases and under which operations are conducted without allocation of production between leases.

Sections 250.50, 250.51, and 250.52 are revised to read as follows:

§ 250.50 Authority and requirements for unitization.

(a) Unitization may be required or approved by the Director for the prevention of waste and the conservation of the natural resources of the OCS, and for the protection of correlative rights therein, including the protection of Federal royalty interests. Unitization may be required or approved for exploration, development, and/or production. Lessees may agree among themselves to unitization, subject to the Director's approval (voluntary unitization), or the Director may impose unitization on the initiation of one or more lessees or on the Director's own initiative (compulsory unitization).

(b) A unit area shall include the minimum number of leases or segregated portions of leases required to permit one or more, or a portion of one or more, mineral reservoirs or potential hydrocarbon accumulations to be served by an optimal number of artificial islands, installations, or other devices necessary for the efficient exploration for or development and production of oil and gas or other minerals. The Director shall conditionally approve the development and production of unitized substances on the lessees' acceptance of any necessary adjustment in the unit area. Procedures for adjustment of a unit area shall be set forth in the unit agreement.

(c) Unitization may not be required or approved by the Director until he finds that the delineation of any reservoir or any potential hydrocarbon accumulation has been reasonably established.

(d) A unit agreement shall provide for the appointment of a unit operator and the allocation of costs and benefits to the unitized leases. In the absence of an agreed basis for the allocation of costs and benefits, or under unitization required by the Director, costs and benefits shall be allocated on an equitable basis determined by the Director, as supported by the record compiled in accordance with 30 CFR 250.51.

(e) Drilling, production, and well reworking operations performed in accordance with a unit agreement shall be deemed to be performed for the benefit of all leases or segregated portions of leases that are subject to the unit agreement. Plans may provide for the cessation of actual drilling activities for a reasonable period between the discovery and delineation of one or more reservoirs and the initiation of actual development and production to allow for the expeditious design, fabrication, and installation of artificial islands, installations, and other devices needed for development and production operations. When plans that call for the cessation of drilling prior to actual production involve one or more leases beyond their primary term, the plans shall be accompanied by a request and supporting justification for a suspension of operations or production pursuant to 30 CFR 250.12.

(f) A unit agreement shall be effective on the date specified in the unit agreement and shall terminate when unitized substances are no longer being produced or drilling or well reworking operations are no longer being conducted under the unit agreement, unless the Director has ordered or approved a suspension of operations or production pursuant to 30 CFR 250.12.

(g)(1) A lease embracing OCS submerged lands that are part within and part outside of a unit area shall be segregated into separate leases as to the portion committed to the unit agreement and the portion not committed, and the terms of such lease shall apply

separately to such segregated portions as of the effective date of unitization. A lease, including the segregated unitized portion of a lease, shall continue in force for the term of the lease and as long thereafter as it remains subject to an approved unit agreement.

(2) A segregated portion of a lease which is not subject to a unit agreement may be maintained after the effective date of unitization only for the term provided in the lease. Drilling, production, or well reworking within the unit area shall not be for the benefit of an excluded lease or the excluded segregated portion of a lease.

(h) Upon the expiration or termination of a unit agreement or when there is an adjustment of a unit area that results in the elimination of a lease or a portion of a lease from the unit agreement, each lease or segregated portion of a lease that was but is no longer subject to the unit agreement shall expire unless: (1) Its initial term has not expired, (2) drilling, production, or well reworking operations are underway on the lease or portion of a lease, or (3) a suspension of production or operations has been ordered or approved for the lease or portion of a lease pursuant to 30 CFR 250.12.

(i) When a lease or a segregated portion of a lease subject to a unit agreement is beyond the initial fixed term of the lease and unitized substances are not being produced, the lease or segregated portion of a lease shall expire unless: (1) The unit operator conducts a continuous drilling or well reworking program designed to develop or restore the production of unitized substances, or (2) a suspension of operations has been ordered or approved in accordance with 30 CFR 250.12.

(j) If a lease issued prior to May 2, 1980, is included in a unit agreement, the provisions of § 250.50(g) shall not apply without the consent of the lessee. If any such lease is subject in whole or part to unitization, the entire lease shall continue in force for the term provided in the lease and as long thereafter as the lease or a portion thereof remains part of the unit area and as long as there are operations within the unit area which serve to continue the lease in effect.

§ 250.51 Procedures for unitization.

§ 250.51-1 Voluntary unitization.

(a) Lessees seeking approval of unitization shall draft a unit agreement conforming to the model unit agreement. For good cause the Director may require or, upon request, approve a variation from the model unit agreement. Any request for variation shall be made at the time the proposed unit agreement is submitted to the Director for approval and shall include an explanation of the reasons for the variation. If the Director requires a variation from the model unit agreement, lessees shall be so informed at the time approval is given for a proposed unit agreement or at the time an order requiring unitization is issued.

(b) Lessees who seek approval of a unit agreement shall file a request with the Director accompanied by a proposed unit agreement conforming to the model unit agreement, and by the supporting geological and geophysical data and any other information that may be necessary to show that the proposed unitization meets the criteria of 30 CFR 250.50. If the Director approves the proposed unit agreement, lessees shall execute the unit agreement and file with the Director a counterpart in triplicate executed by each lessee. Where all lessees of the proposed unit area have executed the unit agreement, the Director may issue an order or orders approving unitization if he finds that unitization would be in accordance with 30 CFR 250.50.

§ 250.51-2 Compulsory unitization.

(a) If the Director requires unitization on his own initiative or in conjunction with an application for approval of unitization by less than all lessees of the proposed unit area, unitization shall be imposed according to a unitization plan which shall:

(1) Conform to the model unit agreement, unless good cause exists for variation from the model unit agreement and the reasons for the variation are stated in writing; and

(2) Conform to any proposed unit agreement executed by less than all of the lessees, unless good cause exists for variation from the proposed unit agreement and the reasons for the variation are stated in writing.

(b)(1) Lessees who seek compulsory unitization shall file a request with the Director accompanied by a proposed unit agreement conforming to the model unit agreement, together with supporting geological and geophysical data and any other information that may be necessary, to show that unitization meets the criteria of 30 CFR 250.50. The proposed unit agreement shall include a counterpart in triplicate executed by each lessee seeking compulsory unitization. Lessees seeking compulsory unitization shall serve copies of the request and executed counterparts of the proposed unit agreement on the nonconsenting lessees.

(2) If the Director initiates compulsory unitization, the Director shall serve notice on all lessees of the proposed unit area with a copy of the proposed unit agreement or unitization plan and a statement of reasons for the proposed unitization.

(c)(1) The Director may not require compulsory unitization unless he has first provided reasonable notice and an opportunity for a hearing to all lessees of the proposed unit area. Any lessee of the proposed unit area may request a hearing within 30 days of service of notice by the Director or service of a request for compulsory unitization by a lessee.

(2) No hearing may be held pursuant to this paragraph until at least 30 days written notice in advance of the hearing has been provided. The Director shall afford all lessees of the proposed unit area an opportunity to submit views orally and in writing and to question those seeking compulsory unitization. Adjudicatory procedures are not required, but the decision of the Director shall be based upon a record of the hearing including any written information made a part of the record. A party to a hearing may, at its own expense, cause a verbatim transcript to be made by a court reporter. If a verbatim transcript is made, three copies of the transcript shall be provided to the Director without charge within 10 days of the date of the hearing.

(d) The Director may issue an order or orders that require or disapprove compulsory unitization or approve or disapprove voluntary unitization. Any such order shall include a statement of reasons. The final order of the Director or his delegate may be appealed in accordance with 30 CFR Part 290.

§ 250.52 Pooling or drilling agreements.

(a) Pooling or drilling agreements may be made between lessees for the purpose of:

(1) Utilizing a common drilling site to explore, develop, or produce adjacent or adjoining tracts;

(2) Permitting lessees or pipeline companies to enter into contracts involving a number of tracts sufficient to justify operations on a large scale for the exploration for and development, production, or transportation of oil and gas or other minerals, or to finance these operations; or

(3) For other purposes in the interest of conservation.

(b) A pooling or drilling agreement shall not be deemed to affect the requirements for drilling, production, or well reworking operations set out in the Act, the regulations, or the lease.

(c) Pooling and drilling agreements shall be filed with the Director, in conjunction with a development and

production plan approved under 30 CFR 250.34–2.

[FR Doc. 80–13502 Filed 5–1–80; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations. The purpose of the amendment is to add certain interpretative provisions, licenses and statements of licensing policy, and procedural provisions. The need for the amendment is to clarify the effect and scope of additional prohibitions added to the Regulations by amendments published on April 9 and 21, 1980. The effect of the amendment is that these additional interpretative, policy and procedural provisions will now be available in published form.

EFFECTIVE DATE: April 30, 1980.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, (202) 376–0236.

SUPPLEMENTARY INFORMATION: Since the Regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rule making, opportunity for public participation and delay in effective date are inapplicable.

On April 9, 1980, the Office published §§ 535.206 and 535.207 imposing additional financial and trade sanctions on Iran. (45 FR 24432.) New § 535.429 published today interprets the trade prohibition in § 535.207(a)(1) as including the exportation of technical data in any form. New § 535.430 further interprets the prohibition as including the sale, supply or other transfer of items, commodities or products for incorporation in foreign-manufactured goods where the U.S. exporter has reasonable cause to believe that the foreign-manufactured goods are intended for export to Iran.

New § 535.575 is a general license for the exportation to Iran of newspapers, magazines, journals, newsletters, books, films, phonograph records, photographs, microfilms, microfiche, tapes and similar material. The general license does not apply to materials which are principally devoted to the dissemination of technical data.

New § 535.577 is a general license for the exportation to Iran of household goods and personal effects of Iranian individuals departing the United States. The general license does not apply to goods in commercial quantities.

New § 535.603 sets forth the procedure to be followed in giving notice to the Office pursuant to §§ 535.206(b) and 535.207(b) which require notice by the U.S. parent firm 10 days prior to entry of its foreign affiliate into any transaction covered by §§ 535.206(a) and 535.207(a).

On April 21, 1980, the Office published additional restrictions with respect to Iran, including prohibitions on remittances to any person in Iran, travel restrictions, and a prohibition on imports from Iran and of Iranian-origin goods. (45 FR 26940.)

New § 535.426 clarifies the prohibition on remittances. Remittances to third countries are not prohibited unless the remitter knows or has reasonable cause to believe that the remitted funds are being transferred to the country of Iran. The new section also clarifies the liability of remitting banks under § 535.206(a)(4). It makes clear that U.S. banks are not responsible for policing the multitude of items processed electronically but must not complete transactions where current and actual knowledge provides information that gives reasonable cause to believe that the remittance is prohibited.

New § 535.427 clarifies that the prohibition in § 535.206(a)(4) includes payments of dividends, interest, and other periodic payments.

New § 535.428 explains that acceptance of free sponsorship or support for travel to or travel and maintenance in Iran is a "transaction" or "transfer" prohibited by the travel restrictions of § 535.209(a).

New § 535.431 clarifies that the prohibition on importation of Iranian-origin merchandise does not apply to such merchandise where the bill of lading is dated on or before April 17, 1980, indicating that the merchandise left on or before that date.

New § 535.528 authorizes certain transactions by persons subject to the jurisdiction of the United States in connection with the filing and prosecution of an application for, or certain other proceedings involving, an Iranian patent, trademark, or copyright.

New § 535.550 sets forth the licensing policy on imports of publications and similar items from Iran.

New §§ 535.562(c) 535.578 are general licenses authorizing the importation of passengers' baggage by U.S. citizens, dual nationals, persons engaged in news gathering operations and certain other persons.

The general license in § 535.563 for family remittances is being amended by the addition of paragraph (d) placing a monthly limit of $1,000 on such remittances per payee or per household.

New § 535.576 contains a general license authorizing payment by persons subject to the jurisdiction of the United States of existing non-dollar letters of credit in favor of Iranian entities or persons in Iran where letters of credit are denominated in foreign currencies.

1. Section 535.426 is added as follows:

§ 535.426 Remittances involving persons in Iran.

(a) Remittances to countries other than Iran are not prohibited by § 535.206(a)(4) unless the remitter knows or has reasonable cause to believe that the funds are being transferred directly or indirectly to Iran.

(b) Subject to the requirement of paragraph (c) of this section, liability of a U.S. bank under § 535.206(a)(4) in connection with a payment made on the order of a party other than the bank is limited to the following transactions:

(1) Payment from an account held by the bank for a person located in Iran;

(2) Payment from any other account where the bank has actual and current knowledge of facts that give reasonable cause to believe that the payment is being made in violation of § 535.206(a)(4).

(c) U.S. banks are required to disseminate information about the prohibitions contained in § 535.206(a)(4) and the provisions of this section to all officers and employees.

2. Section 535.427 is added as follows:

§ 535.427 Dividends, interest, and other periodic payments to Iran.

The prohibition of transfers to persons in Iran contained in § 535.206(a)(4) applies to all payments and transfers, including payment or transfer of dividend checks, interest payments and other periodic payments.

3. Section 535.428 is added as follows:

§ 535.428 Sponsored travel and maintenance of U.S. nationals in Iran.

The receipt or acceptance by any person who is a U.S. citizen or U.S. permanent resident alien of any gratuity, grant, or support in the form of meals, lodging, payments of travel or maintenance expenses, or otherwise, in connection with travel to or travel and maintenance within Iran constitutes a transaction or transfer within the meaning of the prohibition set forth in § 535.209(a).

4. Section 535.429 is added as follows:

§ 535.429 Exportation of technical data prohibited.

(a) The prohibition in § 535.207(a)(1) includes transfers of information, in eye-readable or machine-readable form, intended for use, directly or indirectly, in the design, production, manufacture, reconstruction, servicing, operation or use of any product.

(b) The prohibition on the exportation of technical data extends not only to unpublished technical information that is not available to the public, but also to published technical data such as operating, repair or service manuals for automotive or industrial equipment that are available through commercial sources such as book distributors.

5. Section 535.430 is added as follows:

§ 535.430 U.S. components of foreign-made goods.

The prohibitions in § 535.207(a)(1) apply to the sale, supply or other transfer after the effective date of § 535.207 of items, commodities or products for incorporation in foreign-manufactured goods where the person subject to the jurisdiction of the United States has reasonable cause to believe that those goods are intended for export to Iran.

6. Section 535.431 is added as follows:

§ 535.431 Goods in transit.

Shipments of Iranian origin merchandise covered by a bill of lading dated on or before April 17, 1980 are not within the prohibition in § 535.204.

7. Section 535.528 is added as follows:

§ 535.528 Certain transactions with respect to Iranian patents, trademarks and copyrights authorized.

(a) The following transactions by any person subject to the jurisdiction of the United States are authorized:

(1) The filing and prosecution of any application for an Iranian patent, trademark or copyright, or for the renewal thereof;

(2) The receipt of any Iranian patent, trademark or copyright;

(3) The filing and prosecution of opposition or infringement proceedings with respect to any Iranian patent, trademark, or copyright, and the prosecution of a defense to any such proceedings;

(4) The payment of fees currently due to the government of Iran, either directly or through an attorney or representative, in connection with any of the transactions authorized by paragraphs (a)(1), (2), and (3) of this section or for the maintenance of any Iranian patent, trademark or copyright; and

(5) The payment of reasonable and customary fees currently due to attorneys or representatives in Iran incurred in connection with any of the transactions authorized by paragraphs (a)(1), (2), (3) or (4) of this section.

(b) Payments effected pursuant to the terms of paragraph (a)(4) and (5) of this section may not be made from any blocked account.

(c) As used in this section the term "Iranian patent, trademark, or copyright" shall mean any patent, petty patent, design patent, trademark or copyright issued by Iran.

8. Section 535.550 is added as follows:

§ 535.550 Publications, films, etc. from Iran.

(a) Specific licenses are issued as appropriate for importations of publications, films, posters, phonograph records, photographs, microfilms, microfiche and tapes originating in Iran. All payments due the suppliers will be required to be made into accounts in domestic banks subject to the provisions of § 535.201 or § 535.206(a)(4). Such an account shall be established in the name of the seller and the licensee shall report such information concerning the importation and the account established in the name of the seller as the Office of Foreign Assets Control may require as a condition of the license.

(b) Such importations of publications, films, etc. are also licensed as appropriate when the Office of Foreign Assets Control is satisfied that they are bona fide gifts to the importer and that there is not and has not been any direct or indirect financial or commercial benefit to an Iranian entity or any person in Iran from the importations.

9. Section 535.562 is amended by the addition of new paragraph (c) as follows:

§ 535.562 News material.

* * * * *

(c) *Accompanied baggage of journalists and news correspondents.* All transactions incident to the importation into the United States of accompanied baggage of a journalist or other person referred to in paragraph (b) of this section are authorized, provided that such baggage does not contain goods in commercial quantities.

10. Section 535.563 is amended by the addition of new paragraphs (d) and (e) as follows:

§ 535.563 Family remittances to Iran.

* * * * *

(d) Remittances authorized by this section are limited to $1000 per month to any one payee or to any one household.

(e) Any remittance exceeding the amount specified in paragraph (d) of this section would require a specific license.

11. Section 535.575 is added as follows:

§ 535.575 Exports of newspapers, magazines, films, etc. to Iran.

All transactions not inconsistent with § 535.419 and ordinarily incident to the export to Iran of newspapers, magazines, journals, newsletters, books, films, phonograph records, photographs, microfilms, microfiche, tapes or similar materials are authorized, except such materials which are principally devoted to the dissemination of technical data.

12. Section 535.576 is added as follows:

§ 535.576 Payment of non-dollar letters of credit to Iran.

Notwithstanding the prohibitions of §§ 535.201 and 535.206(a)(4), payment of existing non-dollar letters of credit in favor of Iranian entities or any person in Iran by any foreign branch or subsidiary of a U.S. firm is authorized, provided that the credit was opened prior to the respective effective date.

13. Section 535.577 is added as follows:

§ 535.577 Household goods and personal effects.

All transactions incident to the exportation to Iran of household goods and personal effects of an Iranian individual departing the United States are authorized, provided that no goods in commercial quantities may be exported under this general license.

14. Section 535.578 is added as follows:

§ 535.578 Passengers' baggage and personal effects.

(a) All transactions incident to the importation into the United States of baggage, household goods and personal effects of the following persons are authorized, provided that such importation does not include goods in commercial quantities:

(1) United States citizens and U.S. resident aliens who departed Iran on or before April 24, 1980;

(2) Third country nationals; and

(3) Dual nationals of the United States and Iran.

(b) All transactions incident to the importation into the United States of baggage, household goods and personal effects of an Iranian national who enters the United States on a visa issued by the Department of State are authorized, provided that such importation does not include goods in commercial quantities.

(c) All transactions incident to the importation into the United States of baggage and personal effects of a crew member of vessels or aircraft in the United States on temporary sojourn are

authorized, provided that such importation does not include goods in commercial quantities and any such articles are intended for export from the United States with the crew member upon his departure.

15. Section 535.603 is added as follows:

§ 535.603 Report of Proposed Subsidiary Transaction With Iran.

(a) A U.S. company required by § 535.206(b) or § 535.207(b) to submit a report to the Office of Foreign Assets Control regarding a proposed transaction with Iran by a subsidiary shall submit a letter containing the following information.

(1) Name of the foreign subsidiary involved.

(2) Location.

(3) Description of the merchandise.

(4) Value.

(5) Ultimate Iranian consignee.

(6) Identity of any intermediary firm(s).

(7) End-use.

(8) Payment terms.

(b) The report shall be addressed as follows: Ms. Susan Swinehart, Chief of Licensing, Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220. Att: Section 535.603 Report—EXPEDITE.

(c) The report must be submitted in sufficient time to reach the Office of Foreign Assets Control 10 days before any subsidiary enters into any transaction covered by § 535.206 or § 535.207.

(Sec. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729, E.O. No. 12205, 45 FR 24099; E.O. No 12211, 45 FR 26685)

Dated: April 30, 1980.

Stanley L. Sommerfield,

Director.

Approved.

Richard J. Davis,

Assistant Secretary.

[FR Doc. 80-13711 Filed 4-30-80; 4:00 am]
BILLING CODE 4810-25-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 216

Procedures for Involving the Public in the Formulation of Standards, Criteria, and Guidelines That Apply to Forest Service Programs

AGENCY: Forest Service, USDA.

ACTION: Final Rule.

SUMMARY: The Department of Agriculture is issuing final regulations required by section 14 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (hereafter RPA), added by section 11 of the National Forest Management Act of 1976 (hereafter NFMA). This legislation provides for the establishment of procedures "to give the Federal, State and local governments, and the public adequate notice and opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs." These regulations apply to the formulation of standards, criteria, and guidelines for programs of Research, State and Private Forestry, and the National Forest System.

The regulations do not apply to public participation for land management planning under section 6 of RPA, as amended by NFMA, which contains a requirement for a separate public involvement process. This process is covered in 36 CFR Part 219, as described in a final rule published in the **Federal Register** of September 17, 1979. (44 FR 53928)

DATE: Effective June 2, 1980.

ADDRESS: A copy of this final rule may be obtained from: Chief, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Robert M. Lake, Office of Information, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, 202/447–3760.

SUPPLEMENTARY INFORMATION: On November 21, 1977, and again on April 17, 1979, the Secretary of Agriculture published in the **Federal Register** proposed rules to amend 36 CFR Chapter II by adding Part 216 (42 FR 59762 and 44 FR 22759). Part 216 implements the provision of section 14 of RPA, as amended, for public participation in formulating standards, criteria, and guidelines for Forest Service programs.

More than 150 comments were received on the proposal published in November 1977. They came from local and State governments, Federal agencies, business and industry representatives, private organizations and citizens, the Committee of Scientists established under NFMA, and from people within the Forest Service. These comments were analyzed and considered in the preparation of the second proposal which was published in April 1979, along with another invitation to comment. Comments were invited the second time because of the considerable change from the first proposal. In addition to publication in the **Federal Register**, the revised proposal was also mailed directly to more than 500 individuals and organizations, including those who commented on the first proposal.

Forty seven comments were received on the second proposal, representing business interests, associations and organizations; State government agencies; the Committee of Scientists; the Council on Environmental Quality; and individual Forest Service employees. The comments provided insight useful in preparing the final regulations, and indicated a need for slight changes. There was indication that some reviewers did not understand or that it was not made clear that this particular law requires public participation on program standards, criteria, and guidelines, not on programs per se.

Section-by-Section Comments

Section 216.1—Definitions. A few comments indicated a desire on the part of some reviewers for general improvement of definitions. While we feel there is always room for improvement, neither we nor those commenting could find specific ways to improve on the existing definitions, which were based on common dictionary definitions.

Section 216.2—Applicability. Reviewers commented that there was confusion about when these regulations apply, particularly in relation to programs themselves, to land management planning, and to the National Environmental Policy Act (NEPA). The language was changed to clearly indicate that these regulations apply to standards, criteria, and guidelines for conducting programs, not to programs as whole entities. It was also made clear that "programs" of the agency are usually National and seldom less than Regional in scope, and only occasionally are they limited to a National Forest or comparable level within the agency's organization. We also rewrote, as necessary to clarify, those portions of this section which point out that the three major functions of the Forest Service, not just the National Forest System, are included in these regulations. The other two major functions of the Forest Service are Research, and State and Private Forestry.

Two paragraphs were added to the section. Paragraph (c) was added to acknowledge that public participation is likely, in fact, almost certain, to have been used in program development if it involved a significant action. Consequently, when standards, criteria, or guidelines for achieving the program are developed, the previous public participation results may be applied if

they are pertinent. The intent is to improve efficiency by reducing redundant public involvement.

Paragraph (d) states that these regulations do not apply to land management planning nor are they intended to provide an alternative to NEPA.

Section 216.3—Process. Most reviewers understood the process and the reasons for following closely the process and format established as "the Forest Service NEPA process."

Several comments from reviewers assumed that because the process was "similar to" the Forest Service NEPA process it was the same and the result, too, would be the same. A process similar to the NEPA process was chosen to take advantage of a known workable way of achieving a similar end. The determination of significance is the end desired in these regulations prior to beginning public participation activities. Because of the wide variety of standards, criteria, and guidelines necessary in the Forest Service, some are significant or at least of interest to the public and some are not.

We believe the NFMA intended to ensure that a requirement is set for public notification of, and an opportunity for public comment on, the formulation of program standards, criteria, and guidelines: (1) That are significant and in which there is public interest or anticipated interest; and (2) where that involvement may contribute to the development of a standard, criterion, or guideline.

A slight alteration in the introductory paragraph changed "similar to" to "based on" in an effort to avoid the erroneous inference by readers and those responsible for following these regulations that the process is "the same" as NEPA.

There were a few comments from reviewers indicating a desire to see more prescriptive direction requiring specific action for given situations. In these final regulations, as in the earlier two proposals, retention of the opportunity to exercise judgment is deliberate and believed necessary to carry out the intent of the law without burdening the public or the agency with unnecessary public participation activities. Historically the Forest Service has been progressive in its approach to serving and involving the public in its decisionmaking. This law and these regulations are as much to confirm past performance as they are to require and direct it to proceed. The regulations indicate what must be done by the responsible Forest Service official to decide whether or not public participation will be sought. They also prescribe the means by which the responsible official will be held accountable. The agency will provide further guidance in more detail through its directive system, the Forest Service Manual and handbooks. By virtue of these regulations, that further guidance, if significant or of interest to the public, will be subjected to participation by the public in its development.

Additions to the list of impact items to be considered when determining significance were suggested. Since the additions suggested were already encompassed by categorical items on the list, no additions were made. Conversely, reference to the National Register of Historic Places was deleted because listing thereon is considered by § 216.3(c)(2)(viii) without specific reference.

It was recommended that the regulations be made more specific as to who is responsible and has various authorities. No revision was made for these purposes because the authorities and responsibilities incumbent on people in the Forest Service organization at all levels are clearly spelled out. These are found in organizational directives, job descriptions, and in a variety of other appropriate documents.

One reviewer commented that presumed public interest should be recognized and considered. This was acknowledged by inserting the words "known or anticipated public interest."

Section 216.4—Documentation. Some reviewers recommended that the public also be involved in developing and determining the significance of standards, criteria, and guidelines, and that those of little significance be publicly announced.

As pointed out in the discussion preliminary to the proposed regulations, the Forest Service uses numerous standards, criteria, and guidelines. It is not practical to announce all of them, to involve the public in development or revision of all of them, or to have the public involved in determining which ones will be developed with the help of public participation. All standards, criteria, and guidelines used in the Forest Service are maintained in the Forest Service Manual and handbooks. All are also available for public review at any time and are subject to question by the public, regardless of public notification and specific invitation to comment, through formal public participation actions.

One reviewing organization suggested that the Forest Service identify preferred alternative standards, criteria, or guidelines. This is required by the eighth action in the process (See § 216.3(a)(8)) which must be included in the environmental assessment (See § 216.4(f)).

Section 216.5—Notification and Invitations to Comment. Comments on this section of the regulations expressed several concerns about specific ways in which the public will be notified and about the notification of a broad range of special interest groups. Most of these concerns are met, by the regulations as written, by the reference to Forest Service Manual 1626, and by the requirement of the responsible Forest Service official, to use whatever appropriate means are available to notify the public.

We believe it would be futile to try to list every group, organization, or other entity or individual that may appropriately be notified. We also believe that it would be equally futile to try to specify every possible means and method of notifying the public. These methods cover the entire range of communications techniques, from person-to-person oral exchanges to national electronic media network announcements, as well as every conceivable combination of techniques. The circumstances and needs should determine the methods to be used and be dictated by the requirement to achieve notification, rather than the methods being directed by the regulation and possibly being inadequate or extreme.

A State Forester commented that the regulations should specifically require that all State Foresters be advised of all significant standards, criteria, and guidelines. A change to reflect this was not made because State Foresters collectively are "a public" which would as a matter of course be notified and invited to comment under the regulations as written. This is particularly true when program standards, criteria, or guidelines pertain to cooperative work of Forest Service State and Private Forestry in which the State Foresters would have "known or anticipated * * * interest". (See § 216.3(d))

The question was asked as to what constitutes public notification. Again, referring to the need for judgment and flexibility, the regulations were written specifying publication in the **Federal Register** as a minimum and further notification and participation activity as deemed appropriate by the responsible official. The responsible official has the flexibility to employ whatever means are necessary and desirable to meet the requirement to notify the public, and is held accountable for taking appropriate action.

Section 216.6—Availability of standards, criteria, and guidelines. Comments generally expressed concern about availability of standards, criteria and guidelines for review in the draft or developmental stage and following adoption. Comments also indicated a lack of understanding that availability means Service-wide, that is keeping standards, criteria, and guidelines available for use and ready reference in the Forest Service Manual and handbooks. These directives are available at all levels of the Forest Service, including National, Regional, Experiment Station, and Area offices; at National Forest offices; and at District Ranger, Research Project Unit, and State and Private Forestry local offices.

As regards the availability for review of draft standards, criteria, and guidelines, only minor changes in the wording of this section were made. Broad availability is ensured primarily by the need to make them available to accomplish the public participation required elsewhere in this section. Section 216.6 is further assurance of a few specific minimum locations.

There were a few comments suggesting that availability be required at additional specific locations, such as local libraries, courthouses, a variety of State offices, and others. These requirements were not added in the belief that ample availability to the public is ensured by the regulations as written. To include a lengthy list of additional required locations would be impractical and would not ensure certainty of accomplishing desired notification of the public.

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations" and has been classified "significant". An Environmental Assessment has been prepared and is available from the Office of Information, USDA Forest Service, P.O. Box 2417, Washington, D.C. 20013.

Dated: April 28, 1980.

M. Rupert Cutler,

Assistant Secretary for National Resources & Environment.

In light of the foregoing, 36 CFR Chapter II is amended to add a new Part 216 to read as follows:

PART 216—PROCEDURES FOR INVOLVING THE PUBLIC IN THE FORMULATION OF STANDARDS, CRITERIA, AND GUIDELINES THAT APPLY TO FOREST SERVICE PROGRAMS

Sec.

216.1 Definitions.
216.2 Applicability.
216.3 Process.
216.4 Documentation.
216.5 Notification and invitation to comment.
216.6 Availability of standards, criteria, and guidelines.

Authority: Sec. 14, Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476), as amended, 90 Stat. 2949, 2958 (16 U.S.C. 1612).

§ 216.1 Definitions.

As used in this part:

(a) "Program" means land and resource activities, or combinations of them, conducted by the Forest Service to meet its statutory responsibilities, implemented through National Forest regulations in this title, the Forest Service Manual and handbooks, and other directives as provided in section 200 of this title. Support activities, such as personnel matters and procurement and service contracting, are generally not included under this definition of program.

(b) "Standards, criteria, and guidelines" mean quantitative and qualitative measures and policy directions which establish sideboards for, or the general framework of, the conduct of Forest Service programs, expressed in regulations, and the Forest Service Manual and handbooks.

§ 216.2 Applicability.

(a) The requirements described in § 216.3 apply to the formulation of standards, criteria, and guidelines needed for Forest Service programs primarily at national and regional levels. It applies to program standards, criteria, and guidelines in the Forest Service National Forest System, in Research, and in State and Private Forestry.

(b) Standards, criteria, and guidelines are occasionally formulated for programs originating at National Forest or comparable levels. When they are, the process described in § 216.3 and appropriate public involvement will apply.

(c) Many programs for which standards, criteria, or guidelines are needed will have been developed using public participation. The relevant results of this public participation will be applied to the subsequent formulation of standards, criteria, and guidelines to avoid duplicating public participation efforts.

(d) The process described in this part does not apply to land management planning activities which are covered by rules set forth in Part 219. Also, this part does not supersede or replace the requirements of the National Environmental Policy Act (NEPA), as described in Forest Service Manual chapter 1950.

§ 216.3 Process.

(a) The formulation of standards, criteria, and guidelines applicable to Forest Service programs, and the determination of their significance, shall be accomplished through the following process, which is based on the Forest Service NEPA Process, as described in the Forest Service Manual chapter 1950:

(1) Identification of issues, concerns, opportunities, and needs for the standards, criteria, or guidelines being developed;

(2) Development of evaluation criteria;

(3) Gathering of related information;

(4) Assessment of the situation;

(5) Formulation of alternative standards, criteria, or guidelines;

(6) Estimate of implementation effects;

(7) Evaluation of alternatives; and

(8) Identification of the Forest Service preferred alternative standards, criteria, or guidelines.

(b) When determining significance according to the process described in paragraph (a) of this section the context and intensity of anticipated effects, as provided in paragraphs (b) (1) and (2) of this section, shall be considered.

(1) Context means that the significance must be analyzed in several perspectives, such as: (i) Society as a whole;

(ii) The affected region;

(iii) The affected interests; and

(iv) The locality.

Significance varies with the scope of the proposal. Significance in most cases depends upon the effects in the locality rather than in the society as a whole. Both short term and long term effects are relevant.

(2) Intensity refers to the severity of impacts of the proposal and may include among others:

(i) Impacts that may be either beneficial or adverse;

(ii) Effects on public health or safety;

(iii) Unique characteristics within or adjacent to the area to which the proposal applies, such as historic or cultural features, special natural areas, or ecologically critical areas;

(iv) The degree to which the physical, biological, social, or economic effects are likely to be highly controversial;

(v) The degree to which the possible effects involve unique risk;

(vi) the degree to which the proposal may establish a precedent for future actions, or may represent a decision in principle about a future consideration;

(vii) The degree to which the proposal adds to other actions which are individually insignificant, but which cumulatively have significant impacts;

(significance exists if it is reasonable to anticipate a cumulatively significant impact. Significance cannot be avoided by calling an action temporary or by breaking it down into small components.)

(viii) The degree to which the proposal may affect scientific, cultural, or historical resources; and

(ix) The degree to which the proposal may effect an endangered or threatened species or its habitat.

(c) Known or anticipated public interest in the proposed standards, criteria, or guidelines shall also be considered in determining their significance to decide whether to notify and involve other agencies of the Federal Government, State and local governments, and the public.

(d) When the responsible Forest Service official determines that the standards, criteria, or guidelines are significant, appropriate components of Federal Government, State and local governments, and the public shall be notified. Public participation methods shall be selected and used to promote understanding to the involved issues and concerns and the need for, and importance of, the standards, criteria, and guidelines being developed. The scope and intensity of public participation activities depends on the significance of the standards, criteria, or guidelines being developed.

§ 216.4 Documentation.

The determination of significance by the responsible Forest Service official, pursuant to the process in § 216.3, shall be documented, when appropriate, in an environmental assessment or in a report similar in format and content to an environmental assessment, as described in Forest Service Manual chapter 1950. The report shall be prepared and filed at the same location as the Forest Service official responsible for developing the standards, criteria, and guidelines and authorized to determine significance. The report must include:

(a) Need for, and issues surrounding, the proposed standards, criteria, or guidelines;

(b) Evaluation criteria;

(c) Alternative standards, criteria, or guidelines considered;

(d) Effects of implementation;

(e) Evaluation of alternatives; and

(f) Identification of the Forest Service preferred alternative.

§ 216.5 Notification and invitations to comment.

(a) If significance is determined, the report required in section 216.4 may be published, or as a minimum, a summary of the report and the proposed standards, criteria, or guidelines shall be published in the **Federal Register** as a public notice, together with an invitation to appropriate components of the Federal Government, State and local govenments, and the public to comment in writing on the proposed standards, criteria, or guidelines. When additional notification and public participation activities are needed, meetings, conferences, seminars, workshops, tours and other methods, may be used as deemed appropriate by the responsible official.

(b) Comments shall be accepted for at least 60 days following publication of the report and the standards, criteria, or guidelines.

(c) When proposed standards, criteria, or guidelines apply only to local areas, newspapers of general local circulation shall carry notices that the report and the standards, criteria, or guidelines have been published in the **Federal Register** and that comments are invited.

(d) Comments received will be analyzed and considered in the preparation of the final standards, criteria, or guidelines to be adopted.

(e) The standards, criteria, or guidelines that are adopted shall be published in the **Federal Register.**

(f) When it is found for good cause that an emergency exists, and compliance should not be delayed, standards, criteria, and guidelines may be implemented without public notice and participation. Where such a finding is made, the finding and a statement explaining the nature of the emergency will be published with the standards, criteria, and guidelines. As soon as practicable thereafter, the provisions of this part will be implemented; and the standards, criteria, and guidelines will be revised if necessary in light of the public comments received.

(g) These regulations are not designed to prohibit or prevent public review of or comment on any standards, criteria, or guidelines at any time.

§ 216.6 Availability of standards, criteria, and guidelines.

As a minimum, review copies of published draft standards, criteria, and guidelines shall be maintained in Regional Offices and Forest Supervisors Offices when Regional programs are involved; and, in Regional Offices and national headquarters when national issues are involved. When standards, criteria, and guidelines involve Forest Service Research and Forest Service State and Private Forestry programs, drafts shall be maintained at comparable administrative offices. The Forest Service directives system will contain all program standards, criteria, and guidelines.

[FR Doc. 80-13505 Filed 5-1-80; 8:45 am]

BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

38 CFR Part 36

Decrease in Maximum Interest Rate—Home and Condominium Loans

AGENCY: Veterans Administration.

ACTION: Final Regulations.

SUMMARY: The VA (Veterans Administration) is decreasing the maximum interest rate on guaranteed, insured, and direct loans for homes and condominiums. The maximum interest rate is decreased because the mortgage money market has eased in recent weeks. The decrease in the interest rate will allow eligible veterans to obtain a loan at a lower monthly cost.

EFFECTIVE DATE: April 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Ave., NW, Washington, D.C. 20420 (202)–389–3042).

SUPPLEMENTARY INFORMATION: The Administrator is required to establish a maximum interest rate for home and condominium loans guaranteed, insured or made by the Veterans Administration as he finds the loan market demands. Recent market indicators—including the rate of discount charged by lenders on VA and Federal Housing Administration loans, the general availability of mortgage funds, and the results of the bi-weekly Federal National Mortgage Association auctions—have shown that the mortgage market has eased. The Administrator, after consultation with the Secretary of Housing and Urban Development as required by law, has determined that a decrease in the VA home and condominium interest rate is warranted at this time.

The decrease in the VA maximum home and condominium interest rate should not have an adverse impact on the availability of funds necessary to make VA loans. The decrease in the VA interest rate, however, should allow more veterans to purchase a home because of the lower monthly payment

for principal and interest required at the lower interest rate.

The decrease in the maximum interest rate for home and condominium loans is accomplished by amending §§ 36.4311(a), and 36.4503(a) of title 38, Code of Federal Regulations. Compliance with the procedure for publication of proposed regulations prior to final adoption is waived because compliance would deny veteran home-buyers the advantage of a lower interest rate pending the ultimate effective date which would necessarily be more than 30 days after publication in proposed form.

Approved: April 25, 1980.

Max Cleland,

Administrator.

1. In § 36.4311, paragraph (a) is revised to read as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 13 per centum per annum, effective April 28, 1980, the interest rate on any home or condominium loan guaranteed or insured wholly or in part on or after such date may not exceed 13 per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

* * * * *

2. In § 36.4503, paragraph (a) is revised to read as follows:

§ 36.4503 Amount and amortization.

(a) The original prinicipal amount of any loan made on or after October 1, 1978, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $25,000. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 13 percent per annum. Loans solely for the purpose of energy conservation improvements or other alterations, improvements, or repairs shall bear interest at the rate of 15 percent per annum. (38 U.S.C. 1811(d)(1) and (2)(A))

* * * * *

(38 U.S.C. 1803(c)(1))

[FR Doc. 80-13520 Filed 5-1-80; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1482-6]

State Implementation Plan Availability: American Samoa, Arizona, California, Guam, Hawaii, and Nevada

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of State Implementation Plan Documents.

SUMMARY: In compliance with Section 110(h) of the Clean Air Act, this notice announces the availability of the comprehensive documents setting forth all requirements of each State's applicable implementation plan in Region IX.

EFFECTIVE DATE: May 2, 1980.

ADDRESSES: The comprehensive State Implementation Plan (SIP) documents are available from the Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, SW., Washington, DC 20460. All requests should refer to the comprehensive document by the EPA document number listed below.

These SIP documents are also available for public inspection during normal business hours at the Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

State	EPA Document No.
American Samoa	EPA-909/9-79-004
Arizona	EPA-909/9-79-005
California:	
Amador County	EPA-909/9-79-006-1
Bay Area	EPA-909/9-79-006-2
Butte County	EPA-909/9-79-006-3
Calaveras County	EPA-909/9-79-006-4
Colusa County	EPA-909/9-79-006-5
Del Norte County	EPA-909/9-79-006-6
El Dorado County	EPA-909/9-79-006-7
Fresno County	EPA-909/9-79-006-8
Glenn County	EPA-909/9-79-006-9
Great Basin Unified	EPA-909/9-79-006-10
Humboldt County	EPA-909/9-79-006-11
Imperial County	EPA-909/9-79-006-12
Kern County	EPA-909/9-79-006-13
Kings County	EPA-909/9-79-006-14
Lake County	EPA-909/9-79-006-15
Lassen County	EPA-909/9-79-006-16
Madera County	EPA-909/9-79-006-17
Mariposa County	EPA-909/9-79-006-18
Mendocino County	EPA-909/9-79-006-19
Merced County	EPA-909/9-79-006-20
Modoc County	EPA-909/9-79-006-21
Monterey Bay Unified	EPA-909/9-79-006-22
Nevada County	EPA-909/9-79-006-23
Northern Sonoma County	EPA-909/9-79-006-24
Placer County	EPA-909/9-79-006-25
Plumas County	EPA-909/9-79-006-26
Sacramento County	EPA-909/9-79-006-27
San Diego County	EPA-909/9-79-006-28
San Joaquin County	EPA-909/9-79-006-29
San Luis Obispo County	EPA-909/9-79-006-30
Santa Barbara County	EPA-909/9-79-006-31
Shasta County	EPA-909/9-79-006-32
Sierra County	EPA-909/9-79-006-33
Siskiyou County	EPA-909/9-79-006-34
South Coast	EPA-909/9-79-006-35
Southeast Desert	EPA-909/9-79-006-36
Stanislaus County	EPA-909/9-79-006-37
Sutter County	EPA-909/9-79-006-38
Tehama County	EPA-909/9-79-006-39
Trinity County	EPA-909/9-79-006-40
Tulare County	EPA-909/9-79-006-41
Tuolumne County	EPA-909/9-79-006-42
Ventura County	EPA-909/9-79-006-43
Yolo-Solano County	EPA-909/9-79-006-44
Yuba County	EPA-909/9-79-006-45
Guam	EPA-909/9-79-007
Hawaii	EPA-909/9-79-008
Nevada	EPA-909/9-79-009

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX (415) 556-2938.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce the availability of applicable SIP documents for American Samoa, Arizona, California, Guam, Hawaii, and Nevada. EPA published a Notice of Availability for these SIP documents on January 24, 1979 (44 FR 4948). Please refer to that notice for further explanation. This notice supersedes the January 24, 1979 notice since the SIP documents for the States in Region IX have been revised and updated.

The SIP documents listed above consist of the Federally approved State and/or local air quality regulations and the Federally promulgated regulations for the State and/or local district. As mandated by Congress, these documents will be updated at least annually and will be available for public inspection.

Dated: April 16, 1980.

Shelia M. Prindiville

Acting Regional Administrator.

[FR Doc. 80-13522 Filed 5-1-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1477-2]

Revision to the Virgin Islands Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces Environmental Protection Agency (EPA) approval of a revision to the Virgin Islands Implementation Plan. EPA approval has the effect of allowing Martin Marietta Alumina and Hess Oil Virgin Islands Corporation, located on the Island of St. Croix, to use for a one-year period fuel oil with a maximum sulfur content of 1.5 percent, by weight. The currently applicable sulfur content regulatory limitation is 0.50 percent, by weight. Receipt of the subject plan

revision request from the Virgin Islands was announced in the March 11, 1980 issue of the **Federal Register** at 45 FR 15591, where it is fully described.

EFFECTIVE DATE: This action becomes effective May 2, 1980.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007 (212) 264–2517.

SUPPLEMENTARY INFORMATION: On February 9, 1980 the Commissioner of the Department of Conservation and Cultural Affairs of the Government of the Virgin Islands of the United States submitted to the Environmental Protection Agency (EPA) a proposed revision to its implementation plan for attaining and maintaining national ambient air quality standards. The proposed revision deals with an "administrative order" which allows Martin Marietta Alumina and Hess Oil Virgin Islands Corporation to use fuel oil with a sulfur content of 1.5 percent, by weight. Martin Marietta Alumina (MMA) and Hess Oil Virgin Islands Corporation (HOVIC), both located in the Southern Industrial Complex on the Island of St. Croix, currently are required to burn fuel oil with a maximum sulfur content of 0.50 percent, by weight. The administrative order issued by the Virgin Islands (authorized under Title 12 V.I.C. § 211 and Title 12 V.I.R. & R. §§ 204–26(d)) allows the use of 1.5 percent maximum sulfur content fuel oil for a maximum period of one year from the date of EPA's final approval.

A notice of proposed rulemaking with regard to this proposed revision to the Virgin Islands Implementation Plan was published in the **Federal Register** by EPA on March 11, 1980 (45 FR 15591). The reader is referred to this **Federal Register** proposal for a detailed description of the proposed revision. This earlier notice also advised the public that comments would be accepted as to whether the proposed revision to the Virgin Islands Implementation Plan should be approved or disapproved.

The only comment received was from the Virgin Islands Refinery Corporation (VIRCO). VIRCO expressed a concern that, as pointed out in EPA's notice of proposed rulemaking, the proposed revision to the Virgin Islands Implementation Plan would use up a large portion of the available 24-hour Prevention of Significant Deterioration (PSD) increment for sulfur dioxide in its impact area. This would have the effect of restricting future industrial and economic growth in this area. Any such restriction is of particular concern to VIRCO since the company intends to apply for a PSD permit to construct and operate, on the Island of St. Croix, a 200,000 barrel per day oil refinery and related facilities in the same general area where the MMA and HOVIC facilities are currently located. Specifically, VIRCO requested that, if EPA approves the proposed revision, approval should be granted on the absolute condition that it extends only for a maximum period of one year, and that it would not be subject to renewal or extension unless a provision is made to accommodate industrial and economic growth.

Under the provisions of the Virgin Islands' plan revision request, EPA approval of the use of higher sulfur content fuel oil by MMA and HOVIC will expire one year from today's date. Any extension of EPA approval of this action will have to be initiated by a new plan revision request from the Government of the Virgin Islands. EPA would be required to evaluate this new request on the basis of the amount of the PSD increment which remains available at the time of the request, considering the emissions growth which had occurred on a "first-come, first served" basis in the intervening period. Presumably, VIRCO could fulfill all PSD requirements and receive a PSD permit during this intervening period of time. In this event, the amount of PSD increment used by VIRCO would not be available to accommodate a permanent relaxation of the fuel sulfur content limitations in the Virgin Islands Implementation Plan.

Based upon EPA's analysis of the technical analysis submitted by the Virgin Islands, which indicates that no violation of the national ambient air quality standards or applicable PSD increments will occur, EPA approves this proposed revision to the Virgin Islands Implementation Plan. EPA finds this revision to the Virgin Islands Implementation Plan consistent with the requirements of Section 110(a) of the Clean Air Act and EPA regulations found at 40 CFR Part 51. Furthermore, this action is being made effective immediately because it imposes no hardship on the affected source, and no purpose would be served by delaying its effective date.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: April 25, 1980.

(Secs. 110, 301, Clean Air Act, as amended (42 U.S.C. 7410, 7601)).

Douglas M. Costle,

Administrator, Environmental Protection Agency.

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

Subpart CCC—Virgin Islands

1. In § 52.2770, paragraph (c) is amended by adding new subparagraph (10) as follows:

§ 52.2770 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(10) Revision submitted on February 9, 1980 by the Commissioner of the Department of Conservation and Cultural Affairs of the Government of the Virgin Islands of the United States which grants an "administrative order" under Title 12 V.I.C. § 211 and Title 12 V.I.R. & R. §§ 204–26(d). This "administrative order" relaxes, until one year from the date of EPA approval, the sulfur-in-fuel-oil limitation to 1.5 percent, by weight, applicable to Martin Marietta Alumina and the Hess Oil Virgin Islands Corporation, both located in the Southern Industrial Complex on the Island of St. Croix.

[FR Doc. 80–13526 Filed 5–1–80; 8:45 am]

BILLING CODE 6560–01–M

GENERAL SERVICES ADMINISTRATION

Transportation and Public Utilities Service

41 CFR Ch. 101

[FPMR Temp. Reg. A–11, Supp. 9]

Changes to Federal Travel Regulations

Correction

In FR Doc. 80–12512, appearing at page 27436 in the issue of Wednesday, April 23, 1980, the following changes should be made:

1. On page 27439, second column, the next to last line should read, "a taxicab under 1–2.3c, payment on a".

2. On page 27440, first column, the third geographical area listed under Florida should read, "Gainesville".

3. On page 27440, third column, the second geographical area listed under Pennsylvania should read, "Harrisburg".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5721

[NM 31869]

New Mexico; Withdrawal of Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws approximately 67,000 acres of public land and reserves them for use in a proposed exchange between the Bureau of Land Management and the Navajo Indian Tribe.

EFFECTIVE DATE: May 2, 1980.

FOR FURTHER INFORMATION CONTACT: Evelyn Tauber, 202–343–6486.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands which are under the jurisdiction of the Secretary, are hereby withdrawn from settlement, sale, location, or entry under all of the general land laws, including the mining laws (30 U.S.C., Ch. 2), and are reserved for use in a proposed land exchange between the Bureau of Land Management and the Navajo Indian Tribe.

New Mexico Principal Meridian, New Mexico

T. 18 N., R. 3 W.,
Sec. 4, lots 3, 4 and S½NW¼;
Sec. 5, SW¼;
Sec. 7, E½;
Sec. 8, N½, N½SW¼, N½SW¼SW¼, SW¼SW¼SW¼ and E½SE¼,SW¼SW¼;
Sec. 16, NE¼ and SW¼;
Sec. 18, lots 3, 4, E½SW¼ and SE¼;
Sec. 20, SW¼;
Sec. 21, NW¼.
T. 17 N., R. 4 W.,
Sec. 2, S½;
Sec. 3, SW¼;
Sec. 5, lots 3, 4 and S½NW¼;
Sec. 7, SE¼;
Sec. 11, NW¼;
Sec. 18, SE¼;
Sec. 19, NE¼;
Sec. 20, W½.
T. 18 N., R. 4 W.,
Sec. 7, lots 1, 2, E½NW¼ and SE¼;
Sec. 15, NW¼;
Sec. 18, E½NE¼, N½NW¼NE¼, SW¼NW¼NE¼, W½SE¼NW¼NE¼, SW¼NE¼;
Sec. 19, SE¼;
Sec. 20, NE¼;
Sec. 27, N½;
Sec. 29, N½;
Sec. 35, SE¼.
T. 19 N., R. 4 W.,
Sec. 20, NE¼;
Sec. 21, NW¼;
Sec. 23, SW¼;
Sec. 24, SW¼;
Sec. 25, SE¼;
Sec. 26, NW¼;
Sec. 27, SW¼;
Sec. 28, NW¼ and SE¼;
Sec. 31, lots 3, 4, and E½SW¼;
Sec. 34, SW¼.
T. 20 N., R. 4 W.,
Sec. 6, lots 1, 2, S½NE¼ and SE¼;
Sec. 8, NW¼ and SE¼;
Sec. 18, N½NE¼, SW¼NE¼, N½SE¼NE¼, W½SW¼SE¼NE¼, N½SE¼SE¼NE¼ and SE¼;
Sec. 19, lots 1, 2 and E½NW¼;
Sec. 27, SW¼;
Sec. 28, NE¼;
Sec. 34, E½.
T. 17 N., R. 5 W.,
Sec. 4, SE¼;
Sec. 6, lots 1, 2 and S½NE¼;
Sec. 24, SW¼.
T. 18 N., R. 5 W.,
Sec. 1, lots 1, 2 and S½NE¼;
Sec. 3, lots 3, 4, S½NW¼ and S½;
Sec. 10, SE¼;
Sec. 12, NE¼;
Sec. 15, SE¼;
Sec. 22, NE¼.
T. 19 N., R. 5 W.,
Sec. 11, SE¼;
Sec. 14, NE¼;
Sec. 20, NE¼;
Sec. 21, NW¼;
Sec. 22, SE¼;
Sec. 25, SW¼;
Sec. 26, NW¼;
Sec. 28, W½ and SE¼;
Sec. 34, NW¼.
T. 20 N., R. 5 W.,
Sec. 4, SW¼;
Sec. 8, NE¼ and SW¼;
Sec. 10, SE¼;
Sec. 14, SE¼;
Sec. 15, N½SE¼, SW¼SE¼, N½SE¼SE¼, N½S½SE¼SE¼.
T. 21 N., R. 5 W.,
Sec. 2, lots 1 to 4 inclusive S½N½ and SE¼;
Sec. 3, lots 1 to 4 inclusive S½N½ and SW¼;
Sec. 4, lots 3, 4, S½NW¼ and S½;
Sec. 5, lots 3, 4, and S½NW¼;
Sec. 6, lots 1, 2 and S½NE¼;
Sec. 7, lots 1 to 4 inclusive, E½ and E½W½;
Sec. 8, NW¼;
Sec. 16, E½;
Sec. 21, E½.
T. 17 N., R. 6 W.,
Sec. 15, E½ and SW¼;
Sec. 16, SE¼;
Sec. 21, NE¼;
Sec. 22, NW¼;
Sec. 23, NE¼;
Sec. 25, SE¼;
Sec. 28, SE¼;
Sec. 33, NE¼.
T. 18 N., R. 6 W.,
Sec. 20, NE¼;
Sec. 26, NE¼.
T. 20 N., R. 6 W.,
Sec. 4, SW¼;
Sec. 15, NE¼.
T. 21 N., R. 6 W.,
Sec. 5, lots 1 to 4 inclusive, and S½N½;
Sec. 6, lots 6, 7 and E½SW¼;
Sec. 24, W½;
Sec. 31, lots 3, 4 and E½SW¼;
T. 22 N., R. 6 W.,
Sec. 4, SE¼;
Sec. 5, SW¼;
Sec. 6, lots 6, 7 and E½SW¼;
Sec. 7, lots 3, 4 and E½SW¼;
Sec. 8, N½ and SE¼;
Sec. 9, N½ and SW¼;
Sec. 10, NW¼;
Sec. 15, SE¼;
Sec. 22, NE¼NE¼;
Sec. 23, E½;
Sec. 24, NW¼;
Sec. 25, W½;
Sec. 26, E½ and SW¼;
Sec. 29, E½;
Sec. 32, NE¼ and S½;
Sec. 34, NE¼;
Sec. 35, E½;
Sec. 36, N½ and SE¼.
T. 18 N., R. 7 W.,
Sec. 14, SW¼;
Sec. 16, NE¼.
T. 19 N., R. 7 W.,
Sec. 1, lot 5;
Sec. 6, lots 1, 2 and S½NE¼;
Sec. 7, lots 3, 4 and E½SW¼;
Sec. 8, NW¼;
Sec. 12, lots 1, 2 and W½NE¼.
T. 21 N., R. 7 W.,
Sec. 1, S½;
Sec. 2, lots 1, 2 and S½NE¼;
Sec. 10, NE¼;
Sec. 11, E½;
Sec. 14, SE¼;
Sec. 18, SE¼;
Sec. 22, SE¼;
Sec. 28, W½;
Sec. 36, SW¼.
T. 22 N., R. 7 W.,
Sec. 7, lots 1, 2, NE¼ and E½NW¼;
Sec. 10, NE¼;
Sec. 13, SW¼;
Sec. 24, SE¼;
Sec. 25, SE¼;
Sec. 26, SW¼;
Sec. 34, SE¼.
T. 23 N., R. 7 W.,
Sec. 6, lots 3 to 7 inclusive, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, NE¼;
Sec. 35, NE¼.
T. 24 N., R. 7 W.,
Sec. 30, lots 3, 4 and E½SW¼.
T. 20 N., R. 8 W.,
Sec. 10, SE¼.
T. 21 N., R. 8 W.,
Sec. 13, NW¼;
Sec. 14, SE¼.
T. 22 N., R. 8 W.,
Sec. 5, SW¼;
Sec. 6, lots 3 to 5 inclusive and SE¼NW¼;
Sec. 7, lots 3, 4 and E½SW¼;
Sec. 9, SW¼;

Sec. 17, N½, SE¼;
Sec. 18, lots 3, 4, E½SW¼ and SE¼;
Sec. 21, NW¼;
Sec. 32, SE¼.
T. 23 N., R. 8 W.,
Sec. 1, SW¼;
Sec. 2, lots 3, 4 and S½NW¼;
Sec. 17, E½;
Sec. 21, NE¼;
Sec. 22, SE¼;
Sec. 23, SW¼;
Sec. 26, NW¼;
Sec. 27, N½;
Sec. 30, lots 1 to 4 inclusive, E½W½ and NE¼;
Sec. 31, SE¼;
Sec. 34, SW¼.
T. 24 N., R. 8 W.,
Sec. 6, lot b NE¼SW¼;
Sec. 7, lots 3, 4 and E½SW¼;
Sec. 19, NE¼;
Sec. 21, E½;
Sec. 29, NW¼;
Sec. 35, SE¼.
T. 25 N., R. 8 W.,
Sec. 4, SW¼;
Sec. 6, lots 8 to 11 inclusive.
T. 22 N., R. 9 W.,
Sec. 3, lots 1 to 4 inclusive and S½N½;
Sec. 9, NE¼;
Sec. 13, SW¼;
Sec. 14, SW¼;
T. 23 N., R. 9 W.,
Sec. 1, SE¼;
Sec. 15, NW¼;
Sec. 27, NE¼;
Sec. 34, SW¼;
Sec. 35, SE¼.
T. 24 N., R. 9 W.,
Sec. 3, lots 3, 4, S½NW¼ and SW¼;
Sec. 4, lots 1, 2, S½NE¼ and SE¼;
Sec. 9, SW¼;
Sec. 14, W½;
Sec. 15, NE¼;
Sec. 22, E½;
Sec. 23, NW¼;
Sec. 25, NW¼;
Sec. 26, SE¼;
Sec. 27, NW¼.
T. 25 N., R. 9 W.,
Sec. 7, N½SE¼ and SW¼SE¼;
Sec. 8, NW¼;
Sec. 10, NW¼;
Sec. 13, N½;
Sec. 18, lots 1 to 4 inclusive, NE¼ and E½W½;
Sec. 23, NW¼;
Sec. 33, SE¼.
T. 27 N., R. 9 W.,
Sec. 11, N½;
Sec. 15, NE¼.
T. 28 N., R. 9 W.,
Sec. 24, NE¼;
Sec. 36, NW¼.
T. 16 N., R. 10 W.,
Sec. 6, SE¼;
Sec. 18, NE¼;
T. 22 N., 10 W.,
Sec. 16, N½ and SW¼.
T. 23 N., R. 10 W.,
Sec. 6, lots 3, 4, 5, and SE¼NW¼;
Sec. 8, S½;
Sec. 10, E½;
Sec. 11, NW¼;
Sec. 13, NE¼;
Sec. 24, SE¼;
Sec. 27, NE¼.
T. 24 N., R. 10 W.,
Sec. 4, SW¼;
Sec. 8, SE¼;
Sec. 10, E½;
Sec. 11, SE¼;
Sec. 17, NE¼;
Sec. 18, NE¼;
Sec. 21, SW¼;
Sec. 23, SW¼;
Sec. 30, SE¼;
Sec. 33, SE¼;
Sec. 36, NW¼.
T. 25 N., R. 10 W.,
Sec. 5, SE¼;
Sec. 6, lots 1, 2 and S½NE¼;
Sec. 7, NE¼;
Sec. 10, SW¼;
Sec. 14, NW¼;
Sec. 25, NW¼;
Sec. 29, W½;
Sec. 34, NW¼;
Sec. 35, NE¼.
T. 15 N., R. 11 W.,
Sec. 6, lots 3 to 5 inclusive, SE¼NW¼ and SE¼
Sec. 8, NW¼;
Sec. 26, SE¼.
T. 16 N., R. 11 W.,
Sec. 14, SW¼;
Sec. 22, NE¼; and SW¼.
T. 23 N., R. 11 W.,
Sec. 14, E½NE¼.
T. 24 N., R. 11 W.,
Sec. 7, SE¼;
Sec. 14, SE¼;
Sec. 15, SE¼;
Sec. 24, E½;
Sec. 26, N½.
T. 25 N., R. 11 W.,
Sec. 1, lots 3, 4 and S½NW¼;
Sec. 2, Lots 1, 2 and SW¼NE¼;
Sec. 7, lots, 1, 2, NE¼ and E½NW¼;
Sec. 8, NW¼;
Sec. 9, SW¼;
Sec. 11, SE¼;
Sec. 14, SE¼;
Sec. 19, lots 1, 2 and E½NW¼;
Sec. 20, W½;
Sec. 30, E½;
Sec. 31, lots 1 to 4 inclusive, NE¼ and E½W½;
Sec. 32, SE¼;
Sec. 34, NW¼.
T. 26 N., R. 11 W.,
Sec. 23, SW¼;
Sec. 25, SE¼.
T. 28 N., R. 11 W.,
Sec. 8, lots 3, 4, and S½SW¼;
T. 13 N., R. 12 W.,
Sec. 10, SW¼;
Sec. 14, NW¼ and SE¼;
Sec. 22, NW¼;
Sec. 24, NW¼.
T. 15 N., R. 12 W.,
Sec. 36, SE¼.
T. 16 N., R. 12 W.,
Sec. 8, NE¼;
Sec. 26, SE¼.
T. 18 N., R. 12 W.,
Sec. 20, N½ and SW¼.
T. 25 N., R. 12 W.,
Sec. 12, S½;
Sec. 13, NW¼ and S½;
Sec. 14, SE¼;
Sec. 23, NE¼;
Sec. 25, SE¼;
Sec. 26, SE¼;
Sec. 28, NW¼;
Sec. 34, NW¼;
Sec. 35, W½;
Sec. 36, SW¼.
T. 14 N., R. 13 W.,
Sec. 20, NW¼, E½SE¼ and S½SW¼SE¼.
T. 19 N., R. 13 W.,
Sec. 18, NE¼.
T. 23 N., R. 13 W.,
Sec. 3, SE¼;
Sec. 13, SE¼;
Sec. 28, SW¼.
T. 28 N., R. 13 W.,
Sec. 7, lots 1 to 5 inclusive.
T. 29 N., R. 13 W.,
Sec. 19, SE¼;
Sec. 28, E½SW¼SW¼ and W½ SE¼SW¼.
T. 14 N., R. 14 W.,
Sec. 14, NE¼.
T. 16 N., R. 14 W.,
Sec. 20, S½.
T. 15 N., R. 15 W.,
Sec. 2, lots 1 to 4 inclusive, and S½N½.
T. 16 N., R. 15 W.,
Sec. 8, NE¼ and N½S½;
Sec. 14, SE¼;
Sec. 22, N½SW¼, SW¼SW¼, N½SE¼SW¼, SW¼SE¼SW¼ and SE¼;
Sec. 24, SE¼.
T. 16 N., R. 16 W.,
Sec. 18, lot 1, NE¼NW¼ and SE¼;
Sec. 20, N½;
Sec. 26, SW¼;
Sec. 28, NE¼.
T. 14 N., R. 17 W.,
Sec. 30, NE¼.
T. 15 N., R. 17 W.,
Sec. 6, lots 1 to 5 inclusive, SE¼NW¼ and S½NE¼;
Sec. 28, NE¼.
T. 16 N., 17 W.,
Sec. 14, NE¼.
T. 14 N., R. 18 W.,
Sec. 4, SE¼;
Sec. 24, SW¼;
Sec. 26, E½;
Sec. 32, S½.
T. 13 N., R. 19 W.,
Sec. 8, NW¼;
Sec. 12, S½.
T. 14 N., R. 19 W.,
Sec. 8, N½;
Sec. 26, NW¼.
T. 15 N., R. 19 W.,
Sec. 18, lots 1, 2 and E½NW¼.
T. 11 N., R. 20 W.,
Sec. 2, lots 1 to 4 inclusive, S½N½ and N½SE¼.
T. 12 N., R. 20 W.,
Sec. 26, S½.
T. 15 N., R. 20 W.,
Sec. 12, E½;
Sec. 16, SE¼SE¼;
Sec. 18, lots 3, 4 and E½SW¼;
Sec. 19, lots 3, 4 and E½SW¼;
Sec. 20, E½;
Sec. 22, SW¼;
Sec. 26, NW¼.
T. 16 N., R. 21 W.,
Sec. 10, lots 5 to 8 inclusive.

The areas described aggregate 66,320.52 acres.

2. This withdrawal shall remain in effect for a period of 20 years from the date of this order or until such time as in the discretion of the Secretary of the Interior it is determined that the lands are no longer required for the use for which they have been reserved.

April 23, 1980.

Guy R. Martin,

Assistant Secretary of the Interior.

[FR Doc. 80-13462 Filed 5-1-80; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 79-167; RM-3235; FCC 80-194]

Private Land Mobile Radio Service; Providing for Geographic Sharing of Certain Frequencies in the Petroleum, Forest Products, Special Industrial, and Manufacturers Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission amends its regulations to provide for the inter-service sharing of certain frequencies in the 30–40 and 150 MHz ranges in specified geographic areas by the Petroleum, Forest Products, Special Industrial, and Manufacturers Radio Services. These amendments will increase the utilization of a significant number of land mobile frequencies so as to meet the needs of additional licensees.

EFFECTIVE DATE: May 30, 1980.

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

FOR FURTHER INFORMATION CONTACT: Arthur C. King, Private Radio Bureau, Telephone: (202) 632-6497.

REPORT AND ORDER

Adopted: April 9, 1980.

Released: April 24, 1980.

By the Commission: Chairman Ferris issuing a separate statement; Commissioner Lee absent.

In the matter of amendment of Subpart O of Part 90 of the Commission's Rules and Regulations to provide for geographic sharing of certain frequencies in the Petroleum, Forest Products, Special Industrial, and Manufacturers Radio Service.

1. On July 18, 1979, we released a Notice of Proposed Rule Making proposing rule changes which would permit inter-service geographic sharing of certain specified frequencies among the Petroleum, Forest Products, Special Industrial, and Manufacturers Radio Services under Part 90 of our rules. The Notice was published in the **Federal Register** on July 24, 1979 (42 FR 4332) as FCC 79-406; 14094. Comments were filed by the Central Committee on Telecommunications of the American Petroleum Institute (API), Forest Industries Telecommunications (FIT), the Manufacturers Radio Frequency Advisory Committee (MRFAC), and the Special Industrial Radio Services Association, Inc. (SIRSA).

2. The proposed rule changes would:

A. Permit the shared use in the Special Industrial Radio Service, in the North Central States, of certain specified frequencies in the 150 MHz band that are now available in the Petroleum, Forest Products, or Manufacturers Radio Services;

B. Permit the shared use in the Petroleum Radio Service, in the Texas-Louisiana Gulf Coast area, of certain specified frequencies in the 30 MHz band that are now available only in the Special Industrial Radio Service;

C. Permit the shared use in the Forest Products Radio Service, in the Pacific Northwest, of certain specified frequencies in the 30–40 MHz band that are now available only in the Special Industrial Radio Service.

3. Essentially, these proposals for inter-service geographic shared frequency uses present a limited plan to increase the utilization of a significant number of land mobile frequencies so as to meet the needs of additional licensees. Inter-service sharing of this nature has been demonstrated to be a beneficial and practical approach to optimizing the value of the limited spectrum resources. The value of inter-service sharing programs was not disputed in the comments. Nor was there any disagreement with the basic intent of the proposed sharing plan. There was, however, disagreement on certain of the specified frequencies, particularly those frequencies selected from the Manufacturers Radio Service.

4. No group representative of the Manufacturers Radio Service had participated in developing the inter-service sharing proposals. Accordingly, we specifically solicited comments as to the impact of the proposal that affects the Manufacturers Radio Service and as to the possibilities for participation in the sharing plan by that service. In response, MFRAC argued that inadequate consideration had been given to problems associated with the shared use of the specific frequencies proposed for the Manufacturers Radio Service. To resolve these problems, MFRAC suggested that we allow additional time after the reply comment due date to allow that group to work with the petitioners and submit joint supplemental comments. The additional time was granted and supplemental comments were submitted jointly by the petitioners and MRFAC, as the apparent interested parties, in accordance with the provisions of § 1.415(d) of our rules. The parties stated:

> In view of MRFAC's serious opposition to the proposal, representatives of the four joint commentors engaged in a series of discussions that have now led to a somewhat modified proposal which all of the joint commentors believe will serve the public interest in a more enhanced manner than the original proposal.

5. The modified sharing plan, as worked out between the petitioners and MRFAC, differs in details from the plan proposed in the Notice as follows:

(a) In the Special Industrial Radio Service, the frequencies 153.050, 153.350, 153.380 and 158.415 MHz are substituted for the previously designated frequencies 153.095, 153.185, 153.245 and 153.305 MHz. The joint commentors urged adoption of this substitute sharing plan so as to provide for Special Industrial use of a greater number of contiguous assignments.

(b) Extend the 50 mile radius protection to Denver, Colorado, and St. Paul-Minneapolis, Minnesota; as well as to Kansas City and St. Louis, Missouri, as originally proposed, insofar as Special Industrial systems are concerned, on all frequencies shared by those eligible for licensing in the Manufacturers Radio Service.

(c) Eliminate the 50 mile radius protection for Kansas City and St. Louis, Missouri; on the frequency 158.355 MHz as to Special Industrial operations.

6. Essentially, the foregoing changes represent "concessions" on the part of all parties which have been made primarily in the interest of reserving some of the spectrum that had been proposed for Special Industrial use for future growth by those eligible for licensing in the Manufacturers Radio Service. With this agreement, and in light of the general support for the proposed inter-service sharing program, the Commission concludes that the public interest will be served by amending the rules to provide for this geographic sharing of frequencies.

7. Accordingly, it is ordered, pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, that Part 90 of the Commission's Rules is amended, effective May 30, 1980, as set forth in the attached Appendix. It is further ordered that this proceeding is terminated.

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

Federal Communications Commission.[1]

William J. Tricarico,

Secretary.

Appendix

PART 90—PRIVATE LAND MOBILE RADIO SERVICE

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

1. Section 90.65(b) Table is amended and paragraphs (c) (37), (38), (39) and (40) are added to read as follows:

§ 90.65 Petroleum radio service.

* * * * *

(b) Frequencies available. * * *

Frequency or band (MHz)	Class of station(s)	Limitations
* * * * *		
30.82	Base or mobile	4, 5, 8
31.32	do	37
31.40	do	37
31.44	do	37
31.48	do	37
31.52	do	37
31.60	do	37
31.64	do	37
31.72	do	37
31.76	do	37
33.18	do	37
* * * * *		
33.38	do	
35.48	do	37
36.25	do	42
* * * * *		
153.050	do	4, 5, 13, 38, 40
153.065	do	13
153.080	do	4, 5, 13
153.095	do	13
153.110	do	4, 5, 13
153.125	do	13, 38, 40
153.140	do	4, 5, 13
153.155	do	13
153.170	do	4, 5, 13
153.185	do	13
153.200	do	4, 5, 13
153.215	do	13
153.230	do	4, 5, 13
153.245	do	13
153.260	do	4, 5, 13
153.275	do	13
153.290	do	4, 5, 13
153.305	do	13
153.320	do	4, 5, 13
153.335	do	13, 38
153.350	do	4, 5, 13, 38
153.365	do	13, 38
153.380	do	13, 38
153.395	do	13, 38
153.425	do	14
* * * * *		
158.310	do	4, 5, 13
158.325	do	13, 38, 40
158.355	do	10, 39
158.370	do	4, 5, 13
158.415	do	13, 38, 40
158.430	do	4, 5, 13
* * * * *		

(c) * * *

(37) This frequency is shared with the Special Industrial Radio Service, and is available for assignment in the Petroleum Radio Service only in the States of Texas and Louisiana within 75 miles of the Gulf of Mexico and in adjacent offshore waters. Evidence of inter-service frequency coordination is required, and mobile relay stations will not be authorized.

(38) This frequency is shared with the Special Industrial Radio Service in the States of North Dakota; South Dakota; Iowa; Nebraska; Kansas and Missouri beyond 50 miles from St. Louis and Kansas City; Colorado and Wyoming east of Longitude 106 degrees; and Minnesota south of Latitude 47 degrees.

(39) This frequency is shared with the Special Industrial Radio Service in the States of North Dakota; Iowa; Nebraska; Kansas; Missouri; Colorado and Wyoming east of Longitude 106 degrees; and Minnesota south of Latitude 47 degrees.

(40) This frequency may not be shared in the Special Industrial Radio Service within 20 miles of the cities of Duluth, Minnesota; Des Moines and Davenport, Iowa; Omaha, Nebraska; Colorado Springs, Colorado; and Wichita, Kansas.

2. Section 90.67(b) Table is amended and paragraphs (c)(30), (31), (32) and (33) are added to read as follows:

§ 90.67 Forest products radio service.

* * * * *

(b) Frequencies available.* * *

Frequency or band (MHz)	Class of station(s)	Limitations
* * * * *		
30.72	Base or mobile	30
31.48	do	30
31.52	do	30
31.64	do	30
31.72	do	30
31.76	do	30
37.44	do	30
37.88	do	30
43.02	do	30
43.28	do	30
43.36	do	30
43.40	do	30
43.52	do	30
48.56	do	2
* * * * *		
153.050	do	6, 31, 33
153.065	do	6
153.080	do	6
153.095	do	6
153.110	do	6
153.125	do	6, 31, 33
153.140	do	6
153.155	do	6
153.170	do	6
153.185	do	6
153.200	do	6
153.215	do	6
153.230	do	6
153.245	do	6
153.260	do	6
153.275	do	6
153.290	do	6
153.305	do	6
153.320	do	6
153.335	do	6, 31
153.350	do	6, 31
153.365	do	6, 31
153.380	do	6, 31
153.395	do	6, 31
153.425	do	7
* * * * *		
158.310	do	6
158.325	do	6, 31, 33
158.355	do	6, 32
158.370	do	2
158.415	do	6, 31, 33
158.430	do	6
* * * * *		

(c) * * *

(30) This frequency is shared with the Special Industrial Radio Serice, and is available for assignment in the Forest Products Radio Service only in the States of Washington; Oregon; Idaho; Nevada, and Montana west of Longitude 110 degrees; and California north at Latitude 39 degrees. Evidence of interservice frequency coordination is required, and mobile relay stations will not be authorized.

(31) This frequency is shared with the Special Industrial Radio Service in the States of North Dakota; South Dakota; Iowa; Nebraska; Kansas and Missouri beyond 50 miles from St. Louis and Kansas City; Colorado and Wyoming east of Longitude 106 degrees; and Minnesota south of Latitude 47 degrees.

(32) This frequency is shared with the Special Industrial Radio Service in the States of North Dakota; South Dakota; Iowa; Nebraska; Kansas; Missouri; Colorado and Wyoming east of Longitude 106 degrees; and Minnesota south of Latitude 47 degrees.

(33) This frequency may not be shared in the Special Industrial Radio Service within 20 miles of the cities of Duluth, Minnesota; Des Moines and Davenport, Iowa; Omaha, Nebraska; Colorado Springs, Colorado; and Wichita, Kansas.

3. Section 90.73(c) Table is amended and paragraphs (d) (29), (30), (31), (32) and (33) are added to read as follows:

§ 90.73 Special industrial radio service.

* * * * *

(c) Frequencies available. * * *

Frequency or band (MHz)	Class of station(s)	Limitations
* * * * *		
31.28	Base or mobile	
31.32	do	29
31.36	do	
31.40	do	29
31.44	do	29
31.48	do	29, 31
31.52	do	29, 31
31.56	do	
31.60	do	29
31.64	do	29, 31
31.68	do	
31.72	do	29, 31
31.76	do	29, 31
31.80	do	
* * * * *		
35.44	do	
35.48	do	29

[1] See attached Separate Statement of Chairman Ferris.

Frequency or band (MHz)	Class of station(s)	Limitations
35.52	do	
* * *	* * *	* * *
35.86	do	2
43.02	do	31
* * *	* * *	* * *
43.18	do	2
43.28	do	31
* * *	* * *	* * *
43.32	do	
43.36	do	31
43.40	do	31
43.44	do	
43.48	do	
43.52	do	31
47.44	do	2
* * * * *		
153.035	do	2, 11
153.050	do	2, 30, 33
153.125	do	2, 30, 33
153.335	do	2, 30
153.350	do	2, 30
153.365	do	2, 30
153.380	do	2, 30
153.395	do	2, 30
154.45625	Fixed or mobile	12, 13, 15, 25
* * * * *		
157.740	Base or mobile	2, 9
158.325	do	2, 30, 33
158.355	do	2, 32
158.385	do	2
158.400	do	4
158.415	do	2, 30, 33
158.460	do	2, 9

(d) * * *

(29) This frequency is shared with the Petroleum Radio Service in the States of Texas and Louisiana within 75 miles of the Gulf of Mexico and in adjacent offshore waters.

(30) This frequency is shared with other Industrial Radio Services, and is available for assignment in the Special Industrial Radio Service only in the States of North Dakota; Iowa; Nebraska; Kansas and Missouri beyond 50 miles from St. Louis and Kansas City; Wyoming and Colorado east of Longitude 106 degrees except within a 50 mile radius of Denver; and Minnesota south of Latitude 47 degrees except within a 50 mile radius of St. Paul-Minneapolis. Evidence of inter-service frequency coordination is required, and maximum transmitter output power may not exceed 110 watts.

(31) This frequency is shared with the Forest Products Radio Service in the States of Washington; Oregon; Idaho; Nevada; Montana west of Longitude 110 degrees; and California north of Latitude 39 degrees.

(32) This frequency is shared with other Industrial Radio Services, and is available for assignment in the Special Industrial Radio Service only in the States of North Dakota; South Dakota; Iowa; Nebraska; Kansas; Missouri; Colorado and Wyoming east of Longitude 106 degrees; and Minnesota south of Latitude 47 degrees. Evidence of inter-service frequency coordination is required, and maximum transmitter output power may not exceed 110 watts.

(33) This frequency is not available for assignment in the Special Industrial Radio Service within 20 miles of the cities of Duluth, Minnesota; Des Moines and Davenport, Iowa; Omaha, Nebraska; Colorado Springs, Colorado; and Wichita, Kansas.

(4) Section 90.79(c) Table is amended and paragraphs (d)(21) and (22) are added to read as follows:

§ 90.79 Manufacturers radio service.

* * * * *

(c) Frequencies available. * * *

Frequency or band (MHz)	Class of station(s)	Limitations
* * * * *		
153.050	Base or mobile	5,21,22
153.065	do	5
153.080	do	5
153.095	do	5
153.110	do	5
153.125	do	5,21,22
153.140	do	5
153.155	do	5
153.170	do	5
153.185	do	5
153.200	do	5
153.215	do	5
153.230	do	5
153.245	do	5
153.260	do	5
153.275	do	5
153.290	do	5
153.305	do	5
153.320	do	5
153.335	do	5,21
153.350	do	5,21
153.365	do	5,21
153.380	do	5,21
153.395	do	5,21
158.280	do	5
158.295	do	5
158.310	do	5
158.325	do	5,21,22
158.415	do	5,21,22
158.430	do	5
* * * * *		

(d) * * *

(21) This frequency is shared with the Special Industrial Radio Service in the States of North Dakota; South Dakota; Iowa; Nebraska; Kansas and Missouri beyond 50 miles from St. Louis and Kansas City; Colorado and Wyoming east of Longitude 106 degrees; and Minnesota south of Latitude 47 degrees.

(22) This frequency may not be shared in the Special Industrial Radio Service within 20 miles of the cities of Duluth, Minnesota; Des Moines and Davenport, Iowa; Omaha, Nebraska; Colorado Springs, Colorado; and Wichita, Kansas.

April 9, 1980.

Separate Statement of Charles D. Ferris, Chairman

Re: Inter-service Sharing of Certain Frequencies in Several Geographic Areas Among the Petroleum, Forest Products, Special Industrial, and Manufacturers Radio Services.

Spectrum is a scarce national resource. We are exploring new and innovative ways to manage this resource more efficiently. Geographic inter-service sharing—allowing certain user groups to share underutilized spectrum in their areas—is a simple, straightforward way to increase spectrum utilization.

Today's *Report and Order* allows inter-service sharing among the Petroleum, Forest Products, Special Industrial, and Manufacturers Radio Services. We will be alert to other sharing possibilities.

The industry is to be congratulated for their cooperation in today's effort. With their future help we should be able to move quickly to improve further our management of the spectrum resource.

[FR Doc. 80-13459 Filed 5-1-80; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 45, No. 87
Friday, May 2, 1980

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 412

Executive Development

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management is proposing regulations on the development of candidates for and members of the Senior Executive Service, as required by the Civil Service Reform Act of 1978.

DATE: Comments will be considered if they are received on or before July 1, 1980.

ADDRESS: Comments may be delivered or addressed to: Assistant Director for Executive and Management Development, Office of Personnel Management, Room 6R54, 1900 E. Street, N.W. Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Merle Junker, 202–632–4661

SUPPLEMENTAL INFORMATION: The Civil Service Reform Act of 1978 requires that the "Senior Executive Service shall be administered so as to . . . (12) provide for the initial and continuing systematic development of highly competent senior executive" (5 U.S.C. 3131). The Act further provides (5 U.S.C. 3396) that:

(a) The Office of Personnel Management shall establish programs for the systematic development of candidates for the Senior Executive Service and for the continuing development of senior executives, or require agencies to establish such programs which meet criteria prescribed by the Office.

(b) The Office shall assist agencies in the establishment of programs required under subsection (a) of this section and shall monitor the implementation of the programs. If the Office finds that any agency's program under subsection (a) of this section is not in compliance with the criteria prescribed under such subsection, it shall require the agency to take such corrective action as may be necessary to bring the program into compliance with the criteria.

The Director of the Office of Personnel Management has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management proposes to add 5 CFR Part 412, to read as follows:

PART 412—EXECUTIVE DEVELOPMENT

Subpart A—General Provisions

Sec.

412.101 Purpose.
412.103 Requirement for agency programs.
412.105 Approval of agency programs.
412.107 Criteria for agency executive development programs.

Subparts B–D [Reserved]

Subpart E—Senior Executive Service Candidate Development Programs

Sec.

412.501 Purpose.
412.503 Policy.
412.505 "Status" programs.
412.507 "Non-status" programs.
412.509 Competitive appointments.

Authority: 5 U.S.C. 3397.

Subpart A—General Provisions

§ 412.101 Purpose.

This subpart sets forth the criteria of the Office of Personnel Management for development for and within the Senior Executive Service which implement subsections (a) and (b) of section 3396 of title 5, United States Code, and are prescribed under the authority of section 3397 of title 5, United States Code.

§ 412.103 Requirement for agency programs.

(a) Each agency with positions in the Senior Executive Service shall establish and maintain a program(s) for the systematic development of candidates for the Senior Executive Service and for the continuing development of members of the Senior Executive Service.

(b) Small agencies may meet this requirement by developing programs jointly with other agencies or by participating in programs administered by other agencies.

(c) Agency programs must conform to the criteria prescribed in § 412.107.

§ 412.105 Approval of agency programs.

The Office shall review periodically agency executive development programs and approve those which meet the criteria prescribed in § 412.107. Whenever approved agency programs are found to fall substantially short of meeting any of the criteria, OPM approval will be withdrawn until the agency takes the necessary corrective action to bring the program into compliance.

§ 412.107 Criteria for agency executive development programs.

(a) *Program management.* Overall planning and management of the agency executive development program(s) shall be provided by a departmental or agency executive resources board or a complex of executive resources boards at agency and subordinate levels. Executive resources boards shall ensure that executive development programs are efficiently and effectively implemented as indicated by systematic evaluation of the program and by the incorporation of evaluation results into planning for successive program operations. Boards shall also ensure that executive development programs and activities are integrated into and consistent with the agency's Senior Executive Service personnel system.

(b) *Funding and staffing.* Each program established under § 412.103 shall include provisions for funding and staffing needed to support the program. Each agency must be able to demonstrate that planned expenses for staff services, developmental assignments, selection procedures, formal training, program evaluation, and related matters will be met. Each agency must also be able to demonstrate that it is providing adequate numbers of competent staff to support planned executive development activities.

(c) *Selection systems.* Selection systems for SES candidate development programs shall:

(1) Be based on the managerial and technical competencies required in the agency's SES positions;

(2) Be consistent with SES merit staffing principles and comply with the Uniform Guidelines on Employee Selection Procedures;

(3) Serve to further progress toward affirmative action goals;

(4) Provide, in each agency with over 150 SES positions, for recruitment of candidates from

(i) All groups of qualified individuals within the civil service, or

(ii) All groups of individuals, whether or not within the civil service. Programs that over a three-year period average eight percent candidate intake from other agencies and/or outside the civil service shall automaticaly be considered to be in compliance with this requirement;

(5) Be based on projections of anticipated SES vacancies, made at least biennially, with the number of candidates selected to be no greater than twice the number of projected vacancies; and

(6) Focus primarily on individuals who are just below the SES level.

(d) *Development of SES candidates.*

(1) Qualifications review boards established by the Office must, by law, certify the executive qualifications of all candidates for initial career appointment to the SES, including candidates who have completed approved executive development programs. However, the qualifications review board shall presume that a candidate who successfully completes an SES candidate development program approved by the Office meets the executive qualifications for initial career appointment to the SES. Individuals certified by a qualifications review board on the basis of completion of an executive development program are automatically in the "well qualified" group for any managerial SES position for which they meet the technical/professional qualifications and may be appointed to the SES without a further competition. Therefore, selections for participation in candidate development programs are considered to be part of the process of selection for the SES, must follow the SES merit staffing procedures prescribed by the Office, and must provide for removal from the program of individuals who do not make satisfactory progress as determined by the agency executive resources board.

(2) Each participant in an SES candidate development program shall have an individual development plan ("IDP"), approved by the appropriate executive resources board, specifying the developmental activities (work assignmetns, training, education, and/or orientation) to be undertaken during the course of the program. These activities shall be tailored to provide the individual with the managerial competencies needed by SES members Governmentwide and in the agency's SES positions, and must include participation in an interagency executive development training experience focused on Governmentwide executive competencies prescribed by the Office.

(3) Each participant in an SES candidate development program shall have a member of the Senior Executive Service as a mentor.

(e) *Development of SES members.* Systems for the continuing development of SES members shall:

(1) Include the preparation, implementation, and regular updating of an individual development plan for each SES member, to be reviewed and approved by the appropriate executive resources board. These plans shall be tied to the performance appraisal cycle and focus on the enhancement of existing competencies as well as the correction of deficiencies identified in performance appraisals, and on preparing SES members for future assignments; and

(2) Result in developmental experiences for SES members which, through continuing short-term opportunities and periodic involvement in longer-term programs, will:

(i) Help to meet organizational needs for managerial improvement and increased productivity;

(ii) Help SES members to keep up-to-date in professional, technical, managerial, sociological, economic and political areas; and

(iii) Meet the individual needs of SES members for professional growth and development; and

(3) Include provisions for executive sabbaticals for carefully selected members as provided for by subsection (c) of section 3396 of title 5 United States Code.

(f) *Relationship to management development programs.* Executive development programs shall be linked to more comprehensive programs for the development of managers. Such management development programs shall:

(1) Provide management training and development experiences for both incumbent managers and specialists identified as having potential at grades GS–13 through GS–15 to meet agency and individual needs;

(2) Serve to further progress toward affirmative employment goals (where appropriate to this purpose, an agency may include employees at grade GS–12);

(3) Be designed to improve accountability, productivity and performance at the mid-management level; and

(4) Provide a foundation of early management training and appropriate developmental experiences for SES candidate development programs.

Subparts B–D [Reserved]

Subpart E—Senior Executive Service Candidate Development Programs

§ 412.501 Purpose

This subpart sets forth regulations establishing two types of SES candidate development programs and prescribing their use by agencies.

§ 412.503 Policy.

Section 3393 of title 5, United States Code, requires that career appointees to the SES be recruited either from all groups of qualified individuals within the civil service, or from all groups of qualified individuals whether or not within the civil service. Agencies shall establish dual programs for the development of candidates for the SES,

(a) "Status" programs for the development of candidates serving in career and career-type appointments, and

(b) "Non-status" programs for the full-time development of candidates selected from outside government and/or from among employees serving on other than career or career-type appointments within the civil service, utilizing the Schedule B appointing authority authorized by 5 CFR 213.3202(j).

§ 412.505 "Status" programs.

Only employees serving under career appointments, or under career-type appointments as defined in 5 CFR 317.304(a)(2), may participate in these programs.

§ 412.507 "Non-status" programs.

(a) *Eligibility.* For Schedule B programs, eligibility is restricted to individuals other than employees serving under career appointments, or under career-type appointments as defined in 5 CFR § 317.304(a)(2).

(b) *Requirements.* (1) An appointment under Schedule B authority may not exceed, or be extended beyond, three years.

(2) Agencies must document, as a part of their executive development program plan submitted to OPM for approval, the kinds of additional developmental experiences which will be provided to individuals selected for these programs. The Office shall be notified promptly of any such changes to agency plans.

(3) Schedule B appointments must be made in the same manner as merit staffing requirements prescribed for the SES, except that each agency shall follow the principle of veteran preference as far as administratively feasible. Positions filled through this authority are excluded under 5 CFR § 302.101(c)(6) as positions exempt from appointment procedures of Part 302.

(4) Assignments must be for developmental purposes connected with the SES candidate development program. Candidates serving under Schedule B appointment may not be used to fill an agency's regular positions on a continuing basis.

§ 412.509 Competitive appointments.

An agency may not make competitive appointments to a position established for the sole purpose of executive development. It may, however, make a competitive appointment from a civil service register to fill a permanent vacant position with an individual from outside the competitive service who is simultaneously being selected as a participant in the agency's "status" SES candidate development program.

[FR Doc. 80-13521 Filed 5-1-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Ch. XIV

1980 Crop Sunflower Seed Price Support Program

AGENCY: Commodity Credit Corporation.

ACTION: Intent for Decisionmaking on 1980 Programs and Opportunity for Public Comment

SUMMARY: The purpose of this notice is to advise that the Commodity Credit Corporation is requesting views and comments with intention for decision making as to whether a price support program should be established for 1980-crop sunflower seed and, if so, the type of program and the level of support. Views and comments regarding program provisions are also requested.

DATES: Comments must be received on or before June 2, 1980 in order to be sure of consideration.

ADDRESS: Mail comments to Mr. Jeffress A. Wells, Director, Production Adjustment Division, ASCS, USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Harry A. Sullivan, ASCS, (202) 447-7951.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of section 301 of the Agricultural Act of 1949, as amended (7 U.S.C. 1447), the Secretary is authorized to make price support available to producers of sunflower seed through loans, purchases or other operations at a level not in excess of 90 percent of the parity price. It has been determined that the parity price for sunflower seed for April 1980 is $19.30 per hundredweight (cwt). The maximum level of support at this parity price level is $17.37 per cwt. Section 401(b) of the Agricultural Act of 1949, as amended (7 U.S.C. 1421(b)), requires that in determining whether price support shall be made available and in determining the level of support, consideration be given to the supply of the commodity in relation to the demand, therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through such an operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

Production of sunfloweer seed in 1979 reached 77.2 million cwt., almost double that of 1978. Utilization also is rising strongly and is expected to increase by 56 percent, reaching a total of 60.2 million cwt. in 1979. Carryover from the 1979 crop is expected to rise by 16.9 million cwt. to 19.8 cwt., which represents 24 percent of the year's supply. Although acreage and production in 1980 is expected to decline moderately, the long term trend is for steadily increasing production and supplies.

Producers received $10.40 per cwt. for their sunflower seed in 1977, $11.00 per cwt. in 1978 and are expected to receive $8.90 per cwt. in 1979. Farm value, therefore, is estimated to have been $446 million in 1978 and is expected to be $679 million in 1979.

Exports have been the primary market outlet for sunflower seed. Seventy-four percent of 1978 sunflower seed production (30.1 million cwt.) was exported and 60 percent of 1979 production (46.3 million cwt.) is expected to move by way of exports. However, domestic use is expected in the future to increase sufficiently to replace exports as the primary market for sunflower seed.

Public Comments.

The Department is requesting views as to whether price support should be made available on the 1980 crop of sunflower seed and, if so, the type of program, the appropriate level of support and operating provisions. All comments will be made available to the public at the office of the Director, Production Adjustment Division, ASCS, USDA, during regular business hours (8:15 a.m. to 4:45 p.m.), Monday through Friday, in room 3630 South Building, 14th and Independence Avenue, S.W., Washington, D.C. 20013.

Authority: Sec. 4(d), 62 Stat. 1070 (15 U.S.C. 714B); Sec. 5(a), 62 Stat. 1072 (15 U.S.C. 714C); and Secs. 301, 401, 63 Stat. 1053, 1054 (7 U.S.C. 1421, 1447).

Signed at Washington, D.C. on April 25, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-13383 Filed 5-1-80; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 92

Importation of Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This document proposes to amend the regulations to provide that the certificate that accompanies certain imported ruminants or swine shall show the animals have been inspected on the farm of origin and found to be free from evidence of any communicable disease and exposure thereto. This action is proposed to provide requirements for the inspection of such animals. The intended effect of this action is to prevent the importation of infected or exposed animals. This document also proposes to amend the regulations to require a negative brucellosis test for swine 6 months of age or older, except castrated male swine, imported into the United States for purposes other than immediate slaughter. Presently, no such test nor the certificate described in this amendment is required. This action is proposed to prevent the introduction or dissemination of swine brucellosis into the United States through imported swine.

DATE: Comments on or before July 1, 1980.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, MD 20782, 301-436-8170. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative procedure provisions in 5

U.S.C 553, that, pursuant to Section 6 of the Act of 1890, as amended, Section 2 of the Act of February 2, 1903, as amended, and Sections 4 and 11 of the Act of July 2, 1962 (21 U.S.C. 104, 111, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations. This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Section 92.5(a)(2) of the regulations presently requires that all ruminants and swine offered for importation from any part of the world, except as provided in §§ 92.20, 92.21, 92.22, 92.28, 92.35, 92.36 and 92.40, shall be accompanied by a certificate of a salaried veterinary officer of the national government of the country of origin stating that such animals have been kept in said country at least 60 days immediately preceding the date of movement therefrom and that said country has been entirely free of certain communicable diseases. There is presently no such requirement that such ruminants or swine be inspected on the farm of origin prior to importation into the United States.

This document would amend 9 CFR 92.5(a) to require that such ruminants and swine be so inspected on their farm of origin. The Act of 1890, as amended, (21 U.S.C. 104), prohibits the importation of ruminants and swine which are diseased or infected with any disease or which shall have been exposed to such infection within 60 days before their exportation. Inspection on the farm of origin is necessary in order to assure compliance with 21 U.S.C. 104.

Sections 92.6 (a) and (b) presently require that certain cattle and goats offered for importation from any country, except with respect to such animals from Canada and Mexico and animals offered for immediate slaughter, shall be accompanied by a certificate showing that the animals have been tested for brucellosis with negative results within 30 days of the date of their exportation. This proposal would redesignate § 92.6(c) as § 92.6(d) and a new § 92.6(c) would be added to require that all swine, except castrated male swine and swine imported for immediate slaughter, 6 months of age or older offered for importation from any part of the world except as provided in § 92.22 for swine from Canada shall test negative to brucellosis within 30 days of the date of their exportation. A certificate would also be required listing information which would document the results of the testing, and enable Department employees to trace the animals back to the place of testing, to the consignor and consignee, and to identify the animals with the accompanying certificate.

Further, proposed § 92.6(c) would require that the testing of such swine for brucellosis take place within 30 days of the date of exportation of such swine. This requirement would be imposed to reduce the likelihood of swine becoming infected with brucellosis after the test and prior to exportation. The Department believes that requiring the exportation within 30 days of the test for brucellosis provides an importer with a reasonable time in which to arrange for the importation and does not constitute a great risk that the swine have become affected with brucellosis since the date of the test.

Swine raised for breeding purposes constitute the most important source of brucellosis infection and are the class of animals in which the infection is likely to persist. The requirement in proposed § 92.6(c) that swine 6 months of age or older, except castrated male swine and swine imported for slaughter purposes, must test negative to brucellosis would be imposed because it appears that in most circumstances, except for castrated male swine, swine 6 months of age and older have reached sexual maturity and are raised beyond that time only for breeding purposes. Brucellosis is a disease transmitted primarily through breeding. Consequently, the Department feels that it can adequately detect and control brucellosis introduced into the United States through imported swine by regulating breeding swine 6 months of age or older imported into the United States. Further, because swine brucellosis is endemic to many parts of the United States, it is a requirement for purposes of interstate movement of swine other than for purposes of immediate slaughter, that all swine 6 months of age or older, except castrated male swine, test negative to brucellosis prior to such movement (see CFR Part 78). Proposed § 92.6(c) would conform the requirements for importing swine with the requirements for moving swine interstate.

The principal means of diagnosis of swine brucellosis is the standard serum-agglutination test. This test is prescribed in the 1977 recommended Brucellosis Eradication Uniform Methods and Rules (APHIS 91–1) and incorporated by reference in Part 78. A dilution of 1/25 (30 international units) has proven reliable through use in this country in the detection of brucellosis in swine. The most important prophylactic measure in preventing swine brucellosis is to prevent the introduction of infected swine into a brucellosis-free herd. Each animal introduced into a herd should be tested prior to contact with other animals and no animal showing an agglutination reaction of any degree should be accepted into the herd. Replacements of swine from herds of unknown history should be kept in isoluation and retested before entry into clean herds is permitted.

No effective treatment for swine brucellosis has ever been found. The results of attempts to produce an effective immunity with the use of vaccines have indicated that these procedures do not have sufficient merit to warrant their use.

The testing of swine for brucellosis is also required because the Department does not have adequate information on the incidence of swine brucellosis nor on swine brucellosis programs conducted in other countries which it can rely on in place of the testing and certification procedures to assure the Department and the importer that the swine are free of brucellosis. The requirement of testing and certifying should provide this needed assurance.

As stated above, replacements of breeding swine with unknown herd history should be isolated and retested. Imported swine, except swine coming from Canada, must be quarantined upon arrival in the United States. Under proposed § 92.6(d), swine tested for brucellosis under § 92.6(c) would be retested during the quarantine period to provide additional assurance that the animal to be imported did not become infected with a communicable disease after testing in the country of origin or during handling and shipping to the United States. It is proposed to amend 9 CFR 92.22 so that swine, except castrated male swine, to be imported from Canada for purposes other than immediate slaughter would require a negative brucellosis test to establish that such swine are free of brucellosis. However, because of the reliability of Canadian animal disease testing procedures, swine would not be subject to quarantine and retesting upon arrival in the United States under the proposal. The Department, because of close working relations with the Canadian animal health authorities, is familiar with and accepts Canadian animal health certification and test procedures as equivalent with those procedures conducted in the United States. Sufficient herd history is also available to both the Canadian authorities and to the importer to establish that the swine to be imported have not been exposed to

communicable diseases within the 60 days preceding importation into the United States.

Accordingly, Part 92, Title 9, Code of Federal Regulations, would be amended in the following respects:

1. In § 92.5(a) the first sentence up to the first colon would be amended to read:

§ 92.5 Certificate for ruminants, swine, poultry, pet birds, commercial birds, zoological birds, and research birds.

(a) *Ruminants and swine.* (1) All ruminants and swine offered for importation from any part of the world, except as provided in §§ 92.20, 92.21, 92.22 92.28, 92.35, 92.36, and 92.40, shall be accompanied by a certificate of a salaried veterinary officer of the national government of the country of origin stating that the animals have been inspected on the farm of origin and found to be free from evidence of any communicable disease and that as far as can be determined they have not been exposed to any such disease during the preceding 60 days. The certificate shall also state that such animals have been kept in said country for at least 60 days immediately preceding the date of movement therefrom and that said country during such period has been entirely free from foot-and-mouth disease, rinderpest, contagious pleuropneumonia, and surra:

* * * * *

2. In § 92.6, paragraph (c) would be redesignated paragrpah (d) and a new paragraph (c) would be added to read:

§ 92.6 Diagnostic tests.

* * * * *

(c) *Brucellosis tests of swine.* Except as provided in § 92.22, all swine 6 months of age or older, except castrated male swine, offered for importation for purposes other than immediate slaughter shall be accompanied by a certificate of a salaried veterinary officer of the national government of the country of origin stating that the animals have been tested for brucellosis with a serum-agglutination test[5a] at a dilution of 1/25 (30 international units) with negative results within 30 days preceeding the date of their exportation. The certificate shall show the dates, places and results of the tests, method of testing, the name and address of the consignor and consignee, and a description of each animal by age, breed, markings, and tattoo or eartag number.

* * * * *

3. In § 92.6, redesignated paragraph (d) would be amended by changing the reference to "paragraphs (a) and (b)" therein to "paragraphs (a), (b) and (c)".

4. In § 92.22, a second sentence would be added to paragraph (a) to read:

§ 92.22 Swine from Canada.

(a) * * * The certificate shall also show that swine 6 months of age or older, except castrated male swine, offered for importation for purposes other than immediate slaughter have been tested for brucellosis by a serum-agglutination test[5a] at a dilution of 1/25 (30 international units) with negative results within 30 days preceding the date of their being offered for entry. The certificate shall show the date, place, and results of the test, the method of testing, the name and address of the consignor and consignee, and a description of each animal by age, breed, markings, and eartag or tattoo number.

* * * * *

5. In § 92.22, paragraph (b) would be amended to read:

(b) *For immediate slaughter.* Swine for immediate slaughter may be imported from Canada without the certification and tests as prescribed in paragraph (a) of this section, but shall be subject to the provisions of §§ 92.8, 92.19, and 92.23.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 824, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 25th day of April 1980.

Pierre A. Chaloux

Deputy Administrator, Veterinary Services.

[FR Doc. 80-13507 Filed 5-1-80; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 182, 184

[Docket No. 79N-0209]

Sodium Hydroxide and Potassium Hydroxide, Proposed Affirmation of GRAS Status as Direct Human Food Ingredients; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The agency extends the comment period on its proposal to affirm the generally recognized as safe (GRAS) status of sodium hydroxide and potassium hydroxide as direct human food ingredients. This action is taken in response to a request for extension of the comment period.

DATE: Written comments by May 22, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 22, 1980 (45 FR 11842), the Food and Drug Administration proposed to affirm the GRAS status of sodium hydroxide and potassium hydroxide as direct human food ingredients. Interested persons were invited to submit comments on the proposal by April 22, 1980.

The International Technical Caramel Association, Washington, DC, requested a 30-day extension of the comment period, to May 22, 1980, to permit collection of comments and data on the proposal from its membership.

The agency considers the opportunity to comment on GRAS affirmation proposals to be an important part of GRAS review process. It has determined that an extension of the comment period for this proposal would be appropriate, and that the additional time should be extended to all interested persons.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the comment period for the GRAS affirmation proposal for sodium hydroxide and potassium hydroxide is extended to May 22, 1980.

Interested persons may, on or before May 22, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments

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[5a] See 9 CFR 78.1(j), footnote 1 and 2.

may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 22, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-13148 Filed 4-25-80; 11:03 am]

BILLING CODE 4110-03-M

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21 CFR Part 680

[Docket No. 79N-0410]

Allergenic Products; Proposed Testing and Labeling Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to amend the biologics regulations concerning Allergenic Products. For those allergenic extracts labeled with protein nitrogen units (PNU), these amendments would require the use of a standardized assay procedure for the determination of the PNU value. Labeling requirements concerning the PNU value are also proposed. Currently, there is no officially recognized standardized procedure applicable to all allergenic extracts for the testing and labeling of a product's concentration. The proposed rules would ensure that the PNU value on the label of an allergenic extract is accurate and properly identified.

DATE: Comments on or before July 1, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Steven F. Falter, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: FDA is proposing to amend § 680.3 of the biologics regulations (21 CFR 680.3) to require the use of a standardized assay method for determining the protein nitrogen units (PNU) of allergenic extracts. These proposed regulations would not affect those extracts labeled with other units of concentration, such as a weight-to-volume ratio (w/v). This proposal would require that each lot of allergenic extract be assayed by the proposed standardized method before subdividing, or releasing the lot for sale. In addition, labeling requirements are proposed to ensure that the labeled PNU value is properly identified and accurately reflects the PNU assay results.

The PNU assay determines the amount of nitrogen present in the proteinaceous material precipitated by phosphotungstic acid (PTA) from a known volume of allergenic extract, one PNU being equivalent to $1x10^{-5}$ milligrams (mg) of precipitated nitrogen. Thus, the PNU value indicates the concentration of nitrogen-containing substances, including the active allergens contained within the extract. The PNU assay is the method of measuring concentration most frequently used by U.S. manufacturers pending the development of more specific methods.

From the time the PNU methodology was introduced in 1933, allergenic extract manufacturers have incorporated their own variations into the method of precipitating protein from the allergenic extract in preparation for the nitrogen assay. As a result, disparate assay results have been obtained among manufacturers, testing laboratories, and the FDA. In some instances, especially for aqueous and freeze-dried extracts, the agency has been unable to verify in its own laboratories, the manufacturer's assay results. Variations in the method for nitrogen determination have not been found to produce disparate assay results.

In 1977, FDA's Bureau of Biologics developed a standardized protein precipitation procedure for the PNU assay. The procedure is similar to those already in use except that each parameter was systematically varied and the parameter value selected to yield the maximum PNU level for a variety of extracts. Copies of the procedure were sent to each manufacturer known to use the PNU assay for their comment. After a slight modification, the procedure was published in February 1979 in the *Journal of Allergy and Clinical Immunology*, 63:87-97, 1979. Copies of the published procedure are on file with the Hearing Clerk, Food and Drug Administration.

To ensure that manufacturers have adequate background information for the correct performance of the proposed precipitation method, and to make the codified rules as brief as possible, the procedure is incorporated into § 680.3(d)(1) by reference to the 1979 publication. For the convenience of the interested public, the proposed procedure is reprinted below. (Note: As published, the PNU concentrations in Step 1 of the procedure were in error and are corrected here to those given on pages 90 and 91 of the monograph.)

Proposed PNU precipitation procedure for allergenic extracts:

1. Combine 2 milliliters (mL) of allergenic extract with 0.25 mL of concentrated hydrochloric acid (HCl) (specific gravity, 1.19 grams per milliliter (g/mL): 37.8% of HCl) in a coanical centrifuge tube. NOTE: 2 mL of the sample should be used when the approximate PNU value of the extract is not known. When the PNU value of the extract is know approximately the following volumes should be analyzed:

PNU/mL of allergenic extract:	mL
>35,500	1
15,500-35,500	2
<15,500	3

2. Add 1 mL of 15% phosphotungstic acid (PTA) in 10% (w/v) HCl. Mix thoroughly. The precipitating solution contains 15.0 g PTA dissolved in water prior to the addition of 22.2 mL of concentrated HCl (specific gravity, 1.19 g/mL; 37.8%) and brought to a total volume of 100 mL with water.

3. Allow the mixture to digest for 1 hour at room temperature (22° ± 3° C).

4. Centrifuge the mixture at room temperature at 2,700 revolutions per minute (rpm) for 10 to 15 minutes. (Relative centrifugal force measured to the tip of the sample tube = G value = 879.)

5. Test for completeness of precipitation by adding 5 drops of 15% PTA in 10% HCl and checking visually for turbidity in the supernatant. If turbidity develops add 0.5 mL of 15% PTA in 10% HCl and let the mixture stand for 1 hr at room temperature. Recentrifuge at 2,700 rpm for 10 to 15 min (room temperature).

6. Pour off the supernatant. Drain the precipitate by inverting the centrifuge tube. The precipitate forms a pellet in the bottom of the conical tube. Inverting the tube will not dislodge it.

7. Do not wash the precipitate.

8. To dissolve the precipitate in 10 mL of 2% NaOH, use a volumetric pipet to add 3 mL of 2% NaOH to loosen the pellet. Use a vortex mixer to aid in putting the pellet into solution. Add the remaining 7 mL of 2% NaOH (volumetric pipet). Mix thoroughly.

9. Analyze for nitrogen content.

Proposed § 680.3(d)(1) would require that each lot of allergenic extract with an intended concentration of 5,000 PNU/mL or greater be assayed using the proposed test procedure. For lots with less than 1 mL of extract per vial, only extracts containing 5000 PNU/vial or greater must be assayed. The agency has determined that in some instances, especially for aqueous extracts, the assayable PNU/mL of a very dilute extract may be significantly less than that calculated from the PNU/mL of the

stock extract and the known dilution factor. Since this phenomenon may be an artifact of the assay system, the labeled PNU value for extracts diluted to less than 5,000 PNU/mL may be calculated from the assayed PNU value of the more concentrated stock extract (stock concentrate).

Proposed § 680.3(d)(2) will permit variations of the method of protein precipitation, provided the manufacturer submits sufficient data to FDA to establish that the alternative method is equal or superior in accuracy and precision to the proposed method. Once the precipitation procedure is completed, the nitrogen content may be analyzed by an appropriate analytical method. The Kjeldahl method, the gel diffusion method, and the AutoAnalyzer method are some examples of techniques of acceptable precision and accuracy. The method selected by the manufactuer must be described in the license application, and under § 601.12 (21 CFR 601.12) changes in the method must be approved by the Director, Bureau of Biologics.

The agency recognizes that the relevancy of the PNU assay remains limited in that many other substances, along with the active allergens, may be precipitated by PTA. Also, as the allergens lose their reactivity with time, the PNU value will not change significantly, thus giving no indication of the product's stability. Despite these limitations, standardization of the assay procedure will improve the reliability of labeled PNU values for all allergenic extracts. The increased reliability of labeled PNU value will facilitate FDA's monitoring and verification of labeled PNU values, thereby assuring the continued manufacture of standardized allergenic products. In addition, a consistently determined and labeled PNU value will aid the physician in assessing the equivalence of competitive extracts and in preparing a standardized dose for the patient.

Proposed § 680.3(d)(3)(i) and (ii) would require that the PNU value identified on the package label be based upon the assayed PNU values determined for each lot contained in the package and expressed as PNU/mL, or PNU/vial. The value may be rounded off by conventional means to a degree of accuracy (significant digits) chosen by the manufacturer, but to no greater degree of accuracy than the nearest hundred. FDA believes this is the maximum possible accuracy obtainable by any assay system currently in use. In addition, proposed § 680.3(d)(3)(i) and (ii) would require that labeled PNU values be identified as "PNU/mL by assay" or "PNU/vial by assay", except that values of less than 5,000 PNU/mL are identified as "PNU/mL by dilution", or "PNU/vial by dilution". Paragraph (d)(3)(iii) would require a statement on the package label or accompanying insert informing the user of the product that the PNU level of diluted extract is obtained by calculation and not by assay.

The agency has determined pursuant to 21 CFR 25.24(d)(10) (proposed December 11, 1979, 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 701, 52 Stat. 1040–1042 as amended, 1050–1051 as amended, 1055–1056 as amended (21 U.S.C. 321, 352, 371)) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 680 be amended in § 680.3 by adding new paragraph (d) to read as follows:

§ 680.3 Tests.

* * * * *

(d) *Protein nitrogen unit (PNU).* For those allergenic extracts to be labeled with a PNU value, the product shall be tested and labeled as follows:

(1) *Test procedure.* Each lot of allergenic extract shall be assayed for the PNU concentration before subdividing or releasing the extract. For extracts containing less than 5,000 PNU per milliliter (PNU/mL) or PNU per vial (PNU/vial), the stock concentrate of the extract shall be assayed. The protein shall be precipitated by the procedure described in "Optimization of Parameters in Protein Nitrogen Unit Precipitation Procedure for Allergenic Extracts," *Journal of Allergy and Clinical Immunology* 63:87–97, 1979,[1] which is incorporated by reference. (NOTE: "15,000–35,000" should be corrected to read "15,500–35,500" in step 1 (page 96) of the monograph test procedure.) The nitrogen shall be quantified by an appropriate analytical method approved by the Director, Bureau of Biologics.

(2) *Different methods equal or superior.* A different method of protein precipitation may be performed provided that prior to its performance the manufacturer submits data which the Director, Bureau of Biologics, finds adequate to establish that the different method is equal or superior to the method described in paragraph (d)(2) of this section and makes the finding a matter of official record.

(3) *Labeling.* In addition to the requirements of § 610.61 and 610.62 of this chapter, the package label shall include the following information:

(i) For each lot of allergenic extract contained within the package, the assayed PNU value, rounded off to no greater accuracy than the nearest hundred PNU and identified as "PNU/mL by assay" or "PNU/vial by assay".

(ii) For each lot of allergenic extract diluted to less than 5,000 PNU/mL (or PNU/vial) contained within the package, the calculated PNU value based upon the assayed PNU value of the stock concentrate and the known dilution factor, rounded off to no greater accuracy than the nearest hundred PNU, and identified as "PNU/mL by dilution" or "PNU/vial by dilution".

(iii) A statement that the PNU level of diluted extracts is obtained by calculation and not by assay. In lieu of inclusion on the package label, such information may be included in a circular enclosure within the package.

* * * * *

Interested persons may, on or before July 1, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday. Interested persons may obtain copies of the monograph referenced in the proposed regulations by contacting the office of the Hearing Clerk, and identifying the document with the Hearing Clerk docket number found in brackets in the heading of this document.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

[1] Copies may be obtained from: Food and Drug Administration, Bureau of Biologics, Division of Control Activities, 8800 Rockville Pike, Bethesda, MD 20205, or examined at the Office of the Federal Register Library.

Dated: April 24, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-13335 Filed 5-1-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 1030

[Docket No. 80N-0099]

Amendments to the Microwave Ovens Standard; Measurement and Test Conditions

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to amend the performance standard for microwave ovens to delete the error limit and effective aperture requirements for instruments used for compliance measurement of leakage radiation from microwave ovens. The proposal would provide that the characteristics of these instruments and the conditions under which they are used would be accounted for in information submitted to the Bureau of Radiological Health (BRH) by the microwave oven manufacturers as part of their testing programs for microwave ovens. FDA also proposes a new definition of "equivalent plane-wave power density." These changes are designed to reflect the actual compliance-testing situation for microwave ovens. No change in permissible leakage levels is to be made.

DATE: Comments by July 1, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph Wang, Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (the act) (Pub. L. 90-602, 42 U.S.C. 263b et seq.), the FDA proposes to amend the performance standards for microwave ovens in (21 CFR 1030.10) to delete the error limit and effective aperture requirements for power density test instruments used for compliance measurements of leakage radiation from microwave ovens. The proposed amendments would provide that the characteristic of these instruments and the conditions under which they are used would be accounted for in periodic reports required to be submitted to BRH by the microwave oven manufacturers as part of their testing programs for microwave ovens (21 CFR 1002.10-1002.12). Additional amendments to the performance standard are proposed to incorporate a new definition of "equivalent plane-wave power density." These changes are proposed to reflect the actual compliance-testing situation for microwave ovens. No change in permissible leakage levels is to be made.

In accordance with section 358(f) of the act, this proposal was reviewed by the Technical Electronic Product Radiation Safety Standards Committee at a public meeting of the committee on June 1, 1978. This committee, a permanent statutory advisory committee to the Secretary, Department of Health, Education, and Welfare, must be consulted prior to the establishment or amendment of performance standards for electronic products. A draft Interim Guidance on Microwave Instrumentation, based on the measurement capabilities of the current microwave measurement instrumentation, was sent to microwave oven manufacturers for review on August 16, 1979. (A copy of the draft Interim Guidance is on file for public review, in the office of the FDA Hearing Clerk). This proposed amendment to the standard is designed to clarify the policies discussed in the draft Interim Guidance. A discussion of the proposed amendments follows.

Section 1030.10(c)(3)(i) currently contains certain specific requirements for the microwave power density instrument's characteristics. These include the requirement that the instrument be capable of measuring the radiation leakage within plus 25 percent and minus 20 percent (±1 decibel) and have a radiation detector with an effective aperture of 25 square centimeters (cm) or less as measured in a plane wave, with the aperture having no dimension exceeding 10 cm. This aperture is to be determined at the fundamental frequency of the oven being tested for compliance.

Over the past several years, FDA has evaluated the characteristics of many microwave survey instruments and the methods by which these instruments are calibrated. These evaluations indicate that it is possible for any commercially available instrument, if used under certain measurement conditions, to produce readings of oven leakage which are in error by more than 1 decible. This is because, in addition to the errors associated with the instrument itself, other factors such as over leakage radiation characteristics and environmental conditions under which measurements are made also contribute to the inaccuracy of instrument readings. Even for a hypothetically perfect instrument, these other factors can still introduce uncertainty which is a significant fraction of 1 decibel because of current limitations in the ability to determine such errors and the lack of an absolute standard with zero uncertainty.

Because the agency recognizes the technical limitations with the measurement of microwave radiation, it is proposing an alternate compliance policy, which will take these limitations into account. BRH has the responsibility to review testing programs under which microwave oven manufacturers certify their ovens. Manufacturers may, under the proposal, use any instruments with uncertainties greater than ±1 decibel in their compliance test programs provided that the uncertainties are taken into account and provided that BRH concurs with the manufacturer's stated limit of uncertainty. For example, if the negative limit of uncertainty of a particular instrument is −2 decibel (a ratio of 0.63:1), then allowance for the potential error would require rejection of those microwave ovens which, according to this instrument, indicate leakage radiation greater than 0.63 milliwatt (mW)/cm (instead of 1.0 mW/cm as permitted by § 10.30.10(c)(1) of the standard). The rejection limit would undoubtedly need to be set even lower to allow for the other uncertainties in the measurement process.

The agency has determined that this proposed new policy would not compromise microwave oven safety or lesser compliance with Part 1030. This policy is similar to that used in the enforcement of other performance standards promulgated under the act. Therefore, the agency proposes to amend § 1030.10(c)(3)(i) by deleting both the error limit on compliance testing instruments and the effective aperture requirements so that the standard will not dictate instrument design, but will allow FDA and the regulated industry to evaluate overall measurement uncertainty in specific use situations. Section 1030.10(c)(3)(ii) would also be amended to reflect this alternate compliance policy.

Comments are invited on this and other alternate compliance policies which may replace the present unrealistic ±1 decibel error limit for microwave measurement instruments.

The agency believes that the concept of "equivalent planewave power density" should be incorporated into

§ 1030.10 (C)(1) and (c)(3)(i) as a substitute for "power density" to describe more clearly the radiation parameter being measured to determine compliance with the microwave oven standard.

The ageny also proposes to add new § 1030.10(b)(8), defining equivalent plane-wave power density as "the square of the root-mean-square (RMS) electric field strength divided by the impedance of free space (377 ohms)." Expressing power density in this manner will improve the technical accuracy of the standard because the electric field is the significant factor in terms of both the radiation absorption in tissue and the measured parameter at microwave frequencies.

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

Therefore, 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 5.1), it is proposed that Part 1030 be amended in § 1030.10 by adding new paragraph (b)(8) and by revising paragraph (c)(1) and (c)(3) (i) and (ii), to read as follows:

§ 1030.10 Microwave ovens.

* * * * *

(b) * * *

(8) "Equivalent plane-wave power density" means the square of the root-mean-square (RMS) electric field strength divided by the impedance of free space (377 ohms).

(c) *Requirements*—(1) *Power density limit.* The equivalent plane-wave power density existing in the proximity of the external oven surface shall not exceed one (1) milliwatt per square centimeter at any point five (5) centimeters or more from the external surface of the oven measured prior to acquisition by a purchaser, and, thereafter, five (5) milliwatts per square centimeter.

* * * * *

(3) *Measurement and test conditions.* (i) Compliance with the power density limit in paragraph (c)(i) of this section shall be determined by measurement of the equivalent plane-wave power density made with an instrument which reaches 90 percent of its steady-state reading within 3 seconds when the system is subjected to a step-function input signal. Tests for compliance shall account for all measurement errors and uncertainties to ensure that the equivalent plane-wave power density does not exceed the limit prescribed by paragraph (c)(1) of this section.

(ii) Microwave ovens shall be in compliance with the power density limit if the maximum reading obtained at the location of greatest microwave radiation emission, taking into account all measurement errors and uncertainties, does not exceed the limit specified in paragraph (c)(1) of this section when the emission is measured through at least one stirrer cycle. As provided in § 1010.13 of this chapter, manufacturers may request alternative test procedures if, as a result of the stirrer characteristics of a microwave oven, such oven is not susceptible to testing by the procedures described in this paragraph.

* * * * *

Interested persons may, on or before July 1, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined that this document does not involve major economic consequences requiring preparation of a regulatory analysis statement under Executive Order 12044. A copy of the regulatory analysis assessment, and other pertinent background data on which the agency relies in proposing these amendments are on file with the Hearing Clerk, Food and Drug Administration.

Dated: April 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–13467 Filed 5–1–80; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE–164–78]

Coordination of Vesting and Discrimination Requirements for Qualified Plans; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to rules for determining if the vesting schedule of a qualified plan discriminates in favor of employees who are officers, shareholders, or highly compensated.

DATES: The public hearing will be held on July 10, 1980, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by June 26, 1980.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE–164–78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202–566–6870, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 411(d)(1) of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Wednesday, April 9, 1980, at page 24201 (45 FR 24201).

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 also desire to present oral comments at the hearing on the proposed regulations should submit an outline of oral comments to be presented at the hearing and the time they wish to devote to each subject by June 26, 1980.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of 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.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive on improving government regulations appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue:

George H. Jelly,

Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 80-13518 Filed 5-1-80; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 48

[LR-205-78]

Gas Guzzler Tax; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the gas guzzler tax.

DATES: The public hearing will be held on June 19, 1980, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by June 5, 1980.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-205-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-6870, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 4064 and 4222 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Friday, February 8, 1980 (45 FR 8589).

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 also desire to present oral comments at the hearing on the proposed regulations should submit an outline of oral comments to be presented at the hearing and the time they wish to devote to each subject by June 5, 1980.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of 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.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive on improving government regulations appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 80-13516 Filed 5-1-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR 250

Oil and Gas and Sulfur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Extension of Comment Period on Proposed Rules.

SUMMARY: The U.S. Geological Survey of the Department of the Interior hereby extends the comment period on the proposed rules which amend 30 CFR 250.57 (Air Quality). The proposed rules were published in 45 FR 15147 (March 7, 1980) with a comment period scheduled to end on May 6, 1980. The proposed rules would add to 30 CFR 250.57: (1) a separate set of exemption formulas and significance levels for use in determining whether air emissions from Outer Continental Shelf facilities locating in areas adjacent to the State of California significantly affect the air quality of an onshore area and (2) a provision under which other affected States with air quality standards more stringent than the national ambient air quality standards may petition the U.S. Geological Survey for treatment similar to that accorded California.

DATE: Comments are now due on or before June 20, 1980.

ADDRESS: Responses should identify the subject matter and be directed to the Chief, Conservation Division, Attention: Environmental Analysis Section, U.S. Geological Survey, National Center, Mail Stop 600, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: John Goll, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 600, Reston, Virginia 22092, (703) 860-7136.

Dated: April 29, 1980.

Don E. Kash,

Chief, Conservation Division, U.S. Geological Survey.

[FR Doc. 80-13519 Filed 5-1-80; 8:45 am]

BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Determination of Completeness for Permanent Program Submission From the State of Indiana

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) U.S. Department of the Interior.

ACTION: Proposed Rule: Notice of Determination of Completeness of Submission.

SUMMARY: On March 3, 1980 the State of Indiana submitted to OSM its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This notice announces the Regional Director's determination as to whether the Indiana program submission contains each required element specified in the permanent regulatory program regulations. The Regional Director has concluded a review and has determined the program submission is incomplete.

ADDRESSES: Written comments on the Indiana program and a summary of the public meeting are available for public review, 8 a.m.– 4 p.m., Monday through Friday, excluding holidays at: Office of Surface Mining, Region III, Fifth Floor, Room 510, Federal Building and U.S.

Courthouse, 46 East Ohio Street, Indianpolis, Indiana 46204

Copies of the full text of the proposed Indiana program are available for review during regular business hours at the OSM regional office above and at the following offices of the State Regulatory Authority:

Indiana Dept. of Natural Resorces, Division of Reclamation, 309 West Washington St., Suite 301, Indianapolis, Indiana 46204
Indiana Dept. of Natural Resources, Division of Reclamation, Field Office, 101 West Main Street, Jasonville, Indiana 47434
Office of Surface Mining, District Office, 101 N.W. 7th Street, Evansville, Indiana 47708

FOR FURTHER INFORMATION CONTACT: Mr. J.M. Furman, Assistant Regional Director, Office of Surface Mining, Fifth Floor, Room 527, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204, Telephone: (317) 269–2629.

SUPPLEMENTARY INFORMATION: On March 3, 1980, OSM received a proposed permanent regulatory program from the State of Indiana. Pursuant to the provisions of 30 CFR Part 732, "Procedures and Criteria for Approval or Disapproval of State Program Submissions" (44 FR 15326–15328, March 13, 1979), the Regional Director, Region III, published notification of receipt of the Indiana program submission in the **Federal Register** of March 11, 1980, (45 FR 15580–15581) and in the following newspapers of general circulation within the State:

Sunday Courier and Press, Evansville, Indiana
Indianapolis Star, Indianapolis, Indiana
Terre Haute Star, Terre Haute, Indiana

The March 11, 1980, notice set forth information concerning public participation pursuant to 30 CFR 732.11. This information included a summary of the Indiana program submission, announcement of a public review meeting on April 10, 1980, in Indianapolis, Indiana, to discuss the submission and its completeness, and announcement of a public comment period until April 15, 1980, for members of the public to submit written comments relating to the program and its completeness. Further information may be found in the permanent regulatory program regulations and **Federal Register** notice referenced above.

This notice is published pursuant to 30 CFR 732.11(b), and constitutes the Regional Director's decision on the completeness of the Indiana program. Having considered public comments, testimony presented at the public review meeting and all other relevant information, the Regional Director has determined that the Indiana submission does not fulfill the content requirements for program submission under 30 CFR 731.14 and is therefore incomplete.

In accordance with § 732.11(c) of the permanent regulatory program regulations, the following required elements are missing from the proposed Indiana permanent regulatory program:

1. The Indiana Program Submission does not include a copy of state regulations which have been promulgated or which are in process of promulgation to implement and enforce their state law as required by § 731.14(a) of 30 CFR, Chapter VII.

2. The Indiana Program Submission does not contain an Attorney General or Chief Legal Officer opinion as required by § 731.14(c) of 30 CFR, Chapter VII.

3. The Indiana Program Submission does not contain a Section-by-Section comparison of Indiana law and regulation and the Federal law and regulation as required by § 731.14(c) of 30 CFR, Chapter VII.

4. The Indiana Program Submission does not contain a copy of the legal document which designates one state agency as the regulatory authority and authorizes that agency to implement, administer, and enforce a State program and to submit grant applications and receive and administer grants under § 731.14(d) of 30 CFR, Chapter VII.

5. The Indiana Program Submission does not contain copies of supporting agreements between agencies which will have duties in the State program as required by § 731.14(f) of 30 CFR, Chapter VII.

6. The Indiana Program Submission does not contain an explanation of projected use of professional and technical personnel that are available to the regulatory authority from other agencies as required by § 731.14(k) of 30 CFR, Chapter VII.

7. The Indiana Program Submission does not contain a complete system for enforcing the administrative, civil and criminal sanctions of state laws and regulations relating to regulation of coal exploration and surface coal mining and reclamation and surface coal mining and reclamation operations as required by § 731.14(g)(5) of 30 CFR, Chapter VII.

8. The Indiana Program Submission does not contain any descriptions, flow charts, or other documentation for a system to enforce permanent program standards as required by § 731.14(g)(6) of 30 CFR, Chapter VII.

9. The Indiana Program Submittal does not contain any description of a proposed system for providing for a small operator assistance program as required by § 731.14(g)(16) of 30 CFR, Chapter VII.

Indiana may submit additions to remedy the incomplete elements identified by the completeness review and any other modifications of the proposed Indiana program until June 16, 1980.

If the State fails to supply these missing elements by that deadline, its program will be initially disapproved by the Secretary as set forth in 30 CFR 732.11(d). The Regional Director's determination that the proposed program is complete with respect to the remaining elements required by 30 CFR 731.14, does not mean that those elements are substantively adequate.

No later than June 23, 1980, the Regional Director will publish a notice in the **Federal Register** and in the following newspapers of general circulation initiating substantive review of the Indiana submission:

Sunday Courier and Press, Evansville, Indiana
Indianapolis Star, Indianapolis, Indiana
Terre Haute Star, Terre Haute, Indiana

This review will include a formal public hearing and written comment period. Procedures will be detailed in that notice. Further information concerning how that substantive review will be conducted may be found in 30 CFR 732.12.

The Office of Surface Mining is not preparing an environmental impact statement with respect to the Indiana regulatory program, in accordance with Section 702(d) of SMCRA (30 U.S.C. Section 1292(d)) which states that approval of State programs shall not constitute a major action within the meaning of Section 102(2)(C) of the National Environmental Policy Act.

Dated: April 23, 1980.

Edgar A. Imhoff,

Regional Director.

[FR Doc. 80-13508 Filed 5-1-80; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Chapter VII

Determination of Completeness for Permanent Program Submission From the State of Illinois

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) U.S. Department of the Interior.

ACTION: Proposed Rule: Notice of Determination of Completeness of Submission.

SUMMARY: On March 3, 1980 the State of Illinois submitted to OSM its proposed

permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This notice announces the Regional Director's determination as to whether the Illinois program submission contains each required element specified in the permanent regulatory program regulations. The Regional Director has concluded a review and has determined the program submission is incomplete.

ADDRESSES: Written comments on the Illinois program and a summary of the public meeting are available for public review, 8 a.m.–4 p.m., Monday through Friday, excluding holidays at:

Office of Surface Mining, Region III, Fifth Floor, Room 510, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204

Copies of the full text of the proposed Illinois program are available for review during regular business hours at the OSM regional office above and at the following offices of the State Regulatory Authority:

Department of Mines and Minerals, Division of Land Reclamation, 227 South 7th Street, Suite 204, Springfield, Illinois 62706

Department of Mines and Minerals, Division of Land Reclamation, Southern District Field Office, Route 6, Box 140A, Marion Illinois 62959

Office of Surface Mining, District Office, #4 Old State Capitol Plaza, North, Springfield, Illinois 62701

FOR FURTHER INFORMATION CONTACT:

Mr. J. M. Furman, Assistant Regional Director,

Office of Surface Mining, Fifth Floor, Room 527, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204, Telephone: (317) 269–2629

SUPPLEMENTARY INFORMATION: On March 3, 1980, OSM received a proposed permanent regulatory program from the State of Illinois. Pursuant to the provisions of 30 CFR Part 732, "Procedures and Criteria for Approval or Disapproval of State Program Submissions" (44 FR 15326–15328, March 13, 1979), the Regional Director, Region III, published notification of receipt of the Illinois program submission in the **Federal Register** of March 11, 1980, (45 FR 15583–15584) and in the following newspapers of general circulation within the State:

Benton Evening News
Springfield Journal-Register
Belleville News Democrat

The March 11, 1980, notice set forth information concerning public participation pursuant to 30 CFR 732.11. This information included a summary of the Illinois Program submission, announcement of a public review meeting on April 10, 1980, in Springfield, Illinois, to discuss the submission and its completeness, and announcement of a public comment period until April 15, 1980, for members of the public to submit written comments relating to the program and its completeness. Further information may be found in the permanent regulatory program regulations and **Federal Register** notice referenced above.

This notice is published pursuant to 30 CFR 732.11(b), and constitutes the Regional Director's decision on the completeness of the Illinois program. Having considered public comments, testimony presented at the public review meeting and all other relevant information, the Regional Director has determined that the Illinois submission does not fulfill the content requirements for program submissions under 30 CFR 731.14 and is therefore incomplete.

In accordance with Section 732.11(c) of the permanent regulatory program regulations, the following required elements are missing from the proposed Illinois permanent regulatory program:

1. The Illinois Program Submission does not include a legal opinion from their Attorney General as required by Section 731.14(c) of 30 CFR, Chapter VII.

2. The Illinois Program Submission does not include narratives or descriptions of the existing and/or proposed organization of the agency as required by Section 731.14(e) of 30 CFR, Chapter VII.

3. The Illinois Program Submission does not include any statistical information concerning coal exploration operations, or alternately specify that there is none as required by Section 731.14(h) of 30 CFR, Chapter VII.

4. The Illinois Program Submission does not include brief descriptions of other programs that may be administered by the Regulatory Authority as required by Section 731.14(o) of 30 CFR, Chapter VII.

5. The Illinois Program Submission includes a copy of the draft regulations rather than either promulgated regulations or regulations which are in the process of promulgation as required by Section 731.14(a) of 30 CFR, Chapter VII.

Illinois may submit additions to remedy the incomplete elements identified by the completeness review and any other modifications of the proposed Illinois program until June 16, 1980.

If the State fails to supply these missing elements by that deadline, its program will be initially disapproved by the Secretary as set forth in 30 CFR 732.11(d). The Regional Director's determination that the proposed program is complete with respect to the remaining elements required by 30 CFR 731.14, does not mean that those elements are substantively adequate.

No later than June 23, 1980, the Regional Director will publish a notice in the **Federal Register** and in the following newspapers of general circulation initiating substantive review of the Illinois submission:

Benton Evening News, Springfield Journal-Register, Belleville News Democrat

This review will include a formal public hearing and written comment period. Procedures will be detailed in that notice. Further information concerning how that substantive review will be conducted may be found in 30 CFR 732.12.

The Office of Surface Mining is not preparing an environmental impact statement with respect to the Illinois regulatory program, in accordance with Section 702(d) of SMCRA 30 USC, Section 1292(d) which states that approval of State programs shall not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Policy Act.

Dated: April 24, 1980.

Edgar A. Imhoff,

Regional Director.

[FR Doc. 80-13509 Filed 5-1-80; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Chapter VII

Determination of Completeness for Permanent Program Submission From the State of Colorado

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rule: Notice of determination of completeness of submission.

SUMMARY: On February 29, 1980, the state of Colorado submitted to OSM its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This notice announces the Regional Director's determination as to whether the Colorado program submission contains each required element specified in the permanent regulatory program regulations. The Regional Director has concluded his review and has determined the Colorado program submission is complete.

ADDRESS: Written comments on the Colorado program and a summary of the

public meeting are available for public review, 8:00 a.m.—4:00 p.m., Monday through Friday, excluding holiday at: Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

Copies of the full text of the proposed Colorado program are available for review during regular business hours at the OSM Regional Office above and at the following offices of the State regulatory authority: Mined Land Reclamation, Department of Natural Resources, 1313 Sherman Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Sylvia Sullivan, Public Information Office, Office of Surface Mining, Region V, Department of the Interior, Brooks Towers, 1020 15th Street, Denver, Colorado 80202, (303) 837–4731.

SUPPLEMENTARY INFORMATION: On February 29, 1980, OSM received a proposed permanent regulatory program form the state of Colorado. Pursuant to the provisions of 30 CFR Part 732, "Procedures and Criteria for Approval or Disapproval of State Program Submissions" (44 FR 15326–15328 March 13, 1979), the Regional Director, Region V, published notification of receipt of the program submission in the **Federal Register** of March 11, 1980, and in the following newspapers of general circulation within Colorado: The Denver Post.

Part 732 of the permanent program regulations established a schedule for the review of all State program proposals based upon a final submission date of August 3, 1979. On July 25, 1979 the U.S. District Court for the District of Columbia, in response to a suit filed by the state of Illinois, enjoined the Department of the Interior from requiring the submission of State programs under Section 503(a) of the Act until March 3, 1980. As a result of this court ordered change in the required submission deadline the Office announced an amendment to Section 731.12 of the final regulations in the October 22, 1979, **Federal Register** (44 FR 60969). The amended regulation revises the original schedule by making §§732.11, 732.12 and 732.13 iapplicable for post August 3, 1979, submissions. In lieu of this schedule, Section 731.12(d) authorizes the Regional Director to make adjustments in the timing of the review process for State programs.

The following timetable sets forth the general schedule for review of the Colorado proposed State regulatory program:

—A final date for the submission of program changes by Colorado will be June 12, 1980.

—A public hearing will be held on July 18, 1980.

—A final date for the submission of public comments will be July 23, 1980.

—The initial decision of the Secretary will be announced approximately 40 days after the public hearing, approximately 180 days from the original date of the State submission.

This notice is published pursuant to 30 CFR 732.11(b) and constitutes the Regional Director's decision on the completeness of the Colorado program. Having considered public comments, testimony presented at the public review meeting and all other relevant information, the Regional Director has determined that the Colorado submission does fulfill the content requirements for program submission under 30 CFR 731.14 and is therefore complete.

No later than June 17, 1980, the Regional Director will publish a notice in the **Federal Register** and in the following newspapers of general circulation in Colorado initiating substative review of the program submission: The Denver Post.

The review will include an informal public hearing and written comment period. Procedures will be detailed in that notice. Further information concerning how that substantive review will be conducted may be found in 30 CFR 732.12.

The Office of Surface Mining is not preparing an environmental impact statement with respect to the Colorado regulatory program, in accordance with Section 702(d) of SMCRA (30 U.S.C. § 1292(d)), which states that approval of State programs shall not constitute a major action within the meaning of Section 102(2)(C) of the National Environmental Policy Act.

Dated: April 29, 1980.

Donald A. Crane,

Regional Director.

[FR Doc. 80-13510 Filed 5-1-80: 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1482-8]

Approval and Promulgation of Implementation Plans; Florida: Proposed Temporary Relaxation of Particulate Emission Limits for Florida Power & Light Co.'s Sanford Plant

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA today proposes to approve a revision to the Florida State Implementation Plan which will allow the Florida Power and Light Company to conduct a one-year test to determine the feasibility of burning a mixture of coal and oil in a 400 megawatt utility boiler designed to burn oil only. The results of the test will indicate whether similar units can be converted to coal-oil mixtures to reduce dependence on foreign oil. The selected boiler, Unit 4 at the Florida Power and Light, Sanford generating station, has insufficient air pollution controls to meet present State emission limitations for boilers burning coal. The proposed revision would allow a one year relaxation of the particulate, visible, and excess emission limitations in order to allow the test to be conducted without the installation of additional air pollution controls. The public is invited to submit written comments on this proposal.

DATES: To be considered, comments must be submitted on or before June 2, 1980.

ADDRESSES: The Florida submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460;

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308.

In addition, the Florida revision may be examined at the office of the Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301. Comments should be submitted to Mr. Roger Pfaff at the address given below.

FOR FURTHER INFORMATION CONTACT: Roger Pfaff, EPA Region IV, Air

Programs Branch, 345 Courtland St NE., Atlanta, Georgia 30308, 404/881–3286 or FTS 257–3286.

SUPPLEMENTARY INFORMATION: On February 4, 1980, the Florida Department of Environmental Regulation submitted to EPA the proposed implementation plan revision described above in the Summary. To accommodate the test burn, it is necessary to relax the State limitations on particulate emissions, visible emissions, and excess emissions. Also, a change is required in a SIP revision approved by EPA on February 29, 1980 (45 FR 13455), which allowed the Sanford Plant to meet emission limits higher than those previously allowed, but lower than those proposed today. The previous SIP limitation for Sanford Unit 4 was 0.1 pounds of particulate matter per million BTU's heat input (lb/MM BTU). The SIP revision for Sanford Units 3, 4, and 5 approved on February 29, 1980 (45 FR 13455), allow particulate emissions of 0.3 lb/MM BTU. The revision proposed today would allow a limit of 5150 pounds of particulate per hour, averaged over 24 hours, with an alternative plantwide limit of 6850 pounds per hour, averaged over 24 hours. For visible emissions and for mass emissions during certain conditions, such as startup, shutdown, and malfunction, the revision proposed today would grant a complete exemption during the one-year test period.

The proposed test at Sanford Unit 4 is subject to EPA regulations for the Prevention of Significant Air Quality Deterioration (PSD), 40 CFR 52.21. A PSD permit for the proposed test was issued on February 20, 1980. The permit contains conditions which include a limitation on particulate emissions of 5639 pounds per hour and 1.57 lb/MM BTU.

The SIP revision contains SO_2 emission limits necessary to protect the Federal PSD increments for Class II areas. The limits can be met either by limiting Unit 4 to 2.75 lb/MM BTU and Units 3 and 5 to 2.59 lb/MM BTU, or by limiting Unit 4 to 2.51 lb/MM BTU and Units 3 and 5 to 2.75 lb/MM BTU.

The proposed SIP revision submitted by Florida has been reviewed by EPA and found to comply with all requirements of the Clean Air Act and EPA regulations promulgated thereunder. In order to monitor compliance with the proposed emission limitations, the company will conduct particulate emission tests at appropriate intervals. Emission tests required under the State SIP submittal will be sufficient to meet EPA requirements for particulate tests at Unit 4 if EPA test methods are employed. In addition, fuel analyses will be required in order to determine compliance with SO_2 limits. Since some of the emission limitations are based upon simultaneous emission rates from all three boilers at the plant, a procedure must be developed for relating emission rates to other, more quickly measured, operating characteristics. Accordingly, the company will be required to develop relationships between results of the Unit 4 emission tests versus opacity and megawatt load, in order to enable the State and EPA to determine continuing compliance. These data will be used in conjunction with the assumption that Units 3 and 5 are always emitting particulate matter at the maximum allowable emission rate of 0.3 lbs/MM BTU at all loads in order to determine compliance with the plantwide particulate limit. The test protocol, including identification of test methods to be used, will be developed by EPA, the State, and the company during the comment period. Comments are solicited on the development of the test program.

Proposed Action

Based on the foregoing, EPA is proposing to approve the Florida revision to the emission limitations at Sanford Unit 4. The public is invited to participate in this rulemaking by submitting written comments on the proposed revision. After considering all pertinent comments received together will all other information available to him, the Administrator will take final action on this proposal.

(Sec. 110, Clean Air Act (42 U.S.C. 7410))

Dated: April 25, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80–13523 Filed 5–1–80; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Part 52

[FRL 1482–7]

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Extension of the Closing of the Record of Proceedings under Section 126 of the Clear Air Act.

SUMMARY: In a notice dated March 17, 1980, 45 **Federal Register** 17048, EPA announced that a hearing would be held on April 17, 1980 in Louisville, Kentucky to initiate proceedings under section 126 of the Clean Air Act on the issue of whether the Public Service Indiana Gallagher Station emits sulfur dioxide in violation of section 110(a)(2)(E)(i) of the Clean Air Act. The hearing was held, at which time it was announced that the public comment period would be kept open until 30 days from the date of the hearing.

This notice announces the extension of the closing date until May 19, 1980, the first business day 30 days after the public hearing.

DATES: Deadline for submission of written materials and closing of public hearing record is May 19, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Miller, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6031.

Mr. Barry Gilbert, Air Programs Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, Atlanta, Georgia 30308, (404) 881–3286.

Dated: April 28, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80–13578 Filed 5–1–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–5723]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations for the Town of Wise; Wise County, Va.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Wise, Wise County, Virginia.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 63556 on November 5, 1979, and in the *Coalfield Progress*, published on September 20, and September 27, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review at the Municipal Building, 122 Main Street, Wise, Virginia.

Send comment to: Honorable Roger Cox, Mayor of Wise, P.O. Box 1100, Wise, Virginia 24293.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, National Flood Insurance Program, Office of Flood Insurance, (202) 426–1460 or Toll Free Line (800) 424–8872, Room 5150, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Wise, Virginia, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)) (presently appearing at its former Title 24, Chapter 10, Part 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Virginia	Town of Wise, Wise County	Glade Creek	Confluence with Yellow Creek	*2,361
			Elam Street (upstream)	*2,427
			U.S. Route 23 (upstream)	*2,432
			J. J. Kelley School Drive (upstream)	*2,440
			Upstream Corporate Limits	*2,449
		Yellow Creek	Downstream Corporate Limits	*2,142
			1st Downstream Private Drive (extended)	*2,224
			Confluence with Glade Creek	*2,361
			State Route 646 (upstream)	*2,420
			State Route 640 (upstream)	*2,429
			Private Road at upstream corporate limits	*2,443
		Tributary to Yellow Creek	Confluence with Yellow Creek	*2,428
			First downstream crossing of Private Road off of State Route 640	*2,430
			Upstream Corporate Limits	*2,438

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-13370 Filed 5-1-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5727]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations for the Village of Liverpool, Onondaga County, N.Y.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Liverpool, Onondaga County, New York.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 64459 on or about November 7, 1979, and in *The Review*, published on or about September 19, 1979, and September 26, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Village Hall, Second Street, Liverpool, New York.

Send comments to: Honorable Floyd Tillotson, Mayor of Liverpool, 604 Balsam Street, Liverpool, New York 13088

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, National Flood Insurance Program, Office of Flood Insurance, (202) 426–1460 or Toll Free Line (800) 424–8872, Room 5150, 451 Seventh Street, SW, Washington, D.C. 20410

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Village of Liverpool, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)) (presently appearing at its former Title 24, Chapter 10, Part 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified

for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Liverpool, Village, Onondaga County.	Onondaga Lake		
		Bloody Brook	Intersection of Lake Parkway and Tulip Street	*372
			Intersection of Oswego Street and Salina Street	*374
			Intersection of Conrail and Corporate Limit	*372

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 209963).

Issued: April 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administration.

[FR Doc. 80-13371 Filed 5-1-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-5814]

National Flood Insurance Program; Proposed Base Flood Elevations; for the City of Benbrook, Tarrant County, TX

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed floodway and base flood elevations on Stream 26 through Country Day Meadows in Benbrook, Texas.

The proposed floodway and base flood elevations will be the basis for the flood plain management measures on Stream 26 in Benbrook, if finalized.

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the proposed base flood elevations and floodways will be available for review upon request.

Send comments to: The Honorable Jerry Dunn, Mayor, City of Benbrook, 911 Winscott Road, Benbrook, Texas 76126.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, DC 20410, (202) 755–6570, or toll free line (800) 424–8872 or (800) 424–8873

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed floodway and base flood elevations (100-year flood) for the City of Benbrook, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67 (presently appearing at its former Section 24 CFR Part 1917). These base flood elevations, together with the flood plain management measures required by Section 60.3 (presently appearing at its former Section 1910.3) of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed floodway on Stream 26 through Country Day Meadows is located at the channel banks of the improved stream from its confluence with the Clear Fork Trinity River upstream to Bryant Irvin Road.

The proposed base flood elevations are as follows:

Source of flooding	Location	Depth and *elevation
Stream 26	Confluence with Clear Fork Trinity River.	597
	Upstream of proposed Bellaire Drive South.	600
	Downstream of Bryant Irvin Drive.	604

*Elevation in feet, national geodetic vertical datum.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 14, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-13372 Filed 5-1-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-5788]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations for the City of Story City, Story County, Iowa

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Story City, Story County, Iowa.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the *Story City Herald* on March 5, 1980 and March 12, 1980, and in 45 FR 15226 published on March 10, 1980, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood base (100-year) elevations are available for review at the City Hall, Story City, Iowa 50248.

Send comments to: Mr. Charles A. Button, City Administrator, City of Story City, City Hall, Story City, Iowa 50248

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5150, 451 Seventh Street, S.W., Washington, D.C. 20410

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Story City, Story County, Iowa, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4 (a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Iowa	(C) Story City, Story County	Skunk River	About 1.0 mile downstream of Broad Street	*967
			About 1.0 mile upstream of Broad Street	*975
		Unnamed Creek	About 500 feet downstream of Forest Avenue	*971
			About 100 feet downstream of Eight Street	*974
			About 100 feet upstream of Grand Avenue	*992

Maps available at City Hall, Story City, Iowa.

Send comments to Mr. Charles A. Button, City Administrator, City of Story City, City Hall, Story City, Iowa 50248.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: March 26, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-13373 Filed 5-1-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FI-5207]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations for the Village of Bensenville, Du Page and Cook Counties, Ill.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Bensenville, Du Page and Cook Counties, Illinois.

Due to the recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in *The Voice* on August 15, 1979 and August 22, 1979, and in 44 FR 48285 published on August 17, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood base (100 year) elevations are available for review at the Village Hall, Engineering Department, 700 West Irving Park Road, Bensenville, Illinois.

Send comments to: Mr. Richard A. Weber, Village President, Village of Bensenville, Village Hall, 700 West Irving Park Road, Bensenville, Illinois 60106.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5150, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Village of Bensenville, Illinois, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4 (a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect

in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be usd to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V) Bensenville, Du Page and Cook Counties.	Bensenville Ditch	At the downstream corporate limits	*662
			About 400 feet downstream of the Chicago and North Western Railroad.	*662
			Just upstream of the Chicago and North Western Railroad	*665
			Just downstream of Irving Park Road	*667
		Addison Creek	About 700 feet downstream of Diana Court	*656
			Just downstream of George Street	*656
		Addison Creek, Tributary No. 1	Mouth at George Street Reservoir	*655
			Just downstream of Evergreen Street	*658
			Just downstream of Marion Street	*663
		Addison Creek, Tributary No. 2	Mouth at George Street Reservoir	*657
			About 800 feet upstream of mouth	*663
			Just downstream of York Road	*663
			Just upstream of Church Road	*679
		Addison Creek, Tributary No. 3	At the confluence with Addison Creek Tributary No. 2	*663
			About 450 feet upstream of George Street	*663
			At the upstream corporate limits	*684
		Addison Creek, Tributary No. 4	At the confluence with Addison Creek Tributary No. 2	*677
			About 800 Feet upstream of Church Road	*678
		George Street Reservoir	Shoreline	*652

Maps available at Village Hall, Engineering Department, 700 West Irving Park Road, Bensenville, Illinois.

Send comments to Mr. Richard A. Weber, Village President, Village of Bensenville, Village Hall, 700 West Irving Park Road, Bensenville, Illinois 60106.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 15, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-13374 Filed 5-1-80; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FI-5387]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations for the Town of Watertown, Middlesex County, Mass.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Watertown, Middlesex County, Massachusetts.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the *Watertown Press* on May 17, 1979 and May 24, 1979, and in 44 FR 25880 published on May 3, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood base (100 year) elevations are available for review at the Town Clerk's Office, Main Street, Watertown, Massachusetts. Send comments to: Mr. Thomas J. McDermott, Chairman, Board of Selectmen, Town of Watertown, Town Office, Main Street, Watertown, Massachesetts 02172, Attention: Ms. Gretchen Williams.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–88872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5150, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Watertown, Middlesex County, Massachusetts, in accordance with section 110 of the flood disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4 (a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect

in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-year) Flood Elevations

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet (NGVD)
Massachusetts	(T) Watertown, Middlesex County.	Charles River	At downstream corporate limits	*4.5
			Just downstream of Watertown Dam	*4.5
			Just upstream of Watertown Dam	*12
			0.32 mile upstream of Watertown Dam	*14
			0.2 mile downstream of Bridge Street	*16
			Just upstream of Bridge Street	*18
			At Bemis Dam remnants	*20
			Upstream corporate limits	*22

Maps available at the Town Office, Town Clerk, Main Street, Watertown, Massachusetts.

Send comments to Mr. Thomas J. McDermott, Chairman, Board of Selectmen, Town of Watertown, Town Office, Main Street, Watertown, Massachusetts 02172 to the attention of Gretchen Williams.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended: 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 15, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–13375 Filed 5–1–80; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FI–5547]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations for the City of Augusta, Kennebec County, Maine

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Augusta, Kennebec County, Maine.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 34161 on June 14, 1979, and in the *Kennebec Journal*, published on May 31, 1979, and June 4, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review at the Office of the City Engineer, City Hall, Augusta, Maine. Send comments to: Mr. Paul G. Poulin, Manager of the City of Augusta, City Hall, Augusta, Maine 04330.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Office of Flood Insurance, (202) 426–1460 or Toll Free Line (800) 424–8872, Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Augusta, Maine, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)) (presently appearing at its former Title 24, Chapter 10, Part 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maine	Augusta, City, Kennebec County...	Kennebec River	Downstream Corporate Limits	*32
			Memorial Bridge	*34
			Upstream Maine Central Railroad Bridge	*38
			Confluence of Riggs Brook	*39
			Upstream Corporate Limits	*44

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Bond Brook	Confluence with Kennebec River	*38
			Mount Vernon Avenue	*38
			Dunn's Pit Road	*81
			U.S. Route 95	*109
			Leighton Road	*114

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-13376 Filed 5-1-80; 8:45 am]

BILLING CODE 6718-03-M

[44 CFR Part 67]

[Docket No. FI-5642]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Pittsylvania County, Virginia.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 41853 on or about July 18, 1979, and in the *Danville Register*, published on July 9, 1979, and July 16, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Office of the Pittsylvania County Building Official, Chatham, Virginia. Send comments to: Mr. Ben Sleeper, Pittsylvania County Administrator, P.O. Box 426, Chatham, Virginia 24531.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Office of Flood Insurance, (202) 426–1460 or Toll Free Line (800) 424–8872, Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in Pittsylvania County, Virginia, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)) (presently appearing at its former Title 24, Chapter 10, Part 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Virginia	Pittsylvania County	Roanoke River	Downstream County Boundary	*452
			Leesville Dam (Downstream)	*560
			Leesville Dam (Upstream)	*615
			Smith Mountain Dam (Downstream)	*621
			Smith Mountain Dam (Upstream)	*803
		Mill Creek	Confluence with Roanoke River	*524
			State Route 633 (Upstream)	*617
			Approximately 1,200' upstream of State Route 633	*630
		Reed Creek	Confluence with Roanoke River	*535
			State Route 638 (Upstream)	*612
			Confluence of Reed Creek Tributary	*660
			Approximately 2,800' upstream of State Route 642	*756
		Reed Creek Tributary	Confluence with Reed Creek	*660
			State Route 642 (Downstream)	*695
			State Route 642 (Upstream)	*701
		Sycamore Creek	Town of Hurt Corporate Limits	*537
			U.S. Route 29 (Upstream)	*586
			State Route 642 (Upstream)	*658
			State Route 643 (Upstream)	*731
			Southern Railway (Downstream side)	*801
		Little Sycamore Creek	Confluence with Sycamore Creek	*640
			State Route 642 (Downstream)	*692
			State Route 642 (Upstream)	*697
			State Route 653 (Downstream)	*719

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Sycamore Creek Tributary	Confluence with Sycamore Creek	*731
			State Route 930 (Downstream)	*737
			State Route 930 (Upstream)	*743
			Access Road (Downstream)	*790
		Old Womans Creek	Confluence with Roanoke River	*616
			State Route 756 (Upstream)	*621
		Tributary to Old Womans Creek	Confluence with Old Womans Creek	*621
			State Route 756 (Downstream)	*674
			Approximately 1,600' upstream of State Route 760	*732
		Pigg River	Confluence with Roanoke River	*618
			State Route 40 (Downstream)	*646
			Upstream County Boundary	*688
		Snow Creek	Confluence with Pigg River	*684
			Upstream County Boundary	*694
		Banister River	Downstream County Boundary	*407
			State Route 686 (Downstream)	*488
			Mill Dam (Upstream of State Route 832)	*547
			State Route 694 (Upstream)	*596
			State Route 813 (Downstream)	*675
		Pudding Creek	Confluence with Banister River	*629
			Approximataely 7,700' upstream of State Route 834	*678
		Whitehorn Creek	Confluence with Banister River	*490
			Approximately 2,000' upstream of State Route 683	*497
		Georges Creek	Approximately 3,500' upstream of State Route 685	*558
			State Route 40 (Upstream)	*642
			State Route 673 (Upstream)	*701
			Dam (Downstream)	*779
			Dam (Upstream)	*792
		Cherrystone Creek	Confluence with Banister River	*567
			Soil Conservation Service Dam (Downstream)	*643
			Soil Conservation Service Dam (Upstream)	*680
		Green Rock Branch	Confluence with Cherrystone Creek	*602
			Approximately 3,000' upstream of State Route 823	*641
		Pole Bridge Branch	Confluence with Cherrystone Reservoir	*680
State Route 649 (Upstream)				*720
			Approximately 6,000' upstream of State Route 795	*780
		Long Branch	Confluence with Cane Creek	*458
			U.S. Route 58 (Downstream)	*486
			U.S. Route 58 (Upstream)	*494
		Tom Fork	Confluence with Cane Creek	*404
			State Route 655 (Downstream)	*436
			State Route 655 (Upstream)	*445
		White Oak Creek	Confluence with Banister River	*612
			State Route 718 (Upstream)	*628
			Route 834 (Downstream)	*671
		Dan River	Downstream County Boundary	*375
			Upstream County Boundary	*377
			Downstream State Boundary	*395
			City of Danville Corporate Limits (Upstream)	*451
			State Boundary (1,200 feet upstream of Southern Railway)	*467
			State Boundary (8,700 feet upstream of Southern Railway)	*471
			State Boundary (at State Route 860)	*491
		Cane Creek	State Boundary	*385
			U.S. Route 58 (Upstream)	*477
			State Route 730 (Upstream)	*520
			Approximately 4,000' upstream of State Route 732	*580
		Fall Creek	Confluence with Dan River	*403
			State Route 695 (Upstream)	*468
			State Route 719 (Upstream)	*535
			Approximately 2 miles upstream of State Route 719	*650
		Little Fall Creek	Confluence with Fall Creek	*414
			State Route 723 (Downstream)	*502
			State Route 723 (Upstream)	*522
			Approximately 2 miles upstream of State Route 723	*589
		Lawless Creek	Approximately 2,400' downstream of State Route 719	*537
			Approximately 3,400' upstream of State Route 719	*558
		Sandy Creek	City of Danville Corporate Limits	*432
			State Route 746 (Upstream)	*506
			State Route 865	*618
			Approximately 3 miles upstream of Sandy Creek Tributary No. 1	*710
		Little Sandy Creek	Confluence with Sandy Creek	*484
			State Route 744 (Upstream)	*527
			Farm Road (Upstream)	*548
		Tributary A to Sandy Creek	Confluence with Sandy Creek	*437
			Beaver Mill Road (Downstream)	*504
		Sandy Creek Tributary No. 1	Confluence with Sandy Creek	*623
			Approximately 400' upstream of State Route 866	*653
		Sandy Creek Tributary No. 2	Confluence with Sandy Creek	*623
			Approximately 3,400' upstream of confluence of Tributary to Sandy Creek Tributary No. 2.	*666
		Tributary to Sandy Creek Tributary No. 2.	Confluence with Sandy Creek Tributary	*640
			Approximately 2,500' upstream of Sandy Creek Tributary No. 2	*665
		Sandy River	City of Danville Corporate Limits	*432
			State Route 863 (Downstream)	*472
			Dam at State Route 869 (Downstream)	*550
			Dam at State Route 869 (Upstream)	*559
			State route 845 (Downstream)	*646
			State route 845 (Upstream)	*731
			Approximately 2,500' upstream of State Route 817	*770

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Stewart Creek	Confluence with Sandy River	*572
			State Route 844 (Downstream)	*590
			State Route 844 (Upstream)	*595
		Sandy River Tributary	Confluence with Sandy River	*732
			Approximately 6,300' upstream of Sandy River	*763
		South Prong Sandy River	Confluence of Tanyard Creek	*708
			State Route 934 (Downstream)	*792
			State Route 934 (Upstream)	*797
			County Boundary	*815
		Tanyard Creek	Confluence with South Prong Sandy River	*708
			Confluence of Glady Fork	*750
		Glady Fork	Confluence with Tanyard Creek	*750
			Approximately 300' upstream of State Route 614	*773
Pumpkin Creek			Confluence with Dan River	*400
			Confluence of Rutledge Creek	*431
		Jackson Branch	Confluence with Dan River	*401
			City of Danville Corporate Limits	*401
		Rutledge Creek	Confluence with Pumpkin Creek	*431
			Elizabeth Street (Downstream)	*489
			Elizabeth Street (Upstream)	*494
			Approximately 1.3 miles upstream of Elizabeth Street	*567

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-13371 Filed 5-1-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FI-5688]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Auburn, Androscoggin County, Maine.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 51246 on August 31, 1979, and in the *Lewiston Daily Sun*, published on August 22, and August 29, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Auburn Community Development Office. Send comments to: Mr. Charles A. Morrison, City Manager of Auburn, City Hall, Auburn, Maine 04210.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Office of Flood Insurance, (202) 426–1460 or Toll Free Line (800) 424–8872, Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Auburn, Androscoggin County, Maine, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)) (presently appearing at its former Title 24, Chapter 10, Part 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maine	Auburn, City, Androscoggin County (Docket No. FI-5688).	Androscoggin River	Downstream Corporate Limits	*127
			Maine Turnpike (Upstream)	*133
			North Bridge	*137
			Maine Central Railroad Bridge (Upstream)	*176

State	City/town/county	Source of flooding	Location	# Depth in feet above ground *Elevation in feet (NGVD)
			Vietnam Veterans' Memorial Bridge	*179
			Deer Rips Dam (Downstream)	*187
			Deer Rips Dam (Upstream)	*213
			Gulf Island Dam (Downstream)	*215
			Gulf Island Dam (Upstream)	*263
			Upstream Corporate Limits (approximately 7,000 feet above Gulf Island Dam).	*263
		Little Androscoggin River	Barker Mills Dam (Downstream)	*136
			Barker Mills Dam (Upstream)	*174
			Breached Dam (Downstream side), located approximately 4,000 feet downstream of Maine Central Railroad Bridge.	*190
			Breached Dam (Upstream side), located approximately 4,000 feet downstream of Maine Central Railroad Bridge.	*195
			Maine Central Railroad Bridge	*200
			U.S. Route 202 Northbound	*205
			Breached Dam (Downstream), located approximately 4,000 feet upstream of Southbound U.S. Route 202.	*207
			Breached Dam (Upstream), located approximately 4,000 feet upstream of Southbound U.S. Route 202.	*212
			Old Hotel Road (Upstream)	*222
			Upstream Corporate Limits	*231
		Taylor Brook	Dead End Road and Dam (Downstream)	*240
			Approximately 400 feet upstream of Old Hotel Road	*247
		Lapham Brook	Approximately 2,850 feet downstream of Young's Corner Road	*247
			Approximately 3,150 feet upstream of Young's Corner Road	*256

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-13378 Filed 5-1-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FI-5032]

Revision of Proposed Flood Elevation Determinations for the City of Nogales, Santa Cruz County, Ariz., Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Nogales, Santa Cruz County, Arizona.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 6442 on February 1, 1979 and in the *Nogales Herald,* published on or about January 29, 1979, and February 5, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the City Hall, 1018 Grant Avenue, Nogales, Arizona.

Send comments to: the Honorable F. D. Fontes, Mayor, City of Nogales, City Hall, 1018 Grant Avenue, Nogales, Arizona 85621.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance program, (202) 426–1460 or Toll Free Line (800) 424–8872, Room 5148, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Nogales, Arizona, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Potrero Creek	Intersection of Creek and center of Interstate Highway 19 northbound.	*3650
	185 feet upstream from center of Meadow Hills Drive.	*3680
Nogales Wash	220 feet upstream from center of Valley Verde Circle.	*3687
	50 feet upstream from center of Baffert Drive.	*3736
	25 feet upstream from center of Monte Carlo Road.	*3745
	20 feet upstream from center of Banks Bridge.	*3817
Nogales Wash—East Flood Plain.	Northern end of Bankerd Street.	*3788
Nogales Wash—West Flood Plain.	Area west of Southern Pacific Railroad and along U.S. Highway 89.	*3793
	180 feet upstream from center of Court Street.	*3854
Nogales Wash—Covered Floodway and Overland Flows East of Southern Pacific Railroad.	25 feet upstream from center of International Street.	*3870
Nogales Wash—Flow West of U.S. Highway 89 and Southern Pacific Railroad.	15 feet upstream from center of Country Club Road.	*3661
	420 feet upstream from center of Spur Place.	*3680
	120 feet upstream from center of Wash Second Crossing of Valley Verde Circle.	*3688
Arroyo Boulevard Channel and Covered Floodway and Overland Flows West of Southern Pacific Railroad.	90 feet upstream from center of Southern Pacific Railroad.	*3824
	150 feet upstream from center of Elm Street.	*3854
	15 feet upstream from center of Crawford Street.	*3862
		*3742

Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Mariposa Canyon (Channel).	Center of U.S. Highway 89	*3772
	85 feet upstream of paved road ford.	
	50 feet upstream from center of Interstate Highway 19 southbound.	*3792
	200 feet upstream from most upstream crossing of State Highway 189.	*3876
Mariposa Canyon (Valley).	85 feet upstream from unimproved road crossing.	*3892
Mariposa Canyon Tributary No. 1.	100 feet upstream from center of road (unnamed).	*3800
Mariposa Canyon Tributary No. 2.	100 feet upstream from center of Trailer Park Road.	*3815
Ephriam Canyon Wash.	50 feet upstream from center of State Highway 89.	*3804
	50 feet upstream from center of Goodman Street.	*3886
	50 feet upstream from upstream end of Western Avenue Culvert.	*3904
	At upstream end of Interstate Highway 19 Culvert.	*3930
	At downstream end of State Highway 189 Culvert.	*3981
	At upstream end of State Highway 189 Culvert.	*4003
Falls Wash	20 feet upstream from center of Morley Avenue.	*3801
	Upstream end of State Highway 82 Culvert.	*3813
	Area along south edge of Plum Street.	*3843
Flood Plain Area west of Arroyo Boulevard between Quarry and Walnut Streets.	Area at intersection of Walnut and Arbalilo Streets.	*3844
International Boundary Channel.	Confluence with Arroyo Boulevard Channel.	*3872
Shallow Flooding	Area east of Nogales Wash and opposite Ephriam Canyon.	*3801
Shallow Flooding	Area between Morley Avenue and Santa Cruz Street.	*3803
	Area south of State Highway 82 between Perkins Avenue and Falls Wash Channel.	#1

(National Flood Insuarance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-13379 Filed 5-1-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5768]

National Flood Insurance Program; Proposed Flood Elevation Determinations for the Township of Marion, Berks County, Pa.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Correction to proposed rule for the Township of Marion, Berks County, Pennsylvania.

SUMMARY: In order for the following locations to be more easily identified with the corresponding Flood Insurance map and profile for Tulpehocken Creek, the descriptions should be amended to read as follows. The elevations are correct as cited.

Source of Flooding	Location	*Elevation in Feet (NGVD)
Tulpehocken Creek.....	Approximately 1,600ft upstream of Route 422.	*361
	Main Street (Downstream)	*375
	Private Road that intersects and is south of Main Street.	*383

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

EFFECTIVE DATE: Date of this publication.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of proposed determinations of base (100-year) flood elevations for selected locations in the Township of Marion, Berks County, Pennsylvania, previously published at 45 FR 3612 on January 18, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a)).

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: April 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-13380 Filed 5-1-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 536 and 538

[General Orders 13 and 19; Docket No. 80-19]

Requirements for Filing Currency Adjustment Factors Reflecting Changes in the Exchange Rate of Tariff Currencies

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of time to comment.

SUMMARY: Various interested persons have requested an enlargement of time to comment on the proposed rules in this proceeding published April 8, 1980 (45 FR 23707). Upon consideration of these requests, it is determined that the nature of the proposed rules is such that additional time is warranted to allow formulation of positions by interested conferences of carriers whose principals are located abroad.

DATES: Comments due on or before June 9, 1980.

ADDRESSES: Comments (original and fifteen copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: None.

By the Commission.*

Francis C. Hurney,

Secretary.

[FR Doc. 80-13583 Filed 5-1-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 21, 74 and 94

[General Do. 80-112; FCC 80-136]

Frequency Allocation to the Instructional TV Fixed Service, the Multipoint Distribution Service, and Private Operational Fixed Microwave Service

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry and proposed rulemaking.

SUMMARY: Comments are solicited concerning proposed rules to re-allocate the 2500–2690 MHz band that is now allocated to Instructional Television Fixed Service (ITFS) and to the Operational Fixed Service (OFS), and to permit equal sharing of the band among ITFS, OFS, and the Multipoint Distribution Service (MDS). Comments are solicited as to the practicability of this proposal, particularly as to how it relates to the need and demand for these services.

DATES: Comments must be received on or before June 16, 1980, and reply

*Chairman Daschbach would deny the requests.

comments must be received on or before July 16, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mr. James Talens, Common Carrier Bureau, (202) 632-6920.

[Gen. Docket No. 80-112; RM-2213]

In the matter of amendment of Parts 2, 21, 74 and 94 of the Commission's rules and regulations in regard to frequency allocation to the Instructional Television Fixed Service, the Multipoint Distribution Service, and Private Operational Fixed Microwave Service.

Inquiry into the development of regulatory policy with regard to future service offerings and expected growth in the Multipoint Distribution Service and Private Operational Fixed Microwave Service, and into the development of provisions of the Commission's rules and regulations in regard to the compatibility of the operation of satellite services with other services authorized to operate in the 2500–2690 MHz band.

Petition for Rulemaking filed by Varian Associates Inc. to amend Sections 74.931 and 74.932 of the Commission's rules and regulations.

Notice of inquiry, proposed rulemaking and order.

Adopted: March 19, 1980.

Released: May 2, 1980.

By the Commission: Commissioner Lee absent.

I. Introduction

1. In this proceeding we propose: (1) reallocation of the 2500–2690 MHz band to provide additional channels for use in the Multipoint Distribution Service (MDS) and the Private Operational Fixed Microwave Service (OFS); and (2) improvement in the utilization of the band 2500–2690 MHz which is currently allocated, terrestrially, with the exception of three channels,[1] to the Instructional Television Fixed Service (ITFS) but is not being fully used in many areas. In addition, to guide the development of future regulatory policy, inquiry is made with regard to the future services and anticipated growth of what may be termed areawide microwave distribution systems (AMDS), i.e. wide-band, point-to-multipoint systems, encompasing MDS, ITFS, and OFS. Also before the Commission is a Petition for Rulemaking filed by Varian Associates seeking amendment of Sections 74.931 and 74.932 of the Commission's rules with regard to frequency allocation.

2. There are currently about 338 mutually exclusive applications on file for MDS stations resulting in approximately 107 mutually exclusive situations. While this large number of mutually exclusive applications is not necessarily a measure of the actual demand in the markets concerned, it does suggest that something more than the two MDS channels now allocated would find viable application. The Commission has also received a number of requests to permit what would be, in effect, private use of MDS stations. Whether such a private service is to be authorized is a subject to be dealt with in Docket No. 19671.[2] See 39 FCC 2d 527 (1973). Here we are only concerned with the possible allocation of spectrum for that service, if authorized in that proceeding.

3. In a review of the Table of Frequency Allocations (Section 2.106 of the Commission rules) to determine where spectrum might be made available for expansion of MDS and the possible initiation of a similar private service, it was noted that the ITFS and these two services in question are generically similar. This similarity suggests that the three services could share the same band of spectrum quite effectively.[3] Also, recognizing that ITFS does not heavily use its allocated band, we are led to propose that the 2500–2690 MHz band be reorganized to accomodate the other two services. In addition, it is conceivable that even the three services do not require the entire band, and thus some of this spectrum may be made available for other uses.

4. This proceeding is related to several others under concurrent Commission consideration. In one proceeding we intend to explore the relative benefits of assigning MDS channels by auction or lottery in lieu of the standard hearing procedures. *See Notice of Inquiry and Proposed Rule Making* in CC Docket No. 80–116, adopted March 19, 1980 (FCC 80–141). Recognizing that it will be some time before such procedures could be implemented to avoid comparative proceedings, we are simultaneously refining hearing issues by which we choose an applicant in mutually exclusive MDS cases. *See Frank K. Spain* et al., adopted March 19, 1980 (FCC 80–140). We hope to focus our attention on hearing issues that more directly reflect real marketplace conditions. Finally, in a proceeding closely related to the instant proceeding, we are considering, in Docket 80–113, new MDS technical standards to promote more efficient use of the spectrum and minimize the possibility of harmful interference between MDS stations. See *Notice of Inquiry and Notice of Proposed Rulemaking* in Docket No. 80–113, adopted March 19, 1980 (FCC 80–137). In that proceeding we are also inquiring as to the possible application of similar technical rules to the 2500–2690 MHz band if additional allocations are to be made in that band, as we propose herein. Such technical rules will, among other things, determine the number of channels that can be effectively assigned in each geographical area under the allocation plan proposed herein. Thus, these two proceedings are closely related and we urge parties interested in this proceeding to review our *Notice* in Docket No. 80–113.

5. A major purpose of this proceeding is to examine alternate reallocation schemes to make more effective use of the 2500–2690 MHz band. There are a number of ways in which improved use of the band could be achieved. At this time, we tentatively propose rule changes that would, in short, offer revision of the current interleaving channelling plan by reorganizing the existing 2500–2690 MHz band into 31 contiguous channels. For ease of administration, we would divide the band into three subbands, with provision for narrowband response channels. ITFS would be primarily allocated channels 1–11, i.e., 2500–2566 MHz, with response frequencies 2686.0–2687.32 MHz; MDS stations would be primarily allocated 2566–2626 MHz, with response frequencies 2687.32–2688.52 MHz; and OFS would be primarily allocated 2626–2686 MHz, with response frequencies 2688.52–2689.72 MHz. In all cases where primary channels for a given service are not available, assignments would be allowed in other available channels. In the following paragraphs we will generally review AMDS uses, both past and future, and analyze the need to alter current frequency allocations for these services.

II. Background

History and Current Uses of AMDS

6. *MDS.* Originally, the 2150–2160 MHz band was listed as an omnidirectional segment of the 2110–2190 MHz band, which was allocated for narrow band point-to-point microwave systems. For many years, little use had been made of the band by either common carrier or private users. As a result of our action in *Memorandum Opinion And Order* on revision of Part 21 of the Rules, 47 FCC 2d 957 (1970),

[1] The frequency channels 2650–2656, 2662–2668, and 2674–2680 MHz are allocated for assignment to OFS stations.

[2] See paragraph 37, below.

[3] Such sharing may not be without certain technical and/or procedural changes which must be further analyzed. See Docket No. 80–137.

when we removed a 3.5 MHz bandwidth limitation from these channels, a number of applications proposing non-broadcast omnidirectional service were filed during 1971–2. These applications, in essence, proposed to provide a relay service for closed circuit television from a central location to a multiplicity of points desired by the customer. In response to these applications, we promulgated the rules establishing MDS in 1974. See *Report and Order* in Docket No. 19343, 35 FCC 2d 154 (1972). These rules established technical standards for the service (which is technically different from point-to-point microwave) and allocated two frequency channels for the purpose of providing a common carrier service for closed circuit television or non-video transmissions from a central location to a multiplicity of points. These frequency channels, 2150–2156 and 2156–2162 MHz, are designated as channel 1 and 2, respectively. Channel 2 is available for assignment only within the 50 largest metropolitan areas. In the other areas a 4 MHz channel, 2156–2160 MHz, designated as chanel 2A, is available for assignment in lieu of the full 6 MHz channel 2.

7. *ITFS–OFS.* From 1949 to 1963, the 2500–2690 MHz band was allocated solely to the fixed service for assignment to OFS and International Control stations on a shared basis. In the early 1960's, studies conducted by the Commission staff indicated that there was a high demand among educational groups for television channels for instructional television (ITV) use. It was then feared that the demand for spectrum for ITV use would result in the dedication of such substantial portions of the UHF band to ITV that UHF commercial broadcasting would be unable to develop. To meet the educators' needs for the simultaneous transmission of multiple channels of ITV programming to a relatively small number of receiver sites, ITFS was originally proposed for operation in the 1990–2110 MHz band. *Notice of Proposed Rulemaking* in Docket No. 14744, 27 FR 7739 (1962). It was subsequently decided that the ITFS would be tentatively authorized in the 2500–2690 MHz band for a three-year period because the band's light use at that time reduced problems of providing interference protection to existing services and because it had 11 more channels than the 1990–2110 MHz band. See *Report and Order* in Docket No. 14744, 28 FR 8103 (1963). During the three-year ITFS "probation period," the Commission intended to observe the amount of use of the 2500–2690 MHz spectrum by educators and, ultimately, to determine what action was necessary to encourage the fullest development of this band.

8. The intended review was delayed for an additional four years because of problems encountered by educators in funding, constructing, and gaining operating experience on their Instructional Television Fixed stations. See *Second Report and Order* in Docket No. 14744, 20 FCC 2d 197 (1971). In initiating this reassessment of the 2500–2690 MHz band, the Commission emphasized the importance of encouraging the full development of the band for ITFS use because of its then-recent action in Docket No. 18262 abandoning educational proposals for UHF channels 70 through 83 in order to reallocate those channels to the land mobile service. *Further Notice of Proposed Rulemaking* in Docket No. 14744, 35 Fed. Reg. 10462 (1970). The result of the 2500–2690 MHz review was that 28 of the 31 channels were allocated to ITFS on an exclusive basis and the remaining three channels were allocated for video transmission in the operational fixed services. In taking this action the Commission stated: "On balance and bearing in mind the probable need for a review of the entire educational communications policy at some time in the near future, the Commission is of the opinion that the immediately foreseeable needs of the educators can be accommodated by allocating twenty-eight channels . . . to the ITFS on an exclusive basis. By providing the exclusivity desired by the educators, planning of the systems as well as usage should be simplified since they will not need to consider the operators of new non-ITFS systems." *Second Report and Order* in Docket No. 14744, *supra* at 1638.

9. *Satellite.* In addition to the terrestrial services, including OFS,[4] the 2500–2690 MHz band is also allocated to the broadcasting satellite service. Footnote 361B of the Radio Regulations of the International Telecommunication Union limits this satellite service in this band to "domestic and regional systems of community reception." The Commission has imposed a further limitation which restricts community reception in this band to "reception of educational television programmning and public service information."[5] In addition, the 2500–2535 MHz and 2655–2690 MHz bands are allocated for the fixed satellite service, the lower band being designated for space-to-earth transmissions and the higher band for earth-to-space. Footnote NG102 limits the fixed-satellite service to educational use in the contiguous United States.[6] The ATS–6 experiment, operating over substantially the whole band, represents the sole use that has been made of this band by satellites in the United States to date. The experiments conducted through the ATS–6 terminated in 1979.

10. Thus, in summary, today MDS is allocated two channels in the 2150–2162 MHz bands;[7] ITFS is allocated 28 channels in the 2500–2690 MHz band; and OFS is allocated 3 channels, 2650–2656, 2662–2668, and 2674–2680 MHz. Response channels are now allocated in the band segment 2686–2690 MHz for both ITFS and OFS. No response channels are currently allocated for MDS. The fixed satellite service has a shared allocation with the terrestrial services in the band segments 2500–2535 MHz and 2655–2690 MHz with ITFS and OFS users.

III. Current Use Levels

11. *MDS.* In our *Notice of Proposed Rulemaking* in Docket No. 19343, 34 FCC 2d 719 (1972), we noted that the initial applications for use of the 2150–2160 MHz frequencies visualized the need to distribute private intra-group communications among school, industry, convention, and municipal government users. In addition, while we recognized the technical limitations of this service in reaching a mass market, we saw the potential use of MDS for the distribution of entertainment programming. Our analysis of current service offerings by existing MDS stations indicates that while some use is being made of MDS stations to provide educational, business and governmental services, distribution of entertainment programming has predominated, particularly during the evening hours. Analysis of the 1978 annual reports filed by MDS licensees indicated that 66% of the service time involved the transmission of entertainment programming, 29% data transmission,[8] 4% public information and 1% for "other" categories.

12. Since the MDS licensee is a common carrier, it cannot provide the

[4] See note 1, above.

[5] See Section 2.106, footnote NG101.

[6] It should be noted that the band 2535–2690 MHz was also allocated to the Fixed Satellite Service (Space-to-Earth) in Region 2 by the 1979 World Administrative Radio Conference.

[7] Although OFS shares the 2150–2160 MHz band with MDS, no OFS stations have been authorized in that band to date, apparently due to the competition for frequency assignments by MDS applicants.

[8] This figure primarily represents the time sold by the largest MDS licensee for experimental data transmission.

programming itself.[9] Thus, the subscriber of the carrier is generally the pay TV entrepreneur who typically obtains the rights to distribute programming (e.g., from Home Box Office) in an area and solicits customers. Sometimes the entrepreneur-subscriber furnishes a film to the MDS operator for transmission, but increasingly the programming is received through satellite earth stations located close to the MDS transmitter. Reception is accomplished at the sites designated by the entrepreneur-subscriber by the erection of a receiving antenna and downconverter (which converts the signal from a microwave frequency to a lower VHF television channel frequency). The MDS operator charges pursuant to a legally applicable tariff which typically involves an hourly rate for transmission time plus an additional charge per receiving location.[10] (The pay TV entrepreneur generally charges his customers a flat rate per month plus a one-time charge for the initial installation of receiving equipment). Receiving sites normally include hotels, apartment buildings, CATV systems and, more recently, private residences.[11]

13. At the end of 1978 there were 58 licensed MDS stations of which all but seven were in operation.[12] Average reported revenues per station for that year were approximately $61,000. Of those operating stations, 29 had two subscribers and 22 had one subscriber. While the annual reports do not require identification of operating hours, it is generally recognized that entertainment programming, the predominant use, occurs primarily in the evening hours.

14. The current use of MDS represents considerable growth over the five years since its inception. There are currently 86 licensed stations in as many cities, all licensed on channel 1 frequencies. Moreover, 131 construction permits are now outstanding, all assigned to channel 1. There also have been two channel 2 and two channel 2A licenses granted. No current statistics are available on how many of the licensed stations are operating.

15. *ITFS.* Nationwide, there are approximately 200 ITFS licensees operating approximately 500 channels between 2500 and 2686 MHz. Applications are pending for roughly an additional 50 stations in this band. Most of these licensees or applicants operate in large urban areas. The first column of Appendix B shows, for each of the 50 major markets areas, the total number of channels that are currently unencumbered by ITFS use in each such area; the second column provides the number of MDS applications on record for that area. These figures were calculated by subtracting from 31 all channels for which there is currently a licensee or an applicant and all channels adjacent to these. For example, if there were no licensees or applicants, the number of available channels would be 31; if only "channel 10" were licensed or applied for, then channels 9, 10 and 11 were assumed unavailable, and 28 channels assumed available. This method of calculation could either overstate or understate the actual number of channels available for use. On the one hand, although 31 channels theoretically could be used, if some were put into operation, adjacent channels might no longer be available. On the other hand, under certain circumstances, an individual channel can accommodate more than one licensee. For example, a school system in the northern sector of a metropolitan area and another in the southern sector could share a channel through directional transmission from a centrally located transmitting site. However, either simultaneous co-channel or adjacent transmitting site. However, either simultaneous co-channel or adjacent channel operation is much more limited if omni-directional transmission is used. Appendix B shows that while much of the ITFS band is relatively unused, in 14 of the 50 major areas there are 3 or fewer unencumbered channels.[13]

16. The staff has conducted a telephone survey of 23 ITFS licensees in order to obtain some information on the hours of operation of ITFS systems. Most ITFS stations operate exclusively or primarily during school hours. Five of the 23 licensees operate their stations during substantial portions of the evening hours. Four of the licensees indicated that their stations are not currently on the air. Several stations had not been operational for over a year. Note should be taken that the survey was quite informal, and its results are in no way definitive.

17. Nonetheless, the overall suggestion of the above data is that even in many of the 50 major markets the 2500–2686 MHz band is not currently extensively used.

18. *OFS.* The three channels in the 2500–2690 MHz band allocated to the Private Operational Fixed Microwave Service are used for private radio communications systems that support the main operations of the licensee.[14] These users are local governments, public utilities and airlines. Airlines for example, have operated low power video systems at airports on these channels for security monitoring and flight schedule displays. Local governments, e.g., St. Louis, Mo., operation systems for police and fire training, video conferencing and transfer of information. In addition to these present users, the Commission has received a number of applications and inquiries concerning the possible use of the channels for private AMDS and point-to-point type systems to transmit entertainment programming, but has not acted upon them pending resolution of Docket No. 19671. In that docket, the question is raised whether private microwave systems in the Private Radio Services should be used for private distribution systems to subscribers or other clientele.

IV. Apparent Supply and Demand

19. *MDS.* As discussed above, only two channels are currently available for assignment to MDS in any city. Channel 1 has been assigned in 127 locations, including most major cities. 225 applications are pending for channel 1, of which 131 are mutually exclusive in about 59 communities. Only 4 authorizations have been granted for channel 2 and 2A. 185 applications are on file for channel 2, all of which are mutually exclusive, for 48 of the top 50 market areas. Further assignments of channel 2 or 2A are currently being delayed pending the development of

[9] Under the rules the MDS operator cannot influence the programming but may provide service to an affiliated subscriber not to exceed 50% of the transmission time. See Section 21.903(b) of the Rules.

[10] See Section 21.903(b) of the Rules. Based on an informal, random sampling of ten MDS tariffs filed with the Commission, the average hourly rate is about $90. Of course, this figure varies widely and generally does not reflect monthly discounts, or higher charges based on less than one hour segments.

[11] This latter development appears to be related to the rapidly falling cost of receiving facilities, i.e., antenna and downconverter. Earlier, such equipment generally cost $1,000 or more per service location but now often costs less than $100, as we understand it.

[12] Of the seven licensed but without a reported subscriber, the average length of time each station had been licensed was about 15 months. The communities involved were Ft. Worth, TX.; Lake Charles, LA; New Haven, CT; Long Island and Buffalo, NY; Bonita Springs, FL; and Green Bay, WI. A recent telephone survey of these seven stations indicates that two are now rendering service; the others claim that they still have no subscribers. See paragraph 22, below, for further discussion.

[13] For further discussion of channel availability and MDS demand, see paragraph 52 below. It should also be noted that the proceeding in Docket No. 80–113, above, may result in revised technical standards which may affect the number of assignable channels (see para. 24 below).

[14] A number of point-to-point microwave systems with narrow-band operations were allowed to remain on these channels after the band was reallocated and some still remain.

specific technical rules pertaining to adjacent channel operation are adopted in Docket No. 80–113. Because of the particular interest of operators to be located in the larger market areas, and the availability of only two channels in those areas, a large backlog of mutually exclusive applications has developed, now totaling about 338. While there have been settlements of mutually exclusive situations in some market areas pursuant to procedures outlined in the *Notice of Proposed Rulemaking* in Docket No. 19905, 44 FCC 2d 556 (1974), the large number of mutually exclusive applications in many market areas has made settlements difficult and time consuming. In total, there are currently about 467 applications on file.[15]

20. In all 50 major markets and in many secondary areas further acceptance of applications is precluded by cutoff rules, viz, Section 21.31 of the Rules.[16] The impact of the cutoff rule on filings can be illustrated by our allocation of the second 6 MHz channel (channel 2) in the top 50 metropolitan areas in 1974. Within six months after this channel became available, 233 channel 2 applications were filed. All 50 areas thus became cut off from further competitive filings, and no new channel 2 applications could be filed.

21. As noted, there are a total of 131 MDS stations for which construction permits have been granted. Of these, only 86 have completed construction and are prepared to offer, or are offering, service. Our experience generally indicates several factors that may account for the lag in MDS implementations. First, there appear to be substantial delays in procuring equipment. There is also the complication in some cases of the expiration of transmitter site options due to the long pendency of applications, particularly in mutually exclusive situations. Such site option expiration also results from application modification arising out of (mutually exclusive) settlement agreements. Extensions of time in which to complete construction (8 months under Section 21.43 of the Rules) have been granted in many cases. It must also be recognized that MDS is still a new service. Whereas other services have developed over a number of years into a relatively stable business venture, MDS is still in its infancy, with all the risks that engenders. As noted above, at the end of 1978, 51 of the 58 MDS licensees were reportedly offering service. Of those that were not, apparent failure to secure subscribers was cited as the reason. Such problems are particularly apparent in the smaller MDS markets. In the larger markets, greater concentrations of businesses and institutions offer more fertile territory for entrepreneurial activity and, presumably, MDS demand.

22. Another indicator of the demand for MDS, especially in the larger markets is the increasing number of close-spaced channel 1 proposals. Since other frequency assignments are not available, applicants are filing applications which attempt co-channel operation at very close distances. A good illustration of this is the case where an applicant proposed a third channel 1 station in the Los Angeles area, only about 18–19 miles from two existing stations. See *R. L. Mohr*, FCC 80–139, adopted March 19, 1980. There are currently about 13 other such cases which also raise potential interference issues because of short spacing of stations. Due to the difficulty of designing such short spaced stations and the likelihood of interference issues being raised, it would again appear that the demand for frequencies exceeds the supply in the larger markets.

23. Another concern we have about the present MDS allocation is that it provides for very limited competition in local markets. As indicated, most areas are now served by only a single MDS station and although a second station remains a possibility, there are difficult technical barriers due to potential interference. Also, at present there are no practical private radio alternatives. (See paragraph 26, below.) This, we feel, will work to the detriment of consumers and lead to the requirement for burdensome and costly regulations.[17]

24. There are Commission actions that could also affect the availability of additional channels or the demand for MDS service. In the proceeding in Docket No. 80–113, we are seeking comment on the advisability of establishing technical criteria for avoidance of co-channel and adjacent channel interference in the 2150–2162 MHz and 2500–2690 MHz bands. As a consequence of that proceeding, there is some chance that larger protected zones may have to be established to assure essentially interference-free co-channel operation. Moreover, it is possible that adjacent channel interference standards will limit the full utilization of all available frequencies in the 2500–2690 MHz band. Although we anticipate that technical rules would improve the current potential use of the band, the full 31 channels are not likely to be available for unrestricted assignment in a given area considering the current state of the art in equipment.

25. Also, we are proposing in Docket No. 80–116 investigation of novel ways of choosing an MDS applicant in mutually exclusive (MX) situations, such as by auction or lottery. While there is likely to be a substantial delay before such a procedure could be implemented, it is plain that any expedited process would save time and money for those not ultimately awarded a channel (as well, of course, as those who are successful). With resources at least partly intact, such persons may be more encouraged to find another viable opportunity in the MDS marketplace. In short, the reduced costs and lessened discouragement resulting from an expedited mutually exclusive resolution procedure may tend to preserve overall interest and, therefore, a higher level of demand for yet available MDS channels. Of course, if a significant number of additional channels are allocated as we propose herein, a substantial number of mutually exclusive situations probably would be eliminated.

26. Of perhaps more direct relevance here would be the availability of private radio alternatives to MDS that are being considered in Docket No. 19671. If we should broaden our policies in authorizing such private AMDS facilities and provide for sharing in the 2500–2690 MHz band, there should be a definite impact on MDS use. While it is possible for such private use to stimulate interest in and demand for other services, we believe it is equally or more probable that private AMDS would be a substitute for MDS, so that demand for MDS channels might decrease. It is likely, for example, that some of the pay-TV entrepreneurs who are currently the primary subscribers to MDS would choose to own their own private facilities. However, in many cases we believe that MDS would still be a viable market alternative, particularly for those subscribers not willing to make the capital investment in a private system. MDS also offers subscribers a better opportunity for time sharing of facilities than do private systems, especially where different services having "complementary" demand curves can jointly utilize a common facility.

27. MDS is sometimes viewed alternately as a CATV adjunct or

[15] The 467 applications exclude all license and modification of license applications but include 77 applications involving modification of authorized stations.

[16] Section 21.31(b) provides, *inter alia*, that all MDS applications competing for a given frequency assignment must be received by the Commission within 60 days after the date of the public notice listing the acceptable filing of the first such application.

[17] We note, in this regard, the filing for the first time, within the past year, of complaints alleging that various MDS tariff rates are excessive. *See, e.g., Metrock Corp.*, 73 FCC 2d 802 (1979).

competitor. Overall, it appears that MDS demand is greatest where CATV facilities do not exist or have not penetrated the relevant market. In some cases MDS serves as a conduit to provide programming to CATV systems, particularly in areas where there are multiple cable "head ends." Thus to some extent the two systems are complementary. However, should CATV develop as a broadband wired distribution system with access to most homes, the demand for MDS type services would likely substantially decrease. However, such broadband distribution systems with major market penetration appear to be many years away. Some of the new developments over the foreseeable future include competitive distribution systems such as digital transmission systems, subscription television, or direct broadcasting satellite. At the present time what effect, if any, such developments may have on MDS, or AMDS, would appear to be, in our judgment, highly speculative, particularly in view of the indefinite nature and time tables involved. We, of course, solicit comments of others regarding the possible future impact of new technologies or services on MDS in particular and AMDS in general. We anticipate that these AMDS systems will have a functional role to fill as alternatives for those who do not desire national networks, and where low cost distribution is required for communications with a more limited or less than a mass market appeal.

28. *ITFS.* Under current ITFS technical standards, as many as 28 interleaved channels may be available for use in a particular metropolitan area. As indicated in paragraphs 15 and 16, and in Appendix B, above, these channels are largely vacant in most locations, but heavily or even entirely assigned (under present assignment criteria) in 14 large urban areas.

29. Future trends in ITFS development are difficult to forecast, but several factors can be scrutinized. In particular, ITFS demand will depend upon: (1) the availability of funding for ITFS systems; (2) the maintenance, modification, or removal of costly technical requirements for ITFS operation; and (3) the overall regulatory environment in which the service operates.

30. The funding outlook for ITFS systems, at least at the federal level, appears far more promising that anytime in the 1970's Federal funding that provided an impetus to ITFS development in the 1960's was substantially curtailed in the past decade. However, last year the National Telecommunications Information Agency (NTIA) initiated a program to fund ITFS operations and NTIA sources indicate that such funding should increase this year. In 1979 four, of the six applicants were funded; this year twice as many applicants are expected for NTIA funding.

31. There are a number of petitions pending before the Commission for revision of ITFS technical regulations that might spur demand. RM–2603 requests that Section 74.398(a) of the Rules be changed to permit ITFS stations, which are not broadcast stations, to use origination and recording equipment that does not meet television broadcast technical standards. If adopted, this change would reduce station costs by several thousand dollars and might substantially increase demand.

32. RM–2609 would amend the Rules to allow ITFS to be used to deliver programming to cable television headends. ITFS programming could thus be brought directly to schools located in areas without a line-of-sight transmission path from an ITFS station or to individual homes. This might substantially increase ITFS usage, both in terms of number of stations and hours of operation.

33. RM–2594 proposes the use of "movable fixed" or "temporary fixed" stations in ITFS. The technical implications of this proposal are immense, however, and therefore its predicted impact on ITFS demand is problematic. RM 3057 would amend the Rules to permit wideband ITFS transmissions using a frequency modulated video carrier to enable long range ITFS communication over sparsely populated areas. This technology would require the use of a considerable portion of the spectrum, however, and its adoption is uncertain. RM–3292 would relay operator requirements for ITFS relat stations. Although this might have some positive impact on demand for ITFS channels, that impact is likely to be minimal.

34. Currently pending for Commission consideration is an application for the operation of an ITFS station with transmitter power output in excess of 10 watts, to be received by a consortia of educational groups. Several other licensees have indicated that if the Commission grants this application for higher power transmission they will follow suit. This could have several effects on usage of the ITFS band: increasing demand for ITFS usage in general and increasing the geographic contours of existing stations, but also freeing up spectrum if current ITFS licensees abandon their channels upon joining user consortia receiving the high power transmissions. See, for example, *Richardson Independent School District*, FCC 80–142. However, consideration of such power increases on a general basis would have to be made in light of the standards for other services if the 2500–2690 MHz band is to be shared.

35. To some extent, administrative bottlenecks have, in the past, impeded development of ITFS. Though not a broadcasting service, it is administered by the Commission's Broadcast Bureau and broadcast-style regulations have been imposed upon ITFS licensees that are not imposed upon other operators of other fixed point-to-point or point-to-multipoint services. In addition, the considerable backlog in television broadcast applications. Changes in these administrative procedures might marginally increase demand for ITFS services. One of the options being considered is the transfer of responsibility for administering ITFS from the Broadcast Bureau to the Private Radio Bureau.

36. Overall, there are reasons to expect some increase in demand for ITFS channels, but not such a significant increase that most vacant channels could be expected to be filled.

37. *OFS.* As previously mentioned, the Commission, has received a number of applications and inquiries concerning the channels in the 2500–2690 MHz band allocated to OFS under Part 94, Private Operational-Fixed Microwave Service, to distribute entertainment programming to subscribers. The Commission, however, has not acted upon these requests pending the final resolution of Docket No. 19671. In that docket the question was raised whether private distribution systems to serve subscribers or other clientele should be licensed in the Private Radio Services. These requests indicate some current demand for a private equivalent to MDS. For example, requests for omnidirectional microwave facilities have been received from the two applications in the Chicago area. Their applications are mutually exclusive and both would provide entertainment programming. One of the applicants already uses an MDS station in the Chicago area to distribute its programming. As another example, the members of the Chinese community in Boston have requested microwave facilities to set up a small "subscription TV station" to provide Chinese language programs to the Chinese community, of whom 60% to 70% do not speak English. In each of these examples, it was indicated that common carrier MDS facilities were either unavailable or too

expensive. Consequently, authorization in Docket No. 19671 of private system would most likely stimulate even further demand for OFS, and could involve not only entertainment programming but might also encourage development of distribution paths for computer and other services between separate organizations.[18]

38. *Satellite Services* While in this proceeding we are immediately concerned with the allocation of additional spectrum for MDS and other services within the 2500–2690 MHz band, we believe it also appropriate to update our information on space services so that a balanced allocation plan can be developed which best represents the overall needs of the public. Therefore, among other issues, respondents should address the future spectrum needs of space services in this band. It is important to establish specific plans for implementation of space services including what kinds of information will be transmitted; by whom; probable implementation time schedules, and likely sources of financial support. Also, are the planned services consistent with the definition and allocations applicable to this band, or will changes be necessary? We specifically request comment on whether the restriction of this band to non-commercial purposes should be lifted or relaxed; and in the event that any modification of this restriction is implemented we invite comment on what safeguards, if any, might be adopted to assure the availability of this band to non-commercial users.

39. It is also appropriate to consider the engineering compatibility of space and terrestrial services within this band. While our experience indicates that with proper engineering, space and terrestrial usage of the same band can be compatible, we seek comments as to the specific criteria and procedures which might be used for implementing both space and terrestrial services in this band. Specifically, we seek comments as to interference protection criteria, power flux density limitations, transponder bandwidths, emission types, polarization schemes, channeling plans and other technical information which might be helpful in planning the compatible use of this band. Comments on these technical issues should be filed in Docket No. 80–113.

40. Information of the expected deployment of earth stations would also be useful, *i.e.*, whether they will be concentrated mostly in rural or urban area.[19]

V. Allocation Options Available

41. Based upon the very limited amount of spectrum now available for MDS and what appears to be an increasing demand for the service, we believe some reallocation action is warranted. We will discuss several options, none of which necessarily precludes alternate approaches. Parties are invited to comment on these and other allocation possibilities that would offer effective solutions.

42. First, it would be possible to develop policies and procedures to discourage or restrict demand for MDS frequencies. For example, we could restrict MDS, one way or another, to preclude its use for video or entertainment television transmission. This would obviously reduce its demand. Aside from its rather harsh effect on existing licensees, we must observe, however, that such policies would contravene Congress' mandate to "encourage the larger and more effective use of radio." (See Section 303(g) of the Act, 47 USC Section 303(g).) Accordingly, we believe this symptom-eliminating approach should be rejected.

43. A second possible solution to the MDS demand problem might be to allocate a band other than 2500–2690 MHz. However, having reviewed the lower frequency bands, particularly in the 2–10 GHz region, there appears to be no other substantial amount of unused or lightly used nongovernment spectrum available that might be suitable for AMDS-type operations. Some reallocation might be possible above 12 GHz but the propagation characteristic of such frequencies, particularly at the higher frequencies, would greatly reduce the effective range of such point-to-multipoint operations. Moreover, we are unaware of any equipment of this type currently developed or marketed for use in that frequency range, and its development would appear to be unlikely unless a substantial demand were evident.

44. Another possibility would be to allocate some channels that may be available in certain areas on an "as needed" basis. There are several readily apparent disadvantages to this approach, however, even if such spectrum were to be found available. Equipment designed for one range of frequencies may not, in general, be capable of easy modification so as to operate satisfactorily on other frequencies. Mass production of common equipment would be unlikely, thus assuring high entry and replacement costs. There could obviously be no convenient or standard program for administering the efficient utilization of the channels under such an arrangement since such a plan would essentially have to be "tailor-made" for each area. Perhaps more importantly, it would be unlikely that substantial relief could be realized by this approach since the areas of greatest demand for MDS channels are the larger metropolitan areas which are generally the most congested in all bands.

45. As indicated as the outset, the 2500–2690 MHz band has not been fully exploited by ITFS. It would therefore seem natural to consider its utilization through expanded use. The band is particularly attractive in view of the technical similarities of the ITFS, MDS, and OFS systems involved. As indicated above, three channels are currently allocated exclusively to OFS, with the remaining channels allocated to ITFS (on a shared basis with the fixed satellite service). Thus, the option of some method of sharing this band among these three AMDS services would seem to be the most attractive. Not only would the use of the band be enhanced but significant relief from the crowding in the 2150–2162 MHz band would be achieved, along with much of the concomitant administrative burden and delay imposed by competing applicants and contested proceedings. Moreover, such additional spectrum would enable us to practically explore the option in Docket No. 19671 of providing private radio alternatives to MDS. There may be, of course, other more pressing needs that improved use of the 2500–2690 MHz band could facilitate. Therefore, we seek comments on other possible uses for this band. Such comments on other alternatives should recognize, however, that we are not writing on a clean slate. ITFS use is scattered throughout the band and, unless existing stations are required to relocate to other frequencies, compatible use with that service would seem to be a prerequisite.

46. There are several possible ways that additional allocations could be made in the 2500–2690 MHz band. First,

[18] See paragraph 12, above. Private AMDS development may accelerate the relatively sluggish evolvement of non-entertainment use by MDS.

[19] We note specifically one present advantage of the 2500–2690 MHz band is that satellite uplinks can be established on a low cost basis in close proximity to the user's location; and thus those characteristics of this band may make it an appropriate one for providing services—both video and non-video—in rural areas. We have long been committed to assuring that the benefits of competition and technological innovation in the communications field accrue to all users including those in rural areas. Thus, we are particularly interested in the extent to which use of this band might be available to rural users to provide the cost-savings benefits to satellite technology for telephone and non-telephone services.

each service could be allocated a specific number of channels. Aside from the question of what to do with existing ITFS stations that turn out to be in the "wrong" band segment, such an approach involves the Commission in a rather inflexible projection of future needs of each service. And even where our "crystal ball" would be reasonably accurate with regard to a service's overall requirement, there is no assurance that such a fixed allocation would meet needs on a community-by-community basis. For example, city A may have greater need for ITFS stations as compared to MDS or OFS, as opposed to city B, where the reverse may be true. Thus, the inflexibility of a fixed allocation is definitely a detriment. The primary advantage of the fixed allocation is ease of administration and avoidance of interservice mutually exclusive situations.

47. Another alternative would be unlimited sharing of the band between all three services. This would, of course, eliminate the inflexibility of the former approach but would be more difficult to administer, particularly if the same technical standards were not to apply to all services. The option we believe best would combine features of each of these other alternatives. That is, each service would receive a specified number of channels for primary assignment, but once the primary channels were fully utilized by the service, assignments could be made in other parts of the band, as available. Thus, such an approach should facilitate administration of the band but have flexibility to allow for additional service growth where and as needed.

48. In those cities where mutually exclusive situations currently preclude early assignment of a second channel, all MDS applicants could be granted construction permits where the number of available channels equals or exceeds the number of applicants. See Appendix B. In many cases, we believe grantees would re-evaluate their competitive environments and opt for withdrawal. It is likely that many of those original applicants would remain willing to proceed through licensure, i.e., construction and operation. As to those that do not construct, their construction permits would expire after 8 months and the frequencies involved would become available for reassignment. As discussed above, however, additional new applicants perceiving an opportunity may apply, particularly in the larger markets where frequencies are available. Under these natural competition conditions, some licensees would successfully market their service for pay-television distribution. However, since there are a limited number of such program sources available in any city, others, to be successful, would likely have to pursue new opportunities, such as transmission of data or institutional and group programming. In essence, we would anticipate, at least initially, incomplete utilization of any block of new MDS channels, except perhaps in the largest cities where there still may be a shortage due to high current ITFS use.

49. Initially, without any better projections for future demand in each service, we would eliminate the exclusive allocation of the three OFS channels and allow the three services to share the band on an essentially equal basis. Basically, we offer a proposal that would revise the current interleaving channelling plan within the band by reorganizing the existing series of channel groups into one series of contiguous channels, numbered 1 through 31.[20] We would divide the band into three segments for primary assignment to each service. Thus, beginning at the lower end of the band, channels 1–11 would be available primarily for the assignment of ITFS stations. The assignment of MDS stations would be primarily in channels 12–21 and operation fixed stations in channels 22–31.[21] However, where such channels are shown not to be available in a given area in the primary band channels, assignments would be allowed on other available channels. Thus, in effect, all users would have access to the entire band.

50. In any situation where new technical standards or allocation methods are adopted there is always the question of what to do about existing stations. In this case we must decide what, if anything, should be done with existing ITFS and OFS stations that may not be constructed to meet newly required technical standards or are assigned to the "wrong" band segments. Thus, we seek comment from interested parties on the appropriateness of "grandfathering" such existing stations, i.e., permitting them to continue to operate as they are, without modification, in response to any new technical rules or other new requirements that may be adopted. Of course, there are variations of grandfathering. For example, existing stations could be grandfathered only for a limited time (*e.g.*, to a fixed date or until license renewal), for the life of existing equipment, or until such time as changes need to be made to accommodate an adjacent channel applicant in the same city or a co-channel applicant in a nearby city. Related to this latter point, the question arises as to when modifications to an existing station are required (*e.g.*, the installation of new equipment or a change in frequency) and who should bear the cost, the existing licensee, the newcomer or should it be shared?

51. Also, there are questions of how much relief the sharing of the 2500–2690 MHz band would give to MDS and possibly OFS users. In Appendix B we list the top 50 metropolitan areas, the number of mutually exclusive MDS applications pending and the likely number of available channels in each. As can be seen from that listing, there may not be enough channels to satisfy all apparent MDS demand. Notably, there are 12 metropolitan areas where the available channels do not meet the requirements suggested by the number of pending MDS applications in all cities. If adjacent channel assignments are not possible, either under current standards or in accordance with the proposals set forth in Docket No. 80–113, the problem in these 12 areas would be considerably exacerbated. Where demand exceeds the supply we believe there could be substantial relief through time sharing. Moreover, even where demand does not currently exceed supply, it could be that time sharing could be considered to permit future growth and augment spectrum efficiency. We note in this regard that most educational use occurs during the daytime hours, while entertainment television transmission occurs primarily in the evening hours. Thus, time sharing of the same frequencies would seem to be very practical. This, of course, could take the form of two separate station facilities using the same frequency but at different times on a pre-arranged schedule. Or, alternatively, it is possible that both entities could be jointly licensed the same radio facilities with each using the station for certain prescribed hours. In the remaining 38 major market areas, Appendix B suggests that there are sufficient available channels to provide all current MDS applicants with frequencies. While we are assuming that adjacent channel assignments are possible, and that there are no unavoidable co-channel interference problems with neighboring markets, in many cases there are enough

[20] To avoid confusion with current MDS channels 1, 2 and 2A, we would redesignate these channels as A, B and C. See proposed Section 21.901(b) in the attached Appendix A.

[21] We have selected these band segments for primary assignment since, from our analysis, they would seem to be most compatible with current assignments in the band. However, we will consider other suggestions.

channels available to satisfy all current MDS applicants even if adjacent channel operation is not feasible. In these 38 markets, and in smaller market areas, time sharing would not appear necessary. Another possible time sharing arrangement would permit ITFS stations to sell unused transmission time to MDS or OFS users. A local school district, for example, could construct and operate facilities and, in addition, would be permitted to offer for lease the time not used. In most cases, we believe that instructional services would be provided during the school day, and entertainment programming in the evening. Revenue from the lease of time could at least partially offset operating and maintenance costs and thus reduce the need for public funding. We invite comment on time sharing in general, including its need, technical and practical feasibility, how it could or should be promoted, and if there are some situations in which it could or should be mandated by the Commission.

VI. Summary

52. To summarize our tentative conclusions thus far, we believe that the evidence is clear that the 2500–2690 MHz band is underutilized by today's standards and in comparison with other frequency bands in the 2 GHz range. While a strong potential need for use of this band by MDS can be made on the basis of current applications on file for the 2150–2162 MHz band, we are uncertain how much of this may ultimately be translated into real demand for services. Likewise, there are indications that there is some demand for a private equivalent of MDS, particularly if we permit its use for distribution of entertainment television. Although we foresee some possible further growth for ITFS, it would not appear to be of such major proportion to preclude alternate use of the 2500–2690 MHz band. There may, of course, be other, more desirable uses for that band and we solicit comments as to other possible options. But at this time, we tentatively conclude that shared use of the band by ITFS, MDS and OFS would appear to be the best option. However, before we finalize our decision in this regard, we need to develop a better record to support the future needs of these services, and possibly others. Therefore, we have attached, as Appendix C, a number of questions to focus the comments in this proceeding and to give us information needed to reach our final decision.

VII. Other Matters

53. *Processing of Mutually Exclusive MDS Applications.* In order to resolve existing mutually exclusive situations and provide an orderly procedure for application processing under this proposed allocation, we propose to allow existing mutual exclusive MDS applicants to amend their applications to specify newly available channels in order to resolve their present mutually exclusive situations. We would expect that existing mutually exclusive applicants would fully cooperate in the selection of channels to resolve their mutually exclusive status. If there is a dispute among two or more mutually exclusive applicants as to which should apply for a specific channel, we would establish priorities according to original filing dates of their applications. Where the applicant does not voluntarily amend his application the Commission may, under proposed Rule Section 21.901(f), assign an available channel to him. Under this procedure such applications would be advised of the proposed assignment and the applicant would have an opportunity to specify reasons why the proposed assignment would be unsatisfactory for the intended use. Such proposed assignment would be placed on public notice, and no involved application would be granted until 30 days after the public notice, pursuant to our normal procedures (see Rule Section 21.29).

54. *RM 2213.* Our proposals in this proceeding substantially encompass the proposals contained in the petition for rulemaking filed by Varian Associates (RM 2213). The Varian petition seeks to extend eligibility for licensing in the 2500–2686 MHz frequency band to include common carriers that would be required to make substantial use of their facilities available to educational and non-profit groups currently eligible for licensing in ITFS. Specifically, Varian proposes that Sections 74.931 and 74.932 be amended to provide that MDS stations be licensed within this band on the condition that transmission time be made available to eligible educational groups upon 90 days notice between the hours of 9:00 AM and 5:00 PM. In its supplemental reply comments, Varian clarifies its peition by stating that the rulemaking proposal assumes that the Commission would place a limitation on the number of MDS assignments within the band. In order to preserve as many channels as possible for exclusive ITFS use, Varian suggests that channels in the "G" group be made available for MDS assignments.

55. While the specific rules we propose generally follow the proposals contained in the Varian petition, it is believed that in order to provide for an efficient assignment of frequencies reflecting current engineering techniques, and to maximize the availability of channels for future growth in both of these services, a more thorough reorganization of the channel plan within this frequency band is warranted as indicated above. With respect to Varian's proposed priority of use for educational purposes, we are of the opinion that it may create problems without offering significant benefit to educational users. First, it may well inhibit the use of MDS by commercial users since they may be pre-empted by educational users on relatively short notice. Secondly, to implement the channel assignment procedure proposed, the channels made available to MDS operations in the present ITFS band must be comparable to those in the existing MDS band (which they would not be if they were subject to special conditions). While we fully support the use of MDS for educational purposes, we believe that this end can be achieved by making adequate spectrum available for MDS so that it can serve all public service needs, including those of education.

56. *Response channels.* We have included in the text of the proposed rules modifications to the bandwidth and frequency assignments of ITFS response channels and have provided for the authorization of response channels for MDS and operational fixed. However, frequency bandwidths would be 120 kHz. As is the practice under the current ITFS rules, the response channels assigned would be determined by the channel assigned to the associated ITFS, MDS or operational fixed station. With the exception of the frequency changes, rules governing the licensing and operation of ITFS response stations remain the same. In MDS and OFS, licensing and operation of response stations would be similar to the current licensing of point-to-point stations in the 39 GHz band (see Rule Section 21.711). A response station would be licensed to communicate with its associated MDS or operational fixed station, and under this license the station could be operated at a subscriber location anywhere within the service contour of the MDS or operational fixed station. The proposed rules would permit the separate licensing of a number of MDS or operational fixed response stations to operate on the same or different frequencies within the assigned response channel. However, we will not finalize the allocation of response channels for MDS and OFS unless the comments indicate there is some

significant potential need for these channels.

VIII. Conclusions and Order

57. It is therefore ordered, that the Varian Associates rulemaking petition is granted to the extent it is consistent with the rules proposed in this Notice, but otherwise is denied.

58. Authority for this inquiry and proposed rulemaking is contained in Sections 4(i), 303(c) and 303(r) of the Communications Act of 1934, as amended.

59. This Notice of Inquiry and Proposed Rulemaking is issued pursuant to authority contained in Sections 4(i), 303, and 403 of the Communications Act of 1934, as amended. Interested parties may file comments on or before June 16, 1980, and reply comments on or before July 16, 1980. All relevant and timely comments and reply comments filed in response to this Notice will be considered by the Commission. In accordance with the provisions of Section 1.419 of the Rules, an original and five copies of all comments, replies, briefs, and other documents filed in this proceeding shall be furnished the Commission. Copies of all filings will be available for public inspection during regular business hours in the Commission's public reference room at its headquarters in Washington, D. C.

60. Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts made to the Commission in proceedings such as this one will be disclosed in the public docket file. An *ex parte* contact is a message (spoken or written) concerning the merits of the rulemaking made to a Commissioner, a Commissioner's assistant, or other decision making staff members, other than comments officially filed at the Commission or oral presentations requested by the Commission with all parties present. A summary of the Commission's procedures governing *ex parte* contacts in informal rulemaking is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554, (202) 632–7000.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

It is proposed to amend Parts 2, 21, 74 and 94 of Chapter I of Title 47 of the Code of Federal Regulations as follows:

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

1. In Section 2.106, the bands 2500–2535 MHz and 2655–2690 MHz in columns 6, 7, and 9 are amended and footnote NG 47 is revised as follows:

§ 2.106 Table of frequency allocations.

* * * * *

Allocation 6	Band(MHz) 7	Class of station 9	Nature of services of station 11
NG.	2500–2535	Fixed	Broadcasting-satellite.
(NG47)		Space	(Community reception).
(NG101)			Fixed-satellite.
(NG102)			Instructional television fixed.
(US025)			Multipoint distribution. Operational fixed.
NG.	2535–2655	Fixed	Broadcasting-satellite.
(NG47)		Space	(Community reception).
(NG101)			Instructional television fixed.
(US205)			Multipoint distribution. Operational fixed.
NG.	2655–2690	Fixed	Broadcasting-satellite.
(NG47)		Space	(Community reception).
(NG101)		Earth	Fixed-satellite.
(NG102)			Instructional television fixed.
(US205)			Multipoint distribution. Operational fixed.

* * * * *

NG 47

In the band 2500–2690 MHz, channels in 2500–2566 MHz and the corresponding response frequences 2686.0–2687.32 MHz may be assigned to stations in the Instructional Television Fixed Service (Part 74 of this Chapter); channels in 2566–2626 MHz and response frequencies 2687.32–2688.52 MHz may be assigned to Multipoint Distribution Service stations (part 21 of this Chapter); and channels in 2626–2686 MHz and response frequencies 2688.52–2689.72 MHz may be assigned to stations in the Operational Fixed Service (Part 94 of this Chapter). Such assignments are subject to the technical standards applicable to stations in the Multipoint Distribution Service. Frequencies in each band segment may be assigned to users in either alternate service on condition that suitable frequencies in the preferred segment are not available. In Alaska, frequencies within the band 2655–2690 MHz are not available for assignment to terrestrial stations.

* * * * *

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

2. In Section 21.2 a definition for Multipoint Distribution Service Response Channels is added in appropriate alphabetical sequence to read as follows:

§ 21.2 Definitions.

* * * * *

Multipoint Distribution Services response station. A fixed station operated at an MDs receive location to provide communications with the associated station in the Multipoint Distribution Service.

* * * * *

3. Paragraphs (a), (b), (c) and (d) of Section 21.901 are revised and paragraph (e) is added, as follows:

§ 21.901 Frequencies.

(a) Frequencies in the following bands are available for assignment in the Multipoint Distribution Service:

2150–2162 MHz [1 2]
2500–2686 MHz [3 4]
2686–2690 MHz [5]

(b) Assignments in the band 2150–2162 MHz shall be according to the following frequency plan:

Channel No.	Assigned frequency (MHz)	Assigned response channel (MHz)
A	2150–2156	2689.72–2689.84
B	2156–2162	2689.84–2689.96
C	2156–2160	2689.84–2689.96

Channel B may be assigned only if the transmitting antenna of the station is to be located within ten (10) miles of coordinates of the following metropolitan areas. [See areas currently listed under subsection (c).]

* * * * *

(c) Assignments in the band 2566–2626 MHz shall be according to the following frequency plan:

---

[1] Frequencies in the band 2150–2160 MHz are shared with non-broadcast omnidirectional radio systems licensed under other parts of the Commission's Rules.

[2] Frequencies in the band 2160–2162 MHz are shared with directional radio stations authorized in other common carrier services.

[3] Frequencies in this band are shared with stations in the Instructional Television Fixed Service and the Operational Fixed Service. In this band frequencies in the band segment 2500–2566 and 2626–2686 MHz may be assigned to stations in the Multipoint Distribution Service only on condition that suitable alternative frequencies in the band segment 2566–2626 MHz are not available for assignment to such stations. The showing required for the assignment of a frequency in the 2500–2566 MHz or 2626–2686 MHz bands to an MDS station is set out in subpart (d) of this paragraph. Similarly, frequencies in the band segment 2566–2626 MHz may be assigned to stations in the Instructional Television Fixed Service or Operational Fixed Service only on condition that suitable alternative frequencies in the 2500–2566 or 2626–2686 MHz bands are not available for assignment to such stations.

[4] Frequencies in this band are shared with stations in the Broadcasting-satellite service. Frequencies in the bands 2500–2535 MHz and 2626–2686 MHz are shared with stations in the fixed-satellite service.

Channel No.	Assigned operating frequency (MHz)	Assigned response frequency (MHz)
12	2566-2572	2687.32-2687.44
13	2572-2578	2687.44-2687.56
14	2578-2584	2687.56-2687.68
15	2584-2590	2687.68-2687.80
16	2590-2596	2687.80-2687.92
17	2596-2602	2687.92-2688.04
18	2602-2608	2688.04-2688.16
19	2608-2614	2688.16-2688.28
20	2614-2620	2688.28-2688.40
21	2620-2626	2688.40-2688.52

The frequency plan for the entire band designated by channels 1 through 31 is contained in Section 74.902(b) of this Chapter. Assignments in this band shall be subject to the limitations covering harmful interference contained in this Chapter.

(d) Assignments to stations in the Multipoint Distribution Service are normally made to channels A, B, C or channels 12–21. Assignments may be made in the remaining (i.e. channels 1–11 or 22–31) only on showing that suitable alternative frequencies in the band segments designated by channels 12 through 21 are not available for assignment to such stations.

(e) Where two or more applications are mutually exclusive by reason of harmful electrical interference and additional suitable channels appear to be available for assignment in the same area, the Commission shall request that the later filed application amend his application to specify an available frequency channel. In the event that the application is not so amended within a reasonable period of time, the Commission may propose the assignment of an available channel in lieu of that originally proposed unless said applicant can show that such frequency is not suitable for the intended operation. The Commission shall issue a public notice proposing the assignment of the available channel (in lieu of that proposed by the applicant) and shall not take final action on the application until 30 days after the issuance of such public notice.

4. A new Section 21.909 is added to read as follows:

§ 21.909 MDS response stations.

(a) An MDS response station is authorized to provide communication by voice and/or data signals with its associated MDS station. An MDS response station may be operated only by the licensee of the MDS station or its subscriber and only at a receiving location of the MDS station with which it is communicating. More than one response station may be operated at the same or different receiving locations. All MDS response stations communicating with a single MDS station shall operate within the same frequency channel. The specified frequency channel which may be used is determined by the channel assigned to the MDS station with which it communicates (See Section 21.901(c)). The specified frequency channel may be subdivided to provide a distinct operating frequency for each of more than one response station.

(b) Authorization of an MDS response station is subject to the following terms and conditions:

(1) The response station shall not cause interference to any station operating beyond the reasonable service area of the MDS station with which it communicates.

(2) The Commission's Engineer-In-Charge of the radio district in which intended operation is located shall be notified prior to the commencement of the operation of each response station. Such notice shall include:

(i) The authorized call sign of the MDS station the transmitter location number (assigned by the carrier in sequence of use beginning with number one) and the response station location coordinates.

(ii) The exact frequency or frequencies to be used.

(iii) Anticipated date of commencement of operation.

(3) The Engineer-In-Charge shall be notified within 10 days of termination of any operation. The notice shall contain similar information to that contained in the notice of commencement of operation.

(4) Each station shall have posted a copy of the notification provided to the Engineer-In-Charge.

(5) The antenna structure height employed at any location shall not exceed the criteria set forth in Section 17.7 of this chapter.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

5. Section 74.902 is revised to read as follows:

§ 74.902 Frequency assignments.

(a) Frequencies in the band 2500–2566 MHz may be assigned to stations in the Instructional Television Fixed Service. Frequencies in this band may be assigned to stations in the Multipoint Distribution Service or the Operational Fixed Service on condition that suitable alternative frequencies are not available for assignment in the 2566–2626 MHz or 2626–2686 MHz band and 2655–2686 MHz band are shared with fixed-satellite service.

(b) Assignments in this band shall be according to the following plan:

Channel No.	Assigned operating frequency (MHz)	Assigned response frequency (MHz)
1	2500-2506	2686.00-2686.12
2	2506-2512	2686.12-2686.24
3	2512-2518	2686.24-2686.36
4	2518-2524	2686.36-2686.48
5	2524-2530	2686.48-2686.60
6	2530-2536	2686.60-2686272
7	2536-2542	2686.72-2686.84
8	2542-2548	2686.84-2686.96
9	2548-2554	2686.96-2687.08
10	2554-2560	2687.08-2687.20
11	2560-2566	2687.20-2687.32
12	2566-2572	2687.32-2687.44
13	2572-2578	2687.44-2687.56
14	2578-2584	2687.56-2687.68
15	2584-2590	2687.68-2687.80
16	2590-2596	2687.80-2687.92
17	2596-2602	2687.92-2688.04
18	2602-2608	2688.04-2688.16
19	2608-2614	2688.16-2688.28
20	2614-2620	2688.28-2688.40
21	2620-2626	2688.40-2688.52
22	2626-2632	2688.52-2688.64
23	2632-2638	2688.64-2688.76
24	2638-2644	2688.76-2688.88
25	2644-2650	2688.88-2689.00
26	2650-2656	2689.00-2689.12
27	2656-2662	2689.12-2689.24
28	2662-2668	2689.24-2689.36
29	2668-2674	2689.36-2689.48
30	2674-2680	2689.48-2689.60
31	2680-2686	2689.60-2689.72

(c) A licensee is limited to the assignment of no more than four channels for use in a single area of operation. An area of operation is defined as the area in which the use of channels by one licensee precludes their use by other licenses. Applicants shall not apply for more channels than they intend to construct within a reasonable time, simply for the purpose of reserving additional channels. Applicants applying for more than one channel shall submit to the Commission a plan indicating when they intend to begin and complete construction of each channel applied for, and the Commission will determine whether or not a grant of the channels requested would serve the public interest. Applicants initially proposing the operation of less than four channels may request that additional channels be reserved for future expansion of the system. The Commission will undertake to avoid assigning the additional channels to other applicants as long as such action is feasible in the judgment of the Commission. The provision for a maximum of four channels to a single licensee shall not be construed as a guarantee that four channels will be assigned. Unless it is shown to be technically infeasible, channels will be assigned to a single applicant on an adjacent channel basis.

(d) The same channel may be assigned to more than one station or more than one licensee in the same area if the geometric arrangement of the transmitting and receiving points or the times of operation are such that interference is not likely to occur.

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

6. Section 94.65(f) is revised to read as follows:

§ 94.65 Frequencies.

* * * * *

(f) 2500–2690b MHz: The frequency band 2626–2686 MHz (i.e., channels 22–31) and the corresponding response frequencies of 2688.52–2689.72 MHz may be assigned to Operational Fixed stations. Such assignments may be made to the bands 2500–2566 MHz and 2566–2626 MHz on condition that suitable alternative frequencies in the band 2626–2686 MHz are not available for assignment to such stations. All such assignments are subject to the condition that all operational fixed stations must comply with the technical standards applicable to stations in the Multipoint Distribution Service, as contained in Part 21 of this Chapter, with the exception of point-to-point assignments.

* * * * *

Appendix B.— Channel Availability in 2500–2690 MHz Band and Mutually Exclusive MDS Applications

Metropolitan areas [6]	No. of unencumbered channels [1]	No. of mutually exclusive MDS applications [2]
Atlanta	20	6
Akron	0	0
Albany	26	4
Anaheim-Santa Anna-Garden Grove	0	3
Baltimore	16	4
Birmingham	0	3
Boston	2	5
Buffalo	20	4
Chicago	1	5
Cleveland	0	6
Columbus	11	2
Dallas	3	6
Cincinnati	24	0
Dayton	25	2
Denver	19	4
Detroit	12	6
Fort Worth	14	4
Gary	1	2
Hartford	31	3
Houston	9	6
Indianapolis	17	6
Kansas City	31	3
Los Angeles-Long Beach	0	[3]7
Louisville	5	3
Memphis	31	3
Miami	1	5
Milwaukee	3	5
Minneapolis-St. Paul	16	2
New Orleans	30	4
New York City-Newark-Jersey City	3	6
Norfolk	11	3
Oklahoma City	25	3
Philadelphia	11	6
Phoenix	31	3
Pittsburgh	31	6
Portland	29	2
Providence	10	2
Riverside	11	[4]6
Rochester	25	3
Sacramento	25	3
San Antonio	23	3
San Diego	7	4
San Francisco	2	7
San Jose	9	[5]3
Seattle	31	3
St. Louis	31	4
Syracuse	31	7

Appendix B.— Channel Availability in 2500–2690 MHz Band and Mutually Exclusive MDS Applications—Continued

Metropolitan areas [6]	No. of unencumbered channels [1]	No. of mutually exclusive MDS applications [2]
Tampa-St. Petersburg	27	4
Toledo	31	4
Washington, D.C	23	7

[1] "Unencumbered channels" represents a count of the number of channels in each area that are not currently assigned to an ITFS station or adjacent to such an assigned station, or to OFS. It assumes a minimum co-channel separation of 50 miles and 25 miles for adjacent channels. It does not take into consideration any need for guard bands that may be required for new stations. Thus, it cannot be necessarily assumed that all such channels can be practically assigned in each area.

[2] From Common Carrier Bureau MDS applications records.

[3] Includes one application for Long Beach.

[4] Includes San Bernardino.

[5] Includes Palo Alto.

[6] Top 50 areas. See Section 21.901 of the Rules.

Appendix C

As discussed at paragraph 49 of the attached Notice of Inquiry, Proposed Rulemaking and Order, the following questions are intended to focus the comments in this proceeding and provide the information needed to resolve the issues before us.

A. MDS Growth. 1. What growth in service demand for MDS can be forecast over the next five to ten years? How will this growth be reflected by increased demand for frequencies?

2. What is the likely impact on demand for MDS as technology develops in the following areas:

(a) data transmission services;

(b) public information services;

(c) business video services;

(d) local distribution of satellite communications; and

(e) direct satellite to home or business communications.

3. What MDS growth can be forecast in entertainment programming via MDS, considering the following:

(a) the number of channels available;

(b) the likely impact of other transmission media;

(c) the geographical market areas involved; and

(d) the effect of alternate AMDS services.

4. To what degree are MDS systems likely to be, or continue to be, interconnected by means of terrestrial microwave systems or satellite facilities? To what extent will MDS use be of a local, regional, or national nature?

5. What is the likely effect on MDS demand over the next ten years from equipment development that can be reasonably foreseen under current technical standards? What will be the likely impact on MDS growth by the kinds of technical standards proposed by our Notice of Proposed Rulemaking in Docket No. 80–113 (FCC 80–137)? How will such impact be reflected in the cost of receiving equipment (e.g., down-converters and antennas) that is designed in accordance with these new standards? What are the likely relationships between the performance standards proposed, equipment and other costs, and number of channels needed, over the ten year period?

B. Operational Fixed Service (OFS) Demand. 1. What current or future needs would be served by the establishment of additional channels for private distribution systems?

2. What impact would allocation of such channels have on existing radio services, i.e., MDS, ITFS, OFS (as presently limited)? In particular, what would be the probable impact of the implementation of private equivalents on the demand for MDS?

3. What is the likely demand for such uses over the near term (2–3 years), to mid-term (10 years)? What are the assumptions underlying such projections?

C. ITFS Demand. 1. What is the likely future demand for ITFS channels over the next 5–10 years?

2. Upon what factors will ITFS growth depend? To what extent will such factors determine ITFS demand?

3. What is the likely effect on ITFS demand if ITFS programming is permitted to be brought directly to schools via CATV facilities? What is the likelihood of such permission being granted?

4. What is the likely effect on ITFS demand if wideband, frequency modulated video carrier techniques are authorized for ITFS use? Similarly, what would be the likely effect on ITFS demand if ITFS transmitter power in excess of 10 Watts is permitted?

5. What effect might removal of ITFS from broadcast-style regulations have upon ITFS demand?

6. What is the likely impact on demand for ITFS if the various technical rules proposed in Docket No. 80–113 are applied to ITFS?

7. What is the likely impact on demand for ITFS of the various reallocation and/or time-sharing schemes mentioned in this reallocation item?

D. Allocation Schemes. 1. What, if any, reallocation of the 2500–2690 MHz band would best satisfy anticipated spectrum demand for the various AMDS services and MDS in particular? Should any channels be "reserved" for future use?

2. How would allocation of the 2500–2690 MHz band into 31 continuous

channels with three sub-bands for MDS, ITFS, and OFS be most efficiently achieved? What are the advantages and disadvantages of such a plan? Would assignment of channels be better administered on a priority-of-use, or on an exclusive-use basis?

3. How would "grandfathering" of existing ITFS or OFS stations be best achieved under our proposed reallocation scheme, or under any other scheme? How long a period should be permitted to relocate or modify equipment, if necessary, and who should bear such costs? How would these decisions affect service demand and availability?

4. What are the practical difficulties and costs, and what is the realistic period necessary to establish the uniform AMDS compatibility standards proposed in Docket No. 80–113 and to implement the proposed reallocation plan? Under any other plan?

5. What is the feasibility of, alternately, permitting or requiring time-sharing AMDS facilities as between services to make most efficient use of the available spectrum? Would such sharing be better accomplished by two or more parties using the same frequencies with their own equipment, or by the joint use of the same equipment?

6. Assuming reallocation and assignment on a priority basis, what unique problems might arise where applicants from more than one service seek a particular available channel? Should there be special cutoff provisions for such interservice mutually exclusive situations? Are there alternative procedures that would solve this problem? Explain.

7. Are any new procedures required under which applications for newly available MDS channels should be processed? Is there a better method for assignment of the new channels to currently mutually exclusive applicants than that proposed?

8. If demand for all AMDS services is insufficient to efficiently utilize the entire 2500–2690 MHz band, should part of that band be put to other use or placed in reserve? If so, should existing licensees spread over the entire band be moved or grandfathered? If the 2500–2690 MHz band is initially made available to AMDS only, should we give advance warning to AMDS licensees that if the band is not heavily used, some of the band may be put to other use and some AMDS licensees forced to move? Is it possible to award licensees channels in a manner that part of the band is effectively kept in reserve unless demand is great?

E. General. 1. How does demand for ITFS vary as a function of geographical area (e.g., by market size)? By time of day? Are these demand patterns likely to continue?

2. How does demand for MDS vary as a function of geographical area (e.g., by market size)? By time of day? Are these demand patterns likely to continue?

3. How does demand for OFS vary as a function of geographical area (e.g., market size)? By time of day? Are these demand patterns likely to continue?

4. Will these demand patterns change as new uses for MDS, ITFS, OFS develop? (E.g., will increased data transmission result in substantially greater daytime demand for MDS? Will increased transmitter power for ITFS and the possible use of educational consortia result in substantially greater nighttime demand for ITFS?)

[FR Doc. 80–13237 Filed 5–1–80; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 21

[CC Docket No. 80–116; FCC 80–80–141]

Permitting Use of Alternative Procedures in Choosing Applicants for Radio Authorizations in the Multipoint Distribution Service

AGENCY: Federal Communications Commission

ACTION: Notice of inquiry and proposed rulemaking.

SUMMARY: The Federal Communications Commission inquires into proposing amendments to its Rules to permit the use of an auction, a lottery, or a paper hearing procedure in selecting which of several applicants for station authorizations in the Multipoint Distribution Service should receive the authorization.

DATES: Comments must be received on or before July 1, 1980, and Reply Comments on or before August 15, 1980.

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

FOR FURTHER INFORMATION CONTACT: James R. Keegan, Common Carrier Bureau, Domestic Facilities Division, (202) 632–6415.

In the Matter of Amendment of Part 21 of the Commission's Rules to Permit the Use of Alternative Procedures in Choosing Applicants for Radio Authorizations in the Multipoint Distribution Service, CC Docket No. 80–116.

Adopted: March 19, 1980.

Released: May 2, 1980.

By the Commission: Commissioner Lee absent.

Introduction

1. The Multipoint Distribution Service is a common carrier service in which radio signals are sent by microwave from a common carrier's transmitter to various specified receive points. At this time only two channels in any particular community are available for this service, and in a large number of situations several applicants have applied for the same channel in the same geographic area.

2. The Commission has had difficulty in making meaningful choices among competing applicants. Generally we have used the oral comparative hearing process, which involves trial-type proceedings before our administrative law judges, to identify and evaluate differences among applicants and thereby determine which would best serve the public interest. However, our experience with this process has caused us to question its costs and effectiveness. Given the wide variety of services that may be offered by MDS (data, subscription television, educational television, etc.), the fact that an operator may substantially modify his proposal in response to customer demand, and the subjectivity, expense and delay inherent in the oral comparative hearing process, we propose to examine, and seek comment on, possible alternative procedures for selecting among competing, mutually exclusive, MDS applicants.

3. Three possible procedures appear likely to produce better, or at least equally valid, results than the present one. Moreover, they would minimize the costs to society of idle frequency spectrum and the administrative expenditures of time and money necessary to conduct oral comparative hearings. These three alternative procedures are the use of "paper record" hearings, selection from among competing qualified applicants by means of a lottery, and grant of the authorization to the qualified applicant who bids the highest for it at an auction. These procedures are discussed more fully below, along with the difficulties presented by the current procedure which have led us to seek alternative approaches.

Background

4. Technically a form of multiple address fixed radio service, Multipoint Distribution Service (MDS) utilizes an omnidirectional transmission pattern to distribute broadband communications for simultaneous reception by numerous specified (or "addressed") receive sites. The range of the microwave transmission is typically between ten

and twenty miles, although it can vary considerly depending upon such factors as transmitter power, the size of the directional receiving antennae used, the quality of the downconverters used, the type of transmission, and the topography of the region. MDS is generaly a one-way service, although it can be used in conjunction with other methods of transmission (such as telephone lines) to provide two-way communications.

5. The licensee of a common carrier MDS station leases air time to commercial and other institutional subscribers who provide the intelligence to be transmitted and specify the points of reception. MDS stations are capable of distributing any information capable of broadband radio transmission. Thus, MDS stations can provide various forms of closed circuit television, data, facsimile, and other communications service. The predominant use of MDS stations at this time is to carry subscription television type programming.[1] However, MDS stations have also been used on a regular basis for a variety of business and educational applications, such as for updating a university's teaching machines, providing financial and market information services, and providing information to conventioneers at hotels. Thus, an MDS carrier can provide a wide variety of services at any time during the term of the license.

6. In processing applications for stations in this service, the Commission has been faced with a large number of situations where several applicants apply for a particular station within the same geographic area and are therefore mutually exclusive (*i.e.*, electrical interference from one would preclude operation of the other). This circumstance has come about largely as a result of the current allocation scheme which limits the number of MDS channels at any given locality in the country to two. One channel, referred to as channel 1, is available throughout the country. This channel is six megahertz wide, the bandwidth necessary for transmission of a standard color television signal. A second six megahertz wide channel, channel 2, is available in the fifty largest metropolitan areas.[2] Outside of these fifty areas, a four megahertz wide channel, channel 2A, is available, which may be used for other than color television transmissions.

7. The first applications filed for MDS authorizations (for channel 1, since channel 2 was not available until 2 years after channel 1) tended to be for the larger cities, and in many cases no competing applications were filed. Only one application each was filed for New York, Philadelphia, Washington, and Chicago, for instance.

8. Some mutually exclusive situations developed even in these early filings, however, and as potential applicants became more familiar with the potential uses of MDS systems, the percentage of applications that met with competing applications increased. By the time channel 2 was allocated in 1974, eighty-seven mutually exclusive situations had occurred for channel 1 authorizations. Within six months after channel 2 became available, mutually exclusive applications were on file for that channel for all fifty cities.

9. Most of the competing situations for channel 1 allocations pending in 1974 have been resolved. Twenty-seven cases were resolved by agreements among the applicants prior to designation for hearing or by applicants dropping out. Forty-seven situations were designated for hearing. Only two of these actually went to hearing,[3] with the other forty-five being subsequently resolved by agreements among the applicants. Applications for the remaining thirteen cities are still pending.[4] Two of the channel 2 situations have been designated for hearing, and both were heard.[5] Applications for the remaining forty-eight cities allocated on channel 2 are still pending.

10. For several years after the filing of the channel 2 applications, relatively few new situations involving mutually exclusive applications arose. Occasionally several new channel 1 applications would be filed to serve a city, but the rate of settlements among parties approximately equalled that of conflicts caused by new filings so that the number of conflicts on hand (involving applications filed after those for channel 2) generally remained between five and ten. Toward the middle of 1978, however, this situation began to change. The annual reports filed by MDS system operators show that by December 31, 1977, 40 MDS stations has gone into operation. Apparently, the operation of these stations led to the development of a known market for MDS and a better idea of its potential. In large part, the capability of MDS to carry subscription television type services appears to be a key factor in the high demand which has been generated for the service. Many new applicants began filing for MDS authorizations, and existing licensees and permittees began filing for new cities. The result has been a substantial increase in the number of situations involving mutually exclusive applications. More than 40 new channel 1 mutually exclusive situations have arisen since June of 1978, and a total of 108 mutually exclusive situations now exist, involving 338 applications. Several new mutually exclusive cases continue to arise monthly. Because the demand for MDS stations appears to have increased, we believe parties may be less likely to settle than in the past.

Present MDS Licensee Selection Process

11. In order to select MDS licensees from among a number of mutually exclusive applicants, the Commission has designated such cases for oral, comparative hearings conducted before an administrative law judge. Issues are designated, and both oral and written evidence is taken on those issues, with the administrative law judge conparing the applications and preparing an initial or recommended decision as to which applicant would best serve the public interest.[6] The judge's decision becomes effective absent exceptions, appeal, or a petition for review to the Commission.[7] The Review Board generally reviews initial decisions for the Commission.[8]

12. The five standard factors upon which evidence is taken and applicants compared for MDS service were announced in *Peabody Answering*

[1] *See Second Report and Order* (Docket No. 20490), FCC 80-86, (adopted February 28, 1980), which notes, at para. 9, that nearly all operating MDS stations carry at least some "pay TV" programming amounting to 63 percent of the total hours of transmission time sold in 1978.

[2] The areas where stations operating on channel 2 may be authorized are listed in Section 21.901(c) of the Rules, 47 C.F.R. § 21.901(c). These are approximately the fifty largest metropolitan areas. For the reasoning which led to the adoption of the present MDS allocation scheme, *see Report and Order* (Docket No. 19493), 45 F.C.C. 2d 616 (1974).

[3] *Microband Corp. of America*, 69 F.C.C. 2d 525 (1978), *rev. denied*, FCC 79-445 (released July 26, 1979), *appeal pending sub nom. Microband Corp. of America* v. *FCC*, Case No. 79-1982 (D.C. Cir. filed August 24, 1979); *Lipper & International Television Corp.*, 69 F.C.C. 2d 2158 (1978), *rev. denied*, FCC 79-446 (released July 26, 1979), *appeal pending sub nom. A. Michael Lipper* v. *FCC*, No. 79-1981 (D.C. Cir. filed Aug. 24, 1979). The cities involved are San Diego, Cal., and Reno, Nev., respectively.

[4] Almost all of these involve cities in three states where assertions of jurisdiction by the state public utility commissions have delayed processing. We recently have clarified that prior state certification is not a prerequisite to Commission authorization. *See Second Report and Order* (Docket No. 20490), note 1, *supra*. We therefore have commenced processing these applications.

[5] *Digital Paging Systems, Inc.*, 69 F.C.C. 2d 1991 (1978), and *Digital Paging Systems*, FCC 78D-60, released October 11, 1978 (Initial Decision). Both of these decisions have become final and construction permits have been issued. The two cities involved are Akron, Ohio, and Cincinnati, Ohio, respectively.

[6] 47 CFR § 1.267.

[7] 47 CFR § 2.276.

[8] 47 CFR § 0.365.

Telephone Service, 55 F.C.C. 2d 626 (1975),[9] the first instance where mutually exclusive MDS applicants were designed for oral comparative hearing. They have been used in MDS hearings since then, even though at the time they were developed, the first MDS stations were just beginning to go on the air. Our experience with, and the nature and development of, the MDS industry have caused us to question the relevance of at least some of the criteria employed. We also wonder whether an alternative to the trial-type, oral comparative hearing might not be indicated. Specifically, we are inquiring whether the process used to date is an effective, economical, and efficient way of determining which of several MDS applicants will best serve the public interest. As stated by Review Board Member Sylvia D. Kessler: [10]

Admittedly I do not propose this simplistic approach in comparative MDS cases as anything other than a stop-gap in "Hobson's choice" cases, and until such time as the Commission takes corrective action and effectuates criteria more suitable to this fledgling industry if we are to continue with the costly adjudicatory hearing process in resolving comparative MDS cases. Perhaps, considering the fact that MDS is a substantially different type of service as compared with AM, FM and TV, and is now just developing, Section 309 of the Communications Act need not be construed as requiring formal evidentiary trial-type comparative hearings, and that informal hearings and written submissions would satisfy the requirements of that section. Perhaps, too, a lottery would suffice. For it is now more than thirty years after *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327 (1945), and a new era where on the basis of criticisms of the comparative hearing process in broadcast cases by some members of the judiciary, it cannot be said that it would be impossible for them to revisit Ashbacker on the basis (a) of a newly developing industry, (b) of the Commission's past experience with the comparative formal hearing process, and (c) of their own experience.

1. Case Analysis

13. A brief summary of the more "significant" differences among the applicants in the four instances involving competing MDS applications where oral comparative hearings have been held to choose the successful applicant is instructive. In the first case to go to hearing,[11] one applicant was a local corporation proposing to serve primarily local customers while the other was a corporation headquartered in New York proposing to serve primarily national customers. The Review Board considered the winner entitled to a preference under *Peabody* factor (a) because tall buildings near the loser's transmitter site resulted in the "shadowing" [12] of substantial portions of its potential service area.[13] The winner also was given preferences under factor (b) for its more detailed service proposal (including offers to purchase time and expressions of interest by serveral potential local customers); under factor (c) because it proposed to provide a "hot standby" transmitter and to utilize two local firms to provide maintenance and emergency service, and under factor (e) for more precise and detailed promotional planning.

14. The second proceeding for a channel 1 authorization involved two applicants proposing to serve Reno, Nevada.[14] The Review Board awarded no preference under *Peabody* factor (a), stating that neither party had shown it would serve more potential users.[15] With respect to factor (b), a preference was awarded to the winning applicant because of its "service philosophy" of attempting to attract local nonpay television customers, supported by a market study and interviews with local persons. The winner also had entered into an agreement with a local communication consulting firm under which that company would provide day-to-day management and marketing services for the proposed station. The loser proposed actively to solicit only pay TV customers. The loser was considered slightly preferable with regard to its proposed studio facilities, but this was considered outweighed by the winner's superior "service philosophy." With respect to factor (c), the winner was given a preference on the basis of having made definite plans for the maintenance of its proposed facilities. No preference was awarded under factor (d). Under *Peabody* factor (e) a preference was awarded the winning applicant because of its plans for developing and promoting MDS in the local market.

15. The service proposals in the Akron, Ohio, and Cincinnati, Ohio proceedings were quite similar to one another.[16] However, the bases for the awards—made by the Review Board on review for Akron and the Administrative Law Judge for Cincinnati—were different. In neither proceeding was any credit awarded under *Peabody* factor (a), since all of the applicants for each city proposed essentially identical transmission facilities.[17] In the Cincinnati proceeding

[9] The five factors are:

(a) The relative merits of each proposal with respect to efficient frequency use;

(b) The nature of the services and facilities proposed, and whether they will satisfy those types of service requirements that are likely to exist or be developed in the (name of locality) area;

(c) The anticipated quality and reliability of the service proposed including installation and maintenance programs;

(d) The charges, regulations, and conditions of the service to be rendered, and the relation of charges to the costs of services; and

(e) The managerial, promotional, and entrepreneurial abilities and background of the applicants.

We have today revised the *Peabody* standards in an attempt to make them more realistic and relevant to the marketplace. See *Frank K. Spain*, FCC 80-140, (adopted March 19, 1980), and para. 53 *infra*.

[10] *Digital Paging Systems, Inc.*, 69 F.C.C. 2d 1991 (1978).

[11] *Microband Corp. of America* (San Diego, Cal.), *supra* note 3, 69 F.C.C. 2d 525.

[12] That is, there was no line-of-sight path between the transmitter and possible receiver sites. At the frequencies on which MDS stations operate, reception of a signal of adequate quality where no such path exists is at best doubtful.

[13] It is quite common for an MDS applicant, soon after obtaining a construction permit, to file an application to modify the permit by changing the location of the transmitter. Since an application which is mutually exclusive with others may remain pending for a substantial amount of time before it is granted, changed circumstances, *e.g.* construction of new buildings, may make such changes necessary. Also, some MDS operators apparently will change the location of the transmitter to meet the needs of a customer, so long as the station has not yet been built. Amendment of a pending application to change the location of the transmitter is effectively precluded by the fact that such a change (if it involves more than a ten second change in latitude or longitude) is a major amendment under Section 21.23(c)(2) of the Commission's rules. In general an application to which a major amendment is made becomes a newly filed application pursuant to Section 21.31, and the applicant ordinarily loses its right to comparative consideration if a mutually exclusive application is already on file. Even where no mutually exclusive application is on file, a new cut-off date (before which new, competing applications could be filed) is established by publication of the major amendment.

[14] *Lipper & International Television Corp., supra* note 3, 69 F.C.C. 2d 2158.

[15] In the San Diego proceeding, the winning applicant had introduced a series of maps indicating locations of hotels, apartment buildings, hospitals, cable system headends, and other reception locations that might be used by potential customers and indicated the coverage of these each proposed station could obtain.

[16] *Digital Paging Systems, Inc., supra* note 10, 69 F.C.C. 2d 1991, and *Digital Paging Systems*, FCC 78R-60, released October 11, 1978 (Initial Decision), respectively.

[17] This is a common occurrence with respect to channel 2 applicants. In *Report and Order in Docket No. 19493* 45 F.C.C. 2d 616, 620 (1974), we indicated that it is desirable for the transmitting antennae for stations operating on channels 1 and 2 in the same locality to have the same effective radiated power and be at the same elevation and geographical co-ordinates in order to minimize adjacent channel interference. This conclusion was subsequently substantiated by a field test; *see Adjacent Channel Interference Test for the Multipoint Distribution Service*, Report FCC/CC No. 75-01 (June, 1975). The result has been that many channel 2 applicants have amended their application proposals to co-

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the winner was awarded a preference under factor (b) for proposing local studio facilities; no preference was given under this factor in the Akron proceeding. Under factor (c) a preference was awarded the winner in both proceedings for its proposing to have a hot standby transmitter. In the Cincinnati proceeding the winning applicant received credit because it had made provision for local twenty-four hour repair service. A slight preference was considered due the loser because of its greater ability to advise potential customers on various levels of signal security, although this slight preference was not enough to overcome the more substantial preference to which the winner was entitled. The Review Board in the Akron proceeding discounted any preference based on security.

16. With respect to factor (d), in the Akron proceeding one of the losing applicants received a demerit because its proposed tariff contained a provision limiting sale of the nighttime hours (6:00 p.m. to 6:00 a.m.) to sale as a single block, for a minimum period of one month. The Board considered that this provision limited potential customers and the flexibility of services that would be available.[18] In the Cincinnati decision a preference was awarded to the winner, but only because the loser had failed to put anything into the record describing its proposed charges, regulations, and conditions of services, thereby making a meaningful comparison impossible. With respect to factor (e), in the Cincinnati proceeding the winner received a preference for having more complete and realistic plans in the record. The Review Board awarded no credit under this factor in the Akron proceeding, stating that none of the plans for developing and promoting MDS service indicated any likelihood that one applicant would be more successful than another. Thus the features of the proposals to which the Review Board gave weight in the Akron decision consisted of the hot standby transmitter proposed by the winning applicant and the proposed tariff provision of one of the losers permitting only block sales of the nighttime hours. Slightly more significant differences were found to exist by the presiding judge in the Cincinnati decision (his initial decision was not appealed).

Footnotes continued from last page

locate with channel 1 facilities. Consequently, in many cities the technical proposals of several or all of the channel 2 applicants are essentially identical.

[18] *See Peabody Telephone Answering Service, supra* note 9, 55 F.C.C. 2d at 628.

2. Discussion

17. As the preceding indicates, the oral comparative hearing process employed in the past to award MDS licenses has discerned distinctions between and among competing applicants and made awards based on those distinctions. We have become increasingly concerned, however, that the process has been a costly method which has identified distinctions without meaningful, material differences. Even more troubling is that these findings may have resulted in unintended consequences of a perverse nature by distorting the market demand for MDS services.

18. The theoretical benefits of an oral comparative hearing are obvious. Where competing applicants for a license exist, a comparative hearing presumably seeks to determine the applicant who proposes to serve "best" the community of license. Thus, the selection is intended to ensure the availability of service that maximizes the welfare of consumers from the use of the scarce resource of the frequency to be allocated.[19] These theoretical benefits are not realized, however, if the "wrong" applicant is chosen and if the "wrong" service is provided to consumers.

19. For example, even if we were able to compare accurately the services that would be provided by the competing applicants, it is likely that we would not be able to establish any perceivable difference in consumer welfare from these services. Thus, there exists the very distinct possibility that the comparative hearing process may not lead to the choice of the applicant who will provide the service that consumers desire most and would pay the most to receive. For example, in the *Digital Paging System* case, the Review Board gave an applicant credit for proposing to operate with a "hot standby" transmitter. It seems likely that other applicants, having read that decision, would also propose hot standby operation in order to protect their comparative position.[20] It is not apparent to us, however, that the added expense of the purchase, installation, and operation of a second transmitter is necessarily offset by the benefits derived from the increased reliability such operation enjoys under all circumstances. For certain locales and types of service, consumers of MDS services may very well prefer the less expensive and somewhat less reliable service that single transmitter operation is likely to bring.

20. Factors such as signal security measures, marketing approaches, block time sales vs. individualized segment sales, or location of transmitter in relation to customer location (recognizing that transmitter sites are often modified in any event) present the same difficulty. Each necessarily produces both costs and benefits which can vary over the term of the license. Omnidirectional transmission on either of the MDS channels is amenable to the delivery of many kinds of services. While one mode of technical operation and marketing may be preferable for a particular video product, an entirely different approach may be required for data transmission or another video service. The MDS system operator appears to be in the best position to determine how his or her resources should be employed to capture the most value from the frequency at any point in time.

21. The selection of the appropriate service, quality, and cost emanating from MDS operation depends critically upon the dynamic interaction of supply and demand factors. These often are particular to the varied services that can be provided by use of the assigned allocation of spectrum. We believe this selection can be made most efficiently in the marketplace, without the "guidance" provided by comparative hearings.[21] Our experience with MDS comparative hearings indicates that the comparative hearing process does not truly duplicate the efficiency of free markets in choosing the combination of cost and quality and types of services that best reflect consumers' desires. However, even assuming *arguendo* that the comparative hearing process can select accurately the service that is most beneficial to consumers, this selection could be rendered obsolete by

[19] It should be noted, however, that we cannot be certain that actual performance will match promise. For example, it has been suggested that hearing participants may have an incentive to misrepresent the technology and service to be used. See Mathtech, Inc., and Telecommunications Systems, *Economic Techniques for Spectrum Management: Final Report* by Carson E. Agnew, Donald A. Dunn, Richard G. Gould and Rober D. Stibolt, a study prepared for the National Telecommunications and Information Administration, December 20, 1979. Even without the possibility of misrepresentation, and MDS licensee may find it desirable to alter the initial service plan—the very plan on which a finding of superiority was made at a hearing. Since such change would normally be in response to customer desires, we have not held MDS licensees to their initial proposals nor do we think it is in the public interest to do so. However, such occurrences point out one more problem inherent in the current comparative hearing process.

[20] Indeed, following the release of the decisions in the various MDS comparative proceedings, a number of amendments to pending applications were filed adding a hot standby transmitter to existing proposals.

[21] This is particularly true if licenses are readily transferrable. See Appendix A, *infra*.

technological advancements of competing services that have occurred during the time required for the hearing. A license application case may take over six years to be finally decided. Thus, while tradition may suggest that the potential benefits of the comparative hearing process are obvious, practicalities dictate that the genuine benefits to consumers in this context may not only be insignificant, but actually may be speculative or even illusory.

22. While the benefits to consumers from the comparative hearing process may be speculative, the costs are not. The consumer welfare losses attributable to this process include the administrative expense to the Commission of the hearing and the opportunity cost [22] to the applicants incurred while the frequency assignment applied for lies dormant. Costs also are borne by the private interests who participate in the hearing. The out-of-pocket expenses attributable to the oral comparative hearing process can be estimated in a straight-forward manner. A recent study estimates that the out-of-pocket costs for such a hearing involving two mutually exclusive applicants for MDS would be at least $5,400 for administrative expenses (that consumers would pay for in the form of higher federal taxes, since the participants do not pay administrative costs) and $50,000 in legal expenses to the applicants.[23] The average delay caused by a mutually exclusive hearing is estimated to be three years.[24] The costs to society resulting from real.[25] These costs are equal to the sum of consumer surplus and producer rent that is sacrificed by delaying the start-up of the operation.[26] It is important to note that the allocation of resources which maximizes the sum of consumer surplus and producer rent is the one that is most economically efficient and, in the absence of any adverse distributional effects, the most beneficial to society as a whole.[27] Thus, to the extent that the oral comparative hearing process causes sacrifices in consumer surplus and producer rent, the overall public interest is disserved.

23. We find this particularly troublesome in light of the value of new entry in advancing the public interest. We have frequently relied upon competition, particularly in the common carrier field, to enhance our overall regulatory objectives. For example, our recent *Report in Docket 20003*, FCC 80–5 (released Jan. 29, 1980) demonstrated that new entry into the market for private line services and terminal equipment has redounded to the benfit of consumers. We also have taken care to thwart any attempt by private parties to unreasonably delay or block competitive entry.

24. The oral comparative hearing process, however, acts to restrict rather than enhance entry into the marketplace. As a result, we believe that the process may be appropriately viewed as a mechanism that unnecessarily prolongs what may be some very serious distortions in the marketplace.

25. The difficulty, expense and possibly distortive effects resulting form the use of the comparative procedure in an attempt to discern the "best" qualified applicant have been recognized by the courts and legal commentators for some time.[28] The failings of the procedure, including the often impossible task of finding the "best" applicant, have been acknowledged both in the specific context of MDS licenses (see statement of Member Kessler para. 12, *supra*), and in the more traditional broadcast license area. In a dissenting opinion in *Star Television v. FCC*, 416 F.2d 1086, 1089 (D.C. Cir. 1969), Judge Leventhal directly addressed the problem:

> I frankly put to myself this question, Should the courts continue to adhere to the approach of requiring the agency to develop a meaningful statement of reasons for a function like this, of choosing the best qualified among several competing applicants? Maybe an agency cannot meaningfully say more than why it screens out those applicants who fall by the wayside due to "demerits" in some prominent category, or who are plainly second best for some reason. Maybe all it can do as to the other applicants is say: These applicants are all reasonably qualified; we have no meaningful way of choosing on principle between them; all we can really do is speculate who will do the best job in the public interest; and our best possible hunch is X. I believe Justice Frankfurter has applied to the concept of administrative expertise the phrase of Justice Homes concerning intuition that outruns analysis * * *.
>
> I for one would be prepared to sustain an action presented with such candor, but pause in saying that to note that such a candid disclaimer would perhaps crystallize other and more acceptable solutions. Perhaps the Commission could advise the two or three applicants who survive after the first winnowing that they are in a run-off and now have the opportunity to enlarge the record in a more focused way. Perhaps the parties could settle the case. Perhaps a lottery could be used, for luck is not an inadmissible means of deciding the undecidable, provided the ground rules are known in advance.

416 F.2d at 1094–95 (footnotes omitted).[29]

[22] Opportunity cost is measured by what society gives up when a resource is used in one way rather than its next best alternative.

[23] Agnew, *supra* note 19, at Table V III–4.

[24] *Id.*

[25] *See* for example, R. G. Noll, M. J. Peck and J. J. McGowan in *Economic Aspects of Television Regulation* (1973) where they estimate the value of a fifth television station to be $68 annually in 1968 prices to each consumer. Although the precise value of this measure has been subject to some debate (see S. M. Besen and B. M. Mitchell, "Noll, Peck, and McGowan's Economic Aspects of Television Regulation," 5 *Bell Journal of Econ. and Management Sci.* 301 (1974)), we believe the economic value that consumers derive from television and from generally analogous services such as MDS is substantial. *See, generally, Report in Docket 21284*, 71 FCC 2d 632 (1979)

[26] Consumer surplus can be defined as the maximum sum of money a consumer would be willing to pay for a given amount of the good, less the amount he or she actually pays. It is the standard economic measure of the value of an industry's product to members of society. *See, e.g.*, E. J. Mishan, *Cost-Benefit Analysis* 24–25 (1976). Conversely, producer rent can be defined as the sum of money earned which is in excess of what is needed for the good or service to be produced.

[27] This is the major normative theme of modern welfare economics. For an elementary economic explanation of its derivation, *see*, W. Nicholson, *Microeconomic Theory: Basic Principles and Extensions* (1972).

[28] The comparative evaluation procedure has been the subject of much commentary, generally in the context of its use to resolve conflicts involving mutually exclusive applications for broadcast stations. *See, e.g.*, Anthony, *Towards Simplicity and Rationality in Comparative Broadcast Licensing Proceedings*, 24 Stan. L. Rev. 1 (1971); Botein, *Comparative Broadcast Licensing Procedures and the Rule of Law: A Fuller Investigation*, 6 Ga. L. Rev. 743 (1972); Friendly, *The Federal Administrative Agencies: The Need for Better Definition of Standards*, 75 Harv. L. Rev. 1055 (1962); Irion, *FCC Criteria for Evaluating Competing Applicants*, 43 Minn. L. Rev. 479 (1959); Jones, *Licensing of Major Broadcast Facilities by the Federal Communications Commission, Administrative Conference of the U.S.*, September 1962; Levin, *Regulatory Efficiency, Reform and the FCC*, 50 Geo. L. J. (1961); Schwartz, *Comparative Television and the Chancellor's Foot*, 47 Geo. L. J. 655 (1959).

[29] *See also, Cowles Florida Broadcasting, Inc.*, 60 F.C.C. 2d 372, 435 (1976) (Commissioner Robinson dissenting):

> If there are no meaningful distinctions between applicants, then the choice between them will be, perforce, arbitrary. Arbitrariness per se is not necessarily a bad thing: government does hundreds of things arbitrarily, like deciding which tax returns are to be audited. But if a government agency is required to make an essentially arbitrary choice, it is important that the arbitrariness equates to randomness rather than personal whim, the wheel of fortune—a lottery—is much to be preferred to that different class of arbitrary criteria, the capricious preferences of bureaucrats.
>
> In the circumstances here a simple lottery is a sensible method of choosing among among qualified applicants (those meeting minimal, threshold standards), but an even better mechanism would be an auction among such applicants. An auction combines the simplicity of the lottery with two additonal virtues: one, it would allow the public to recoup the economic value of the benefits conferred upon private licensees, two, unlike a lottery an auction measures the intensity of individual preferences, in accordance with the prevalent

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26. Thus, our decision to seek public comment on new and innovative licensing mechanisms is based on several interrelated factors. First, we recognize that MDS is capable of providing different kinds of services, including video services and data transmission among others. Second, different service offerings will often require different technical, operational, and marketing approaches, which may change over time. Third, each of these approaches can be expected to optimize the cost/benefit relationship for the particular service offering contemplated. Fourth, distinguishing among applicants in the adjudicative context tends to result in the awarding of licenses to applicants on the basis of subjective distinctions that may well have little significance in the long run but may cause other applicants to propose services based on past decisions irrespective of customer demand. Fifth, the using public must bear the cost of such unnecessary peformance levels and in some cases forego the service entirely if those costs are too high. Sixth, in choosing among different service proposals, the marketplace—including a licensee's response to it—is likely to be the most effective guarantor of the optimal use of the governmentally awarded frequencies. Seventh, the present process is a barrier to market entry which produces a variety of unnecessary private and public costs.

Proposals

27. It is clear that we should seek remedies to the problems identified above. In this regard, we have today taken the important step of modifying the *Peabody* standards, and have eliminated issues previously set for comparative consideration which subsequently have proved less relevant or significant.[30] Although this should alleviate part of the concerns here raised, we believe that, at best, that decision provides only a partial, interim remedy, designed to permit the continued award of MDS licenses on some rational basis. We will thus set forth for coment possible alternatives to the present procedure to find remedies to at last some of the problems discerned.

28. One further step we seek comment on is the use of a "paper record" proceeding to resolve issues designated for the comparative process. While this approach might still suffer from some of the infirmities of any comparative process, it should be a quicker, more economical manner of licensing MDS stations. The lengthy, trial-type procedures now used are susceptible to undesirable delays in service offerings to MDS subscribers and to ultimate consumers. Further, these adjudicative proceedings have consumed, and promise to continue to consume, excessive amounts of administrative resources. We believe that both the Communications Act of 1934 and the Administrative Procedure Act afford us sufficient flexibility to hold "paper record" hearings on the issues now determined appropriate for comparative consideration in *Spain*.

29. The other alternatives we seek comment on are the use of a lottery or an auction procedure to select among qualified MDS applicants. Under these proposals, an applicant would be eligible either to bid or partake in a lottery once having made a showing of minimum qualifications. As set in greater detail *infra*, we believe either procedure may be a preferable licensing mechanism in situations where no significant differences can be perceived among competing applicants. Moreover, we believe—at least with respect to MDS—that the optimal use of the governmentally awarded frequencies can best be determined in any particular market by the consumers in that market.

1. Legal Considerations

30. Prior to exploring these alternatives, it is essential to determine the scope of our authority to amend current procedures. While our three proposals, of course, raise distinct legal issues, to a large extent, they all seek to change the traditional procedure of oral comparative hearings.

31. Such hearings are nowhere specifically mandated in the Communications Act or the Administrative Procedure Act. In *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327 (1945), the Supreme Court ruled that Section 309 of the Communications Act requires that "where two bona fide applications are mutually exclusive the grant of one without a hearing to both deprives the loser of the opportunity which Congress chose to give him."[31] Although the Court limited its holding to this proposition and did not indicate that the competing applicants must be heard in a consolidated proceeding on a comparative basis, this decision has generally been held to require such a procedure.[32]

32. Two discrete concerns can be discerned from the decisions in this area. The first, beginning with *Ashbacker* itself, is that the applicants must be accorded *meaningful* hearings on an *equitable* basis: For if the grant of one [application] effectively precludes the other, the statutory right to a hearing which Congress has accorded before denial of their applications becomes an empty thing.

326 U.S. at 330.

33. Similarly, the United States Court of Appeals for the District of Columbia Circuit has stated that, in choosing between qualified applicants:

> [f]indings must be made with respect to every difference, except those which are frivolous or wholly unsubstantial * * *.
>
> * * * * *
>
> The Commission cannot ignore a material difference between two applicants and make findings in respect to selected characteristics only.

Johnston Broadcasting Co. v. *FCC*, 175 F.2d 351, 357 (1949).

34. The second concern to be gleaned from the case law moves from the private interests of the competing applicants to the overall responsiblity of the Commission to grant licenses in the public interest. Thus the *Johnston* Court also stated that:

> [w]hen the minimum qualifications of both applicants have been established, the public interest will be protected no matter which applicant is chosen. From there on the public interest is served by the selection of the better qualified applicant * * *.

175 F.2d at 357.

Two years later, in *Scripps-Howard Radio* v. *FCC*, 189 F. 2d 677 (D.C. Cir. 1951), that same court elaborated on how it considered differences among competing applicants should be treated. The court stated:

> The guiding standards, however stated, must in the end be translated into those of the statute, namely, the "public convenience, interest, or necessity." 47 U.S.C. 307(a), 47 U.C.A. 307(a). Superiority of one applicant over another in one or more phases of qualification or operational ability does not necessarily constitute superiority under the statutory standards. Nor may the Commission or the reviewing court simply add up the factors as to which each is superior and decide according to the numerical result. This would eliminate the exercise of judgment as to where lies the greater public interest. There must be a weighing of the relative importance of the several factors involved. Assuming minimal qualification in all essential respects,

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Footnotes continued from last page

standard for allocating resources in our economic system. [Footnotes omitted.]

[30] *See* note 9, *supra*.

[31] 326 U.S. at 333. This case involved a situation where two applications had been filed, one for a new broadcast station and the other for a change in frequency. For reasons of electrical interference both could not be granted. The Commission granted one without hearing and set the other for hearing.

[32] *See* K. Davis, *Administrative Law Treatise*, Section 8.12 (1958).

superiority in those matters most conducive to the public interest will outweigh superiority of a rival in others.

189 F.2d at 680. The court subsequently indicated that the relative importance of the various factors was not fixed. Rather, "[t]he Commission's view of what is best in public interest may change from time to time. Commissions themselves change, underlying philosophies differ, and experience often dictates changes." [33]

35. Both the private and public interest concerns must therefore be considered in amending our procudures. The cases clearly indicate, however, that neither concern inflexibly mandates the issues to be given comparative consideration.[34] The Supreme Court has specifically upheld our authority to use alternative procedures as means by which issues can be excluded from the comparative process. In *United States* v. *Storer Broadcasting Co.*, 351 U.S. 194, 203 (1956), the Superme Court upheld the Multiple Ownership Rules as a valid procedure for disqualifying broadcast license applicants, despite the effect those Rules had of denying a hearing to certain (otherwise qualified) applicants:

> We do not read the hearing requirement, however, as withdrawing from the power of the Commission the rulemaking authority necessary for the orderly conduct of its business * * *. "Section 309(b) does not require the Commission to hold a hearing before denying a license to operate a station in ways contrary to those that the Congress has determined are in the public interest." The challenged Rules contain limitations against licensing not specifically authorized by statute. But that is not the limit of the Commission's rulemaking authority.
>
> 47 U.S.C. § 154(i) and § 303(r) grant general rulemaking power not inconsistent with the Act or law.

The Court further noted that the Rules provided for waiver petitions requiring applicants to set out adequate reasons for waiver or amendments. As to this procedure, the Court stated:

> The Act, considered as a whole, requires no more. We agree with the contention of the Commission that a full hearing, such as is required by § 309(b) . . . would not be necessary on all such applications. As the Commission has promulgated its Rules after extensive administrative hearings, it is necessary for the accompanying papers to set forth reasons, sufficient if true, to justify a change or waiver of the Rules. *We do not think Congress intended the Commission to waste time on applications that do not state a valid basis for a hearing.* If any applicant is aggrieved by a refusal, the way for review is open.[35]

36. Similarly, in *WBEN, Inc., v. U.S.*, 396 F. 2d 601 (2d Cir.), *cert. denied*, 393 U.S. 194 (1968), licensees of various radio stations argued they were entitled to individualized hearings pursuant to Section 316 of the Communications Act. They contended a Commission rulemaking permitting daytime stations pre-sunrise broadcasting rights created interference to them and therefore amounted to a modification of their licenses. In rejecting the argument, the court stated:

> Adjudicatory hearings serve an important function when the agency bases its decision on the peculiar situation of individual parties who know more about this than anyone else. But when, as here, a new policy is based upon the general characteristics of an industry, rational decision is not furthered by requiring the agency to lose itself in an excursion into detail that too often obscures fundamental issues rather than clarifies them.

396 F. 2d at 618.

37. In the broadcast licensing area, we have issued a Policy Statement setting forth the issues appropriately designated for comparative consideration. *Policy Statement on Comparative Broadcast Hearings*, 1 F.C.C. 2d 393 (1965). The Statement was issued to foster clarity and consistency of decision and "to eliminate from the hearing process time-consuming elements not substantially related to the public interest." *Id.* at 394.

38. In setting out the factors to be examined, the consideration of asserted differences that had been taken into account in the past was limited. In *Scripps-Howard Radio, supra*, for instance, the Commission had made detailed findings with respect to program plans and proposals and found that neither applicant had demonstrated its proposal would better serve the public interest; this finding was upheld by the court of appeals. In the Policy Statement, the Commission noted the difficulty in most cases of comparing proposed program service and stated in the future decisional significance would be given only to material and substantial differences between applicants' proposed program plans. In light of the similarity of program plans presented in the past, the Commission indicated that no comparative issue ordinarily would be designated. Related matters such as staffing, studio and other equipment would also not be considered comparatively unless there was an indication that they were inadequate to carry out the proposed program plan.[36] The Policy Statement provides for issues in addition to those specifically addressed, but indicates that petitions to add issues would be favorably considered only when it was demonstrated that significant evidence would be adduced.

39. Thus in the broadcast area the factors entitled to comparative consideration have been the subject of an evolutionary process, leading to the limited factors that are now in use. The use of the criteria set forth in the 1965 Policy Statement has never been successfully challenged. For instance, subsequent to the issuance of that policy statement, the Court of Appeals for the District of Columbia Circuit, in striking down the 1970 "Policy Statement on Comparative Hearings Involving Regular Renewal Applicants," reiterated portions of broad language in *Johnston*, some of which is quoted above. *Citizens Communication Center* v. *FCC*, 447 F.2d 1201, 1212 (D.C. Cir. 1971).[37] In its decision the court also discussed the 1965 Policy Statement and appeared to find no fault with its approach of excluding consideration of differences among applicants not considered by the Commission to be of any significance.[38] It therefore appears that the Commission is not required to give comparative consideration to all

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[33] *Pinellas Broadcasting Co.* v. *FCC*, 230 F.2d 204, 206 (D.C. Cir. 1956). *See also, Greater Boston Television Corp.* v. *FCC*, 444 F.2d 841 (D.C. Cir. 1970).

[34] The court in *Fidelity Television, Inc.* v. *FCC*, 515 F.2d 684 (D.C. Cir. 1975), stated (in the context of a broadcast proceeding):

> "[t]he comparative hearing process might well come much closer to producing licensees who act in the public interest if standards of "substantial service" in programming and other areas were developed * * *. But we reiterate that it is not our judicial job to direct the Commission on how to run the comparative hearing process, beyond assuring that the administrative process respects the rights of the public and of competitors assured under the Communications Act and the Ashbacker doctrine, and that it produces rational decisions based on factors generally known in advance."
>
> 515 F.2d at 699, 700.

[35] 351 U.S. at 205 (emphasis added).

[36] *See* Anthony, *supra* note 28, at pp. 27–33 for a discussion of the broadcast comparative factors.

[37] The court went on to add however that:

> [w]hatever the power of the Commission to set basic qualifications in the public interest and to deny hearings to *unqualified* applicants, the cases cited above cannot be read as authorizing the Commission to deny *qualified* applicants their statutory right to a *full hearing* on their own merits.
>
> 447 F.2d at 1212, n. 34 (emphasis in original).

We do not believe that this language, taken in context, undercuts our authority to use alternative selection procedures. *Citizens* rejected the renewal policy because it was "unreasonably in favor of the [existing] licensees. . . ." *Id.* at 1214. *Citizens*, then, endorses the *Ashbacker* concern that competing applicants be treated equitably. As discussed throughout this Notice, we believe that the alternatives proposed may well be more equitable for selecting MDS licensees than the traditional oral comparative hearing.

[38] *See also Pasadena Broadcasting Co.* v. *FCC*, 555 F.2d 1046, 1051–53 (D.C. Cir. 1977), in which the Court viewed with disfavor the Commission's deviating from following the criteria contained in the 1965 statement.

differences that may exist between applicants, but is required only to consider those differences which relate to public interest factors.

40. In considering what differences among competing MDS applicants relate to our perception of the relevant public interest factors, we believe that it is useful to make note of the traditional differences between broadcast services and common carrier services which utilize radio transmissions. While Title III of the Act applies to all licenses for radio facilities, it is clear that Congress, the courts and this Commission historically have viewed broadcasters as providing a service that carries with it public responsibilities different from those of non-broadcast radio licensees who happen to procure their federal licenses pursuant to the same statutory scheme. Broadcasters hold their licenses as public trustees and, as such, must act as fiduciaries of a limited public resource. *See, e.g., Office of Communications, United Church of Christ* v. *FCC*, 425 F.2d 543, 548 (D.C. Cir. 1969); *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367 (1969).

41. In making this comparison, we believe that the most significant difference between broadcast and non-broadcast users of radio facilities is that broadcasters generally determine what information is to be received by their audience. As defined in the Communications Act, broadcasting is the "dissemination of radio communications intended to be received by the public, directly or by the intermediary of relay stations." 47 U.S.C. § 153(o).

42. In contradistinction, the Act defines a common carrier as:

> Any person engaged as a common carrier for hire, in interstate or foreign communication * * *; but a person engaged in radio broadcasting shall not be deemed a common carrier. [47 U.S.C. § 153(h)].

43. A common carrier is required by law to make its services reasonably available to any member of the public pursuant to tariff. A common carrier, like a broadcaster, transmits messages but, unlike a broadcaster, does not have responsibility for their content. Broadcasters' control of programming material forms the foundation for broadcast regulation in general and our comparative treatment of competing applications in particular. As the Court in *Johnston* stated more than three decades ago:

> [I]n a comparative consideration, it is well recognized that comparative service to the listening public is the vital element, and programs are the essence of that service. [175 F.2d at 359].

44. Broadcasters' programming responsibilities were discussed by us in our *En Banc Programming Inquiry*, 44 FCC 2d 303 (1969), where we stated as follows:

> [T]he Commission in administering the Act and the courts in interpreting it have consistently maintained that responsibility for the selection and presentation of programming material ultimately devolves upon the individual station licensee, and the fulfillment of the public interest requires the free exercise of his independent judgment. [44 FCC 2d at 309].

45. Inasmuch as an MDS license or any other common carrier radio license carries with it no comparable programming content responsibility, we are not concerned, as we are with broadcast licensees, with an MDS licensee's exercise of independent judgment.[39] This responsibility, we believe, critically distinguishes the broadcast licensee from an MDS, or other common carrier licensee.

46. Because the licensee responsibilities differ between broadcast and common carrier licensees, we consider it axiomatic that our methods and criteria for awarding licenses may differ so as to reflect those differences in responsibilities. We believe that this perception of our regulatory latitude is supported by judicial interpretation of the Act. In *National Broadcasting Co.* v. *FCC*, 319 U.S. 190 (1943), the Supreme Court stated that the public interest standard is to be interpreted by its context, by the "nature of radio transmission and reception, and by the scope, character and quality of services. . . ." 319 U.S. at 216, *citing Federal Radio Commission* v. *Nelson Bros. Co.*, 289 U.S. 266 (1933).

47. Our tentative conclusion is that the public interest does not dictate that mutually exclusive MDS applicants be compared in the same manner as mutually exclusive broadcast applicants. As indicated above, that determination is based largely on differences in the nature, scope and quality of those services.

48. In *FCC* v. *Pottsville Broadcasting Co.*, 309 U.S. 134 (1940), the Supreme Court recognized the procedural flexibility afforded this Commission by the Congress:

> Necessarily, therefore, the subordinate questions of procedure in ascertaining the public interest, when the Commission's licensing authority is invoked . . . were expressly and by implication left to the Commission's own devising, so long, of course, as it observes the basic requirements designed for the protection of private as well as public interest. [309 U.S. at 138.]

49. As we indicate in the following sections, our experience with MDS license applications persuades us that our procedure for comparison, essentially borrowed from our broadcast licensing scheme, affords no particularly unique protection to the private interest of applicants or the public interest of consumers than would the alternatives proposed. Furthermore, we are concerned that the costs and delays necessitated by these comparative hearings have adversely affected the growth of MDS service. To the extent that this has occurred, we fear that we have not "encourage[d] the larger and more effective use of radio in the public interest" as we are required to do by Section 303(g) of the Act, 47 U.S.C. § 303 (g).

50. By noting the general differences between common carrier and broadcast services, however, we do not intend to suggest either that the comparative hearing procedures presently used to award broadcast licenses are the most effective method or that method cannot be modified by administrative procedures.[40] We are merely suggesting that the balance in favor of moving away from our present comparative system may be even greater in the MDS (common carrier) area.

51. Several conclusions may be drawn from the preceding discussion. First, within the traditional comparative hearing procedure, we are afforded considerable discretion to determine which issues are significant to the public interest and therefore should be set for hearing. Our authority to rule other comparative issues inconsequential to the public interest is similarly established. Moreover, the 1965 Policy

[39] We are mindful, of course, that the MDS rules at this time do not proscribe all involvement by the MDS carrier with the program supplying subscriber or the programming proffered. *See*, 47 C.F.R. §§ 21.903(b) (1), (2). This is because of the particular history of common carrier transmission of television signals [*see, e.g., First Report and Order* (Docket No. 15586), 1 FCC 2d 897, 898–907 (1965); *Alabama Microwave, Inc.*, 41 FCC 2d 823 (1973); *Blackhills Video Co.*, 22 FCC 884, 890 (1957)]; our uncertainty as to the eventual evolution of MDS [*see Notice of Proposed Rulemaking* (Docket 19493), 34 FCC 2d 719, 722 at para. 10 (1972); *Metrock Corp.*, 73 FCC 2d 802, 810 at n.10 (1979)]; and our desire to permit the MDS operator to offer some production assistance to enable a customer to deliver his programming [*see Report and Order* (Docket No. 19493) 45 F.C.C. 2d 616 (1974). The type and amount of limited carrier involvement contemplated does not alter the basic distinction between broadcasters and common carriers.

[40] Indeed, we have some doubts about the present broadcast comparative policies. *See Alexander S. Klein, Jr.*, (Greater Media Radio), FCC 79–401 (released August 3, 1979, where the Commission raised the issue of whether it has authority to choose among mutually exclusive applicants of virtually equal merit on the basis of a lottery. Based on the findings made in this docket, we believe lottery or auction proceedings might be well suited for awarding licenses in a variety of contexts.

Statement shows that this public interest determination can be made, at least in part, via rulemaking procedures and not within the designation process alone. Further, *Storer* and *WBEN* endorse our authority to remove otherwise qualified applicants from the hearing process entirely on administratively developed policies and requirements based on public interest grounds.

52. These guiding precedents, of course, are limited to issues raised in the area of broadcast licensing—an area where the comparative process has played a more traditional role than it has in common carrier licensing. Whether our authority is sufficiently broad to adopt selection procedures other than the comparative process is an issue that has never been tested. But, while the private right of an applicant to a hearing on meaningful issues is well-established, we find nothing in the case law that compels a hearing where only issues of insignifiant differences are promised. Moreover, our obligation to make public interest findings cannot reasonably be translated into an obligation to expend time and resources on irrelevant or inconsequential issues.

2. Analysis of Proposals

a. "Paper Record" Hearing.

53. As a first step in addressing the problems we have found in our present approach to MDS licensing, we have today limited the issues we now deem appropriate for comparative consideration. *See Frank K. Spain, supra* note 9. The three issues found relevant are:

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context wih the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

As explained in that case, it is our tentative belief that efficient operation of MDS facilities to ensure the maximum amount service is an appropriate point of inquiry, as is the quality and reliability of service. We believe that evaluation of these matters must include an inquiry into the cost.[41]

54. As a further step, we here set forth for comment the feasiblity of resolving these issues in future mutually exclusive situations by using solely written evidence and argument. We believe nothing in the Communications Act or the Administrative Procedure Act [42] precludes the use of this more limited type of evidentiary hearing.

55. General statutory provisions relevant to hearing procedures to be employed in a particular adjudicative administrative proceeding conducted under the Communications Act include Sections 554 and 556 of the Administrative Procedure Act and Section 409 of the Communications Act. Specific requirements for granting license awards are found in Section 309 of the Communications Act.

56. Although Section 556 is generally applicable to hearings, and entitles a party to present oral or documentary evidence and "conduct such cross-examination as may be required for a full and true disclosure of the facts," [43] it is effective in cases of adjudication which only when made so by Section 554. Section 554 applies only to adjudications "required by statute to be determined on the record * * *." [44] Nothing in Section 409 of the Communications Act, which contains procedures for certain types of hearings, or Section 309(e), which relates specifically to hearings in licensing proceedings, requires that such hearings be "on the record." [45] Additionally, Section 556 has an express exemption which provides that for applications for initial licenses, "an agency may, when a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form." [46] Thus, the provision which is designed to establish procedural hearing rights appears specifically to condone paper proceedings for initial license awards.

57. Due process, of course, ultimately serves as the standard by which agency procedures are to be tested. There is broad agency discretion to use differing procedures in differing contexts.[47] We have previously modified traditional procedures in other contexts to carry out efficiently our statutory mandate. For example, complex matters involving the lawfulness of rates contained in a carrier's tariff have been resolved through hybrid procedures falling short of full oral hearings.[48] Although tariff proceedings are "rulemaking" under § 551(4) of the Administrative Procedure Act, and not "adjudication," we believe the cases demonstrate recognition that paper proceedings are appropriate in a variety of contexts.

58. Full oral hearings have traditionally been used in comparative hearings for license awards under Section 309, and thus no other procedures have been tested in the courts. However, the Supreme Court gave some guidance in *dictum* in *Storer Broadcasting, supra:*

> We agree that a "full hearing" under § 309 means that every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination *as may be required for a full and true disclosure of the facts.*

351 U.S. at 202 (citation omitted; emphasis added). Thus, we are guided once again to examine the particular issues in dispute in order to discern the most appropriate procedure for resolution of those issues.

The fact that comparative hearings (especially in the broadcast area) have been traditionally conducted in a full oral adjudicatory proceeding is not conclusive for, as the U.S. Court of Appeals for the Third Circuit has ruled:

> As technology develops and the field of communications changes, procedural, as well as substantive, policy must be flexible. The mere fact that an agency has once regarded evidentiary hearings as appropriate does not bar it from adopting another policy when changing or new circumstances require a different approach.

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[41] As stated, this belief is tentative. While these criteria permit us to continue to resolve mutually exclusive situations, we invite comments on their validity as well as the validity of our discussion of the deficiencies of the prior *Peabody* standards contained in the *Spain* item, also adopted today. We also ask whether the new *Spain* criteria are subject to resolution in either an oral or paper comparative hearing, and whether our observations as to those processes apply. *See* paras. 60–68, *infra.*

[42] 47 U.S.C. § 151 *et seq.* and 5 U.S.C. § 551 *et seq.*, respectively.

[43] 5 U.S.C. § 556(d).

[44] 5 U.S.C. § 554(a) *See United States v. Florida East Cost Ry. Co.*, 410 U.S. 224 (1973); *United States v. Allegheny & Ludlum Steel Corp.*, 406 U.S. 742 (1972).

[45] Although Section 409(a) makes reference to the necessity of a finding "upon the record," the reference is to situations where the Commission, upon certification, makes an initial decision instead of the person who conducted an evidentiary hearing. We do not believe that general procedural provision can be read to require meaningless oral, evidentiary trials where the specific licensing statute (Section 309(e)) does not.

[46] Although Section 409(a) once permitted parties to choose between oral or written appeals to the Commission from initial decisions by examiners, that right was expressly withdrawn in 1961. *See Facilitating the Prompt and Orderly Conduct of the Business of the Federal Communications Commission*, Conf. Rpt. No. S. 2034 (576), 87th Cong., 1st Sess. 1 (1961).

[47] *See* 47 U.S.C. § 154(j); *Bell of Pa.* v. *FCC*, 503 F. 2d 1250 (3d Cir. 1974).

[48] *See DDS*, 62 F.C.C. 2d 774, *recon. denied*, 64 FCC 2d 994 (1977), *appeal dismissed sub nom. AT&T* v. *FCC*, No. 77–1742 (D.C. Cir. May 21, 1979); *Hi Lo*, 55 FCC 2d 224 (1975); *recon.* 58 FCC 2d 362 (1976), *aff'd without opinion sub nom. Commodity News Service Inc.* v. *FCC*, 561 F. 2d 1021 (D.C. Cir. 1977). *See also* Appendix D to *Resale and Shared Use of Common Carrier Services*, 60 F.C.C. 2d 261, 325 (1976).

Bell of Pa., supra, 503 F. 2d at 1265 (Section 201 order may be lawfully decided through Notice and Comment Rulemaking.)

59. The issues that we have today delineated for hearing will largely entail expert evidence and evaluation of both an economic and engineering nature. Such evaluation, it appears to us, would not ordinarily be enhanced by the traditional courtroom drama of oral presentation by witnessess or cross-examination of these witnesses on the stand. Live testimony, affording the opportunity to judge demeanor and credibility of a witness, would afford nothing in this context. The opportunity to submit both written briefs and evidence (by way of studies, etc.), with an opportunity to reply to competing submissions, should serve as a more efficient and more logical vehicle to flesh out significant issues without any sacrifice of a meaningful hearing on such issues. Thus, we believe a "paper" evidentiary hearing offers the best procedures for a full and true disclosure of the facts without prejudicing any party.

b. Lottery.

60. As long as significant, meaningful comparisons can be made among applicants, some comparative hearing is probably required. However, our recent experience reveals a trend in which fewer and fewer significant differences may be found. In *Spain, supra,* the areas in which MDS applications may meaningfully vary from one another have been narrowed. We preceive that in the near future, we may well find ourselves in a position where no differences exist at all, or where such differences cannot be rationally measured against the public interest standard through a comparative hearing process. Thus, while we continue today to designate issues for MDS comparative hearings, we must question whether these may ultimately prove the hearing process to be an inadequate forum for selection, just as our recent experience has caused us to reject other *Peabody* standards today.[49]

61. If any of these circumstances occur we would be faced with the responsibility of making an equitable choice for which the current procedures are wholly inadequate. We believe that faced with such a choice, a lottery could be used as one means by which equitable treatment of qualified applicants could be assured.[50]

62. As discussed above, *Spain* now designates for hearing issues essentially calling for a cost-benefit analysis of competing proposed plans. While that decision is motivated in large part by an attempt to eliminate from the hearing process insignificant areas of comparison, we must confess some doubt as to whether that case, or any designation order, can constitute a long term resolution of the problems cited in this Notice. We believe that *Spain* represents a reasoned short run solution, but we must question whether an Administrative Law Judge is able to weigh costs and benefits of particular MDS plans in a manner superior to that of the marketplace. Thus, we specifically seek comment on the appropriateness of the *Spain* criteria. We ask whether the elements of comparison established therein provide meaningful bases of comparison, or whether they, too, suffer from the general infirmities of the Comparative process identified above. Our experience with these criteria together with the comments submitted herein, will indicate any further steps that may be necessary.

63. For focus, let us consider two hypothetical proposals for MDS service in a given locale. One proffers a highly reliable service, at a relatively high cost. The second proposes less reliable service, at a commensurately lower cost. Faced with the burden of a decision, the Administrative Law Judge must, it seems to us, make a short term judgment less reliable than that of the marketplace as to which service potential customers desire and are willing to pay for. This decision—which may ultimately prove to be, in any practical sense, a coin toss [51]—may neither further the public interest, nor provide to the competing applicants any meaningful hearing.[52]

64. The hearing requirement of Section 309, as discussed earlier, has been interpreted to mean that applicants must be accorded a hearing on *meaningful* issues. Once the qualifications of an MDS applicant are assured, and no significant areas of comparison exist, there are no meaningful issues to be heard or resolved. Faced with the choice of an empty gesture of a trial of frivolous, inconsequential comparisons or a disciplined lottery procedure, we believe that the public interest—as well as the private interests of the competing applicants—would be better served by the latter.

65. As discussed above, the Supreme Court stated in *Storer* that "We do not think Congress intended the Commission to waste time on applications that do not state a valid basis for hearing."[53] Although this accepted principle is more often cited in the context of disqualification, *see Citizens, supra,* we believe that it can be equally applied to a comparative proceeding that promises no significant comparison.

66. The Commission has on previous occasions recognized the futility of setting specific issues for comparative consideration. It cannot be surprising that this elimination process may well result—in the not too distant future—in the total absence of any significant issues to be heard in a comparative proceeding. This is particularly true in light of the basis for the authority of this commission to select issues for comparative consideration. As the *Johnston* court made clear, our ability to eliminate some issues and designate others does not flow from an administrative discretion to select and discriminate among a list of *important* issues in the interests of expediency. To the contrary, as *Storer* and *Citizens* state, it is the public interest, not simply administrative ease, that dictates which issues are insignificant, and may therefore be discarded, and which issues are significant, and must therefore be given comparative consideration. where this process of sifting out significant areas for comparison ultimately evolves into the absence of any significant areas, the comparative hearing process becomes mere vestige.

67. Neither in common carrier licensing nor in broadcast licensing do

[49] Even under present procedures, we may be immediately faced with a problem of selection for which the hearing process is wholly inadequate: (1) the parties' pleadings may not allege any significant differences, or (2) the comparative hearing may prove allegations of differences unsubstantiated.

[50] We would, of course, continue to determine whether applicants meet the minimum qualifications specified by this Commission.

[51] At best, such a decision would have to be based upon a record of conflicting, litigation-oriented studies estimating demand, again a second best solution to random selection which ultimately allows the marketplace to determine which service best meets the desires of customers.

[52] Moreover, if the Commission allocates additional channels for MDS use (*See Notice of Inquiry and Proposed Rulemaking* (CC Docket No. 80-112), FCC 80-136 (adopted March 19, 1980)), an effect that distorts market forces may result by using the *Spain* criteria. If, for example, five different channels became available over time in a particular area, and competing applications were filed for each, five different proceedings may be necessary. Use of the same comparative criteria in each proceeding might well result in a license award in each case for similar service proposals. However, it is likely that for all stations to be successful, some would need to identify and undertake to serve a discrete part of the market. The importance of quality and reliability of service for each demand would vary. Thus, the application of the same comparative criteria in each case might produce a homogeneity in service proposals and facilities that would be different from market demands.

[53] 351 U.S. at 205.

we consider any right to a hearing to be absolute. Despite the holding of *Ashbacker* and its subsequent interpretations, we consider it well-settled as a general proposition of administrative law that there is no need for an evidentiary hearing when there is no material factual dispute involved. *See, e.g., Denver Union Stockyard* v. *Producers Livestock Marketing Association*, 356 U.S. 282 (1958); *Citizens for Allegan County* v. *F.P.C.*, 414 F.2d 1125 (D.C. Cir. 1969).

68. Our discretion to not hold evidentiary hearings was most recently confirmed in *United States* v. *FCC*, —— F.2d ——Civil Nos. 77–1252, 1253 (D.C. Cir. decided March 7, 1980).[54] That decision underscores our authority to determine whether or not a hearing would enhance our ability to find a Section 309 application in the public interest, convenience or necessity. Quoting from *Columbus Broadcasting Coalition* v. *FCC*, 505 F.2d 320, 324 (D.C. Cir. 1974), the court stated:

> An agency is not required to hold hearings in matters where the ultimate decision will not be enhanced or assisted by the receipt of evidence.

Slip Op. at 40. Thus, where there are no material facts disputed, and "all else is inference or speculation," a hearing is unnecessary. Moreover, *U.S.* v. *FCC* confirms our authority to consider the delay and attendant costs of a hearing in making our determination to hold hearings. Thus, while mere "expedition will not justify an agency's failure to carry out its statutory responsibilities, the relative urgency of a decision is a thoroughly appropriate factor for an agency to consider when crafting its procedures." Slip Op. 50–51 (footnote omitted).

69. In *Joe L. Smith, Jr.*, 1 FCC 2d 666 (1965), we held that denial of a broadcast license renewal was permissible without an evidentiary hearing [55] over the applicant's objection that its right to a full hearing under Section 309(e) had been violated. The basis for our determination that an evidentiary hearing need not be held was that no material questions of fact were in dispute. Although *Smith* did not involve a comparative application situation, we believe that even in a comparative case, no hearing need be held where there are no disputed facts to resolve.[56]

70. Similarly, in *Marsh* v. *FCC*, 436 F.2d 132 (D.C. Cir. 1970) the Court affirmed our grant without hearing of a construction permit for a television licensee to increase its antenna height (and improve its coverage). A petition to deny the application filed by another broadcaster alleged that the applicant's coverage would be better from petitioner's proposed antenna farm than from the applicant's tower. This was not a comparative situation in the traditional sense of multiple applicants applying for a permit where only one could be granted. However, the petitioner did request that we hold a hearing to weigh the comparative merits of the two technical proposals. In affirming our refusal to order a hearing, the court stated that:

> Only where the public interest cannot be determined without a resolution of the disputed facts has Congress dictated that the Commission must conduct a hearing. That is the clear meaning of Section 309 of the Act.

436 F.2d at 136. If we are able to determine that the only meaningful issues surrounding MDS applications can be resolved through normal applications processing procedures, i.e., minimum qualification criteria, then we believe that we will be able to award MDS licenses without conducting hearings despite prior practice.

71. The right conferred by the statute is one for a meaningful comparative hearing culminating in a rational decision free of arbitrariness and caprice. That right cannot be accommodated where no rational distinctions can be made in any significant sense. Put in other terms, no right to a meaningful hearing is denied if there are no meaningful issues to be heard. We therefore do not think the use of a lottery procedure in such circumstances would impair the private right of an MDS applicant to a meaningful comparative hearing under the *Ashbacker* doctrine.[57]

73. In addition to finding that the private rights of applicants are not impaired by a lottery, we also believe that the overall public interest may be enhanced substantially by the adoption of a lottery system for the granting of licenses for MDS operation. Such a public interest determination, of course, entails a comparison of the costs and benefits that will accrue to consumers under the alternative procedures that are available to us for choosing among competing applicants.

74. We previously found that the potential benefits for consumers resulting from a comparative hearing are speculative because there is no guarantee that the applicant who will provide the "best" service will be chosen among competing qualified applicants. In fact, the comparative process may harm consumers by imposing unnecessary costs and by distorting adjustments to market forces. A significant advantage to a lottery would be the absence of inadvertent encouragement of less needed and less desirable service through regulatory preferences based on insufficient or incorrect information. Moreover, a lottery system would put into practice our belief that optimality is defined by the dynamic interaction of supply and demand *in the marketplace*.[58] Any winning recipient of a license will quickly become aware of the best business strategy for him or her when forced to succeed or fail in the market. Services that lead to the greatest profits also are likely to be the services which are most beneficial to consumers. Furthermore, marketplace forces are likely to correct any inefficiencies that are perpetrated by entrepreneurs if licenses are permitted to be readily transferable. For example, if another individual or firm can operate the service more efficiently (and more profitably) than the licensee, a license transfer becomes a possibility because the license will be worth more to the more efficient individual. In such a case, the license transfer can lead to both parties—and the public—being made better off.[59]

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[54] The issue confronting the court was whether the notice-and-comment type hearing used validly substituted for an oral, evidentiary hearing. Whether all types of hearing could be dispensed with, then, was not in issue since all parties stipulated that the dispute called for some type of hearing. Slip Op. at 42.

[55] Applicant's "hearing" consisted of a 15 minute oral argument. The Commission denied applicant's renewal application, but issued a stay against that order for six months on other grounds. 1 FCC 2d at 668–69.

[56] Because the comparative hearing procedure is derived from the Section 309 hearing requirement, *See Ashbacker, supra*, we do not believe that the right to a comparative hearing can be greater than that found within Section 309 itself.

[57] If factual issues as to the *qualifications* of an applicant are in dispute, § 309 may require a hearing before that applicant could be denied eligibility for the lottery procedure. We assume here that all applicants have satisfied minimum qualification standards.

[58] Somewhat more precisely, optimality is equivalent to economic efficiency, which requires, among other things, that services be provided where marginal revenue equals marginal cost. *See, e.g.*, W. Vickery, "Some Implications of Marginal Cost Pricing and Output for Public Utilities," *American Economic Review*, May 1955. It should be noted that marketplace forces provide a natural incentive for MDS licensees to provide the service that equates marginal revenue to marginal cost because this service will provide the maximum profit for the firm.

[59] For an analysis of the desirability of using auctions to ensure the use of a license by the firm who values it most highly, see paras. 78–80. A not insignificant distinction must be made between auctions and lotteries with ready transferability, however. While the latter may lead to a similar economic result as the former, a lottery will entail far more applicants. Secondly, the economic value that accrues to the initial winner of a lottery would go to the government (and, of course, to the public) in an auction.

74. Thus, we believe that the licenses should be transferable, with as little Commission involvement as is possible. In this way, the marketplace can be relied upon to promote the public interest. It should be noted that such a proposal would involve modifying or eliminating the trafficking rules presently applicable to MDS.[60]

75. Another benefit of a lottery system is that the costs to society should be significantly lower than those for a comparative hearing process. We suspect that both the administrative cost to the Commission (and ultimately, the taxpayer) as well as the costs to each participant who might otherwise enter a comparative hearing will be less under the lottery system.[61] Thus, there are likely to be many more participants in a lottery assuming that we continue to maintain a level of minimum requirements that do not keep out many potential applicants. Indeed, some scholars have implied that a lottery may better serve the public interest than a comparative hearing especially since the winner may less likely be the firm best able to use the legal administrative process to its own advantage.[62] An even more significant difference between a lottery and a comparative hearing is the amount of time required to grant a license under these alternative procedures. We indicated previously that a major cost imposed upon society by the comparative hearing process is the cost of the idle spectrum resulting from regulatory delay. We believe that a lottery system for granting MDS licenses can reduce substantially the regulatory delay, and that the adoption of a lottery system for granting MDS licenses will result in substantial cost savings for consumers.

76. In summary, we find that the comparative hearing process has no inherent advantage in choosing the applicant who would provide the service that best satisfies consumer wants from the use of the assigned spectrum. As an alternative, we propose the adoption of a lottery system for choosing among competing qualified applicants, without imposing restrictions on the transferability of the license to other qualified individuals or firms. In this way, the service provided to consumers would be determined by the dynamic interaction of supply and demand factors in the marketplace. We believe this approach is more likely to produce the service, quality, and cost that is most beneficial to society as a whole. Additionally, we find that the costs to society from a lottery are much less than those from a comparative hearing. Of particular importance is the significant reduction in the amount of time that would be required to process applications, and consequently, the reduction in opportunity costs to consumers from idle resources. Thus we believe that the overall public interest might will be enhanced substantially by the adoption of the lottery system for choosing among qualified applicants for a MDS license.

C. Auctions.

77. The lawfulness of the use of an auction in selecting among qualified applicants turns, in large part, on the legal considerations discussed in the prior section. However, since an auction procedure would entail the collection of a substantial amount of money, it raises questions of our statutory authority that extend beyond those presented by a lottery procedure. The Commission is authorized, pursuant to the Independent Offices Appropriation Act of 1952, 31 U.S.C. § 483a, to collect fees. However, recent court decisions interpreting this authority raise a substantial question as to whether it extends far enough to permit collections in a manner that an auction would require.[63] Sections 4(i) and 4(j) of the Communications Act, 47 U.S.C. § 154(i), (j), may provide an independent basis for instituting an auction procedure. *See United States* v. *Southwestern Cable Co.*, 392 U.S. 157 (1968).

78. While the auction procedure raises more difficult legal questions than our other proposals, we believe that the public interest may be best served by this option. An auction or a lottery would be quick and easy to administer, once the rules governing the procedure were fully implemented. Final Commission action on MDS applications could take place much faster than under the comparative hearing system. However, an auction has a number of specific advantages over both a lottery and a comparative hearing.[64] Because the license would be awarded to the highest bidder, the license would tend to go to the user who valued it the most, and hence it would tend to go to its highest valued use. Bidders in a particular market may be better able to gauge the desires of consumers than can the Commission. Hence, the high bidder is likely to be the one whose intended use of the channel best meets consumer wants. This would encourage economically efficient use of the spectrum.

79. In addition a spectrum auction would put a direct and explicit price on the right to use a portion of the spectrum. That would have several desirable results. Because users would pay directly for the right to use the spectrum, they would be more aware of the cost to society of having it used in one way rather than another. Users might consider other substitute methods of communications. Moreover, the Commission and the public would get some indication of the value of the MDS spectrum to potential applicants and actual users. This would be important information to consider in deciding whether additional spectrum should be allocated to MDS, or whether some of the existing spectrum should be reallocated away from MDS. If the price applicants were willing to bid for MDS licenses were higher than what other applicants would bid for similar

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[60] See Appendix A.

[61] *See, e.g.*, Agnew, *supra* at note 19.

[62] In a comparative hearing there may be an advantage to larger firms which have the experience and possibly better paid legal help to better deal in an administrative process. On the other hand, a lottery might lead to a higher element of uncertainty to all applicants, because while the costs of entering will be lower if there are many more applicants, the probability of winning may also be lower. Again, however, the fact that the costs of entry are lower and the fact that the winner will be picked sooner in a lottery, may suggest that it will take a smaller financial commitment to enter a lottery, so firms may be better able to enter a large number of lotteries at one time, when they might have only been able or willing to enter a few comparative hearings at one time. Therefore, overall a lottery may create fewer barriers to entry than comparative hearings. *See generally*, H. Greely, "The Equality of Allocation by Lot," 12 *Harvard Civil Rights-Civil Liberties Review* 113 (1977); Statement of Commissioner Robinson, *supra*, 60 FCC 2d at 439–42.

[63] *See National Cable Television Ass'n* v. *United States*, 315 U.S. 336 (1974); *National Cable Television Ass'n F.C.C.*, 554 F.2d 1094 (D.C. Cir. 1976) *Electronic Industries Ass'n* v. *FCC*, 554 F.2d 1109 (D.C. Cir. 1976); *National Ass'n of Broadcasters* v. *FCC*, 554 F.2d 1118 (D.C. Cir. 1976), *Capital Cities Communications, Inc.* v. *FCC*, 554 F.2d 1135 (D.C. Cir. 1976). The Commission recently summarized the court of appeals requirements for a permissible fee as containing the following three parts:

(1) Assessment of a fee must be justified by a clear statement of the service which it is intended to reimburse.

(2) The cost basis for each fee must be calculated based on an allocation of direct and indirect costs, exclusion of expenses incurred to serve an independent public interest and an explanation of the criteria used to include or exclude particular items.

(3) The fee must be set at a rate which reflects the indentified costs of services performed and value conferred on the recipient of the service.

Second Notice of Inquiry in Gen. Docket No. 78–316 (Fee Refunds & Future FCC Fees), 73 F.C.C. 2d 4, 5 (1979). We seek comment on whether auction proceeds would amount to fees.

[64] *See* Agnew, *supra* note 19, pp. VII to VIII–61; John O. Robinson, "Assignment of Radio channels in the Multipoint Distribution Service by Auction," in Herbert S. Dordick, editor, *Proceedings of the Sixth Annual Telecomunications Policy Research Conference*, (Lexington: Lexington Books, D.C. Health and Co., 1979), pp. 379–391. *See also: Notice of Inquiry in the matter of Fee Refunds and Future FCC Fees*, 69 FCC 2d 741 (1978); especially n. 7, 8, 13 and 15.

spectrum allocated to other uses, that information would suggest that more spectrum should be allocated to MDS use.[65] On the other hand, if the price applicants were willing to bid for MDS spectrum were lower than what other applicants would bid for other similar spectrum allocated to other users, that would suggest that too much spectrum was allocated to MDS. Finally, an auction would allow the public to recover some of the economic value of the frequency spectrum which otherwise would accrue to the winner of a comparative hearing or of a lottery in the form of a "windfall."

80. We believe that at the present time our legal authority to conduct an auction is far less clear than our authority to conduct a lottery. We therefore seek comment on both the legal question and the desirability of implementing an auction procedure.[66] Parties should address both the existing statutory authority and where that is thought insufficient, a proposed statutory scheme including any provisions that might be considered necessary to implement an auction.

81. Certain procedural considerations should also be addressed. In comparision to our other two proposals, an auction is something more than just a selection procedure. Since it involves the determination of the the amount of payment to be made by a successful applicant, the payment should theoretically approximate the real value of the spectrum used. That is, the more profitable the use of the spectrum is likely to be, the more bidders are likely to bid up the price. The winner in an auction is, of course, the highest bidder, regardless of the kind of auction used.

82. We have discussed in the context of this Notice the occasional use of a hearing in conjunction with a lottery. However, elimination of possible applications through a hearing is not entirely consonant with the concept that an auction leads to the highest valued use of any frequency by the winning bidder. The more potential bidders are excluded under a hearing process, the more likely the bidding process will be affected. If our objective is, as we believe it should be, to eliminate long and costly processes delaying competing applicants before they are able to offer their services to the public in competitive markets, using an comparative process, in conjunction with either a lottery or an action, in not likely to markedly improve the efficiency of the selection process. In contradistinction to a lottery procedure, it appears desirable to make any auction procedure applicable to all applications, not just mutually exclusive applicants, even though applicants who had no competition would continue to receive authorization at little or no cost. To the extent that no competing applications are filed for any particular allocation, that in itself discloses the result of a market evaluation of the value of that frequency. Comments are therefore requested on whether, and if so how, an auction procedure could be structured to elicit in most circumstances bids which reflect a reasonable value of the spectrum to be authorized. Also, we request comment on how existing applicants could be treated in such a procedure.

83. If an auction procedure is adopted, there are several ways in which payment could be made. In fact, the method of payment prescribed may well affect the number of applicants and the amount bid. It might be desirable to have the bid amount paid in the form of a series of payments due only after the station is in operation so that they may be met from income, or a series of payments in equal installments, regardless of whether the station was operating or not. A procedure that allowed no payment until operation commenced could lead some holders of authorizations to defer going into operation since the outlays for the authorization would not have to be made until operation commenced. A lump sum payment due soon after the winning bidder is announced or a series of equal payments at fixed intervals might therefore by preferable.[67] On the other hand, a combination of initial payment and deferred partial payments might be desirable. We are consequently asking for comments on what form should be prescribed for the payment required of the winning bidder at an auction. We are also asking for comments on whether applicants should be required to put down a deposit—perhaps in the nature of a performance bond—when they file their applications.

84. It should also be noted that many other aspects of the Commission's Rules may affect the value of the spectrum and hence the amount that applicants might bid. For example, at the current time their are only 2 MDS licenses available in any one location. If the Commission were to reallocate spectrum so that there were 10 or 20 or even 31 possible MDS licenses in one location, as is proposed in a separate Notice of Inquiry released today,[68] we might expect the bids to be lower on any particular channel. In the extreme, if the Commission made so many channels available that there were more available than all potential users wanted, we can predict that the size of the bids would fall towards zero, and there would be no bids for some channels.

85. If the Commission establishes tougher eligibility requirements for MDS licenses, there will be fewer bids than if the Commission establishes easier eligibility requirements. As a general rule, we can expect higher bids, the more applicants there are who can bid for a license.

86. Similarly, the more flexible are the technical standards and the allowed kinds of communications by MDS license. And, the more potential users for a license, the more valuable is that license, the more bids there are likely to be, and the higher is likely to be the winning bid.

87. Licenses are more valuable if licensees do not anticipate reallocations in the future that will create additional competition to their MDS system than if they believe such reallocation is likely. If licensees may combine, sublease, subdivide and time share MDS channels, licenses will be more valuable than if licensees do not have those privileges.

88. These examples do not indicate all the ways that Commission regulations affect the value of an MDS license and hence the amount applicants might bid for a license. However, they do give some examples of factors that may affect the size of license bids in an auction.

[65] Of course, such a comparison would only be meaningful if users of adjacent spectrum that was allocated for other uses also had to bid for that spectrum. In that case, comparisons could be made of bid prices by the different potential spectrum users.

[66] A number of parties have filed comments in response to Part D of the *Notice of Inquiry in the matter of Fee Refunds and Future FCC Fees*, Docket 78-316, 69 FCC 2d 741 (1978). Nevertheless, the notice dealt more with the question of charging spectrum fees than with using auctions in cases involving mutually exclusive applications. Since this present notice deals with auctions but not with spectrum fees, we believe that the two issues can be considered separately.

[67] For example, applicants might be required to pay 20 per cent of the bid at the time they are found to be the winner, and 20 per cent on the anniversary date on each of the next 4 years, regardless of the date at which the station began operation. Smaller equal sized payments at definite predetermined intervals have the advantage over a single lump sum payment in that the former requires a small initial payment and may cause more firms to be willing to bid for the license. However, since firms will still be required to make the yearly payment regardless of whether they were operating or not, they would still have an incentive to begin operating as soon as possible. There are also many possible payment schemes, such as one which causes payments to raise the longer an applicant stays off the air; or requiring yearly payments with loss of license and forfeiture of those payments if the applicant is not operating by a certain date.

[68] *See Notice of Inquiry and Proposed Rulemaking* in CC Docket No. 80-112, FCC 80-136 (Adopted March 19, 1980).

89. If an auction procedure is adopted we wish to take all steps possible to ensure the integrity of the bidding process. We therefore wish comments on what steps should be taken to prevent bidding collusion among applicants and other activities which might artificially keep down bid prices or exclude potential bidders. Moreover, the adoption of an auction or a lottery procedure might well be accompanied by the adoption of rules limiting the number of MDS stations any one company can own. The points raised above with respect to the use of an auction procedure are not meant to be exclusive. Comments are invited on any aspect of the use of such a procedure that might be considered relevant.

90. Some provision relating to license renewals would need to be made under an auction system. Of course, if the license is for 10 years, it will be more valuable than if it is for 5 years. Similarly, if the licensee may freely transfer the license, the license is more valuable than if antitrafficing rules apply. Licenses are also more valuable if licensees believe they can renew them in perpetuity than if licensees believe they may lose the license at renewal time. Section 307(d) of the Act provides that licenses for non broadcast stations shall not exceed 5 years. At the expiration the term of the MDS operator, a number of options would be available. One possibility would be to have a new auction. This would permit members of the marketplace to indicate every 5 years the value of the particular spectrum. Because the incumbent user presumably would have made investments based on his use, such as for transmission and reception equipment, some acknowledgment of and accommodation for these investments might be appropriate. For example, he might be given the right to retain the spectrum upon meeting the highest bid. While not in any sense giving him a property right, this policy could serve to encourage investment in and improvement of his facilities by giving him a mechanism to protect his investment. Alternatively, the winner might be given a more or less automatic renewal as is now the case without bidding in a new auction, [but with only the payment of license fees, if any license fees were adopted in the future]. This factor is appropriate for consideration in determining the type of auction to be adopted. We seek comment on these issues, and encourage discussion on both the specific and general concerns raised as to auctions.

3. Procedural Considerations

a. *Paper Proceeding.*

91. Assuming a paper proceeding approach were adopted, we seek comment on what approach would be most consistent with our objectives as discussed herein. Section 21.35 of our present rules provides guidelines for paper proceedings where parties elect to proceed in that manner.[69] Although we have had no significant experience with Section 21.35, we believe it may be an expeditious way of resolving mutually exclusive cases without prejudicing the rights of any party.

b. *Auction or Lottery.*

92. Presumably a lottery or an auction would be used only to determine which *qualified* applicant would receive a grant. Thus, in order to be eligible to participate in a lottery, applicants would have to meet minimum qualifications. Currently, our Rules require three areas of qualification: financial, technical, and legal. We set out for comment here whether some of these minimum qualifications should be changed if a lottery or an auction procedure were adopted. First, as to financial qualifications, we note that this has been a recurring point of controversy among competing applicants. While the MDS rules require some rather cursory information along these lines (*see* 47 CFR § 21.17), challenges to an applicant's financial qualifications most frequently come from a competing applicant. Usually the staff is able to resolve such problems after relatively limited inquiry. We are not sure that even this limited inquiry into any applicant's finances is necessary since we have observed that virtually all applicants, upon receiving a Commission authorization, are able to obtain financing based on the value of the construction permit.[70] In any event, permittees are required to complete construction within eight months.[71] Failure to comply with this requirement could result in expiration of the construction permit. In light of these factors, as well as our interest in making service available as soon as feasible, we question whether a financial requirement should be retained at all.

93. The technical qualifications requirement, in essence, requires staff evaluation of the technical proposals of the applicants. Maintenance of this requirement—in some form—is obviously essential to ensure MDS operation without undue interference with other stations and services. We do seek comment, however, on any specific aspects of the current requirements that can be improved or eliminated in light of our tentative belief here that marketplace and not regulatory demands should determine the shape of MDS service. Lastly, since legal qualifications are essentially derived from specific statutory requirements,[72] no change is foreseen in this regard.

94. Controversies concerning an applicant's qualifications could continue to be resolved in the manner they are now. It is of course possible that if a material question of fact were presented as to an applicant's qualifications, the applicant would, pursuant to Section 309(e) of the Communications Act, be entitled to a hearing to determine whether he was qualified. Thus, even with a lottery (or auction) being used to supplant comparative consideration, formal hearings may not be entirely avoided. We would expect to be able to resolve the vast majority of such cases on the basis of the written record or upon such additional submissions as the staff may require.[73]

95. Some form of hearing might also be necessary where a specific issue is raised in a particular case where a significant difference among the applicants is alleged. While the mere allegation might not be sufficient, a reasoned and substantiated pleading might trigger a requirement for a comparative hearing of some form. *See Storer, supra.* Absent these unusual circumstances, we foresee a lottery or auction procedure in which the hearing process is entirely eliminated.

96. A further procedural concern is that, in order for the lottery to be truly random, the Commission would need to adopt strict procedures to insure the integrity of the process. There would be a need to insure that the drawing was truly random (regardless of whether numbers were drawn from a container or a sophisticated computer random number generator were used). Clearly there would be a need to police the honesty of a lottery to be certain that no applicant had an improper advantage over any other applicant. We therefore request comments on what rules should cover the technical operation of the lottery.

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[69] 47 CFR § 21.35. *See* Appendix B, *infra.*

[70] These reasons appear equally applicable to the traditional comparative hearing process, and we therefore inquire whether the financial requirements should be eliminated under current procedures.

[71] *See* 47 CFR § 21.43. Extensions of time to construct are granted only where the permittee has made good faith efforts to complete construction within the prescribed time and is unable to reasonably do so due to factors beyond his control.

[72] *See*, e.g., Section 310 of the Act which restricts license ownership by foreign governments or representatives.

[73] The resolution of such issues should be much easier upon the promulgation of technical rules as proposed in the *Notice of Proposed Rulemaking and Inquiry* in CC Docket No. 80-113 FCC 80-137 (adopted March 19, 1980).

Conclusion

97. It is our tentative belief that the oral comparative hearing process may be an ineffective and unnecessarily costly method of choosing from among several mutually exclusive applications for MDS services which serves neither private nor public interests. It appears neither to provide private parties with meaningful hearings nor to advance the public interest by insuring the "best" applicant will be awarded a license. Indeed, because of its costs and distortions, the process may adversely affect both public and private interests. A lottery system among qualified candidates seems to be preferable to the present system because of cost savings, its fairness, and the absence of distortive effects. An auction would offer the additional benefits of measuring the true value of the license and recouping some of it for the public.

98. An approach which would at least avoid some of the various costs of the present system would be a paper proceeding. We believe that while each approach raises both administrative and legal concerns, our authority is sufficient to accommodate them. Parties are invited to address the discussions herein which lead us to these tentative conclusions. Parties are requested to take issue with any statements, analyses, characterizations, history, policies or proposals they believe to be unsound. We are especially interested in focused comment on the comparative hearing process, including our discussion of the *Peabody* standards as put forward in *Spain* also adopted today.

99. If and when any of these proposals are finally adopted, we believe that applications still pending at that time could be made subject to the new procedures. We seek comment on the lawfulness and the desirability of applying these rules to all applications immediately upon their adoption. In the interim, current applications requiring hearings will be designated in accordance with the standards adopted today in *Spain, supra* note 9.

100. This Notice of Inquiry and Proposed Rulemaking is issued pursuant to authority contained in Sections 4(i), 303, and 403 of the Communications Act of 1934, as amended. Interested parties may file comments on or before July 1, 1980, and reply comments on or before August 15, 1980. All relevant and timely comments and reply comments filed in response to this Notice will be considered by the Commission. In accordance with the provisions of Section 1.419 of the Rules, an original and five copies of all comments, replies, briefs, and other documents filed in this proceeding shall be furnished the Commission. Copies of all filings will be available for public inspection during regular business hours in the Commission's public reference room at its headquarters in Washington, D.C.

101. Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts made to the Commission in proceedings such as this one will be disclosed in the public docket file. An *ex parte* contact is a message (spoken or written) concerning the merits of the rulemaking made to a Commissioner, a Commissioner's assistant, or other decision making staff members, other than comments officially filed at the Commission or oral presentations requested by the Commission with all parties present. A summary of the Commission's procedures governing *ex parte* contacts in informal rulemaking is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554, (202) 632–7000.[74]

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Section 310 of the Act, 47 U.S.C. § 310 provides, in pertinent part, that no station license or construction permit may be transferred except after a finding by the Commission that the public interest, convenience, and necessity will be served thereby. It states further that an application for transfer "shall be treated as if the proposed transferee or permittee were making application under section 308 . . ." Additionally, Section 309(b) of the Act requires that an authorization not be granted less than 30 days following public notice by the Commission of its acceptance for filing. These provisions of the Act are incorporated in the MDS rules (see, *e.g.*, 47 C.F.R. §§ 21.27; 21.39). Other parts of these rules, however, appear to constitute barriers to transfer not reflecting express requirements of the Act. These we would propose to eliminate.

For example, Section 21.40, 47 C.F.R. § 21.40, states the Commission will review proposed transfers of licenses involving facilities operated for less than two years by the transferor. That rule stems from the general policy developed in relation to licensees for broadcast stations against licensees "trafficking"[1] in licenses. While such a policy may be appropriate where a license is granted in reliance on an applicant's commitments to operate in a particular manner, it makes little sense where it is assumed that the frequency will be put to its best economic use by one who will pay the most for it. Preventing transfers, or making them more difficult in such situations, would not serve the public interest objective of seeing that MDS licenses be put to their most economic use. Assuming a transferee should be permitted to consummate as quickly as is legally possible, and that our rules and policies not act as undue restraints, we invite parties to identify other Commission rules not implementing express parts of the Communications Act which they see as barriers to transfers.

It should be noted that the argument in favor of allowing free transferability of licenses does not depend upon the existence of a lottery. Regardless of whether licenses are initially assigned using compartive hearings, lotteries or auctions, free tranferability will encourage economic efficiency. Whenever someone buys any good or service from someone else, the resource must be as valuable or more valuable to the buyer than to the seller, or else the seller would not have been wiling to sell it. Therefore, the transfers of resources (including radio licenses) tend to cause them to be used in their highest valued use. Output or economic efficiency is increased whenever resources are transferred from lower valued to higher valued uses. thus, economic efficiency will be increased if MDS licenses may be freely transferred, regardless of whether lotteries or auctions are eventually adopted as an alternative to comparative hearings.

Appendix B

Parties are asked to comment on the appropriateness of the procedures set out in Section 21.35(b)(2)–(6) of the Rules for use in mandatory paper hearings. Section 21.35 provides:

§ 21.35 Comparative evaluation of mutually exclusive applications.

(a) In order to expedite action on mutually exclusive applications, the applicants may request the Commission to consider their applications without a formal hearing in accordance with the summary procedure outlined in paragraph (b) of this section if:

(1) The applications are entitled to comparative consideration pursuant to § 21.31;

(2) The applications have not been designated for formal evidentiary hearing; and

(3) The Commission determines, initially or at any time during the procedure outlined in paragraph (b) of this section, that such procedure is appropriate, and that, from the information submitted and consideration of such other matters as may be officially noticed, there are no substantial and material questions of fact presented (other than those relating to the comparative merits of the

[74] We wish to clarify that nothing in this notice should be construed to imply that we intend to in any way disturb our comparative MDS decisions made in the past. In arriving at those decisions, we have applied our then existing criteria and reached conclusions which were clearly based on the record. Thus, our Notice today represents our attempt to keep pace with the evolution of the MDS industry as it has developed.

[1] Trafficking means obtaining a license for sale rather than for providing service. *Crowder v. F.C.C.*, 399 F.2d 569 (1968) *cert. den.* 393 U.S. 962 (1969).

applications) which would preclude a grant under paragraphs (a) of § 21.32.

(b) Provided that the conditions of paragraph (a) of this section are satisfied, applicants may request the Commission to act upon their mutually exclusive applications without a formal hearing pursuant to the summary procedure outlined below:

(1) To initiate the procedure, each applicant will submit to the Commission a written statement containing:

(i) A waiver of his right to a formal hearing:

(ii) A request and agreement that, in order to avoid the delay and expense of a comparative formal hearing, the Commission should exercise its judgment as to that proposal (or proposals) which would best serve the public interest; and

(iii) The signature of a principal (and his attorney if so represented).

(2) After receipt of the written requests of all of the applicants the Commission (if it deems this procedure appropriate) will issue a notice designating the comparative criteria upon which the applications are to be evaluated and will request each applicant to submit, within a specified period of time, additional information concerning his proposal relative to the comparative criterial.

(3) Within thirty (30) days following the due date for filing this information, the Commission will accept concise and factual argument on the competing proposals from the rival applicants, potential customers, and other knowledgeable parties in interest.

(4) Within fifteen (15) days following the due date for the filing of comments, the Commission will accept concise and factual replies from the rival applicants.

(5) From time to time during the course of this procedure the Commission may request additional information from the applicants and hold informal conferences at which all competing applicants shall have the right to be represented.

(6) Upon evaluation of the applications, the information submitted, and such other matters as may be officially noticed the Commission will issue a decision granting one (or more) of the proposals which it concludes would best serve the public interest, convenience and necessity. The decision will report briefly and concisely the reasons for the Commission's selection and will deny the other application(s). This decision shall be considered final.

[FR Doc. 80-13239 Filed 5-1-80; 8:45 am]

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47 CFR Parts 21, 74 and 94

[GEN Docket No. 80-113; FCC 80-137]

Amending Rules in the Multipoint Distribution Service, the Instructional Television Fixed Service and the Private Operational-Fixed Microwave Service

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking, Notice of Inquiry.

SUMMARY: Rules are proposed to codify the procedures for granting licences for the Multipoint Distribution Service (MDS). The rules identify the protected service area for MDS licencees operating at 2150–2162 MHz and define the levels of protection afforded the licencees throughout that area. Comments are solicited as to the practicability of extending the rules to similar services offered in the 2500—2690 MHz band.

DATES: Comments are to be received on August 1, 1980 and reply comments must be received on or before September 2, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mr. Alex C. Latker, Common Carrier Bureau, 202–632–7695.

SUPPLEMENATRY INFORMATION: In the matter of Amendment of Parts 21, 74 and 94 of the commission rules and Regulations with regard to technical requirements applicable to the Multipoint Distribution Service, the Instructional Television Fixed Service and the Private Operational-Fixed Microwave Service (OFS). [Gen. Docket No. 80–113].

Notice of Inquiry and Proposed Rulemaking

Adopted: March 19, 1980.

Released: April 24, 1980.

By the Commission: Commissioner Lee absent.

1. Notice is hereby given of proposed rulemaking to revise portions of Part 21 of the rules and Regulations which pertain to operation of the Multipoint Distribution Service in the frequency band 2150–2162 MHz. Inquiry is also made as to possible applicability of new technical standards in the Multipoint Distribution Service, the Instructional Television Fixed Service and Private Operational-Fixed Microwave Service for operation in the 2500–2690 MHz frequency band.

Proposed Rulemaking

2. The rules currently governing operations in the Multipoint Distribution Service (MDS) were adopted in the *Report and Order* in Docket No. 19493, 45 FCC 2d 616 (1974), and opinion on reconsideration, 56 FCC 2d 301 (1975). At the time those rules were promulgated, no MDS stations were in operation, and the rules could therefore not reflect experience gained through day-to-day operation and regulation. In the years since the existing rules were issued a number of stations have gone into operation. As a result of the experience that has been gained through the operation of thes stations, and otherwise through increased interest in the MDS industry, we believe that some of the engineering issues which were addressed, but not ultimately resolved, in the previous MDS rulemaking proceeding should be re-examined at this time. Specifically, the present rules reflect rather loose technical regulation, depending to a large degree on informal coordination between new applicants and licencees to anticipate and resolve frequency interference conflicts.

3. Since the release of our *Report and Order* in Docket No. 19493, we have granted some 131 MDS station licences and construction permits. On file currently are some 338 applications for construction permits in over 100 cities that have been designated as mutually exclusive and 131 non-mutually exclusive applications which include requests for new construction and requests for modifications of existing authorizations. Some of the applications in this last group also have various petitions filed against them, generally alleging frequency interference concerns. We feel that the large backlog that has developed since the release of the *Report and Order* in docket No. 19493 indicates that this informal coordination process has not been uniformly successful and that there is a definite need to establish through Commission Rules more specific technical standards to resolve technical conflicts. This application activity also indicates increasing interest in MDS which is leading inevitably toward greater frequency congestion and closer spacing of stations. thus, our purpose here is to establish technical rules necessary to guide in the establishment and location of new stations and to govern in the resolution of conflicts that may arise.

4. The technical standards we are proposing are based primarily on the use of the MDS station to provide television transmission service since MDS stations are required to be able to transmit such signals and since this is presently the predominant type of transmission. MDS stations are, of course, not limited to the provision of television, and we therefore invite comments on what changes in the proposed rules might be necessary to make them applicable to the transmission of various types of non-video signals.

General Background Considerations

5. Two channels are currently available in the MDS service (see § 21.901 of the Rules). Channel 1, encompassing the frequency band 2150 to 2156 MHz, is available throughout the

United States. This six MHz wide channel is adequate for the tramsmission of standard color television signals. A second six MHz MDS channel (designated Channel 2) (2156 to 2162 MHz) is available only in fifty of the larger metropolitan areas, listed specifically in § 21.901(c) of the Rules.[1] A four MHz channel (2156 to 2160 MHz designated as channel 2A) is available in the remainder of the nation. However, this channel is not normally considered adequate for the transmission of a standard color television signal. Thus, two MDS channels are available throughout the United States, but only in fifty of the larger metropolitan areas are both of the six MHz channels available for the carriage of standard television signals.

6. Whereas the MDS rules utilize the bandwidth and signalling standards currently used in the Broadcast Television Services for video transmission, the rules do not allow MDS licensees high power transmission similar to broadcast television. Rather, the rules effectively require the development of transmission concepts that rely on the existence of, wherever possible, unobstructed electrical propagation paths to the receive sites. This approach, coupled with careful engineering, including the use of moderate transmitter power levels (100 watts maximum) and directive receive antennas, allows not only reliable signal reception but also would enable the controlled development and re-use of the limited MDS spectrum in a most efficient manner. On the other hand, in broadcast services the transmitted power flux densities must be powerful enough to reach shadowed spaces in sufficient strength so as to provide a useable grade of service at receive sites that use relatively simple antennas. In order to provide service in this manner on the North American continent the transmitted power must be 4,000–50,000 times higher than when electrically unobstructed propagation paths are available for all receive sites.[2] As a consequence of this approach, a broadcast service is feasible only when all other transmission sites that may cause interference are well beyond the effective range of any of the receive sites served by the broadcast type station. Otherwise, significant interference might occur. Thus, in the broadcast services the Commission has assigned frequencies so that the same frequency is not re-used generally within 150 miles or more.

7. Since MDS microwave transmissions propagate in a reasonably predictable manner (see Appendix 2) and small size, low cost, directive receive antennas are available at these frequencies, it is possible to anticipate and better control the various interference mechanisms that affect reception. Thus, the same frequencies can be used at much closer intervals (perhaps as little as 25–40 miles apart).

8. In this proceeding we will be addressing in some detail the technical characteristics of MDS transmission and reception for the purpose of developing more precise rules and guidelines that will enable us to promote more efficient use of the spectrum and thus enable more people to be served. We will address the problems from two perspectives, adjacent and co-channel interference. By developing better standards for co-channel operation, we hope to facilitate closer spacing of stations using the same frequency and where conflict arises on such use to provide more precise guidelines for resolution. In the case of adjacent channel operation, we will be attempting to lay the technical groundwork that will insure compatible operations on adjacent channels in the same community. As noted above, such operation has not been utilized in the technically similar broadcast services. Thus, we recognized some degree of practical uncertainty implicit in the situation since our analysis must rest to a substantial degree on theoretical calculations. While we are confident that such adjacent channel operation is feasible, it will require careful engineering to avoid harmful interference. We, therefore, solicit careful consideration of our technical analyses as set forth below and in Appendices 2 and 3.

Co-channel Interference

9. Our present MDS rules § 21.901(c)) require that an applicant submit an analysis of the potential for harmful interference with other stations if the proposal transmit site antenna is within fifty miles of the transmitting antenna of any authorized or previously proposed station which uses, or proposes to use, the same frequency or an adjacent, potentially interfering frequency. Co-channel interference problems were of minimal concern during the early development of the MDS industry since applicants were generally widely separated. However, as the cumulative number of MDS application grants have increased and the interest in MDS service has grown, it follows that applications are continually being sought in closer proximity to already licensed or previously proposed sites. As a result of this increase in density of MDS station sites, we have noted a corresponding increase in the use of the Commission legal processes to contest instances of alleged harmful interference. A number of petitions to deny have been filed where the petitioners have alleged the possiility of destructive interference occurring at existing or proposed petitioners' receive sites. But none of these petitions effectively identifies what is considered to be harmful interference or what service area in which they believe they are entitled to protection in a consistent manner. We have also noted situations where applications went unchallenged during the construction process but either have received, or expect, complaints of co-channel interference upon the new station's being placed in service. In either event, however, the Commission rules do not specify what constitutes harmful interference or what service area within which a station licensee is entitled to protection from interference.[3] Thus, it is evident that the present rules have failed to adequately resolve or forestall these conflicts.

10. This lack of definition as to what constitutes harmful interference and what degree of protection a licensee will be afforded has made it difficult to deal with allegations of harmful interference in a uniform manner. We think it necessary in order to speed up our application processing procedures to establish standards, based essentially on the transmission of television signals, as to the degree of protection a licensee can expect, and in this regard we will propose rules defining a protected signal area (see proposed § 21.901(d)) and the level of interference which will not be tolerated in that area (see proposed § 21.902(b)(2) and (5)).

11. In general, our proposal takes an approach which would develop a protected service area for each station. Within that service area the licensee would be reasonably protected from interference by other stations. However, before proceeding to discuss this

[1] This list closely approximates that of the fifty largest standard metropolitan statistical areas. In some instances (New York—Newark—Patterson, for example) two or more of the standard metropolitan statistical areas were so close geographically that it was thought that two stations could not co-exist electrically. Thus, the list in § 21.901(c) is of the fifty largest metropolitan statistical area where separate co-channel stations were believed possible.

[2] See for example Recommendations and Reports of the CCIR, 1978 Vol. V, Propagation In Non-Ionized Media, Rec. 370–3.

[3] However, FCC Public Notice 18063, June 1, 1979 and supplement of July 31, 1979, requests all MDS applicants to file specific standard station propagation information for the purpose of facilitating calculation of the interference potential of each new proposal on existing stations or previously filed proposals.

concept more specifically, it would be appropriate to address how we would define interference under such approach. Also, since the performance characteristics of receive antennas are critical for determining interference, we will discuss how they would be treated.

12. Co-channel interference for our purposes here will be defined as the ratio of desired to undesired signal determined to be present in an MDS channel at the output of a receiving antenna where the antenna is oriented toward the transmit site for the maximum available direct signal. We propose to use the CCIR recommended protection ratio of 45 dB as the level that distinguishes a interfering signal from a non-interfering signal.[4] Thus, if the ratio of desired to undesired signal levels is 45 dB or more the undesired signal would be considered non-interfering. For ratios less than 45 dB, the undesired signal would be considered interfering.

13. An MDS receive antenna's angular discrimination characteristics can control to an important degree the level of unwanted signals received, except where the receiving antenna may be located so that it is pointing at both the desired and undesired transmitting antennas. There are, of course, many different antennas used for signal reception with widely differing performance characteristics. Generally, the poorer performing antennas, which are generally the least expensive, give less angular discrimination than the better performers which are more expensive. Since angular discrimination is an important factor in avoiding harmful interference we cannot, for purposes here, ignore its efficiency. We could of course, propose rules which require minimum standards. However, such an approach would penalize those uncongested areas where co-channel interference is highly unlikely by requiring the installation of more expensive antennas than needed. Instead, we believe a better approach would be to base all calculations for interference analysis on a reference antenna. This would allow the licensee to use any type receive antenna desired, but for interference protection purposes, he would be considered to be using a specified reference antenna. Thus, our proposed rules would require that all application information involving receive antenna calculations be based upon the use of reference receive antenna (see proposed § 21.902(e)(2)) unless otherwise indicated. This would encourage all applicants to follow consistent engineering practices when submitting applications and aid the staff in evaluating applications for compliance with the rules and for other comparative purposes. The reference receive antenna we propose using would have performance characteristics similar to those of a 2 foot parabolic disk. Such an antenna would have reasonably good angular discrimination characteristics, neither being the best nor the worst performer. Thus, we believe it represents a reasonable compromise of the receive antennas available to the industry, generally considering both cost and performance.

14. As indicated above, we are proposing rules whereby an MDS station would be protected from harmful interference within a specified signal area that is bounded by contour characteristics of that station. In developing a uniform standard for the determination of the contour, we have utilized four criteria: fixed mileage distances, propagation limitations beyond the horizon, existing interference levels and signal levels needed to achieve minimum performance objectives. We discuss each of these criteria in the following paragraphs.

15. *Needed Signal Levels.* We believe that the most effective way of determining each MDS station's needed signal level would be to use a contour based on a power flux density [5] measure sufficient to enable a specified receiver performance level during expected worst case signal propogation conditions. As we have shown in Appendix 2, the power flux desity level chosen (–75.6 dBW/m^2) was selected by evaluating the effects of various propagation factors including fading, due to climate and terrain and other signal inhibiting conditions. Specifically the power flux density level was chosen to enable the reception, using reasonable receiving facilities, of a minimal quality TV signal as judged by at least 50% of all served viewers residing in the poorest propagation areas expected within the continential United States for at least 99.9% of the time. Subjective tests conducted by the Television Allocation Study Organization (TASO) indicate that for a signal to noise ratio of 23 dB, 50% of the viewers will classify the picture as having minimally acceptable quality (TASO–4).[6] We have considered the effects of geographical, climatic and terrain conditions in proposing to establish this standard since those factors can introduce short term quality variations into the normal signal transmission levels in an adverse manner. Namely, poor climatic and terrain conditions can result in frequent and deep fade variations of the normal power flux density levels. By the selection of a power flux density standard that sustains a normally acceptable TV picture under the worst climatic and terrain situations, we would insure that for all other reception situations service will be better than minimal. As we have shown in Appendix 2 the power flux density standard selected should generally provide, we believe, a good quality of service since the periods of minimal reception will be infrequent and of short duration.

16. *Fixed mileage distance.* Having established a reasonable signal level for purposes of reception, we now analyze a typical MDS station to determine the distance at which the station can reasonably be able to project that signal level. We have observed that the majority of MDS applicants have proposed transmit sites incorporating omnidirectional antennas that have gains of 20 (13 dB) or two cardioid antennas, each with a gain of 40 (16 dB). In both instances the maximium equivalent radiated power as compared to the radiated power using a unity gain antenna is 200 watts.[7] [8] Since our analysis (as contained Appendix 2) indicates that an MDS facility with a 200 watt maximum EIRP can provide reliable service to viewers (−75.6 dBW/m^2, PFD) at a distance of 15 miles from the transmit site, we propose to establish that distance as a maximum

[4] Subjective tests have determined that in the case of non-correlated interfering signals visible interference is first noticeable when the television picture is noise-free and the ratio of the signals (to the interfering signals) is in the 45-50 dB range. At the point of reference selected for this rulemaking (see Appendix 2), the average noise level is 44 dB below the signal. For this reason we have chosen the lower interference limit (45 dB), since the noise should mask any lower interference levels. Also see Recommendations and Reports of the CCIR, 1978, Vol. XI, Re. 306–3, Ratio of Wanted-to-Unwanted Signal for Color Television and Rec. 418–3 Ratio of Wanted-to-Unwanted Signal in Monochrome Television.

[5] Power Flux Density (PFD) is a measure of the intensity of the radio signal level in space. It is usually expressed in terms of watts per square meter. In this Notice we will use watts referenced against 1 watt and express it in terms of dBW/m^2.

[6] See *Reference Data for Radio Engineers* (6th edition), ITT, pages 30–38 fig. 46. Also, see Harry Fine, *A Further Analysis of TASO Panel 6 Data on Signal to Interference Radios and Their Applications to Description of Television Service*, April 1, 1960, OCE, Tech. Research Division T.R.R. Report No. 5.1.2.

[7] We assume a transmitter power of 10 watts. We recognize that in some instances 100 watts has been authorized pursuant to the exception in Rule Section 21.904(b). Such increased power is authorized only in special circumstances where it is shown to be needed to provide "reliable service to a reasonable service area" (§ 21.904(b)(1)). Since a "reasonable service area" was never defined under the rules, perhaps more stations were authorized this higher power than would be under the standards we are developing here.

inasmuch as beyond that distance service tends to become more unreliable. We believe this 15 mile radius would therefore establish an area where the signal level would be adequate for reasonable reception. Thus, that would usually define the limits of the protected service area. However, we recognize that in some instances, because of antenna configuration or for other reasons, the calculated -75.6 dBW/m^2 contour of a station would be less than 15 miles at some points. At such points the -75.6 dBW/m^2 would determine the protected area rather than the 15 miles. For example, where the EIRP in a given direction is less than 200 watts, as in the case of a single cardioid antenna,[9] the boundary beyond which protection would not be afforded would be determined by the -75.6 dBW/m^2 Power Flux Density level in that direction, which is less than 15 miles. Accordingly, the rules would establish that the protected signal area of an MDS station constructed with an omnidirectional antenna would normally be a circular area bounded by a 15 mile radius from the MDS transmitter site. For all other MDS transmit antenna configurations the protected signal area pattern would effectively be bounded by the -75.6 dBW/m^2 contour where no point on the contour is more distant than 15 miles from the MDS site.

17. *Limitations imposed by the electrical horizon and existing interference levels.* There are two other general considerations which practically impose limitations on a station's service area. Since MDS essentially requires a line of sight transmission path between the transmitter and receiver, any obstructions (e.g., mountainous terrain) naturally limits a service area. Put another way, under normal propagation conditions, successful signal reception beyond the electrical horizon of the transmit site is generally unreliable at MDS operating frequencies (2 GHZ) when compared to signals received over electrically unobstructed paths. In order to forestall controversy as to the degree of signal availability of "over the horizon" transmissions, our proposed rules would consider that the electrical horizon of an MDS site is to be part of the contour of the protected signal area in those instances where the electrical horizon is closer than either 15 miles or the—75.6 dBW/m^2 contour. This is consistent with theory and practice where it is generally accepted that microwave propagation dramatically drops in level beyond its horizon. Thus, we see no purpose in protecting a station's service area, even within 15 miles, if it is beyond the electrical horizon. Generally, for our purposes we will consider the electrical horizon as the horizon determined by natural terrain or significant man made structures. At this time we choose not to consider in our rules the general effects of receive site antenna heights in the determination of the protected signal area. Our inclination is not to protect discrete receive site locations that are servable beyond a horizon by virtue of the use of a high receive antenna, especially if the general area beyond the horizon in question might be better served from other potential transmit sites. Alternatively, we may include in the protected area residential or business areas whose general ground elevation is beyond the horizon, but whose roof tops would allow reception with reasonable antenna construction or where a tall building or natural peak rises up beyond the horizon and in turn blocks the general area from service from other transmit sites. Because of the widely divergent situations that may occur, we are inclined at this time to consider the effects of receive site antenna height on claims for protected signal areas on a case by case basis, rather than propose a fixed rule which may yield unanticipated or unreasonable results in some cases. Similarly, we observe that there are a number of co-existing operating MDS sites where objectionable (by our 45 dB definition) interference already exists within the proposed protected signal area boundary. We feel that it would be counterproducive to allow Commission procedures to revisit those situations where no previous complaint had been previously voiced and applicants have adapted themselves to co-exist with this condition. Accordingly, we will propose rules for those situaitons where interference already has effectively reduced the normal service area to include any existing 45 dB interference contours as part of the protected signal area boundary provided that the interference originates from a licensed source.

18. In summary, our rules propose in this regard that the protected signal area of an MDS station is to be defined by the area circumscribed by the boundary determined by the contour of the calculated power flux density points equal to -75.6 dBW/m^2 except when:

(a) The points on the boundary are greater than 15 miles from the site; or

(b) the electrical horizon of the site is closer than the "free space" points on the power flux density boundary; or [10]

(c) the closest 45 dB contour of co-channel interference from already existing licensed interference sources is closer than the boundary defined in (a) or (b).

When applicable, these exceptions shall describe the boundary of the protected signal area when they are closer than the -75.6 dBW/m^2 contour. We would expect, where appropriate, that applicants' showings of non-interference called for in the rules and any petitions alleging interference would include complete and accurate demonstrations reflecting the principles demonstrated in this rulemaking. We should emphasize that the above difinition of the protected signal area is based upon calculated data and not measurements. We do not believe it would be helpful, if once a signal area is established by calculations, for it to be challenged by field measurements.

19. We recognize, however, that the potential effective service area of an MDS station through the use of appropriate (usually more sophisticated) receiving equipment may extend well beyond the boundary of the protected signal area proposed above. As under the present rules, a carrier would continue to be able to serve any potential subscriber without regard to location or quality of service. Our proposed rules in this regard are meant only to serve as guides in the resolution of technical conflicts. However, it should be understood that licensees would not be protected from possible harmful interference for those served receive sites beyond the protected service area. It should also be understood that the protection afforded a licensee within a signal area is for predictable interference incurred by unobstructed electrical path propagation from both the direct and interfering sources. It will be the responsibility of the licensee to protect himself, through the use of good engineering practices, from all other interference mechanisms, such as reflections, refraction, ducting, ground wave, etc. Further, we would reserve the right to consider whether it

[8] The omnidirectional antenna maximum effective isotropically radiated power (EIRP) is the same in all directions as measured in a plane horizontal to the earth. With a ten watt transmitter and antenna gain of 20, the EIRP = 10 × 20 = 200 watts. For cardioid antennas (gain = 40), normally mounted so that each antenna faces 180° away from the other (back to back), the EIRP = 5 × 40 = 200 watts (one half of the transmitter power goes into each antenna) and is maximum only in the direction faced by the antenna.

[9] As noted in footnote 8, the EIRP is maximum only in the direction that the cardioid faces. The EIRP decreases in a prescribed manner as the angular direction changes away from the facing reference. For a well designed antenna the energy radiated in a direction 180° from the facing reference will be orders of magnitude below the maximum.

may be in the public interest to allow, under certain conditions, deviations from these proposed standards where those areas are over water, uninhabited regions, restricted areas, etc.

20. *Antenna Height and Location.* Somewhat related to our consideration of co-channel operaton is the question of transmit antenna height. We have received applications where applicants have indicated transmit antenna heights that allow coverage of several metropolitan areas and/or have electrical horizons that are several hundred miles distant from the transmit site. Typically these sites are located in nearby mountain locations or on very high buildings in large cities. Such facilities largely set the pattern for frequency assignments in an area since adjacent channel stations must be located reasonably close (see paragraphs 21–39), and the viability of co-channel stations are dependent primarily upon the level of the undesired signal in the area to be served. Thus, an excessively high antenna can effectively block the development of other co-channel stations in the same area even though such stations could be operated without impact on the protected sevice area of the first station. Similarly, a station located between two metropolitan areas could effectively preclude the location of other co-channel stations in either city. We generally believe the public interest would be best served in the case of MDS if stations are located so as to maximize the number of channels available for use. Thus, we believe it reasonable to develop a rule which prohibits the location of an MDS antenna so as to serve more than one metropolitan area.[11] We recognize that there may be exceptional circumstances in various localities. We would therefore consider waivers to such a rule, but we would expect the waiver request to show, among other things, that the development of other stations in the other nearby metropolitan areas are not likely to be inhibited by interference from the applicant's transmisstions or that other stations are not likely to be needed. As to antenna height, we hesitate to impose a height limitation to achieve these purposes as we feel this may preclude the possibility of service to widely separated rural areas and small towns which only could economically be served by single, stategically placed, elevated antenna locations. Moreover, such a height limitation would ignore the effect of obstructions, either natural or man-made. However, if an antenna must be located at a height so that its electical horizon is substantially more than 15 miles, we would expect that its main lobe would be directed so as to minimize the effects in nearby cities, consistent with operating requirements.

Adjacent Channel Operation

21. The channels allocated for MDS service in any given locality are immediately adjacent without a guard band between them. Several parties commenting in the proceedings in Docket No. 19493 questioned the technical feasibility of such operation since it had not been done previously. We concluded, in that proceeding, that two separate stations should be able to operate on adjacent channels without a guard band within the same city and without destructive interference provided the facilities were carefully engineered (see 45 FCC 2d 616, para. 11). When the signal transmitted was a television signal, we stated that satisfactory adjacent channel performance with the use of average VHF–UHF television receivers should occur if the adjacent channel signals were of approximately equal strength at the site, a circumstance which should ordinarily be met or exceeded if the two transmitting antennas: (1) were located at the same elevation and geographical co-ordinates, (2) had the same effective radiated power; and (3) were cross-polarized. We noted, however, that even if the signals were not substantially equal in strength, adequate reception should still be possible if the carriers employed more sophisticated receiving equipment, although this could entail higher costs. We subsequently supported these conclusions by conducting a field test in the New York City area using the facilities and personnel of an MDS operator in cooperation with the staff of the Common Carrier Bureau, the Office of the Chief Engineer, and the Field Operations Bureau. The results of this test [12] confirmed our initial analysis that adjacent channel operation was feasible under certain circumstances.

22. Because of the degree of coordination necessary for operation in both bands without harmful interference occurring, we adopted the present Section 21.902(b). This rule requires, *inter alia*, that each carrier engineer his system to be reasonably compatible with adjacent channel operation in the same city and that he co-operate fully and in good to faith resolve whatever potential interference problems which might result from adjacent channel operation. It was made quite clear that applicants, permittees, and licensees for the first channel sought were required to engineer their stations to anticipate and allow for the operation on the second channel.[13]

23. We have observed, however, that since the release of the *Report and Order* in Docket 19493, there has been confusion as to what constitutes coordination, co-operation and engineering for reasonable compatibility for adjacent channel operation. We have observed instances where different transmit antenna characteristics have been proposed from that of the adjacent channel and where non co-location of transmit sites have been proposed. In general, engineering showings and analyses citing the specific quantitatives and qualititative criteria that would lead to successful operation has been lacking or unconvincing. Although there was willingness to allow some experimentation and operation before more comprehensive technical criteria were established, we have felt that, without better assurances, the uncertainties offered unfair risks to existing channel 1 licensees and applicants.[14] Accordingly, action on channel 2 applications has been slowed pending a better delineation of the technical operating criteria. However, several channel 2 and 2A construction permits were granted in the hope the experience gained would serve as guidelines to future applicants and provide criteria that might aid in resolving the large number of existing backlogged and contested channel 1 and channel 2 applications. (See para. 3 above.) While a few channel 2 stations are separately under construction, to date none are in operation in a city with an existing channel 1 station. However, we still hope to benefit from actual experience once any of these stations goes into operation.

24. A typical MDS system configuration consists of a microwave transmitter and antenna at the transmitting site, a receive antenna and downconverter at each receive location, and a television receiver. The transmitted signal is picked up by the receive antenna and is changed from the

[11] We limit this proposed rule, Section 21.902(b)(6), to metropolitan areas with populations of 50,000 or more. We generally believe that smaller communities may not be capable of reasonably supporting separate stations in each area. However, we solicit comments on whether this figure or another best defines the smaller communities for this purpose.

[12] These results were published in *Adjacent Channel Interference Test for the Multi Point Distribution Service*, FCC/CC Report No. 75–01.

[13] See 45 F.C.C. 2d at 620–22.

[14] Since channel 1 applications were applied for first in virtually all cities of any size, the initial adjacent channel operation would occur with the grant of channel 2 or 2A applications.

over-the-air microwave frequency to a lower frequency compatible with the customer's equipment (in the case of television, this is normally the frequency of a locally vacant VHF television channel). The signal is passed from the downconverter through a cable into the customer's television receiver (or other equipment). Since, as indicated, there is no guard band between channel 1 (2150 to 2156 MHz) and channel 2 (2156 to 2162 MHz), a non selective downconverter adjusted to receive thesignal for channel 1 will normally contain the signal components of channel 2, and vice versa. It is our general observation that downconverters are not presently designed to reject or filter adjacent channel signals to any significant degree. Thus, the television receiver will be presented with a signal from the downconverter that is composed of a composite of both the desired signal and the undesired adjacent channel signal. If the receiver linearity and the intermediate frequency stages are not designed to accommodate the composite signal, the adjacent channel signal may cause interference components to appear on the TV receiver screen along with the desired signal. The degree of adjacent channel interference is a function of downconverter design, TV receiver design and the relative signal levels present at the input to the TV receiver. The problem of adjacent channel interference has been dealt with in broadcast television by the establishment of the so-called "taboos" and the channeling plan. As we indicated in paragraph 7 above, both of these take the approach of requiring considerable geographic separation between stations using the same or adjacent channels. The channel allocation plan adopted in the *Report and Order* in Docket No. 19493 marked the first time that a form of television transmission had been provided for adjacent channels in the same locality. Because of this lack of separation between adjacent channels, the system design of the MDS stations involved becomes far more critical than is the case with broadcast television, and indeed the use of adjacent channels in the same city is only possible when the MDS station operators have control over the technical characteristics of a substantial portion of the reception equipment (the characteristics of the television receivers used being the major exception, at least with respect to many potential customers) as well as the transmitting equipment.

25. As we have indicated in para. 27 below, the degree of acceptable performance of adjacent channel operation is controlled to a large extent by the ratio of the relative magnitude of the levels of the desired and the undesired signals existing at the input terminals of the TV receiver. Since significant differences exist in channel selectivity characteristics between various TV receiver manufacturers,[15] which affect adjacent channel performance, we believe it would be better if a large portion of the receiver population would be immune from the interference if such an objective could be achieved at reasonable cost. A 1974 report published by the Office of Chief Engineer [16] gives a better understanding of the problem with respect to the variations in quality of various television receivers. Although this report deals with UHF reception problems, it is generally known that many of the adjacent channel interference problems in MDS systems result from filtering deficiences in the intermediate frequency portion of the television receivers used in connection with the system, aside from any non-linear transfer characteristics in the downconverter and RF tuner of the television receiver. It can therefore be reasonably assumed that adjacent channel effects of television receivers used in conjunction with MDS systems should follow a pattern very similar to that in Chief Engineer's Report. This correspondence was generally confirmed by the 1975 field test conducted in New York.[17] The Chief Engineer's Report, along with further engineering analysis, has enabled us to propose protection criteria rules that will minimize adjacent channel interference for the majority of TV receivers available to the public without major impact on system design.

26. The Chief Engineer's Report presents the results of performance characteristic measurements made on a sample of available television receivers. The test results suggest that receivers experience varying degrees of adjacent channel interference degradation as a function of the relative and absolute signal levels presented to the TV receiver input terminals. For example, an analysis of the report indicates that more than 90% of the receivers were unaffected when the receiver input terminals were presented with weak (although adequate for viewing purposes) but equal levels of the desired and undesired adjacent signals. However, as each signal was equally increased in power to a level that might be normally encountered, the percentage of receivers with noticeable interference increased and approached 50%. Nonetheless, the analysis further indicates that if the adjacent channel signal was always maintained at a 15 dB lower level than the desired signal, 100% of the receivers were unaffected with low receiver input signal levels. As the levels were increased, the percentage of unaffected receivers still remained above 90%.[18]

27. *Co-Located Stations.* In our *Report and Order* in Docket 19493 we indicated that successful adjacent channel operation could be realized if the transmitting antennas for each channel had the same EIRP, were cross polarized and were located at the same elevation and geographical coordinates. This presumption was made on the assumption that cross polarization discrimination of the antennas used for reception would approximate the 20 dB discrimination normally available with that of a 2 foot parabolic disk antenna. In those situations we assumed that both adjacent channel stations would transmit equal but cross polarized signals which would propagate at equal level and cross polarized power flux densities throughout identical signal areas. We expected under those conditions that the signal levels at the TV receive antenna leads for normal propagation conditions would have a ratio of desired to undesired signal greater than 15 dB because of the antena cross polarization discrimination, identified in the Chief Engineer's Report as being necessary to prevent adjacent channel interference.[19]

28. In our proposed rules, applicants will be required to demonstrate how they plan to achieve a 15 dB differential between the normal levels of the desired signal and the adjacent channel signal. Analogously to our approach with co-channel isolation, we will not mandate the use of this equipment in all cases. It is, however, the operator's responsibility to provide this separation within his

[15] See, for example, *Consumer Reports*, Color TV consoles, page 14, January 1980.

[16] "A Study of the Characteristics of Typical Television Receivers Relative to the UHF Taboos, FCC," Project No. 2229-63, June, 1974.

[17] See paragraph 21 above.

[18] We note that the test results of the Chief Engineer's Report are close in agreement with the 14 dB recommend by the CCIR for broadcast station planning. See Recommendations and Reports of the CCIR, 1978, Vol. XI, rec. 306-3, *Ratio of Wanted to Unwanted Signal for Color Television.*

[19] This presupposed that for relatively short electrically unobstructed paths transmission anomalies such as depolarization would be minimal, and that both transmit antennas would be spaced close enough to avoid significant independent fading conditions. Depolarization refers to the possible independent rotation of the transmission planes of the propagating power flux density of both channels so that the polarization discrimination angle with respect to each other is reduced.

service area when necessary.[20] We believe where both stations are co-located and transmit equal but cross polarized power flux density energy throughout largely identical signal areas, that receive systems having at least 15 dB of discrimination should allow significantly more than 90% of all TV receivers served by the licensee to perform without interference. When less than 15 dB of antenna cross polarization discrimination is available at the receive site, supplemental channel discrimination by the incorporation of channel selective filters [21] in, or with, the receive site downconverter may be necessary to achieve the 15 dB requirement.

29. *Non Co-Located Stations.* A number of channel 2 applicants have indicated a preference or a need not to co-locate with an existing channel 1 licensee or applicant. The reasons given include showings that either space is not available or desirable at the channel 1 site or that, in the view of the channel 2 applicant, other more desirable sites were preferred. We have also been informed by some channel 1 licensees that although they initially selected sites with sufficient space for the channel 2 applicant, it was subsequently leased for other purposes since the space was not under their control. We have considered the problems associated with non co-located operation. As indicated in Appendix 3, our analysis indicates that non co-located operation according to the proposed rules may be feasible over a significant part of a community provided that both adjacent channel operators are prepared to utilize somewhat higher performance equipment than normally required if both were co-located. This analysis suggests, however, that certain portions of the signal areas close to the undesired adjacent channel tranmit sites may never be satisfactorily served.

30. This close-in problem arises from the fact that for stations that are not co-located there can exist receive sites within both MDS channels' signal areas where the undesired signal is much higher than the desired signal. Therefore, for those sites the MDS receive equipment must be capable of rejecting hte higher undesired signal. Appendix 3 contains an analysis of a specific non co-located situation that is representative of the problem. In this case both transmit sites emit equal power in their assigned channels; all receive sites are equipped with reference antennas with no cross polarization discrimination; and the transmit sites are separated by a specific distance. For those conditions a series of normalized concentric receive site contours are calculated and plotted representing equal antenna and downconverter performance requirements necessary to achieve the proposed 15 dB ratio of desired to undesired signals at the output of the downconverter (see Fig. 2, Appendix 3). For example, the contour labeled 17 dB indicates a need for any receive site on the contour to be able to reject the undesired signal at the reference receive antenna by at least 17 dB in order to achieve 15 dB difference between the desired and undesired signals at the output of the downconverter. As in the case of co-located sites, the 17 dB of attenuation may be obtained by using cross polarization techniques or frequency selective filtering or both.[22] Any point outside the indicated contour requires less channel discrimination than any point on the inside. The contour shown in Fig. 1 can also be used to estimate the areas that are not likely to be served because of antenna and downconverter limitations. If we assumed that the distance between the two adjacent channel station locations were separated by one half (½) mile, then from Fig. 2 we observe that the longest distance from the undesired station site to the 17 dB contour is less than 2 miles.[23] Similarly from the Fig. 2 graph we note that the longest distance across the symmetrical portion of the 17 dB contour is less than 1 mile. Therefore, the area that could not be protected to the degree being proposed if only 17 dB of adjacent channel discrimination is available, is less than two square miles. In comparison, a station's protected signal area (whose assumed radius is 15 miles) is 707 square miles. Accordingly, then if adjacent channel discrimination of 17 dB can be achieved reliably then, for normal signal conditions, less than .3% of the total area would require higher than 17 dB receive antenna and downconverter discrimination performance to insure interference-free operation.

31. Although antennas with advertised cross polarization discrimination characteristics exceeding 20 dB are available, we recognize other factors, such as depolarization due to propagation and the accuracy and degree of polarization of the transmitted signals, affect the amount of possible discrimination that an antenna alone can achieve. Thus, if completely cross polarized signals are not transmitted or if the signals are partially depolarized due to propagation factors, then a receive antenna with excellent cross polarization discrimination characteristics will not be able to reject the unwanted signal to the degree inherent in the antenna capability. We believe, however, that reasonable performance can be achieved by all licensees using cross polarization techniques if care is used in engineering the transmit sites to insure proper transmitted signal polarization and also that narrow beam width receive antennas are used to minimize the effects of depolarizing reflections and multi path conditions.[24] Unfortunately, such antennas also have high signal gain characteristics; the narrower the beam, the higher the gain. But those locations where the narrow beam antenna characteristics are most needed are the receive sites clostest to the transmit sites which need the least amount of antenna gain. Receive sites using high gain antennas that are close to the transmit sites will tend to saturate the downconverter electronics and cause distortion of the TV signal if care is not used in controlling the signal levels into the downconverter.

32. The alternative use of frequency selectivity in the downconverter to achieve adjacent MDS channel rejection has not yet been widely employed, although, as we have indicated above (see footnote 21), the technology seems to be available. As indicated above, we believe that a reasonable degree of frequency selectivity can be achieved at moderate cost. However, under certain

[20] We are concerned of reports that a number of low cost receive antennas may be marketed for direct home MDS reception that are alleged to have much poorer than 20 dB cross polarization discrimination. We believe that if these antennas are extensively used without regard to adjacent channel concerns, there could be a significant probability of adjacent channel interference at some of the receive sites when the adjacent channel in the area went into service. We remind licensees of the first channel that the responsibility of correcting this interference remains with them.

[21] We have formally been made aware by at least one manufacturer of MDS downconverters that modest amounts of frequency selectivity could be included in the downconverter, depending on volume, at rather low additional costs. Further, as a result of an FCC funded study (FCC Contract Number 0206-6TY Released March 1978), we note that the use of surface acoustic wave (SAW) technology could apparently achieve high levels of frequency selectivity in a range useful for MDS applications at modest costs.

[22] Additional discrimination could also be achieved through the use of antennas with more angular discrimination than that of the reference antenna used to caculate the contours in appendix 3, except in situations where the receive antennas are located so that both adjacent stations are in line with each other.

[23] The distance between the two stations on the graph is about ¼ the distance between the undesired station on the furthest point on the 17 dB curve.

[24] Depolarization is generally caused by the effect of signals that were modified in transit by reflections and by variations in the media. The use of narrow beam width antennas more nearly allows the reception of only the desired direct path signal.

circumstances heavy reliance on frequency selectivity may require improvement of the MDS transmitter spurious frequency emission suppression standards. Our present rule (§ 21.908(b)) requires that any spurious signals emitted by a transmitter in the adjacent channel be at least 40 dB lower than the desired transmitted signal, but greater attenuation may be required if interference should occur. Any spurious signal emitted in the adjacent band will affect receivers tuned to the adjacent channel in the same manner as co-channel interference. In the case of co-located stations, where there is equal power flux density at all receive antenna locations, a spurious emission from a transmitter that is 40 dB below its main beam power would be received in the adjacent channel at that level, less any further reduction by cross polarization below the desired signal. However, since considerable differences in the undesired channel power flux density may exist at receive sites for non co-located transmit sites, the effect of the spurious signals may be much more pronounced. For example, we can assume the existence of non co-located transmit stations with a spurious signal emitted from the channel 1 transmitter that is 40 dB lower than the channel main signal and at a frequency in the middle of the channel 2 band. If a channel 2 receiver is at a position where the undesired channel 1 signal is, say 15 dB, higher than the channel 2 desired signal, then the spurious emission in the channel 2 band will be only 25 dB below the desired signal. This generally will cause visible interference (see footnote 4). Sufficient frequency filtering selectivity may be available in the channel 2 receive downconverter to reduce the adjacent, undesired channel 1 signal to a level that prevents adjacent channel interference, but it will have no effect, unlike cross polarization discrimination, on the rejection of the spurious emission which causes co-channel signal interference. Proper performance at such receive sites would appear to require either a reduction in the amount of spurious power emissions from the channel 1 transmit site or the use of cross polarization or some combination of frequency selectivity, cross polarization and transmitter spurious frequency emission reduction.

33. We note that some present day MDS transmitters do emit spurious frequencies that will fall into the adjacent channel at a level that is only 40–45 dB below the licensed frequency. As noted in paragraph 32 above, the current rules only require transmitters to reduce spurious emissions in the adjacent channel by 40 dB but do require the licensee to further reduce this level of spurious emission if needed. Theoretically, this would solve the problem, but it seems to put the burden on the licensee to supply engineering skill and equipment that could perhaps more practically be accomplished by the transmitter manufacturer. Thus, it may be more practical to require that transmitters be type accepted for greater spurious emission reduction than 40 dB. The fact that an interference free picture requires a signal to interference ratio of 45 dB would suggest at least a similar minimum of spurious emission reduction. We also note that in the case of TV accepted transmitters type tested for broadcast service that Rule Section 73.687(i)(1) requires spurious emission be suppressed by at least 60 dB with respect to the main carrier levels. In short, it would appear that an improvement in the spurious emission standard for MDS transmitters would significantly ease adjacent channel operation. Thus, our primary question is what is the cost benefit tradeoff? To answer this we need to know what will various levels of additional spurious emission reductions cost. We solicit comments on this, particularly from equipment manufacturers.

34. Generally, spurious emissions are caused by the transmission and/or amplification of multiple carriers with devices that are not perfectly linear. The current power amplification stages of some MDS transmitters emitting television signals are excellent examples of this phenomenon, since both aural and visual carriers generally are amplified in a single power amplification system. Any non linearity in the system will generate a series of spurious emissions, whose frequencies are related to the absolute frequencies of the carriers and whose amplitudes are related to the amount of non linearity encountered. Thus, it would appear that there is significant room for improvement of MDS transmitters in this regard.

35. Another form of interference that has special significance for adjacent channel TV operation and which can be greatly aggravated by non co-location of transmission sites is caused by the transmission of unwanted lower sideband signals by a station in the adjacent band similarly causing co-channel interference to the desired transmissions. The conventional amplitude modulation techniques that translate the video information [25] to the transmitted carrier band generally result in a signal with two complete sets of information. Since the carrier bandwidth is proportional to the amount of information carried, spectrum efficiency considerations would suggest that bandwidth economy could be achieved by transmitting only one set of information instead of two. Technology limitations and receiver economy considerations tend to discourage the idea of transmitting only a single set of information (i.e. single sideband operation). However, a compromise (arrived at by the TV industry and the FCC in the 30's and 40's) that achieves significant bandwidth economy and simpler receiver design was adopted for TV services, namely the transmission of one complete set of information and only partial transmission of the other side band (i.e. vestigial side band operation).

36. As we stated above, in the carrier generation process, both side bands are always produced. The partially unwanted sideband information is generally removed by frequency filtering. However, this is a costly process, and it is almost impossible to remove all of the undesired sideband which, when transmitted, will fall into the adjacent channel band.

37. In the case of MDS, the unwanted (lower) sideband energy emitted by a channel 1 transmitter will fall in the channel 2 band. The channel 2 unwanted sideband would fall in a 2162–68 MHZ band. Our present rules (Section 73.687(a)(3)) specify the manner and degree of attenuation of the unwanted lower side band. The degree of attenuation of the unwanted side band necessary for reasonable adjacent channel operation is nowhere completely specified, but it would seem from our earlier field test that for co-located transmissions there was sufficient protection available in the conventional MDS equipment used in the field test. Non co-location will, in regions where the power flux density of the undesired signal is higher in level than the power flux density of the desired signal, reduce that protection margin. Here again it would seem that improvements in transmitter standards, namely an increase in attenuation requirements of lower side band emissions, would be beneficial. We solicit comments as to the cost and feasibility of making such improvements and the effects on signal reception quality.

38. It is clear from the above that non-co-location of adjacent channel MDS stations will cause some loss of service area to each station. The extent of this

[25] Television transmission generally employ an amplitude modulation process, i.e. the amplitude of the transmitted signal is proportional to the amplitude of the information.

loss is strongly a function of the amount of separation. As indicated in paragraph 30 above, a separation of ½ mile would typically result in a loss of approximately 0.3% of the 15 mile "protected" service area discussed for the co-channel case. Increasing separation of 2 miles would increase this interference areas to 4%. Although the size of the interference area at any given separation distance can be reduced by tighter transmitter sites emission standards and more selective receiving equipment, these measures involve greater cost. Thus, we face a difficult policy choice: on the one hand we would like to provide applicants with as much freedom as possible in selecting adjacent channel transmitter sites; on the other hand, we would not want to create a situation where large portions of valuable service areas might be lost due to unacceptable interference, or to force the use of prohibitively expensive equipment. Considering all these factors it is our view that some degree of non-co-location is justified, although how much should be permitted is highly judgmental. Based on our licensing experience under the present co-location rule, it would appear that as little as ½ mile of permissible separation would provide a substantial degree of site location flexibility. Also, the 0.3% maximum loss of service area associated with this amount of separation would seem diminutive by any standard of judgment and should have virtually no effect on the value of MDS stations. Consequently, we are proposing a policy of allowing up to ½ mile separation between adjacent channel stations within a given metropolitan area. However, comments on this proposal are especially invited.

39. As we indicated in paragraph 30, our analysis in Appendix 3 for non co-location of sites was based on a restricted model whereby both sites were equivalent in terms of transmit power and antenna pattern. We recognize that non-equivalent combinations of transmitter power and antenna pattern are possible. We seek comments as to what, if any, further rules or constraints should be considered with respect to the power and pattern relationships between the adjacent sites.

General

40. In the proceeding paragraphs we have proposed rules which we believe clearly define the degree to which we will protect licensees from electrical interference from subsequently authorized co-channel and adjacent channel stations. We would propose to permit negotiations, between applicants and licensees (including permittees) whereby licensees agree to accept higher levels of interference than those established herein. Stated another way, an applicant would be free to negotiate agreements with licensees which would permit the applicant to cause higher levels of interference within those licensees' "protected signal areas" than the maximum specified in our proposed rules. (Where such agreements require Commission approval in the form of rule waivers, we will consider them on a case-by-case basis in light of the public interest.)

41. We recognize that two recent petitions for rulemaking have been filed by Telecommunication Services Inc. (TSI) and Microband (RMs 3537 and 3540, respectively.) [26] Our tentative view for both of these petitions is that they parallel our approach detailed in this Notice. Accordingly, we will consider RM 3547 and 3545 and all subsequent comments to those petitions as comments to the instant Notice of Proposed Rule Making. Other comments submitted in this proceeding may, of course, compare and critique these various approaches. However, in any event we anticipate ultimately considering those proposals in connection with our final determination in this proceeding.

Notice of Inquiry

42. Our analyses as set forth above and in the appendices, are essentially directed toward the use of the present MDS band (2150–2162 MHz). In a *Notice of Inquiry and Proposed Rulemaking* in Docket No. 80–112, adopted March 19, 1980, FCC 80–136, considered simultaneously with this proceeding, we are looking toward the possible use by MDS stations of frequencies in the band 2500–2690 MHz on a shared basis with the Instructional Television Fixed Service (ITFS) and operational fixed stations. We indicated in that Notice that if the 2500–2690 MHz band were to be shared, all services would have to have similar or compatible technical rules. Thus, we anticipate that the rules and policies discussed and proposed herein may be made generally applicable to ITFS and operational fixed stations operating in that band. Under these circumstances, it would behoove parties interested in those services to review these rules to determine whether and to what extent and exceptions or different treatment would be justified for such services. Also, as can be seen from the discussion in this proceeding, our analysis of adjacent channel operation focuses primarily on a two station operation in the 2150–2162 MHz band. We recognize that such a technical analysis may not be entirely the same in situations where there may be three or more adjacent channel stations, as could be, the case in the 2500–2690 MHz band. Thus, in this section we inquire as to the establishment of technical rules for service in the 2500–2690 MHz band. We will discuss in the following paragraphs some of the concerns that we foresee as potential problems for more than two adjacent channels.

43. *Spuriously Generated Interference.* As we have indicated in paragraph 34 above, spurious emissions resulting in interference are often generated in amplification or transmission components that are not perfectly linear. The probability that the spurious signals generated will cause interference increases, given a not perfectly linear transmission divice, as the number of signal carriers entering the device increases. Potentially non linear components exist in the RF amplifier sections of TV receivers and all sections of the down converters. A frequency plan that allows adjacent channel operation in a locality could subject a receiver site to a series of both video and audio carriers that are separated by 6 MHz. Without proper protection in the antenna and downconverter the resulting intermodulation products generated could seriously affect the quality of reception on the desired channel.

44. The degree and type of protection that must be provided by the antenna and downconverter is a function of the magnitude and the absolute frequency of the spurious signals that must be protected against. The magnitude and absolute frequency of the spurious signals resulting from the passage of multiple carriers through a not perfectly linear device, in turn, is a function of the amount of non linearity of the device and the amplitudes and the absolute frequency of the carriers involved. The absolute frequencies of the spurious signals generated generally follow precise physical laws. For example in the case of two licensees transmitting a TV signal and occupyinig the bands 2554 to 2560 MHz and 2560 to 2566 MHz, the visual carriers would operate at 2555.25 MHz and 2561.25 MHz. On passage through a not perfectly linear device (a

[26] RM 3537, filed by Telecommunications Services, Inc. proposes and amendment of part 21.902(c) of the rules whereby minimum criteria is established that would result in automatic acceptance of newly filed applications. RM 3540, filed by Microband Corp., proposes amendment of part 21.901 of the rules to exchange the frequencies of MDS channel 2 with those allocated to other common carrier services.

down converter RF preamplifier for example), the two carriers, which are separated by 6 MHz would generate a sequence of spurious signals that would be both higher and lower in absolute frequency than the original carriers and each subsequent signal in the series would be separated by exactly 6 MHz. For this two channel example, the two visual carriers would cause to be generated a series of spurious signals that would fall above 2561.25 MHz at 2567.25 MHz, 2573.25 MHz, 2579.25 MHz etc. and below 2555.25 MHz at 2549.25 MHz, 2543.25 MHz, 2537.25 MHz, etc. Unfortunately, each of the spurious signal frequences indicated are also the visual carrier frequencies of other channels. For example, the visual carrier for the channel 2566–2572 MHz is at 2567.25 MHz. If a downconverter was tuned to receive the 2566—2572 MHz channel and visual carrier signals from the 2554–60 and 2560–66 MHz channels were also present, there would be generated, where the signals from all three channels were present (such as the RF pre amplifier of the down converter), a co-channel spurious interference signal on the same frequency as the desired visual carrier unless all devices were perfectly linear. Similarly, co-channel aural interference could be generated from the aural carriers in the adjacent channels and other spurious co-channel interference signals would be present due to the interaction between the aural and visual carriers within each channel. Furthermore, if the two upper adjacent channels (2572–2578 and 2578–2582 MHz) were also present along with the lower channels previously indicated, additional spurious co-channel interference could be generated that would affect the 2566–2572 MHz desired channel.

45. As we indicate above, the quality of the TV pictures affected by the spurious interference signals described above will be directly related to the magnitude of the interfering signals. We believe the magnitude of the interference could be controlled through the judicious application of various combinations of engineering techniques such as: antenna cross polarization and/or frequency selectivity, whereby individual signals or signal combinations are either removed or reduced sufficiently in amplitude so that their presence in the non-linear devices does not produce other harmful or objectionable spurious signals; linearization of media, whereby special care is taken to design the devices so that they are ultra linear and will therefore not generate harmful levels of spurious signals when multiple signals are present; level control, whereby the levels of the potential harmful multiple carriers are reduced at the receive site such that the signals will traverse through the devices' most linear region; [27] and transmit site co-location so as to generally minimize the performance requirements of the transmit and receive components.

46. *Receive Equipment Development.* The availability and effectiveness of receive site components could determine the feasibility of a channel assignment plan that is intended to provide the most efficient use of the spectrum. For example, it is presumed that one of the reasons why the existing plan that assigns broadcast TV channels within an area with a 6 MHz guard band was adopted is because the technology at the time could not provide sufficient selectivity at acceptably low cost in the RF stages of the TV receivers to allow adjacent channel assignments. We solicit comments as to how the state of the art with regard to achieving interference free reception of adjacent channel signals has progressed. Such comments should be limited to considerations that could result in rules and standards that would affect the MDS, ITFS and operational fixed services and not the broadcast TV service. We seek comments as to the discrimination performance that could be achieved by down converters and antennas presently available and within the current or foreseeable state of the art and the quality of television transmission service that might be provided with these components in a fully adjacent channel operation situation.

47. We believe that technological developments are stimulated by definable objectives and, conversely, that such developments are also discouraged by decisions that do not anticipate change and the possibility of future technological improvement. For example, as we have shown in our analysis for two adjacent channel operation, transmit site relative location is of paramount importance in maximizing the compatibility of such operation. We also feel that this is true of three or more channel operation. We may find as a result of this Notice that the necessary equipment to provide comfortable adjacent channel operation (for more than two channels) is not currently available, but might be in the near future given the motivation of a channel assignment plan that requires co-location or close location of all transmit sites. Conversely, then, if a channel assignment plan is adopted, such that it does not require control of transmit site location from the time of the program inception, it may well forever preclude the possibility of adjacent channel operation and the spectrum efficiency that such operation would yield.

48. *Channel Plans.* We seek comments as to options and recommendations on channel assignment plans that could provide for an orderly growth of all of the services being considered while at the same time preserving the ability to incorporate future technological developments where they occur. One possible approach would be to utilize a sequential assignment plan that initially would call for no adjacent channel operation, but could later be expanded to allow paired adjacent operation and even later, if technology permitted, allow full adjacent operation. For example, since there are 31 consecutive 6 MHz channels in the 2500–2690 MHz band, an assignment plan could initially assign channels in a given service area from the sub group of channels numbered 1, 4, 7, 10, 13, 19, 22, 25, 28, 31. If all the channels in an area were eventually assigned and further demand was still present, then assignments could be made from a second sub group of channels numbered 2, 5, 8, 11, 14, 17, 20, 23, 26, and 29 with the condition that they co-locate or closely locate (See paragraph 30) with the adjacent channel licensed from the first sub group. This plan would provide for two adjacent channels and a guard band, thus allowing the licensing of up to 21 out of the 31 available channels in a general area as opposed to a maximum of 16 channels if 6 MHz guard bands were required between all channels because random site location was allowed. Further, if a condition were imposed to require all of the first sub group of channels to co-locate or closely locate, it is conceivable that all 31 channels could be assigned in a given locality as better systems equipment was developed. Co-location would provide, as in the two channel case, the best possible environment for general adjacent channel operation, as it would place the least burdensome performance requirements on the system of transmission and reception components. Given the phased channel assignment approach suggested, applicants licensed from the first one or two channel sub-groups would not immediately need fully compliant facilities to get into service; however, given the condition of co-location, as more sophisticated

[27] A transmission device such as an amplifier will normally exhibit a more linear performance with a low level signal. As the signal levels are increased, linearity performance degrades.

equipment became available at reasonable cost, additional channels could be licensed from the third sub-group. We recognize that this approach poses questions as to how long should early, less sophisticated equipment be allowed to operate if fully compliant equipment later becomes available. We solicit comments as to an acceptable methodology of minimizing the occurrences and effects of such situations.

49. We seek comments on the feasibility of the above plan or proposals for any other plan that would allow more efficient spectrum utilization. W also seek comments on the precise methodology by which such a plan could be implemented and the exceptions that should be considered. For instance, it may be unnecessarily burdensome to require co-location and adjacent channel operation for all of, or a portion of, the channels in a small community because of limited channel demand.

50. We believe that for any new channel assignment plan, because of the existing licensees, there would be inconsistencies. We seek proposals from all parties who comment on channel assignment plans as to how to handle the existing licensees that may have been assigned channels that are incompatible with a generally preferred plan. For instance, should current licenses be grandfathered and kept outside the plan or should they be integrated into the plan and by what procedure? Or should they be required to change frequencies to comply with the plan? If so when? Initially? When they cause a problem? When equipment is replaced? Could assignment plans be altered in a given area to accommodate existing licensees? By what mechanism? How would this affect nearby cities?

51. *Equipment Considerations.* Given the existence of any specific channel assignment plan, we seek comments as to how much and what if any regulations must be imposed on receive equipment and how any such needed regulations could be enforced. We also seek comments that would give insight as to any changes or effects on the types of services, reliability, convenience, utilization, demand and robustness that any channel assignment plan might introduce. We also note that equipment currently used in the 2500–2690 MHz band was designed for an operating environment quite different from some of the approaches discussed above. Hence the possibility exists that equipment currently used in ITFS will not be compatible with the manner in which this band will be operated in the future. We therefore seek comments on expected retirement dates of existing equipment and on appropriate "grandfathering" and "transitional" procedures. It is our understanding that the heavy use of MDS in the 2150–2162 MHz frequency band has resulted in equipment prices below that available in ITFS. If MDS stations are allowed to operate in the 2500–2690 MHz frequency band, we would expect to see a significant expansion in the availability of cheaper, lower maintenance equipment available to ITFS licensees. How significantly would this development affect the need for grandfathering protection of older equipment?

52. *Coordination.* In order to avoid frequency conflict situations, we believe it may be appropriate to require applicants for any service in the 2500–2690 MHz band to submit technical showings of impact with other existing users or earlier filed applicants for the same or adjacent channels similar to what we have proposed above for the MDS service in the 2150–62 MHz band. We recognize that the specific detailed showings may be dependent on the channel assignment plan adopted, and we therefore request comments as to what changes or new technical showings should be requested for service in the 2500–2690 MHz band for the proposed or any alternative plan. We also ask that parties comment on the necessity or advisability of an alternative formal coordination and/or notification procedure for new applications in this band patterned after Section 21.100(d) of the Rules. For those commenting on support of such a coordination procedure, we request that any significant changes believed necessary from the one specified be outlined in detail.

53. *Power and Service Area Limitations.* The existing rules for both ITFS and MDS now specify a maximum transmitter output power, but do not specify a limitation on maximum effective radiated power. In the *Notice of Proposed Rulemaking* in Docket No. 19493, 34 FCC 2d 719 (1972), we considered limiting MDS station power output in terms of effective radiated power, but we later adopted transmitter output power as a more practical measurement. However, we note from our license applications, considerable variability in transmission line losses between installations and the use of directional patterns of transmission in the Instructional Television Fixed Service. Further, in our proposed rulemaking, above, for MDS we have used a rationale to establish a protected service area based on the existence of a 200 watt EIRP and a specific field strength at a maximum distance. Accordingly, it would seem that a limitation on the transmit site in terms of effective radiated power may provide an alternative measure of maximum carrier power for stations in MDS services. In order to promote compatibility we are inclined to believe that the operational fixed service should have the same power limitations as the MDS service. In the case of ITFS and Operational Fixed Service where occasionally more directional and greater service distance applications are required, a maximum effective radiated power as a function of the transmit antenna beam width may be a more equitable means of establishing carrier power. This in turn would also affect the criteria for establishing the protected service area for those services. We seek comments as to this approach and as to what limitations should be enforced as to Operational Fixed and ITFS, recognizing that these services, like MDS, require an electrically unobstructed path between the transmitter and receiver.

54. *Frequency Tolerances.* Currently, ITFS rules allow frequency tolerances which would permit variations as much as 60 KHz. Such frequency tolerances do not reflect the current state of the art and are not efficient in terms of spectrum management of adjacent channel interference. Furthermore, as stations become more closely spaced, there becomes a greater dependence on frequency stability to minimize co-channel interference. We tentatively believe that the permissible frequency tolerance for both ITFS and operational fixed transmitters be tightened to .001% at least as is the case for the current requirement for MDS. It could be desirable to tighten this even further or to allow the Commission to specify, in individual stituations, tighter frequency tolerances and the perhaps the use of frequency offset in cases where frequency congestion would require it.

Conclusion

55. Finally, we note that the foregoing discussions, proposed rules, analyses and attached appendices, have set forth what we believe to be reasonable approaches to resolving the major technical problems currently being experienced in the MDS 2150–62 MHz band and our expected concerns and inquiry about similiar services in the 2500–2690 MHz band. We not only solicit careful consideration of our analyses and proposals, but other possible alternatives if they would prove

more beneficial in the development of service in either band.

56. This Notice of Inquiry and Proposed Rulemaking is issued pursuant to authority contained in Sections 4(i), 303, and 403 of the Communications Act of 1934, as amended. Interested parties may file comments on or before August 1, 1980, and reply comments on or before September 2, 1980. All relevant and timely comments and reply comments filed in response to this Notice will be considered by the Commission. In accordance with the provisions of Section 1.419 of the Rules, an original and five copies of all comments, replies, briefs, and other documents filed in this proceeding shall be furnished the Commission. Copies of all filings will be available for public inspection during regular business hours in the Commission's public reference room at its headquarters in Washington, D.C.

57. Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts made to the Commission in proceedings such as this one will be disclosed in the public docket file. An *ex parte* contact is a message (spoken or written) concerning the merits of the rulemaking made to a Commissioner, a Commissioner's assistant, or other decision making staff members, other than comments officially filed at the Commission or oral presentations requested by the Commission with all parties present. A summary of the Commission's procedures governing *ex parte* contacts in informal rulemaking is available from the Commission's Consumer Assistance Office, FCC Washington, D.C. 20554, (202) 632–7000.

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

It is proposed that Parts 21 of Chapter I of Title 47 of the Code of Federal Regulations be amended as follows:

1. In § 21.901, the introductory text to paragraph (c) is revised and a new paragraph (e) is added, all to read as follows:

§ 21.901 Frequencies.

* * * * *

(c) Channel 2A will be assigned only where there is evidence that no harmful interference will ocurr to any authorized point to point facility in the 2160–2162 MHz band. Channel 2 maybe assigned only if the transmitting antenna of the station is to be located within ten (10) miles of the coordinates of the following metropolitan areas:

Principal City and Coordinates

* * * * *

(e) Where adjacent channel operation is proposed in any city, the preferred location of such a station's transmitting antenna is at the site of the adjacent channel transmitting antenna. If this is not practicable, the adjacent channel transmitting antennas should be located as close as reasonably possible, but in no event more than ½ mile from the transmit site of the previously authorized or proposed adjacent channel station. Applications which do not meet this standard will not be accepted for filing.

2. In § 21.902, paragraphs (b)(1), (2), and (3) and paragraphs (c)(1), (2), and (3) are revised. New paragraphs (b)(4), (5), and (6), and paragraphs (d) and (e) are added to read as follows:

§ 21.902 Frequency interference.

* * * * *

(b) * * *

(1) Not enter into any lease or contract or otherwise take any action which would unreasonably prohibit location of another station's transmitting antenna at any given site;

(2) Cooperate fully and in good faith to resolve whatever potential interference and transmission security problems may be present;

(3) Engineer the system to provide at least 45 dB co-channel interference protection to the signal area of all other authorized or previously proposed stations that transmit, or may transmit, signals for standard television reception:

(4) The applicants' channel signal area (see § 21.902(d));

(5) Engineer the system for adjacent channel operation and if transmissions are to be provided for standard television reception be able to provide the desired channel signal at a level that is at least 15 dB higher than the undesired adjacent channel signal at the input to the terminals of the television receivers served over the the protected signal area identified in paragraph (b)(4) of this section; and

(6) Engineer the transmit site to serve only one metropolitan area, where such an area has a population of 50,000 or more.

(c) * * *

(1) An analysis of the potential for harmful co-channel interference with any other station(s), if the proposed transmitting antenna has an unobstructed electrical path to any part of the protected signal area if any other station(s) which utilizes, or would utilize, the same frequency (see §§ 21.701(a), 21.901(a) and 21.902(b)(3) of this chapter);

(2) In the case of a proposal for use of an adjacent channel, an analysis that identifies the areas within both protected signal areas that cannot be protected according to § 21.902(b)(5);

(3) In the case of a proposal for use of channel 2, an analysis of the potential for harmful interference with any authorized point to point station located within fifty (50) miles which utilizes the 2160–2162MHz band; and

(4) An anaylsis concerning possible adverse impact upon Mexican and Canadian communications if the station's transmitting antenna is to be located within 35 miles of the border.

(d) Each licensee will be entitled to protection from harmful interference as determined by theoretical calculations within a specific signal area surrounding the transmit site. The maximum area that can be protected is that area bounded by the contour of connected equal level Power Flux Density points whose magnitude are -75.6 dBW/m^2 except:

(1) Where the points on the contour are greater than 15 miles from the transmit site; or

(2) Where the electrical horizon of the site is closer than a free space calculation of the Power Flux Density point; or

(3) Where there will exist a contour of another authorized or previously proposed station (not intended to be mutually exclusive) closer to the transmit site than those specified above that is determined by a 45 dB ratio of the applicant's own signal and that of the other station operating on the same frequency; or

(4) For the area created by a non co-located adjacent channel station as described by a contour which requires, for television transmission, 17 dB of adjacent channel discrimination in addition to the angular discrimination of the reference antenna (as defined in paragraph (e)(2)) but where such area does not exceed .3% of the station's protected signal area as calculated in subparagraphs (1)–(3) above.

When any of the exceptions (1) through (4) above is applicable, that exception shall describe the limits of the protected service area, as appropriate, when closer than the -75.6 dBW/m^2 contour.

(e) In addressing potential harmful interference in this service the following shall be considered:

(1) Co-channel interference is defined as the ratio of wanted-to-unwanted signals determined to be present in the desired channel, for television

transmission, at the output of a reference receiving antenna at a point where the antenna is oriented toward the desired station for maximum desired signal level. Interference will be considered present when a free space calculation determines that this ratio is less than 45 dB.

(2) For purposes of this section, all interference calculations involving receive antenna performance shall utilize the reference antenna characteristics shown in figure 1.

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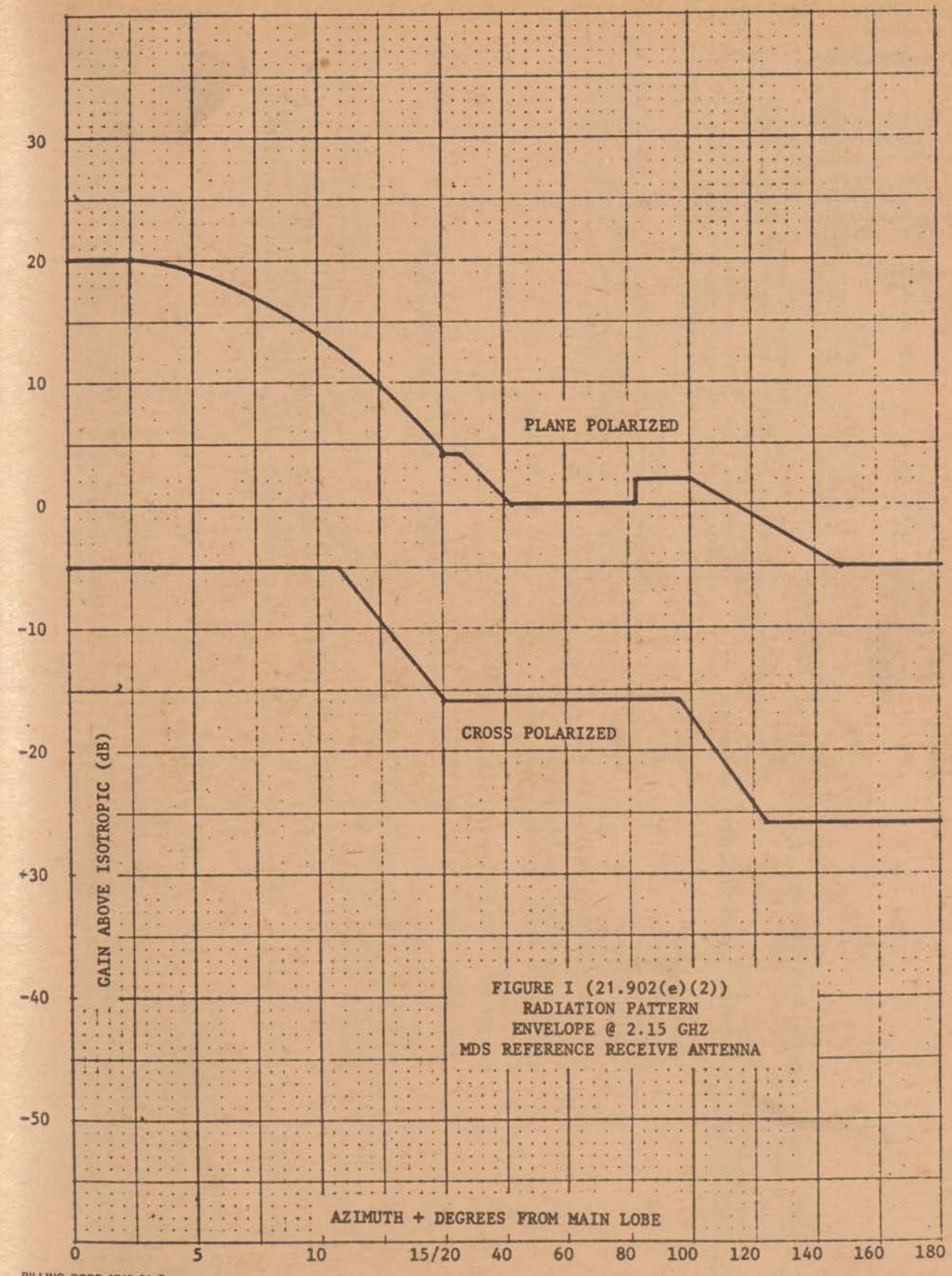

FIGURE I (21.902(e)(2))
RADIATION PATTERN
ENVELOPE @ 2.15 GHZ
MDS REFERENCE RECEIVE ANTENNA

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5. In Section 21.904, paragraph (b) is amended as follows:

§ 21.904 Transmitter Power.

* * * * *

(b) * * *

(1) a demonstration that the power requested is the minimum needed to provide adequate, reliable service within the applicant's protected signal area (as defined in § 21.902(d)) receiving sites utilizing the reference antenna indicated in § 21.902(e)(2);

* * * * *

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The performance of transmission paths that have been designed for unobstructed electrical propagation can be reasonably predicted with mathematical models that take into account variations of climate (dry, average, coastal) and variations of terrain (smooth, average, rough). For our purposes we will extend a single equation developed by Vigants 1/ and presented by Barnett 2/ which relates terrain and climate to fading conditions as a function of time. A variation of the Vigants equation (the variation includes a collection and rearrangement of terms) is shown below (Eq. 1):

$$\frac{T}{TO} = K\left(\frac{w}{50}\right)^{-1.3} (f/4)(D^3)(10^{-5})L^2 \qquad \text{(Eq. 1)}$$

where:

- f = frequency in GHz (2.15 GHz for MDS)
- D = distance to receive site in miles
- w = terrain roughness factor
  - = 20 for smooth earth, 140 for rough earth
- L^2 = antilog $\left(\frac{F}{10}\right)$, F is the fading limit in dB expected
- T = Total time in seconds that the signal fades below a specified value (20 log L)
- TO = period of observation normally 1 month
- K = climatic factor
  - = 2, coastal climate
  - = 1, average climate
  - = .5, dry climate

1/ ARVID Vigants, "Space-Diversity Engineering" BSTJ, Vol. 54, No. 1, (January 1975) pages 103 - 142.

2/ W.T. Barnett, "Multi path Propagation at 4, 6 and 11 GHz," BSTJ., 51 No. 2 (February 1972) pages 321 - 361.

Equation (1) indicates that signal fades are deepest for a given period (T) when the terrain is smooth (w = 20) and the climate is damp (K = 2) (coastal regions). Substituting the factors for these conditions (w = 20, K = 2) into (Eq. 1) simplifies (Eq. 1) as follows:

$$\frac{T}{TO} = 3.538 \times 10^{-5} D^3 L^2 \qquad \text{(Eq. 2)}$$

Further simplication of (Eq. 2) can be achieved by specifying the maximum relative time (T/TO) that less than acceptable service will be tolerated. A reasonable service requirement would be to expect reception of a better than minimal grade of service for 99.9% of the time or, conversely, the service should be poorer than minimal grade for no more than 0.1% 3/ of the time. Accordingly, we can equate:

$$\frac{T}{TO} \equiv .001 = 3.538 \times 10^{-5} D^3 L^2$$

on solving for L we get:

$$L = 5.317\, D^{-3/2} \qquad \text{(Eq. 3)}$$

Equation 3 includes the assumptions for a service time criteria and can be used to establish a basis for a contour. The distance of the contour from the transmit site, the minimal accepted grade of service or the practical feasibility of achieving the contour are yet to be determined.

The free space propagation formulas can be used with equation 3 to establish a Power Flux Density reference level boundary contour for protected signal areas. In order to do this we will assume a reference station configuration which is common in part or whole to many MDS licenced and proposed systems. The assumed system will have the following characteristics:

(a) Maximum Transmit site EIRP = 200 watts. Typically this may consist of a 10 watt transmitter and a 13 dB gain omnidirectional antenna.

3/ There are about 45,000 minutes in a month. 0.1% of 45,000 is 45 minutes.

(b) All receive sites have electrically unobstructed propagation paths.

(c) All receive sites are implemented with the reference receive antenna and a receiver with a 10 dB noise figure with 4.2 MHz noise bandwidth.

The methodology used will involve examination of the calculated normal power flux density levels and worst case performance (.1% of time) at various distances from the transmit site and selection of a distance which will insure a desired minimal grade of service.

Table 1 presents the calculated propagation performance at a number of distances from the transmit site that include all of the discussed assumptions.

D(mi)	L	Pr(dBm)	S/N(dB)	S/N(F)(dB)	PFD(dBW/m^2)
14	.1	-53.1	44.3	24.7	-75.0
15	.092	-53.7	44.0	23.3	-75.6
16	.083	-54.2	43.4	21.8	-76.2
17	.076	-54.9	42.9	20.5	-76.1
19	.064	-56.0	41.8	17.9	-77.7
21	.055	-56.9	40.4	15.8	-78.6

Table I - Expected MDS System Performance.

where: 4/

D = Distance to receive site in miles

$L = 5.317 \times D^{-3/2}$ (Eq. 3)

4/ For a general discussion of propagation calculations see Engineering Considerations for Microwave Communication Systems, GTE - Lenkurt, 1975.

Pr = Receive level at the output terminals of a reference antenna (dBm)

= EIRP x Receive Antenna Gain x $(\lambda/4\pi D)^2$,

λ = wave length = $\frac{3 \times 10^8}{2.15 \times 10^9}$ meters.

= -30.2 - 20 log D

S/N = Calculated Signal to Noise Ratio at MDS Downconverter output (dB)

= PR - NF + (174 - 10 log(bw)) = PR + 97.7 for NF = 10 dB

S/N(F) = S/N that will be exceed 99.9% of the time when measured under worst condition service (dB)

= S/N + 20 log (L)

PFD = Power Flux Density at distance D from transmit site (dBW/m^2)

= 10 log ($EIRP/4\pi D^2$)

= -52.1 - 10 log D

The column headed S/N(F) indicates a lower performance figure that will be exceeded at the indicated distances for receive sites 99.9% of the time for the assumed systems configuration. The calculations include the limitations that the assumed system meet this criteria while operating in the poorest climate and over the worst terrain. In the Continental United States the resulting propagation conditions generally are "worst", during two months on the average in any one year. 5/ It follows then that during ten months of the year the performance level indicated in the S/N(F) column will be exceeded more than 99.9% of the time and that in any other climate or terrain circumstance or for receive sites at closer distances, the performance will be even better. It is reasonable to conclude, therefore, that the performance figure we choose from the S/N(F) column as our standard is indeed conservative and that the performance in general will be much better than indicated most of the time for all of the potential receive sites within the continental United States.

5/ See Vigants, op. cited.

Criteria for grades of service have been proposed by the Television Allocation Study Organization (TASO) 6/ and widely accepted as standard in the United States. A reference to the TASO grades 7/ indicates that a television receiver being viewed with a 23 dB signal to noise ratio picture will be considered as "minimally" (TASO-4) acceptable by 50% of the viewers, and a receiver with a 44 dB signal to noise ratio will be rated as excellent by more than 50% of the viewers. It is noted from the table that at 15 miles distant S/N(F) is 23.3 dB for 99.9% or more of the time and 44 dB on the average (S/N). At 16 miles distance S/N(F) is 21.8 dB, but only 40% of the viewers would consider the signal as minimally acceptable. At 14 miles, more than 50% of the viewers would consider the signal as acceptable, but we note that the signal area would decrease. We believe that for a minimal acceptable viewing criteria that TASO-4 picture is the equitable choice. Again because of the conservatism involved in the calculation the average grade of service will be much higher as is indicated by the S/N of 44 dB at 15 miles.

We also note from the table that at 15 miles the median power flux density is -75.6 dBW/m^2. We can therefore expect then that whenever the signal power flux density exceeds or equals -75.6 dBW/m^2 at any distance up to 15 miles it will provide signals at least at TASO-4 grade level for more than 99.9% of the time.

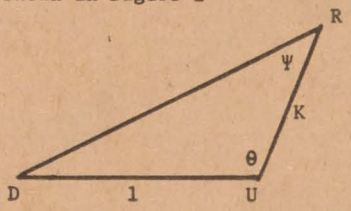
6/ Harry Fine, A Further Analysis of TASO Panel 6 Data on Signal to Interference Ratios and there Applications to Description of Television Service. April 1, 1960, FCC - OCE Tech. Research Division T.R.R. Report #5.1.2.

7/ Reference Data For Radio Engineers, 6th Edition, ITT, Broadcasting and Recording, 30-38.

Appendix 3

Analysis of Non Co-Located adjacent channel operation

The topographic relationships between two transmit sites and a receive site is shown in figure 1



where:

D = Site of the desired transmitter

U = Site of the undesired transmitter and separated from D by a distance of 1

R = general location of a receive site optimized to receive the signal from D, and separated from U by a distance K.

$\overline{DR}$ = distance between receive site and desired transmit site.

= $[1 + K^2 - 2K \cos\theta]^{1/2}$
(by the law of cosines)

Ψ = angle between DR and K

= $\sin^{-1}$ (sin θ/DR)
(by the law of sines)

= $\sin^{-1} [\sin \theta/(1 + K^2 - 2K \cos \theta)^{1/2}]$

The ratio of the undesired signal to desired signal at the output of the receive antenna at R is:

$$S = \frac{P_u \times A_u(t) \times (\lambda_d/4\pi K)^2 \times A_u(r)}{P_d \times A_d(t) \times (\lambda_u/4\pi DR)^2 \times A_d(r)}$$

where: S = Ratio of signals at the receive antenna output

P_u, P_d = transmitted power from both sites

$A_u(t)$, $A_d(t)$ = transmit site antenna gains

$A_u(r)$, $A_d(r)$ = Receive site antenna gains

λ_u, λ_d = wave gain length of radio signals

If we assume that: both site transmitters are of equal power, both transmit site antennas are omnidirectional and have equal gain; and the radio signal wave lengths are approximately equal, then:

$$P_u = P_d$$

$$A_u(t) = A_d(t)$$

$$\lambda_u = \lambda_d$$

and

$$S = \frac{\overline{DR}^2 \times A_u(r)}{K^2 \times A_d(r)}$$

and

$$10 \log S = 20 \log (\overline{DR}/K) + A_u(r) - A_d(r) \quad \text{Eq. 1)}$$

Equation 1 represents ratio of power flux density levels at the output of the standard receive antenna. It represents an additional selectivity requirement beyond the 15 dB rejection necessary for co-located transmit sites in order to insure that the receive sites will not experience adjacent channel interference. Therefore, the total adjacent channel rejection that must be provided in order to give the 15 dB protection is:

$$P(DB) = 20 \log (\overline{DR}/K) + A_u(r) - A_d(r) + 15$$

Since $\overline{DR} = (1 + K^2 - 2K \cos \theta)^{1/2}$

then the necessary protection at each site is:

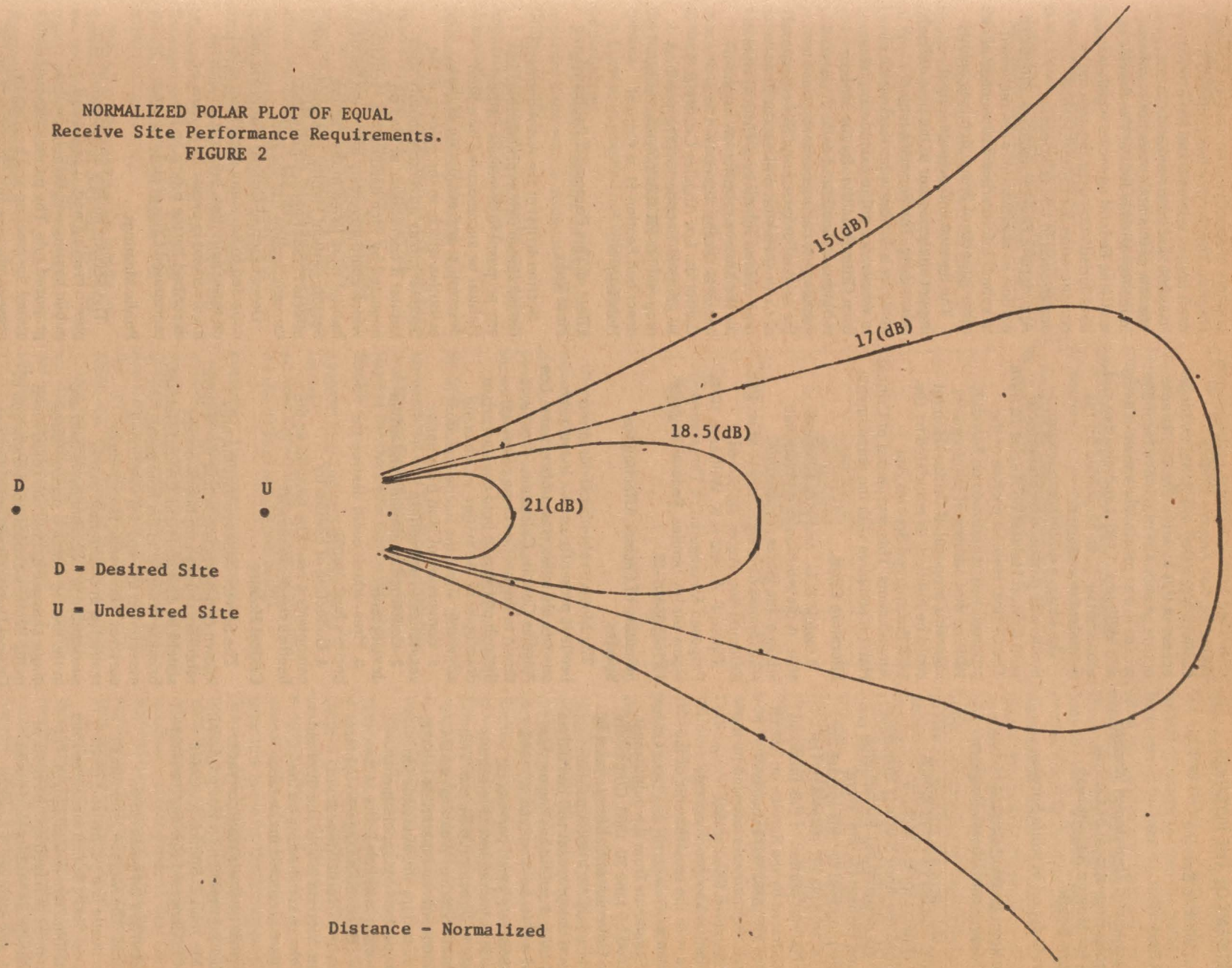
$$P(db) = 20 \log (1 + K^2 - 2K \cos \theta)^{1/2}/K + A_u(r) - A_d(r) + 15$$

By assuming values for K and θ then values for Ψ can be found

$$\Psi = \sin^{-1}(\sin \theta/(1 + K^2 - 2K \cos \theta)^{1/2})$$

$A_d(r)$ is the maximum antenna gain assuming it is arranged for maximum desired signal. $A_u(r)$ is the gain of the same antenna at the angle of interception (Ψ) of the undesired signal. Figure 1 is a plot of equal adjacent signal rejection requirements assuming that a reference receive antenna is used. The values of $A_u(r)$ are scaled from the standard receive antenna directivity performance characteristics.

NORMALIZED POLAR PLOT OF EQUAL
Receive Site Performance Requirements.
FIGURE 2



[FR Doc. 80-13238 Filed 5-1-80; 8:45 am]
BILLING CODE 6712-01-C

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reproposal of Critical Habitat for Mojave Rabbitbrush Longhorn Beetle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reproposal of Critical Habitat for the Mojave rabbitbrush longhorn beetle.

SUMMARY: The Service reproposes Critical Habitat for the Mojave rabbitbrush longhorn beetle (*Crossidius mojavensis mojavensis).* Endangered status and Critical Habitat were originally proposed for this species on August 10, 1978 (43 FR 35636–43). The Critical Habitat portion of this proposal was withdrawn by the Service on March 6, 1979 (44 FR 12382–84) because of additional requirements imposed by the 1978 Endangered Species Act Amendments. This proposed rule complies with the requirements of the amendments.

DATES: Comments from the public must be received by June 30, 1980. Comments from the Governor of California must be received by July 30, 1980. A public meeting on this proposal will be held on May 23, 1980. A public hearing on this proposal will be held on June 13, 1980.

ADDRESSES: Interested persons or organizations are requested to submit comments to Director (OES), U.S. Fish and Wildlife Service, Washington, D.C. 20240. Comments and materials relating to this rulemaking are available for public inspection, by appointment, during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia 22201. The time and place of the public meeting on this proposal are presented in the table below.

FOR FURTHER INFORMATION CONTACT: For further information on this proposal, contact Mr. John L. Spinks, Jr., Chief, Office of Endangered Species (703–235–2771).

SUPPLEMENTARY INFORMATION: Background. The Mojave rabbitbrush longhorn beetle is a yellowish-brown cerambycid beetle which measures from 10 to 18 millimeters in total length. The larvae bore in, and feed on, the roots of composite shrubs. Adults feed on the pollen of, and mate on, flowers of composite shrubs (Linsley and Chemsak, 1961). The beetle was scientifically described from specimens collected near Palmdale, Los Angeles County, California (Linsley, 1955), but no longer occurs at this locality. The beetle now occurs at only one of the five localities where it was previously known (Opler and Williams, 1978). Land-clearing and urbanization have accounted for the decline of this species.

The Mojave rabbitbrush longhorn beetle was proposed as Endangered with Critical Habitat on August 10, 1978. The Critical Habitat portion of the proposal was withdrawn on March 6, 1979, so that additional requirements regarding proposal of Critical Habitat could be fulfilled, as mandated by the 1978 Endangered Species Act Amendments. This reproposal of Critical Habitat complies with the amendments.

Literature Cited

Linsley, E. G., and J. A. Chemsak, 1961, A distribution and taxonamic study of the genus *(Crossidius (Coleoptera:Cerambycidae)).* Misc. Pub. Entomol. Soc. Amer. 3(2):25–64.

Opler, P. A. and L. K. Williams, 1978, Proposed Endangered or Threatened status for ten beetles. **Federal Register** 43(155):35636–43.

Summary of Factors Affecting the Species

The Mojave rabbitbrush longhorn beetle is presently known to occur at one site six miles west of Lancaster, Los Angeles County, California. The major threat to the beetle is loss of habitat through changes in land use and urban development. Activities which could adversely affect the beetle include:

1. Conversion of land from native vegetation to agriculture.
2. Construction of roads and urban development.
3. Fires, which could destroy the beetle's host plants.
4. Collecting of beetles by coleopterists could be harmful as the beetle's range decreases.

Critical Habitat

The Service believes that the only known remaining site where the Mojave rabbitbrush longhorn beetle occurs should be designated as Critical Habitat, because it supports the host plants essential to this species' continued survival. This beetle is extremely restricted in distribution and is susceptible to any changes in land use in the area in which it occurs. Since major changes in land use could result in the beetle's extinction, designation of Critical Habitat is essential for the conservation of this species.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying an area as Critical Habitat. The Service has prepared a draft impact analysis and believes at this time that economic and other impacts of this action are not significant in the foreseeable future. The Service is notifying Federal agencies which may have jurisdiction over the area under consideration for Critical Habitat designation in this reproposal. Appropriate Federal agencies, interested parties, or organizations are requested to submit information on economic or other impacts of this action (see below).

The Service will prepare a final impact analysis prior to the time of final rulemaking. The Service's impact analysis is the basis for its decision as to whether or not to exclude any area from Critical Habitat for the Mojave rabbitbrush longhorn beetle. A detailed summary of comments in response to the original proposal and this reproposal of Critical Habitat will appear at the time of final rulemaking. Critical Habitat for the Mojave rabbitbrush longhorn beetle is hereby reproposed as: California. Los Angeles County. R. 13 W., T. 17 N. Section 15. (The previous proposal (43 FR 35642) erroneously described Section 11 as Critical Habitat.)

Effect of This Proposal if Published as a Final Rule

Section 4(f)(4) of the Act requires, to the maximum extent practicable, that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be impacted by such designation. Activities which could adversely affect the beetle's habitat were listed in the Factors Secton. Critical Habitat designation only affects Federal agency activities, through Section 7 of the Act.

Designation of Critical Habitat is not expected to have any significant effect on these activities, because no Federal involvement is presently known, or described for the future, in the reproposed Critical Habitat area.

Public Meetings

The Service hereby announces that a public meeting and, if requested, a public hearing will be held on this proposed rule. The public is invited to attend the meeting and hearing to present opinions and information on the proposal.

Specific information relating to the public meetings is set out below:

Public Meeting

Place, Date, Time and Subject

Essex House, 44916 North 10th Street West, Lancaster, California, May 23, 1980, 7:30–10 pm; Mojave rabbitbrush longhorn beetle

Public Hearing

Place, Date, Time and Subject

Essex House, 44916 North 10th Street West, Lancaster, California, June 13, 1980, 7:30–10 pm; Mojave rabbitbrush longhorn beetle

Public Comments Solicited

The Director intends that the rules finally adopted be as accurate and effective as possible in the conservation of the Mojave rabbitbrush longhorn beetle. Therefore, any comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, priviate interests or any other interested party concerning any aspect of this proposed rule are solicited. The Service particularly requests comments on the following:

1. Biological and other relevant data concerning any threat (or lack thereof) to these species.
2. Additional information concerning the range and the distribution of the species.
3. Current or planned activities in the subject areas.
4. The probable impacts on such activities if the area is designated as Critical Habitat.
5. The foreseeable economic and other impacts of the Critical Habitat designation.

National Environmental Policy Act

A draft environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment will be the basis for a decision as to whether this determination is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rule is Dr. Michael M. Bentzien, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703–235–1975).

Note.—The Department of the Interior has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Act 12044 and 43 CFR Part 14.

Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

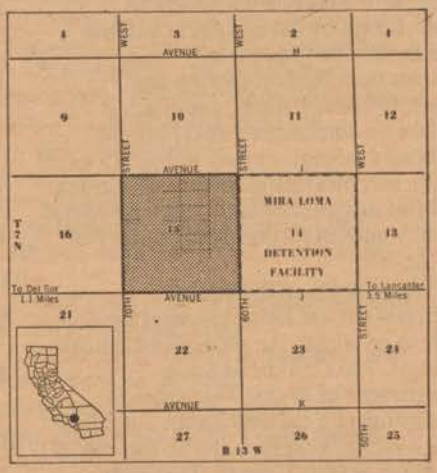
§ 17.95 [Amended]

1. It is proposed that Section 17.95(i), *Insecta*, be amended by adding Critical Habitat of the Mojave rabbitbrush longhorn beetle as follows:

Mojave Rabbitbrush Longhorn Beetle

(Crossidius mojavensis mojavensis)

California. Los Angeles County. R. 13 W. T. 17 N. Section 15.



Dated: April 23, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-13463 Filed 5-1-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR 17

Endangered and Threatened Wildlife and Plants; Reproposal of Critical Habitat for the Delta Green Ground Beetle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reproposal of Critical Habitat for the delta green ground beetle.

SUMMARY: The Service reproposes Critical Habitat for the delta green ground beetle (*Elaphrus viridis*). This insect is known to occur only in Solano County, California. Threatened status and Critical Habitat were proposed for this species on August 10, 1978 (43 FR 35636–43). The Critical Habitat portion of that proposal was withdrawn by the Service on March 6, 1979 (44 FR 12383–84) because of procedural and substantive changes in prior law made by the Endangered Species Act Amendments of 1978. This rule reproposes Critical Habitat for this species, to comply with the 1978 Endangered Species Act Amendments. The Service seeks further information on the Critical Habitat of this beetle.

DATES: Comments from the public must be received by June 30, 1980. Comments from the Governor of California must be received by July 30, 1980. A public meeting on this proposal will be held on May 22, 1980. A public hearing on this proposal will be held on June 12, 1980.

ADDRESSES: Interested persons or organizations are requested to submit comments to Director (OES), U.S. Fish and Wildlife Service, Washington, D.C. 20240. Comments and materials relating to this rulemaking are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia. The time and place of the public meeting and the public hearing on this proposal are presented in the table below.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The delta green ground beetle (*Elaphrus viridis*) is a predaceous beetle of the family Carabidae which is colored a striking metallic green intermixed with patches of gold (Andrews, 1978). It is limited in occurrence to the grassy edges of vernal pools south of Dixon, Solano County, California. Intensive search in similar habitats in other areas has failed to reveal the presence of this unique beetle (Andrews, 1978).

The delta green ground beetle was proposed as a threatened species on August 10, 1978 (43 FR 35636–43). The Critical Habitat portion of this proposal was withdrawn by the Service on March 6, 1979 (44 FR 12383–84) because of procedural and substantive changes in prior law made by the Endangered Species Act Amendments of 1978. The present rulemaking complies with the 1978 Endangered Species Act Amendments, which require, to the maximum extent prudent, that Critical Habitat be proposed at the time any regulation proposes any species to be Endangered or Threatened.

The habitat of this beetle is threatened by potential agricultural conversion, drainage, or pipeline construction (U.S. Fish and Wildlife Service, 1978). A letter from the California Department of Parks and Recreation to the Service outlines several proposed projects in the general area of the beetle's potential Critical

Habitat which might have an impact on the species if carried out (Hiehle, 1980).

No information has been received that would warrant a change in the previously proposed status for the species.

Literature Cited

Andrews, F. G. 1978. Unpublished status report on *Elaphrus viridis* Horn, 1878 (Coleoptera: Carabidae). California Department of Food and Agriculture.

Hiehle, J. L. 1980. Letter to Mr. C. Phillip Agee, Fish and Wildlife Service, dated February 20, 1980. California Department of Parks and Recreation.

U.S. Fish and Wildlife Service. 1978. Proposed Endangered or Threatened Status and Critical Habitat for 10 Beetles. **Federal Register** 43:35636–43.

Critical Habitat

As provided by the Act and 50 CFR Part 402, "Critical Habitat" means (a) areas within the geographical area occupied by the species at the time that species is listed which are (1) essential to the conservation of the species and (2) which may require special management considerations or protection; and (b) specific areas outside the geographic area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service believes that certain areas occupied by the delta green ground beetle should be designated as Critical Habitat. These areas include the only two vernal pools where the beetle occurs. This beetle occupies an extremely limited range and is susceptible to changes in its habitat. Because changes in the areas occupied by this species could result in its extinction, designation of Critical Habitat is essential for the conservation of this beetle.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a draft impact analysis and believes that economic and other impacts of this action are not significant in the foreseeable future. The Service is notifying Federal agencies that may have jurisdiction over the land and water under consideration in this proposed action. These Federal agencies and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action (see below).

The Service will prepare a final impact analysis prior to the time of final rulemaking, and will use this document as the basis for its decision whether to exclude any area from Critical Habitat for the delta green ground beetle.

Effect of This Proposal if Published as a Final Rule

Sections 4(b)(4) and 4(f)(4) of the Act require, to the maximum extent practicable, that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or those federal actions which may be impacted by such designation. Such activities are identified below for this species. It should be emphasized that Critical Habitat designation may not affect each of the activities listed below, as Critical Habitat designation only affects Federal agency activities, through Section 7 of the Act.

Two projects with Federal involvement are being planned for areas near to or within the proposed Critical Habitat. The California State Department of Water Resources is evaluating site options for an aqueduct which would supply water to the city of Fairfield, Solano County. Two sites being considered are adjacent to the proposed Critical Habitat. A U.S. Army Corps of Engineers permit would be required before construction could begin.

The second project being planned is a wastewater treatment plant for the city of Vacaville, Solano County. One potential site for effluent discharge is Barker Slough, which passes through the proposed Critical Habitat. The U.S. Environmental Protection Agency would provide 75 percent of the funding for this project.

Agricultural practices may adversely affect the proposed Critical Habitat of the beetle. Recent bulldozing has modified the area around one of the vernal pools where the beetle occurs.

The parties planning the two projects with Federal involvement are aware of the presence of the delta green ground beetle and are considering it in an EIR and EIS under preparation. The Service cannot prepare a final analysis of the effects of these activities on the proposed Critical Habitat, or the effects of Critical Habitat designation on the activities, until final plans are available. Both projects have various options which preclude further analysis until specific actions are proposed. Based on the information available to the Service, major conflicts are not anticipated from Critical Habitat designation for the delta green ground beetle.

Public Comments Solicited

The Director intends that the rule finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the species;

(2) Additional information concerning its range and distribution;

(3) Current or planned activities which may adversely modify the subject areas which are being considered for Critical Habitat; and

(4) The foreseeable economic and other impacts of the Critical Habitat designation on federally funded or authorized projects.

Public Meetings

The Service hereby announces that a public meeting and a public hearing will be held on this proposed rule. The public is invited to attend these sessions and to present opinions and information on the proposal. Specific information relating to the public meeting and public hearing is set out below:

Public Meeting

Place, Date, Time and Subject

Tennis Club, 4120 Chiles Rd. Davis, Calif., May 22, 1980, 7:30–10:00 p.m.; Delta green ground beetle

Public Hearing

Place, Date, Time and Subject

Tennis Club 4120 Chiles Rd. Davis Calif., June 12, 1980, 7:30–10:00 p.m.; Delta green ground beetle

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary authors of this rule are Dr. Michael M. Bentzien and Dr. Paul A. Opler, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

Note.—The Department of the Interior has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Regulations Promulgation

According, it is hereby proposed to amend Part 17, Subchapter B of Chapter I. Title 50 of the Code of Federal Regulations, as set forth below:

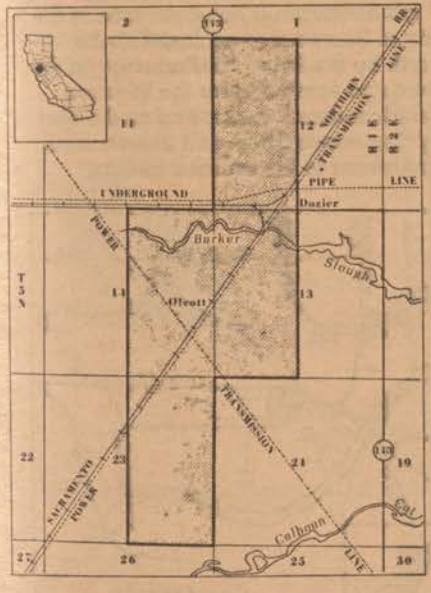
§ 17.95 [Amended]

1. It is proposed that § 17.95(i), Insecta, be amended by adding Critical Habitat of the delta green ground beetle after that of the California elderberry longhorn beetle as follows:

Delta Green Ground Beetle

(Elaphrus viridis)

California, Solano County. T.5 N.R.1.E. W½ Sec. 12, W½ Sec. 13, E½ Sec. 14, E½ Sec. 23.



Dated: April 23, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-13464 Filed 5-1-80; 8:45 am]

BILLING CODE 80-13464-M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reproposal of Critical Habitat for California Elderberry Longhorn Beetle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed Rule Designating Critical Habitat for the California elderberry longhorn beetle.

SUMMARY: The Service reproposes Critical Habitat for the California elderberry longhorn beetle (*Desmocerus dimorphus californicus).* Threatened status and Critical Habitat were originally proposed for this species on August 10, 1978 (43 FR 35636–43). The Critical Habitat portion of this proposal was withdrawn by the Service on March 6, 1979 (44 FR 12382–12384) because of procedural and substantive changes in prior law made by the Endangered Species Act Amendments of 1978. This proposed rule complies with the changed requirements.

DATES: Comments from the public must be received by June 30, 1980.

Comments from the Governor of California must be received by July 30, 1980.

A public meeting on this proposal will be held on May 22, 1980.

A public hearing on this proposal will be held on June 12, 1980.

ADDRESSES: Interested persons or organizations are requested to submit comments to Director (OES), U.S. Fish and Wildlife Service, Washington, D.C. 20240. Comments and materials relating to this rulemaking are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia 22201. The times and places of the public and hearing on this proposal are presented in the table below.

FOR FURTHER INFORMATION CONTACT: For further information on this proposal, contact Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The California elderberry longhorn beetle was proposed as Threatened, with Critical Habitat, on August 10, 1978 (43 FR 35636–43). Before final action could be taken on this proposal, Congress passed the Endangered Species Act Amendments of 1978, which changed the procedures the Service must follow when designating Critical Habitat. The present rulemaking complies with the amendments.

The California elderberry longhorn beetle formerly occurred in riparian (streamside) environments in the lower Sacramento and upper San Joaquin Valleys of California. Much of this habitat type has been destroyed by stream channelization, levee construction, and development of riverfront properties. It is not known if the California elderberry longhorn beetle still occures in the San Joaquin Valley. In the Sacramento Valley, the beetle is known only from the American River near its confluence with the Sacramento River, and from Putah Creek, Sonoma County. The beetle can only be found in areas where the host plant, *Sambucus glauca,* occurs in good stands.

No information has been received that would warrant a change in the previously proposed status of the California elderberry longhorn beetle.

Information Sources

Eya, B.K. Undated. Distribution and status of a longhorn beetle, *Desmocerus dimorphus californicus* Fisher (Coleoptera: Cerambycidae). Unpublished manuscript.

Factors Affecting the Species

The major threat to the California elderberry longhorn beetle is changed land use in the riverside habitats to which it is restricted. Examples of activities which could adversely affect the beetle are:

1. Modification of riparian habitats by river channelization.
2. Construction of buildings, roads, bridges, or parking lots, directly eliminating the beetle's host plant, elderberry (*Sambucus glauca).*
3. Human disturbance, such as vandalism or fire, resulting from increased recreational use, which adversely affects the beetle.

Critical Habitat

The Act defines "Critical Habitat" as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service believes that certain areas within the geographical range of the California elderberry longhorn beetle should be designated Critical Habitat because they contain populations of the beetle's host plant which is essential to its survival. This beetle occupies a limited range and is susceptible to changes in its riverside

habitat. Because changes in the area occupied by the species could result in its extinction, designation of Critical Habitat is essential for this beetle's conservation.

The reproposal of Critical Habitat includes two areas not included in the August 10, 1978 (43 FR 35636–43) proposal. Information provided by Dr. Arthur Shapiro of the Department of Zoology of the University of California at Davis indicated that two of the largest colonies of the California elderberry longhorn beetle were not included in the previously proposed Critical Habitat. The reproposed Critical Habitat includes these colonies.

Constituent elements of the Critical Habitat essential to the continued survival of the California elderberry longhorn beetle are populations of the elderberry, *Sambucus glauca*, on which the beetle feeds and lays its eggs.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a draft impact analysis and believes at this time that there will be no significant economic or other impacts resulting from this proposed action (see below).

The Service will prepare a final impact analysis prior to the time of final rulemaking, and will use that document as the basis for its decision as to whether or not to exclude any area from Critical Habitat for the California elderberry longhorn beetle.

A detailed summary of comments responding to the original proposal for listing the species and to this reproposal of Critical Habitat will appear at the time of final rulemaking.

Effect of This Proposal if Published as a Final Rule

Section 4(f)(4) of the Act requires, to the maximum extent practicable, that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be impacted by such designation. Activities that modify the species' habitat were discussed above. Critical Habitat designation only affects Federal agency activities, through Section 7 of the Act.

Designation of Critical Habitat is not expected to have a major effect on any of the activities mentioned in the Factors section above. Most of the land proposed as Critical Habitat is owned by the County of Sacramento and is part of the American River Parkway. The Sacramento County Department of Parks and Recreation is aware of the presence of the California elderberry longhorn beetle and wishes to conserve the beetle and its riparian habitat. There are no known or anticipated Federal involvements on the privately owned lands which have been proposed as Critical Habitat; therefore, no significant impact is expected to result from designation of Critical Habitat.

Public Meetings

The Service hereby announces that public meetings will be held on this proposed rule. The public is invited to attend these meetings and to present opinions and information on the proposal. Specific information relating to the public meeting and hearing is set out below:

Public Meeting

Place: Tennis Club, 4120 Chiles Road, Davis, California
Date: May 22, 1980
Time: 7:30–10 pm
Subject: California elderberry longhorn beetle

Public Hearing

Place: Tennis Club, 4120 Chiles Road, Davis, California
Date: June 12, 1980
Time: 7:30–10 pm
Subject: California elderberry longhorn beetle

Public Comments Solicited

The Director intends that the rules finally adopted be as accurate and effective as possible in the conservation of the California elderberry longhorn beetle. Therefore, any comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning any aspect of this proposed rule are solicited. The Service particularly requests comments on the following:

1. Biological and other relevant data concerning any threat (or lack thereof) to this species;
2. Additional information concerning the range and the distribution of the species;
3. Current or planned activities in the subject areas;
4. The probable impacts on such activities if the area is designated as Critical Habitat; and
5. The foreseeable economic and other impacts of the Critical Habitat designation.

National Environmental Policy Act

A draft environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment will be the basis for a decision as to whether this determination is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969.

The primary author of this rule is Dr. Michael M. Bentzien, Office of Endangered Species, U.S. Fish and Wildlife Service, Washigton, D.C. 20240 (703/235–1975).

The Department of the Interior has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Act 12044 and 43 CFR Part 14.

Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

§ 17.95 [Amended]

1. It is proposed that § 17.95(i), Insecta, be amended by adding Critical Habitat for the California elderberry longhorn beetle as follows:

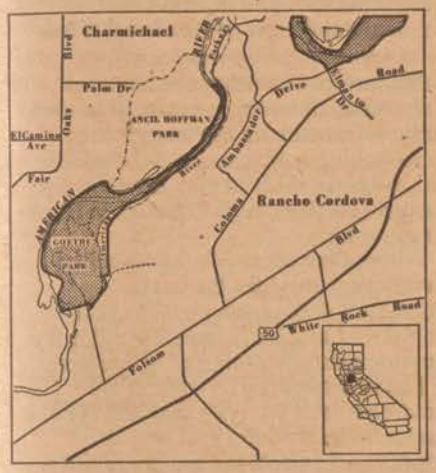
California elderberry longhorn beetle
(Desmocerus dimorphus californicus)

California. Sacramento County.

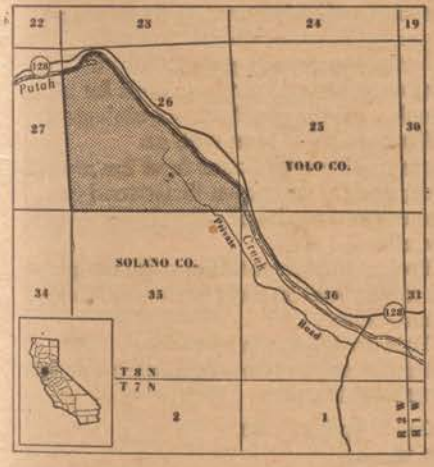
(1). Sacramento Zone. An area in the city of Sacramento enclosed on the north by the Route 160 Freeway, on the west and southwest by the Western Pacific railroad tracks, and on the east by Commerce Circle and its extension southward to the railroad tracks.

(2). American River Parkway Zone. An area of the American River Parkway on the south bank of the American River, bounded on the north by latitude 38°37′30″ N, on the west and southwest by Elmanto Drive from its junction with Ambassador Drive to its extension to latitude 38°37′30″ N, and on the south and east by Ambassador Drive and its extension north to latitude 38°37′30″N, Goethe Park, and that portion of the American River Parkway northeast of

Goethe Park, west of the Jedediah Smith Memorial Bicycle Trail, and north to a line extended eastward from Palm Drive.



(3). Putah Creek Zone. California. Solano County. R. 2 W T. 8 N. Solano County portion of Section 26.



Dated: April 24, 1980.

Reproposal of Critical Habitat for California elderberry longhorn beetle.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-13465 Filed 5-1-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. MMPAH 1980-1]

Taking of Marine Mammals Incidental to Commercial Fishing Operations

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Order of Administrative Law Judge.

SUMMARY: The Order modifies and supplements previous information published in the **Federal Register** [45 FR 10552; 45 FR 13498; 45 FR 14909] relating to the formal hearing to consider proposed incidental taking regulations. In light of new information that became available during the hearing, a group of scientists brought together at the request of the parties will review this new information and report to the Administrative Law Judge and all parties on May 19, 1980. As a result, the Order adjusts the briefing schedule previously announced.

DATES: See below.

FOR FURTHER INFORMATION CONTACT: Hugh J. Dolan, Adminstrative Law Judge, U.S. Department of Commerce, Washington, D.C. 20235, AC202-377-3135.

SUPPLEMENTARY INFORMATION:

Order

On account of new information that became available during the formal hearing, a public session will convene at 10 a.m. on May 19, 1980 in Room 6707, U.S. Department of Commerce Building, Washington, D.C. to review the report being prepared as well as any other timely and relevant information. The following revised briefing schedule is adopted: June 2, 1980–Open Brief; June 10, 1980–Reply Brief; June 11, 1980–10 a.m. Oral Argument, Department of Commerce, Room 6707; July 7, 1980–Recommended Decision of the Administrative Law Judge; July 15, 1980–Exemptions to the Recommended Decision of the Administrative Law Judge.

The revised schedule accommodates a review of the new information by a group of scientists brought together at the request of the parties. It is expected that the group of scientists will submit a written report to the Administrative Law Judge and all parties on May 19, 1980. The report will become part of the record of this proceeding and will be available for public inspection.

Dated: April 29, 1980.

Hugh J. Dolan,

Adminstrative Law Judge, Office of Hearings and Appeals.

[FR Doc. 80-13626 Filed 5-1-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 87
Friday, May 2, 1980

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

Forest Service

Forest Land and Resource Management Plan, Gifford Pinchot National Forest, Clark, Cowlitz, Klickitat, Lewis, Pierce Skamania, Thurston and Yakima Counties; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Department of Agriculture, Forest Service will prepare an Environmental Impact Statement for a Land and Resource Management Plan for the Gifford Pinchot National Forest. This Forest Plan will be developed in accordance with direction for land and resource management planning in the National Forest Management Act of 1976.

The Forest Plan will replace all previous unit and resource plans and provide direction for all lands administered by the Gifford Pinchot National Forest.

The Forest Plan will be coordinated with local, county, State and Federal agencies, the Yakima Indian Nation and local Indian tribes. Public involvement will be encouraged and sought throughout the entire process.

Currently a tentative list of issues and concerns is being prepared on the Forest. The public will then be invited to comment on these issues and concerns.

Alternatives will be displayed in an environmental impact statement and will include, at the minimum: (1) a no-action alternative; (2) one or more alternatives which will result in eliminating all backlogs of needed treatment for the restoration of renewable resources; (3) an alternative which approximates the level of goods and services assigned by the Regional Plan; and (4) one or more alternatives formulated to resolve the major public issues or concerns.

R. E. Worthington, Regional Forester, Pacific Northwest Region is the responsible official. Questions about the proposed action and environmental impact statement should be directed to John M. Johnson, Land Management Planning Leader, Gifford Pinchot National Forest (phone 206–696–7574).

A Draft Environmental Impact Statement on the Forest Plan is scheduled to be filed by June 1982. The Final Environmental Impact Statement will be filed by December 1982.

Comments and suggestions concerning the analysis for the Forest Plan should be sent to Robert Tokarczyk, Forest Supervisor, Gifford Pinchot National Forest, 500 West 12 Street, Vancouver, Washington 98660.

Dated: April 24, 1980.

R. E. Worthington,

Regional Forester.

[FR Doc. 80–13449 Filed 5–1–80; 8:45 am]

BILLING CODE 3410–11–M

Ketchikan Area, Tongass National Forest, Hugh-Smith Lake Fertilization Project; Southeast Alaska; Finding of No Significant Impact

An environmental assessment that discusses proposed fertilization of Hugh-Smith Lake on National Forest lands within the Misty Fiords National Monument is available for public review in the Forest Service Office in Ketchikan, Alaska.

Based on the analysis and evaluation of the alternatives in the environmental assessment, it is my decision to adopt Alternative 1. This alternative calls for fertilization of Hugh-Smith Lake on a weekly basis during the summer season with inorganic fertilizer applied from a boat. Other alternatives considered were: (2) the no action alternative which would call for no lake fertilization on the Ketchikan Area and (3) fertilization of another lake on the Ketchikan Area which is not in a proposed wilderness or special management area. The assessment identifies the specific details of the lake fertilization plan and the monitoring program for water quality and project goal attainment.

Fertilization of Hugh-Smith Lake by the Southern Southeast Regional Aquaculture Association according to alternative one will enhance the commercial fishery of Southeast Alaska with an optimum benefit/cost relationship. The proposed fisheries enhancement which is compatible with national monument status and all current land management bills before Congress would be a step toward restoring historic high fish runs in Hugh-Smith Lake.

Alternative one, with the specified monitoring provides the best combination of physical, biological, social and economic benefits and is the environmentally preferred alternative.

I have determined based on the environmental analysis that this is not a major Federal action that would significantly affect the quality of the environment; therefore an environmental impact statement is not needed. This determination was made considering the following factors: (a) fertilization of the 740 acre lake will have only a slight effect on the total ecosystem; (b) there are no irreversible resource commitments; (c) there are no apparent adverse effects, and side effects of increased productivity will approach historic natural levels for all species; (d) the physical and biological effects are short term with no measureable effect outside of the project area; and (e) no known threatened or endangered plants or animals are within the affected area.

Project implementation will take place no sooner that 30 days from the date of this decision.

This decision is subject to administrative review (appeal) pursuant to 36 CFR 211.19.

Dated: April 25, 1980.

J. S. Watson,

Forest Supervisor.

[FR Doc. 80–13451 Filed 5–1–80; 8:45 am]

BILLING CODE 3410–11–M

Rural Electrification Administration

Northern Michigan Electric Cooperative, Inc., and Wolverine Electric Cooperative, Inc.; Finding of No Significant Impact

Northern Michigan Electric Cooperative, Inc. (Northern) of Boyne City, Michigan, and Wolverine Electric Cooperative, Inc. (Wolverine) of Big Rapids, Michigan, are owners, respectively of 11.22 percent and 8.78

percent undivided interests in the Enrico Fermi Unit No. 2 nuclear project. Detroit Edison Company, the owner of the other 80 percent undivided interest, has contract responsibility for construction, and operation of the project. The plant is located in Monroe County, Michigan, and is approximately 85 percent complete. Financing assistance to Northern and Wolverine was provided by REA on September 28, 1977, through loan guarantee commitments. The loan guarantee commitments were in an amount then estimated to be sufficient for Northern and Wolverine's combined 20 percent ownership responsibility in the plant and the initial fuel core. Consideration is now being given to additional loan guarantee commitments to Northern and Wolverine. This financing assistance will enable the Cooperatives to obtain loan funds for the current estimated cost of the 20 percent ownership responsibility in the plant and fuel. The estimated cost includes fuel related costs that will be incurred until the projected commerical operation of Unit No. 2 and for design and safety changes resulting from investigation of the nuclear plant accident at Three Mile Island.

Continued ownership participation in the project is the preferred alternative. Among the alternatives considered is evaluating the requests from Northern and Wolverine for additional financing assistance were to purchase additional power, to construct a coal-fired plant or to take no action. These alternatives are considered not to be viable.

REA prepared prepared an environmental assessment covering the additional financing assistance to Northern and Wolverine for the increased cost of the 20 percent undivided ownership in the Enrico Fermi Unit No. 2 nuclear project. After a review of this assessment, REA concluded that its loan guarantee commitments will have no significant impact on the quality of the human environment and prepared a "Finding of No Significant Impact" (FONSI). This FONSI can be reviewed in the office of the Director (Room 5831, South Agriculture Building), Power Supply Division, Rural Electrification Administration, Washington, D.C. 20250 and at the offices of the cooperatives, Northern Michigan Electric Cooperative, Inc., P.O. Box 138, Boyne City, Michigan 49712 and Wolverine Electric Cooperative, Inc., P.O. Box 1133, Big Rapids, Michigan 49307.

Dated at Washington, D.C., this 25th day of April 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-13501 Filed 5-1-80; 8:45 am]

BILLING CODE 3410-15-M

Upper Missouri G. & T. Electric Cooperative, Inc.; Loan Consideration

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable policies and procedures set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $6,100,000 to Upper Missouri G. & T. Electric Cooperative, Inc., of Sidney, Montana. These loan funds will be used to finance a construction program consisting of 41.6 kV and 57 kV transmission lines totaling approximately 8 miles, two 230/57/41.6kV substations and related facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. William Heit, Manager, Upper Missouri G. & T. Electric Cooperative, Inc., Box 1069, Sidney, Montana 59270.

In order to be considered, proposals must be submitted June 2, 1980, to Mr. Heit. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Upper Missouri and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C. this 24th day of April, 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-13338 Filed 5-1-80; 8:45 am]

BILLING CODE 3410-15-M

Science and Education Administration

Joint Council on Food and Agricultural Sciences Executive Committee; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration announces the following meeting:

Name: Executive Committee of the Joint Council on Food and Agricultural Sciences.
Date: May 14, 1980.
Time and place: 8:30 a.m.-4 p.m., Room 448, GHI Building, 500 12th St., S.W., Washington, D.C.
Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person below.
Purpose: Review and consider overall Joint Council strategies, hear updates from the AD Hoc Committee on Energy and the Steering Committee for Planning and Coordination; follow-up on evaluation activities and program structure development.
Contact person: Susan G. Schram, Executive Secretary, Joint Council on Food and Agricultural Sciences, Science and Education Administration, U.S. Department of Agriculture, Room 351-A, Administration Building, Washington, D.C. 20250, telephone (202) 447-6651.

Done at Washington, D.C., this 23rd day of April 1980

James Nielson,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 80-13598 Filed 5-1-80; 8:45 am]

BILLING CODE 3410-03-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Availability of Report on Closed Meeting Activities

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I, and OMB circular A-63 (revised March 27, 1974), a report on the activities of the General Advisory Committee on Arms Control and Disarmament covering closed meetings held in 1979 has been prepared and is available for public inspection as follows:

Library of Congress, Federal Advisory Committtee Desk, Federal Documents Section, Exchange and Gift Division, Washington, D.C.
U.S. Arms Control and Disarmament Agency, ACDA Library, 8th Floor, State Annex 6, 1700 North Lynn Street, Rosslyn, VA.

Dated: April 28, 1980.

Charles R. Oleszycki,

Advisory Committee, Management Officer.

[FR Doc. 80-13490 Filed 5-1-80; 8:45 am]

BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

[Docket No. 37873]

Golden West Airlines, Inc., Fitness Investigation; Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding now assigned to be held immediately following the prehearing conference scheduled for May 2, 1980, at 9:30 a.m. (45 FR 23711, April 8, 1980) is postponed until a date and time to be set at the May 2, 1980 prehearing conference.

Dated at Washington, D.C., April 25, 1980.

William A. Pope II,

Administrative Law Judge.

[FR Doc. 80-13576 Filed 5-1-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 37863; Order 80-4-197]

Hughes Airwest, Inc.; Application for Compensation for Losses

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of April 1980.

Order

On February 26, 1979, Hughes Airwest filed a 90-day notice to suspend all service at Crescent City, California, effective June 1, 1979. By Order 79-4-127 and several ensuing orders, the Board prohibited Airwest's suspension, defined an interim level of essential air service for Crescent City, and sought carrier proposals to provide this level of service.

Airwest was on strike from September 10 to November 10, 1979, and, since it was never allowed to suspend service at Crescent City, reinstituted service on December 1. During this strike period, Century Airlines, acting on its own, began serving Crescent City and was the only carrier providing service. On December 12, Century filed an emergency motion stating that, until Airwest's resumption of service at Crescent City, Century was operating at a profit. In its emergency motion, Century stated that it had lost substantial money at Crescent City since Airwest reinstituted service on December 1 and asked that the Board allow Airwest to suspend its service so that Century could continue its operations. The community, realizing that its long-term interests would not be served by requiring Airwest to continue to provide service, passed a resolution urging the Board to allow Airwest to suspend service, provided that Century would not reduce its service from its December 3 level,[1] even though that level did not meet the community's interim essential air service determination.[2] By Order 79-12-190, the Board allowed Airwest to suspend operations in favor of Century's service, but held Airwest in a backup role so Century could suspend service on as little as three days' notice if necessary.

On December 31, 1979, Century filed a 30-day notice of its intent to suspend its service at Crescent City, effective January 29, 1980. Several days later, on January 10, 1980, Century filed a six-day notice [3] to reduce its service from three daily round trips to San Francisco and two to Portland to one daily round trip to each. By Order 80-1-107, January 15, 1980, we permitted Century to suspend service, and required Airwest to arrange for the provision of service, either by itself, or by subcontracting to Century or some other commuter carrier.

Pursuant to that order, Airwest and Century filed an agreement [4] with the Board, by which Century would continue to provide essential air service at Crescent City as an independent contractor for Airwest. Under the agreement, Century would bill Airwest for any losses it incurred in providing the service; Airwest, in turn, would request from the Board compensation for losses under section 419(a)(7)(B) of the Act.

On March 14, 1980, Airwest filed an application for interim compensation for losses at Crescent City, and on April 1, 1980, filed an amendment to its request. As amended, Airwest seeks flow-through compensation of $109,709 for the period January 16 through February 29, 1980, based on Century's experienced losses during that period, plus $57,300 for the month of March and $49,700 for April, based on Century's forecast operating losses.

We have reviewed Airwest's filings, and conclude that the appropriate interim rate of compensation is $81,696 for the period January 14 through February 29, and $30,801 [5] per month for the months of March and April.

Our adjustments have several grounds. First, Airwest's figures, which were calculated by Century, contain several inconsistencies. For example: Century claimed actual daily block hours in February were 18.92, while scheduled daily block hours were only 18.76; Century forecast a 5 percent daily traffic increase plus a 5 percent fare increase in March, but did not take into account the greater number of days in March in forecasting March traffic; and Century forecast average costs per block hour in March and April of $250 and $240, respectively, yet its claimed costs in its subsidy calculations for these months amount to approximately $268 per hour for both months. Adjusting for those discrepancies reduces Century's operating loss by about $7,000 in February, $12,000 in March, and $15,000 in April.

Second, Century includes a profit element equal to 7.5 percent of expenses; since interim rates are subject to adjustment once a carrier is allowed to terminate service, our policy has been to consider them temporary rates, and to recognize only operating loss plus interest, consistent with section 399.30 of our policy statements.[6] This adjustment amounts to $14,199 for the January 14–February 29 period, and $9,300 per month for March and April.

Finally, Century's claim includes a separate allowance for legal fees of $6,500 in January, $3,000 in February, and $2,500 in March. As indicated, Century has developed its operating costs on a block hour basis, and applied those unit rates to its block hours incurred in providing service to Crescent City. Presumably, its block hour rates reflect general and administrative costs, which should include its legal fees. It would not, therefore, be reasonable to recognize, in addition, costs directly assigned to any expense category. We will, therefore, disallow Century's additional legal fees.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204, 419, and 1002(b) thereof, and the regulations promulgated in 14 CFR Parts 302 and 324:

1. We set the interim rate of compensation for losses sustained by Hughes Air Corp., d/b/a Hughes

[1] Century provided two round trips northbound to Eugene and Portland and three round trips southbound to Eureka and San Francisco with 9-seat Cessna 402C aircraft, operated by a single pilot when flying conditions were good and by two pilots when conditions were questionable. This is the level of service the Board approved in Order 79-12-190.

[2] Order 79-7-137 defined this level as at least two daily round trips to San Francisco providing 21 seats in each direction on weekdays. This was subsequently changed to 28 seats when the Board adopted the 50 percent load factor standard for determining essential air service capacity levels.

[3] Order 79-12-190 required only a three day notice but Century gave six days to give the Board and Airwest additional time to resolve the problem.

[4] Agreement C.A.B. 28167, Docket 37488, approved by Order 80-3-61, March 12, 1980.

[5] Average monthly breakeven need for March and April.

[6] The final rate, which we will set after termination of service, will include a return element.

Airwest, by virtue of its provision of essential air service at Crescent City, California, during the period January 14 through February 29, 1980, at $81,696;

2. We set the interim rate of compensation for losses sustained by Hughes Air Corp., d/b/a Hughes Airwest, by virtue of its provision of essential air service at Crescent City, California,[7] during the period March 1 through April 30, 1980, at $125.24 per essential air service flight completed, subject to a maximum compensation of $1,185.00 per weekday or weekend period on which essential air service is provided, and a maximum compensation of $30,801.00 per calendar month; and

3. This proceeding shall remain open pending entry of an order fixing the final rate of compensation, and the amount of such rate may be the same as, lower than, or higher than the interim rate of compensation set here.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[8]

Secretary.

[FR Doc. 80-13575 Filed 5-1-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determinations of Eligibility to Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Jade Handbag Company, Inc., 49 West 27th Street, New York, New York 10001, a producer of handbags and belts (accepted April 10, 1980); (2) May Optical Company, Inc., P.O. Box 760, Wareham, Massachusetts 02571, a producer of eyeglass frames (accepted April 10, 1980); (3) T & B Leather Fashions, Inc., 230 West 38th Street, New York, New York 10018, a producer of women's leather coats and jackets (accepted April 10, 1980); (4) Mason Manufacturing Company, Dexter Road, East Providence, Rhode Island 02914, a producer of metal cans, spools, cups and stampings (accepted April 11, 1980); (5) Nooksack Farms, Inc., 9314 Swanson Road, Sumas, Washington 98295, producer of peas, beans, carrots and corn (accepted April 14, 1980); (6) Sunset Sportswear, Inc., P.O. Box 3978, Terminal Station, Seattle, Washington 98124, a producer of men's, womens', and childrens' jackets, vests and ski pants (accepted April 14, 1980); (7) Kickers for Her, Ltd., 1359 Broadway, New York, New York 10018, a producer of women's jeans, shorts and rompers (accepted April 15, 1980); (8) American Chemo-Plastics, Inc., P.O. Box 190, Warrensburg, New York 12885, a producer of eyeglass molds and lenses (accepted April 15, 1980); (9) Imaging Systems Corporation, One Imaging Lane, Derry, Pennsylvania 15627, a producer of toners and developers for copying machines (accepted April 15, 1980); (10) North Shore Sportswear Company, Inc., Dixon Street, Glen Cove, New York 11542, a producer of women's leather coats and jackets (accepted April 15, 1980); (11) Lesnow Manufacturing Company, Inc., 148 Pleasant Street, Easthampton, Massachusetts 01027, a producer of men's suits and sportcoats; women's blazers (accepted April 16, 1980); (12) Pensato, Inc., 33 West 34th Street, New York, New York 10001, a producer of women's shoes (accepted April 17, 1980); (13) Clyde Shirt Company, Inc., 902 Main Street, Northampton, Pennsylvania 18067, a producer of women's shirts and blouses (accepted April 18, 1980); (14) The Wright Touch, Inc., 341 West Jefferson Boulevard, Los Angeles, California 90007, a producer of garment and jewelry trimmings (accepted April 18, 1980); (15) Fostoria Glass Company, Moundsville, West Virginia 26041, a producer of glassware (accepted April 18, 1980); (16) Apco Mossberg Company, 100 Lamb Street, Attleboro, Massachusetts 02703, a producer of hand tools and reels (accepted April 21, 1980); (17) Kutztown Shoe, Inc., Greenwich and Schley Streets, Kutrztown, Pennsylvania 19530, a producer men's and boys' footwear (accepted April 21, 1980); (18) Continental Color, Inc., 245 Seventh Avenue, New York, New York 10001, a producer of color separations for offset printing (accepted April 21, 1980); (19) Jayar Machinery, Ltd., 167 New Highway, North Amityville, New York 11701, a producer of shoe, handbag and leather products machinery (accepted April 21, 1980); (20) Sandstone Manufacturing Company, Inc., 1350 Broadway, New York, New York 10018, a producer of women's pants (accepted April 21, 1980); (21) Fabien Corporation, 10 Dell Glen Avenue—Box 300, Lodi, New Jersey 07644, a producer of printed textiles (accepted April 22, 1980); (22) Northern Heel Corporation, 6 Grove Street, Dover, New Hampshire 03820, a producer of shoe heels and injection molds (accepted April 22, 1980); (23) Oxford Royal Mushroom Products, Inc., Route 796, Kelton, Pennsylvania 19346, a processor of mushrooms (accepted April 22, 1980); and (24) Santay Foam, Inc., 11 Merry Lane, East Hanover, New Jersey 07936, a producer of loudspeaker parts (accepted April 22, 1980).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (P.L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

Jack W. Osburn, Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 80-13458 Filed 5-1-80; 8:45 am]

BILLING CODE 3510-24-M

International Trade Administration

Telecommunications Equipment, Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a) (2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Telecommunications Equipment Technical Advisory Committee will be held on Thursday, May 22, 1980, at 10:00 a.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Telecommunications Equipment Technical Advisory Committee was initially established on April 5, 1973. On March 12, 1975, March 16, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

[7] Appendix A filed as part of the original document.

[8] All members concurred.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to telecommunications equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has five parts:

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of guidelines between this Committee and the "critical technology" group of Department of Defense.
4. Discussion and review of the annual report.

Executive Session

5. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5) the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(c)(1). Such matters are specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Telecommunications Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the **Federal Register** on September 26, 1978 (43 FR 43531).

Copies of the minutes of the General Session will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, phone 202–377–2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: April 29, 1980.

Kent Knowles,

Director, Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 80-13594 Filed 5-1-80; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

Approval of Request for Removal, Without Disapproval, from Roster of Approved Trustees

On February 29, 1980, there was published in the **Federal Register** (**Federal Register** Vol. 45, No. 42) pursuant to 46 CFR 221.28, a Notice of Request for Removal, Without Disapproval, from Roster of Approved Trustees pursuant to the request of Republic National Rank of Dallas, with offices at One Dallas Centre, P.O. Box 2964, Dallas, Texas.

Therefore, pursuant to Pub. L. 89–346 and 46 CFR 221.21–221.30, the Republic National Bank of Dallas is removed from the Roster of Approved Trustees.

This notice shall become effective May 2, 1980.

Dated: April 18, 1980.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 13452 Filed 5-1-80; 8:45 am]

BILLING CODE 3510-15-M

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its program to operate one project for a 12 month period beginning July 1, 1980, in the Standard Metropolitan Statistical Area (SMSA) of Norfolk, Virginia. The cost of the project is estimated to be $335,000 and the Project Number is 03–30–55140–00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. This proposed project is specifically designed to provide general business services to the private sector. Such services include loan packaging, management and technical assistance, marketing advice, procurement opportunities, and construction contractor assistance.

Eligibility Requirements: There are no restrictions. Any for-profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested by writing to the following address: Washington Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 1730 K Street NW., Rm. 420, Washington, DC 20006.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local government, federally recognized Indian tribunal unit, educational institution, hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked according to the capability of the staff assigned to the project, the management capability of the applicant, the proposed program plan, the budget allocation plan, and the applicant's knowledge of the area to be served. Specific criteria will be included in the application kit.

Renewal Process: If an award is made, continuation awards for up to two additional years may be made to the successful recipient without competition, provided that funds have been appropriated for a project of this kind, and MBDA has determined that such funds are available, there is a continuing need for a project of this kind, and the recipient has performed satisfactorily.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of May 14, 1980. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

Dated: April 28, 1980.

Allan A. Stephenson,

Deputy Director.

[FR Doc. 80-13529 Filed 5-1-80; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its program to operate one project for a 12 month period beginning July 1, 1980, in counties around Hartford, Connecticut. The cost of the project is estimated to be $80,000 and the Project Number is 01-10-45271-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. This proposed project is specifically designed to provide management and technical assistance to new or existing minority firms, assist with capital acquisition, accounting, and other business assistance services.

Eligibility Requirements: There are no restrictions. Any for-profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested by writing to the following address: New Regional Office, Minority Business Development Office, U.S. Department of Commerce, 26 Federal Plaza, Rm. 3707, New York, NY 10007.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local government, federally recognized Indian tribunal unit, educational institution, hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be sumitted to a panel for review and ranking. The applications will be ranked according to the capability of the staff assigned to the project, the management capability of the applicant, the proposed program plan, the budget allocation plan, and the applicant's knowledge of the area to be served. Specific criteria will be included in the application kit.

Renewal Process: If an award is made, continuation awards for up to two additional years may be made to the successful recipient without competition, provided that funds have been appropriated for a project of this kind, and MBDA has determined that such funds are available, there is a continuing need for a project of this kind, and the recipient has performed satisfactorily.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of June 1, 1980. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

Dated: April 28, 1980.

Allan A. Stephenson,

Deputy Director.

[FR Doc. 80-73530 Filed 5-1-80; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its program to operate one project for a 12 month period beginning July 1, 1980, in counties around Miami and West Palm Beach. The cost of the project is estimated to be $335,000 and the Project Number is 04-60-30372-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. This proposed project is specifically designed to provide all services to promote the establishment, viability, and growth of qualified minority owned businesses.

Eligibility Requirements: There are no restrictions. Any for-profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project my be requested by writing to the following address: Atlanta Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 1365 Peachtree Street, NE, Rm. 225, Atlanta, GA 30309.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local government, federally recognized Indian tribunal unit, educational institution, hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked according to the capability of the staff assigned to the project, the management capability of the applicant, the proposed program plan, the budget allocation plan, and the applicant's knowledge of the area to be served. Specific criteria will be included in the application kit.

Renewal Process: If an award is made, continuation awards for up to two additional years may be made to the successful recipient without competition, provided that funds have been appropriated for a project of this kind, and MBDA has determined that such funds are available, there is a continuing need for a project of this kind, and the recipient has performed satisfactorily.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of June 1, 1980. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

Dated: April 28,1980.

Allan A. Stephenson,

Deputy Director.

[FR Doc. 80-13531 Filed 5-1-80; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its program to operate one project for a 11 month period beginning July 1, 1980, in six counties around Huntsville,

Alabama. The cost of the project is estimated to be $87,084 and the Project Number is 04–10–30362–00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. This proposed project is specifically designed to provide any and all services to promote the establishment, viability and growth of qualified minority owned businesses.

Eligibility Requirements: There are no restrictions. Any for-profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested by writing to the following address: Atlanta Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 1365 Peachtree Street NE., Rm. 225, Atlanta, Ga. 30309.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local government, federally recognized Indian tribunal unit, educational institution, hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked according to the capability of the staff assigned to the project, the management capability of the applicant, the proposed program plan, the budget allocation plan, and the applicant's knowledge of the area to be served. Specific criteria will be included in the application kit.

Renewal Process: If an award is made, continuation awards for up to two additional years may be made to the successful recipient without competition, provided that funds have been appropriated for a project of this kind, and MBDA has determined that such funds are available, there is a continuing need for a project of this kind, and the recipient has performed satisfactorily.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of June 1, 1980. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

Dated: April 28, 1980.

Allan A. Stephenson,

Deputy Director.

[FR Doc. 80–13532 Filed 5–1–80; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Issuance of Permit

On March 12, 1980, Notice was published in the **Federal Register** (45 FR 15973), that an application had been filed with the National Marine Fisheries Service by John M. Reinke, 4461 Woodland Park Avenue North, Seattle, Washington 98103 for a permit to take by inadvertent harassment humpback whales *(Megaptera novaeangliae)* for the purpose of scientific research.

Notice is hereby given that on April 25, 1980, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Permit to John M. Reinke for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973, is based on a finding that such permit: 1) was applied for in good faith; 2) will not operate to the disadvantage of the endangered species which are the subject of the permit; and 3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with, and is subject to, Parts 220 and 222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W. Washington, D.C.;

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99801; and

Regional Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109.

Dated: April 25, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80–13454 Filed 5–1–80; 8:45 am]

BILLING CODE 3510–22–M

North Pacific Fishery Management Council and Scientific and Statistical Committee and Advisory Panel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), its Scientific and Statistical Committee (SSC) and its Advisory Panel (AP), will hold joint and separate meetings.

DATES: The Council meeting will convene on Thursday, May 22, 1980, at 8:30 a.m., and ajourn on Friday, May 23, 1980, at 5 p.m., at the Elks Club, Marine Lodge Way, Kodiak, Alaska. The SSC meeting will convene on Tuesday, May 20, 1980, at 7 p.m., at Fishermen's Hall, 403 Marine Way, Kodiak, Alaska, and will adjourn on Wednesday, May 21, 1980 at 5 p.m. The AP meeting will convene on Tuesday, May 20, 1980, at 9 a.m., at Elks Club, Marine Lodge Way, Kodiak, Alaska, and will adjourn at 5 p.m. The meetings may be lengthened or shortened depending upon progress on the agenda. The meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage Alaska 99510, Telephone: (907) 274–4563.

Proposed Agenda—Council

Special Note: Preregistration (except in special or unusual cases) will be required for all public comments which pertain to a specific agenda topic. Preregistration is accomplished by informing the Agenda Clerk as early as possible of the agenda item to be addressed and the time requested. Preregistration and public comment may be scheduled for: F. Old Business: G. Fishery Management Plans: H. New Business agenda items. The following agenda items will be discussed by the Council: A. Call to Order: B. Approval of Agenda: C. Approval of Minutes: D. Executive Director's Report: E. Special Reports: E–1. Alaska Department of Fish and Game (ADFG) Report on Domestic Fisheries. E–2. National Marine Fisheries Service (NMFS) Report on Foreign Fisheries, including joint ventures. E–3. U.S. Coast Guard (USCG) Report on Enforcement and Surveillance. E–4. Special SSC and AP

Reports. F. Old Business: F–1. Management Plan Development Team Policy Approval. F–2. Old business as required. G. Fishery Management Plans: G–1. Gulf of Alaska Groundfish Fishery: 1981 Amendments. G–2. Bering Sea/Aleutian Islands Groundfish Fishery: Consider proposed amendments and release of reserves. G–3. Tanner Crab. G–4. Herring Fishery Management Plan, approval. G–5. King Crab, review first draft. H. New Business: Consider new business as appropriate: I. Reports, Contracts, Proposals: J. Finance Reports: K. Public Comments: L. Chairman's Closing Remarks: M. Ajournment.

SSC/AP Agenda Same as Council

Dated: April 29, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80–13596 Filed 5–1–80; 8:45 am]

BILLING CODE 3510–22–M

Pacific Fishery Management Council, its Scientific and Statistical Committee, and its Groundfish Subpanel; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–263), and the Council has established a Scientific and Statistical Committee and Groundfish Subpanel to assist in carrying out its responsibilities.

DATES: June 10–12, 1980.

ADDRESS: The meetings will take place at the Travelodge, 9750 Airport Boulevard, Los Angeles, California.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone (503) 221–6362

Meeting Agendas Follow

Scientific and Statistical Committee (SSC)—(open meeting) June 10–11, 1980 (1 p.m. to 5 p.m., on June 10; 8 a.m. to 5 p.m., on June 11).

Agenda: Discuss Groundfish and other fishery management plans (FMP's) under development, conduct a public comment period beginning at 3:30 p.m., on June 10, and conduct other Committee business.

Groundfish Subpanel—(open meeting) June 10–11, 1980 (10 a.m. to 5 p.m., on June 10; 9 a.m. to 5 p.m., on June 11).

Agenda: Review of Groundfish FMP.

Council—(open meeting) June 11–12, 1980 (10 a.m. to 5 p.m., on June 11; 8 a.m. to 5 p.m., on June 12).

Agenda: Open Session—Review of Groundfish and other FMP's; conduct other fishery management business, and conduct a public comment period beginning at 4 p.m., on June 11, 1980.

Council—(closed session) June 11 (8 a.m. to 10 a.m.).

Agenda: Closed Session—Discuss the status of current maritime boundary and resource negotiations between the U.S. and Canada and discuss personnel matters concerning appointments to vacancies on subpanels and teams. Only those Council members, SSC members, and related staff having security clearance will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce with the concurrence of its General Counsel, formally determined on February 1, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1), as specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy and (6), as information which is properly classified pursuant to Executive Order and as information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Central Reference and Records inspection Facility, Room 5317, Department of Commerce.) All other portions of the meeting will be open to the public.

Dated: April 29, 1980.

Winfred H. Meibohm

Executive Director, National Marine Fisheries Service.

[FR Doc. 80–13597 Filed 5–1–80; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), will hold its 24th regular meeting to discuss progress of fishery management plans for the billfish and spiny lobster fisheries; progress of 1980 programmatic work schedule; status of Executive Director position, and other Council-related business.

DATES: The meeting will convene on Wednesday, May 28, 1980, at 9 a.m., and will adjourn on Thursday, May 29, 1980, at approximately 4 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place in the Kokee Rooms 7, 8 and 9, of the Kauai Surf Hotel, Kalapaki Beach, Lihue, Kauai, Hawaii.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, Room 1608, 1164 Bishop Street, Honolulu, Hawaii 96813, Telephone: (808) 523–1368.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

April 29, 1980.

[FR Doc. 80–13595 Filed 5–1–80; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1980 commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: May 2, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145

SUPPLEMENTARY INFORMATION: On February 8, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (45 FR 8691) of proposed additions to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1980:

Class 7530

Paper Set, Manifold and Carbon:
7530–00–401–6910,
7530–01–072–2536,
7530–01–072–2537,
7530–00–205–0511,
7530–01–072–2538,
7530–01–072–2539,

7530-00-880-9154. (Requirements for GSA Regions 6 and 7.)

C. W. Fletcher,

Executive Director.

[FR Doc. 80-13493 Filed 5-1-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1980 a commodity to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 4, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1980, November 27, 1979 (44 FR 67925):

Class 7530—No NSN

Divider, Separation, P.S. Item No. 01037A.

SIC 7331

Mailing Service for the following:

Department of Health, Education and Welfare, Office of Education, Washington, D.C.

Defense Supply Service, National Committee for Employer Support for Guard and Reserve, Arlington, Virginia.

United States Metric Board, Arlington, Virginia.

U.S. Geological Survey, Topo Division, Reston, Virginia.

Mailing and Related Services, Office of Personnel Management, Washington, D.C.

Department of Energy, Office of Administration and Distribution, Washington, D.C.

Merit System Protection, Board and the Office of Special Counsel, Washington, D.C.

Smithsonian Institute, Supply Division, Washington, D.C.

SIC 7349

Janitorial/Custodial, Buildings 85 and 90, U.S. Army Reserve Center, Hingham, Massachusetts.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-13494 Filed 5-1-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Proposed Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Deletion from Procurement List.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1980 a commodity produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 4, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

It is proposed to delete the following commodity from Procurement List 1980, November 27, 1979 (44 F.R. 67925):

Class 8465

Bag, Duffel, 8465-00-265-4928.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-13495 Filed 5-1-80; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Intent To Prepare a Draft Environmental Impact Statement For Safe and Final Disposal of DOD-Owned DDT Stocks

AGENCY: Department of Defense, Defense Logistics Agency (DLA), Defense Property Disposal Service (DPDS).

ACTION: Notice of intent to prepare a draft Environmental Impact Statement (EIS).

PURPOSE: To fulfill the requirements of Section 102(2)(C) of the National Environmental Policy Act, DPDS, a field activity of DLA, has identified a need to prepare an EIS and therefore issues this Notice of Intent pursuant to 40 CFR 1501.7.

FOR FURTHER INFORMATION CONTACT: Mr. George Jonas, Chief, Environmental Branch, Defense Property Disposal Service, DPDS-LP, Federal Center, Battle Creek, MI 49016, Telephone: 616-962-6511, ext. 6962.

SUMMARY: 1. Description of proposed action-DPDS is preparing an EIS for the safe and final disposal of DoD-owned DDT stocks. These stocks are currently stored at military installations in 35 states, Puerto Rico and in foreign countries. They are both liquid and solid and in a variety of formulations and packaging. DPDS is being assisted by the following organizations: Omaha District, Corps of Engineers, Omaha, Nebraska; Louis Berger and Associates, East Orange, New Jersey; The Chester Engineers, Corapolis, Pennsylvania; Centaur Associates, Washington, D.C.; and the Ter Eco Corporation, College Station, Texas.

2. Possible Alternatives—Alternative methods of disposal, to include collection and transportation, being considered include: Return to manufacturer for purposes of recycling and/or reformulation; incineration on land at specially equipped incinerators licensed to burn such materials; incineration at sea on a vessel specifically adapted for the burning of hazardous and toxic materials at a designated ocean burning area; placing in approved landfills; and continuation of long-term storage (take no action).

3. Public and Private Participation in the EIS Process—Full participation by interested Federal, State and local agencies as well as other interested private organizations and parties is invited. The public will be involved to the maximum extent possible and is encouraged to participate in the planning process.

4. Scoping—The scoping process has included consultation with U.S. Environmental Protection Agency (EPA) and U.S. Army Environmental Hygiene Agency representatives on February 27, 1979 at HQ DPDS, Battle Creek, Michigan; and the March 1980 transmission of 305 scoping letters to Federal and state officials and interest groups. No further scoping sessions are contemplated.

5. Request for Copies of Draft EIS—. All interested parties are encouraged to submit their name and address to the person indicated above for inclusion on

the distribution list for the draft EIS and related public notices.

Dated: April 28, 1980.

D. S. Bolinger,

CDR, USN, USA, Staff Director, Installation Services and Environmental Protection.

[FR Doc. 80-13497 Filed 5-1-80; 8:45 am]

BILLING CODE 3620-01-M

Privacy Act of 1974; Addition and Amendments of Systems of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice of Systems of records additions and amendments to the additions.

SUMMARY: The Defense Logistics Agency (DLA) is adding and making amendments to three systems of records to its' record systems inventory subject to the Privacy Act. These three systems were formerly maintained in the Office of the Secretary of Defense (OSD) inventory of records subject to the Privacy Act. Subject records are now a function of Manpower Research and Data Analysis Center (MARDAC), DLA and are added to and reidentified as part of the DLA record systems. The specific changes to these systems being added are set forth below followed by the systems published in their entirety as amended.

DATES: Proposed actions shall be effective June 2, 1980 unless public comments result in a contrary determination requiring republication for further comments.

ADDRESS: Send any comments to the system manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT: Mr. William A. Smith, Chief, Administrative Management Division (DLA-XA), Defense Logistics Agency, HQ DLA, Cameron Station, Alexandria, Va. 22314. Telephone 202-274-6250.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency's systems of records inventory as prescribed by the Privacy Act of 1974, 5 U.S.C. 552a(e)(4), have been published in the Annual Compilation at 44 FR 74719, December 17, 1979. The systems of records being amended are not deemed to be within the purview of 5 U.S.C. 552a(o) of the Privacy Act which requires submission of a new or altered system report to Office of Management and Budget guidance set forth in the Federal Register (40 FR 45877) on October 3, 1975.

The three affected systems with their old and their new identification are as follows:

DOCHA 08 (44FR74115) 17 Dec 79
S322.50DLA-LZ
DMRA&L 16.0 (44FR74108) 17 Dec 79
S322.65DLA-LZ
DMRA&L 12.0 (44FR74107) 17 Dec 79
S322.70DLA-LZ

April 28, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer Washington Headquarters Service Department of Defense.

Amendments
S322.50DLA-LZ

SYSTEM NAME:

DoD Health Services Enrollment/ Eligibility System (44FR74115) December 17, 1979

CHANGES:

SYSTEM NAME:

add "(DEERS)"

SYSTEM LOCATION:

Delete: "Tri-Service Medical Information System (TRIMIS) Project Officer, Pentagon, Washington, D.C. 20301, and various contractual facilities" and substitute: "Primary location: W. R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93940.

Decentralized segments—two eligibility centers to be maintained and operated by contractors (Monterey, CA and Alexandria, VA) and the Processing Center for Automation of DD1172 forms in Santa Barbara, CA.

Back-up files maintained at the Defense Manpower Data Center, 550 Camino El Estero, Monterey, CA 93940."

CATEGORIES OF RECORDS IN THE SYSTEM:

Insert: "Social Security Number" so that it now reads "File contains beneficiary's name, Service or Social Security Number of Sponsor, . . ."

RETRIEVABILITY:

Delete: "which is not."

SYSTEM MANAGER(S) AND ADDRESS:

Delete: "Director, Health Systems Planning, Office of the Assistant Secretary of Defense (Health Affairs), Room 3E773, Pentagon, Washington, D.C. 20301" and substitute: "Project Manager, DEERS, Defense Manpower Data Center, 550 Camino El Estero, Monterey, CA 93940."

NOTIFICATION PROCEDURE:

Delete: "Director, Tri-Service Medical Information System Program Office, Office of the Assistant Secretary of Defense (Health Affairs), Room 3E787, Pentagon, Washington, D.C. 20301" and substitute: "Project Manager, DEERS, Defense Manpower Data Center, 550 Camino El Estero, Monterey, CA 93940."

RECORD ACCESS PROCEDURES:

Delete: "Director, Tri-Service Medical Information System Program Office, Office of the Assistant Secretary of Defense (Health Affairs), Room 3E182, Pentagon, Washington, D.C. 20301" and substitute: "Project Manager, DEERS, Defense Manpower Data Center, 550 Camino El Estero, Monterey, CA 93940, (408) 646-2951."

Delete: "Visits are limited to: Director, Tri-Service Medical Information Program Office, Office of the Assistant Secretary of Defense (Health Affairs), Room 3E182, Pentagon, Washington, D.C. 20301."

RECORD SOURCE CATEGORIES:

Delete: "Military Department's personnel and financial pay systems" and substitute: "personnel and financial pay systems of the Military Departments, the Coast Guard, the Public Health Service, the National Oceanic and Atmospheric Administration and other Federal Agencies having employees eligible for military medical care."

DMRA&L 16.0

SYSTEM NAME:

Retired Personnel Master File (44FR74108) December 17, 1979

CHANGES:

SYSTEM LOCATION:

Delete: "Air Force Data Services Center, Room 1D167, Pentagon, Washington, D.C. 20330" and substitute: "Primary location: W. R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93940."

Back-up locations for processing: Air Force Data Services Center, Room 1D167, The Pentagon, Washington, D.C. 20330.

U.S. Army Management Systems Support Agency, Room BD972, The Pentagon, Washington, D.C. 20310.

National Military Command Systems Support Center, Room BE685, The Pentagon, Washington, D.C. 20331.

Back-up files maintained at two offices of the Defense Manpower Data Center, 7th Floor, 300 N. Washington St., Alexandria, VA 22314 and 2nd Floor, 550 Camino El Estero, Monterey, CA 93940.

Selected historic files are maintained at Air Force Data Services Center, Room 1D167, The Pentagon, Washington, D.C. pursuant to court order in IBM anti-trust case. These files will be withdrawn from current location when legally permissible.

Decentralized segments—military personnel and finance centers of the services; selected civilian contractors

with research contracts in manpower area; other Federl Agencies.

ROUTINE USES:

Delete: "Actuary, Office of the Deputy Assistant Secretary of Defense (Military Personnel Policy)," and substitute: "Defense Manpower Data Center."

Add new Routine Use; "Used for determining eligibility for military medical care and other benefits provided by the Department of Defense to retired personnel and survivors."

Add new Routine Use; "Records may be disclosed to the Director, Selective Service System for use in wartime or emergency mobilization and for mobilization planning."

Add new Routine Use; "Records may be disclosed to Department of Defense Components or to other Federal Agencies in order to identify individuals employed as Federal civilians who may be moblized in the event of a national emergency."

SAFEGUARDS:

Delete: "The Air Force Data Survey Center is a TOP SECRET facility" and substitute: "Primary location—at W. R. Church Computer Center, tapes are stored in a locked cage in machine room, which is a controlled access area; tapes can be physically accessed only be computer center personnel and can be mounted for processing only if the appropriate security code is provided.

At back-up locations in Alexandria, VA and Monterey, CA tapes are stored in rooms protected with cypher locks, building are locked after hours, and only properly cleared and authorized personnel have access.

The Air Force Data Services Center, the U.S. Army Management System Support Agency, and the National Command Systems Support Center are all TOP SECRET facilities.

RETENTION AND DISPOSAL:

Delete: "Records are retained for eight weeks. Aggregated records produced for the individial record file are retained indefinitely" and substitute: "Files constitute a historical data base and are permanent."

SYSTEM MANAGER(S) AND ADDRESS:

Delete: "actuary, ODASD(MPP), Room 2C263, 202–697–1678, The Pentagon, Washington, D.C. 20301" and substitute: "Deputy Chief, Defense Manpower Data Center (DMDC), 550 Camino El Estero, Monterey, CA 93940."

NOTIFICATION PROCEDURE:

Delete: "Information may be obtained from Actuary, ODASD(MPP), Room 2C263, The Pentagon, Washington, D.C. 20301. Telephone 202–697–1678" and substitute: "Information may be obtained from: Deputy Chief, Defense Manpower Data Center, 550 Camino El Estero, Monterey, CA 93940. Telephone 408–646–2951.

RECORD ACCESS PROCEDURES:

Delete: "Actuary, ODASD(MPP) Room 2C263, The Pentagon, Washington, D.C. 20301" and substitute: "Deputy Chief, Defense Manpower Data Center (DMDC), 550 Camino El Estero, Monterey, CA 93940."

DMRA&L 12.0

SUSTEM NAME:

Reserve Components Common Personnel Data System (RCCPDS) (44 FR 74107) December 17, 1979

CHANGES:

SYSTEM LOCATION:

Delete: "Air Force Data Service Center, Room 1D167, The Pentagon, Washington, D.C. 20330

Back-up locations for processing: U.S. Army Management Systems Support Agency, Room BD972, The Pentagon, Washington, D.C. 20310.

W. R. Church Computer Center, Naval Postgraduate School, Monterey, Ca 93940.

National Military Command System Support Center, Room BE685, The Pentagon, Washington, D.C. 20331."

and substitute: "Primary location: W. R. Church Computer Center, Navy Post-graduate School, Monterey, CA 93940.

Back-up locations for processing: Air Force Data Services Center, Room 1D167, The Patagon, Washington, D.C. 20330.

U.S. Army Management Systems Support Agency, Room BD972, The Pentagon, Washington, D.C. 20310.

National Military Command Systems Support Center, Room BE685, The Pentagon, Washington, D.C. 20331."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete: "Any individual currently a member of any Reserve or National Guard component and retired reservists" and substitute: "Any individual currently and formerly a member of any Reserve or National Guard component, as defined in 10 USC 261, and retired reservists."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete: "File contains individual's Social Security Account Number, component and other personal information such as race, sex, rank, age, and length of service" and substitute: "File contains individual's Social Security Account Number, component and other demographic and personal information such as race, sex, rank, age and length of service."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete: "10 U.S.C. 136" and substitute: "10 U.S.C. 275 and 10 U.S.C. 136."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete: "Office of the Deputy Assistant Secretary of Defense (Reserve Affairs)—used to generate and disseminate official statistics. Individual records are used to provide aggregate statistical data.

Any individual record contained in the system may be transferred to any other Department of Defense Component having the need to know in the performance of official business.

Records may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action or regulatory order.

Records of Federal civilian employees who are reservists may be disclosed to Federal Agencies for use emergency mobilization planning. Records may be disclosed to the Civil Service Commission concerning pay benefits, retirement deductions, and other information necessary for the Commission to carry out its Government-wide personnel management functions.

Records may be disclosed to the Director, Selective Service System upon official request."

and add:

"Internal/External users, uses and purposes: Office of the Deputy Assistant Secretary of Defense (Reserve Affairs)—used to generate and disseminate official statistics. Individual records are used to provide aggregate statistical data.

Defense Manpower Data Center—used to analyze accession patterns and trends, promotion and occupation patterns and trends, loss patterns and trends, qualification rates, effectiveness of recruiting programs, participation in education and training programs, force characteristics, evaluation of military special pays bonuses; evaluation of special programs affecting military personnel; to select sample population for surveys; to provide statistical data to OMB, GAO, the Military Services, DoD civilian contractors, educational institutions and other Federal Agencies.

Personnel Research and Personnel Management activities of the Military Services—uses are same as those specified above.

DoD Civilian Contractors—used by contractors performing research on manpower problems for statistical analyses.

Aggregate data and/or individual records in the record system may be transferred to other Federal agencies having legitimate use for such information and applying appropriate safeguards to protect data so provided.

Records may be disclosed to the Office of Personnel Management concerning pay, benefits, retirement deductions and identification of Federal Civilian employees who are subject to mobilization in the event of a national emergency.

Any record contained in the system of records may be transferred to any other component of the Department of Defense having the need-to-know in the performance of offical business.

Records may be disclosed to the Director, Selective Service System upon official request.'

SAFEGUARDS:

Delete: "The primary location is a TOP SECRET facility. The U.S. Army Management Systems Support Agency is a TOP SECRET facility. The National Military Command Systems Support Center is a TOP SECRET facility. Tapes located at the W. R. Church Computer Center, Monterey, CA are stored in a locked cage in machine room, which is a controlled access area; tapes can by physically accessed only be computer center personnel and can be mounted for processing only if the appropriate security code is provided." and substitute: "The primary location is a controlled area. Magnetic computer tapes are stored in a locked cage in machine room, which is a controlled access area. Tapes can be physically accessed only by authorized computer center personnel and can be mounted for processing only if the appropriate security code is provided."

SYSTEM MANAGER(S) AND ADDRESS:

Delete: "Deputy Assistant Secretary of Defense (Reserve Affairs), Room 3C980, The Pentagon, Washington, D.C. 20301" and substitute: "Special Assistant for Reserve Component Systems and Analysis, Defense Manpower Data Center, 300 N. Washington, Street, Alexandria, VA 22314"

NOTIFICATION PROCEDURE:

Delete: "Assistant Director, Reserve Personnel Program
Office of the Deputy Assistant Secretary of Defense (Reserve Affairs)
Room 3C980
The Pentagon
Washington, D.C. 20301
Telephone: 202–697–0624

Substitute: "Special Assistant for Reserve Components System and Analysis
Defense Manpower Data Center
300 N. Washington Street
Alexandria, VA 22314
Telephone: 202–325–0530"

RECORD ACCESS PROCEDURES:

Delete: "Requests from individuals should be addressed to: Assistant Director, Reserve Personnel Program, Office of the Deputy Assistant Secretary of Defense (Reserve Affairs), Room 3C980, The Pentagon, Washington, D.C. 20301.

Written requests for information should contain the full name, Social Security Account Number, component, and current address and telephone number of the individual.

For personal visits the individual should be able to provide some acceptable identification such as driver's license, or military or other ID card." and substitute: "Requests from individuals should be addressed to system manager.

Written requests for information should contain the intended use of the information together with the full name, Social Security Account Number, component and current address and telephone number of the individual.

For personal visits the individual should be able to provide some acceptable identification such as driver's license or military or other identification cards."

RECORD SOURCE CATEGORIES:

Delete: Data records are obtained from the six reserve components." and substitute: "Data records are obtained from the seven Reserve components."

S322.50DLA-LZ

SYSTEM NAME:

DoD Health Services Enrollment/ Eligibility System (DEERS).

SYSTEM LOCATION:

Primary location: W. R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93940.

Decentralized segments—two eligibility centers to be maintained and operated by contractors (Monterey, CA and Alexandria, VA) and the Processing Center for Automation of DD 1172 Forms in Santa Barbara, CA.

Back-up filed maintained at the Defense Manpower Data Center, 550 Camino el Estero, Monterey, CA 93940.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty Armed Forces personnel and their dependents, retired Armed Forces personnel and their dependents, surviving dependents of deceased active duty or retired personnel; Coast Guard personnel and their dependents; Pubic Health Service (PHS) personnel (Commmissioned Corps) and their dependents; and National Oceanic and Atmospheric Administration (NOAA) employees (Commissioned Corps) and their dependents.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains beneficiary's name, Service of Social Security Number of sponsor, enrollment number, relationship of beneficiary to sponsor, residence address of beneficiary (includes zip code), date of birth of beneficiary, sex of beneficiary, branch of service of sponsor, dates of eligibility, martial status and dates of beneficiary, number of dependents of sponsor, primary unit duty location of sponsor, race and ethnic origin of beneficiary, occupation of beneficiary, rank/pay grade of sponsor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Chapter IV, Title 10, United States Code, Section 136; 1969 Pub. L. 91–121, section 404(A)(2), "Establishment of the Assistant Secretary of Defense for Health Affairs; the Presidentially Commissioned Department of Defense, Department of Health, Education and Welfare, Office of Management and Budget Report of the Health Care Study (completed December 1975)": Memorandum,"Establishment of DoD Health Council", dated December 28, 1976, and the DoD Appropriations Bill for FY 1976.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal users, uses and purposes: Offices of the Surgeons General of the Army, Navy and Air Force for determinations of eligibility to receive health care benefits from the Uniformed Health Services Delivery System.

Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), for determination of eligibility to receive health care benefits and to receive reimbursement for health care services claimed under CHAMPUS.

Office of the Assistant Secretary of Defense (Health Affairs) and the Offices of Surgeons General of the Army, Navy and Air Force, for the conduct of a health care studies and research on a longitudinal basis, and for planning,

management and allocation of medical resources.

Offices of the Surgeons General of the Army, Navy and Air Force, and OCHAMPUS for dissemination of health care information.

External users, uses, and purposes: Department of Health, Education and Welfare; Veterans Administration; Federal Preparedness Agency and Commerce Department for the conduct of health care studies and for the planning and allocation of medical resources. The data will include summary data on ages, sex residence, and other demographic parameters.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: RECORDS ARE MAINTAINED ON MAGNETIC TAPES AND DISCS HOUSED IN A CONTROLLED COMPUTER MEDIA LIBRARY.

RETRIEVABILITY:

Records about individuals are retrieved by an algorithm to be determined by contractor which uses name, enrollment number, Social Security Number, date of birth, rank and duty location as possible inputs. Retrievals are made on a summary basis by geographic characteristics and location and demographic characteristics. Information about individuals will not be distinguishable in such summary retrievals. Retrievals for the purposes of generating address lists for direct mail distribution of health care information may be made using selection criteria based on geographic and demographic keys.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas shall be restricted to those personnel with a valid requirement and authorization to enter. Physical entry shall be restricted by the use of locks, guards, administrative procedures (e.g., fire protection regulations). Exits used solely for emergency situations shall be secured to prevent unauthorized intrusion.

Personal data stored at a separate location for backup purposes shall be protected at least comparable to the protection provided at the primary location.

Requirements for protection of information are binding on contractors or their representative and are subject to the following minimum standards:

Restrict access to personal information to those who require the records in the performance of their official duties, and to the individual who is the subject of the record or authorized representative. Access to personal information shall be restricted by the use of passwords which are changed periodically.

Insure that all whose official duties require access to, or processing and maintenance of, personal information are trained in the proper safeguarding and use of such information.

RETENTION AND DISPOSAL:

Computerized records on an individual are maintained as long as the individual is legally eligible to receive health care benefits from the Uniformed Health Sciences Delivery System. The records are maintained for two (2) years after termination of eligibility.

Records may be disposed of or destroyed only in accordance with DoD Component record management regulations which conform to the controlling disposition of such material as set forth in 44 U.S.C. 3301–3314. Non-record material containing personal information and other material of similar temporary nature shall be destroyed as soon as its intended purpose has been served under procedures established by the Head of the DoD Component consistent with the following requirement. Such material shall be destroyed by tearing, burning, melting, chemical disposition, pulping, pulverizing, shredding, or mutilation sufficient to preclude recognition or reconstruction of the information.

SYSTEM MANAGER(S) AND ADDRESS:

Project Manager, DEERS, Defense Manpower Data Center, 550 Camino El Estero, Monterey, CA 93940.

NOTIFICATION PROCEDURE:

Information may be obtained from: Project Manager, DEERS, Defense Manpower Data Center, 550 Camino El Estero, Monterey, CA 93940.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Project Manager, DEERS, Defense Manpower Data Center, 550 Camino El Estero, Monterey, CA 93940, (408) 646–2951.

Written requests for the information should contain full name of individual and sponsor if applicable and other attributes required by previously mentioned search algorithm.

For personal visits the individual should be able to provide a data element required to satisfy the previously mentioned algorithm.

Identification should be corroborated with a driver's license or other positive identification.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Personnel and financial pay systems of the Military Departments, the Coast Guard, the Public Health Service, the National Oceanic and Atmospheric Administration and other Federal Agencies having employees eligible for military medical care.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S322.65DLA-LZ

SYSTEM NAME:

Retired Personnel Master File.

SYSTEM LOCATION:

Primary location: W. R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93940.

Back-up locations for processing: Air Force Data Services Center, Room 1D167, The Pentagon, Washington, D.C. 20330.

U.S. Army Management Systems Support Agency, Room BD972, The Pentagon, Washington, D.C. 20310.

National Military Command Systems Support Center, Room BE685, The Pentagon, Washington, D.C. 20331.

Back-up files maintained at two offices of the Defense Manpower Data Center, 7th Floor, 300 N. Washington St., Alexandria, VA 22314 and 2nd Floor, 550 Camino El Estero, Monterey, CA 93940.

Selected historic files are maintained at Air Force Data Services Center, Room 1D167, The Pentagon, Washinton, D.C. pursuant to court order in IBM anti-trust case. These files will be withdrawn from current location when legally permissible.

Decentralized segments—military personnel and finance centers of the services; selected civilian contractors with research contracts in manpower area; other Federal agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All retired military personnel and survivor beneficiaries, and reservists drawing retainer pay.

CATEGORIES OF RECORDS IN THE SYSTEM:

SSAN, birth date, retirement date, pay grade at retirement, amount of retired, survivor, or retainer pay, type of retirement, date of death (in cases of

survivor beneficiary records), pension and benefits system elected, Service, years of active service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Defense Manpower Data Center, used for statistical purposes in estimating retired pay budgets, future retired pay budgets, future retired populations, trends in retirement rates, costs or increases in retired pay; answer Congressional inquiries. U.S. Civil Service Commission to identify accurately retired military personnel who are Federal civilian employees; any individual record in the system may be transferred to any component of the Department of Defense having need to know in performance of official business. Used for determining eligibility for military medical care and other benefits provided by the Department of Defense to retired personnel and survivors. Records may be disclosed to the Director, Selective Service System for use in wartime or emergency mobilization planning. Records may be disclosed to Department of Defense Components or to other Federal Agencies in order to identify individuals employed as Federal civilians who may be mobilized in the event of a national emergency.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape.

RETRIEVABILITY:

Records can be retrieved by SSAN, Service, age, etc.

SAFEGUARDS:

Primary location—at W. R. Church Computer Center, tapes are stored in a locked cage in machine room, which is a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

At back-up locations in Alexandria, VA and Monterey, CA tapes are stored in rooms protected with cypher locks, buildings are locked after hours, and only properly cleared and authorized personnel have access.

The Air Force Data Services Center, the U.S. Army Management Systems Support Agency, and the National Command Systems Support Center are all TOP SECRET facilities.

RETENTION AND DISPOSAL:

Files constitute a historical data base and are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief, Defense Manpower Data Center, (DMDC), 550 Camino El Estero, Monterey CA 93940.

NOTIFICATION PROCEDURE:

Information may be obtained from: Deputy Chief, Defense Manpower Data Center, 550 Camino El Estero, Monterey, CA 93940. Telephone (408) 646–2951.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Deputy Chief, Defense Manpower Data Center (DMDC), 550 Camino El Estero, Monterey, CA 93940. Written requests for information should contain the full name, SSAN, and current address and telephone number of the requester. For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other ID card.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

The information is obtained from the Military Departmens.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

S322.70DLA-LZ

SYSTEM NAME:

Reserve Components Common Personnel Data System (RCCPDS)

SYSTEM LOCATION:

Primary location: W. R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93940.

Back-up locations for processing: Air Force Data Services Center, Room 1D167, The Pentagon, Washington, D.C. 20330.

U.S. Army Management Systems Support Agency, Room BD972, The Pentagon, Washington, D.C. 20310.

National Military Command Systems Support Center, Room BE685, The Pentagon, Washington, D.C. 20331.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual currently and formerly a member of any Reserve or National Guard component, as defined in 10 U.S.C. 261, and retired reservists.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains individual's Social Security Account Number, component and other demographic and personal information such as race, sex, rank, age and length of service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 275/10 U.S.C. 136.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose of the file is to generate official statistics concerning Reserve Forces' strength, gains, losses and characteristics of the force.

Internal/External users, uses and purposes: Office of the Deputy Assistant Secretary of Defense (Reserve Affairs)—used to generate and disseminate official statistics. Individual records are used to provide aggregate statistical data.

Defense Manpower Data Center—used to analyze accession patterns and trends, promotion and occupation patterns and trends, loss patterns and trends, qualification rates, effectiveness of recruiting programs, participation in education and training programs, force characteristics, evaluation of military special pays and bonuses; evaluation of special programs affecting military personnel; to select sample population for surveys; to provide statistical data to OMB, GAO, the Military Services, DoD civilian contractors, educational institutions and other Federal agencies.

Personnel Research and Personnel Management activities of the Military Services—uses are same as those specified above.

DoD Civilian Contractors—used by contractors performing research on manpower problems for statistical analyses.

Aggregate data and/or individual records in the record system may be transferred to other Federal agencies having legitimate use for such information and applying appropriate safeguards to protect data so provided.

Records may be disclosed to the Office of Personnel Management concerning pay, benefits, retirement deductions and identification of Federal Civilian employees who are subject to mobilization in the event of a national emergency.

Any record contained in the system of records may be transferred to any other component of the department of Defense having the need-to-know in the performance of official business.

Records may be disclosed to the Director, Selective Service System upon official request.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic computer tape.

RETRIEVABILITY:

Records are retrievable by component, rank, age, sex, location or other attribute including Social Scurity Account Number.

SAFEGUARDS:

The primary location is a controlled area. Magnetic computer tapes are stored in a locked cage in machine room, which is a controlled access area. Tapes can be physically accessed only by authorized computer center personnel and can be mounted for processing only if the appropriate security code is provided.

RETENTION AND DISPOSAL:

Inventory files are current; quarterly history files for the master and transaction files are maintained on a permanent basis.

SYSTEM MANAGER(S) AND ADDRESS:

Special Assistant for Reserve Component Systems and Analysis, Defense Manpower Data Center, 300 N. Washington Street, Alexandria, VA 22314.

NOTIFICATION PROCEDURE:

Information may be obtained from: Special Assistant for Reserve Component Systems and Analysis, Defense Manpower Data Center, 300 N. Washington Street, Alexandria, VA 22314. Telephone: 202–325–0530.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to system manager.

Written Request for information should contain the intended use of the information together with the full name, Social Security Account Number, component and current address and telephone number of the individual.

For personal visits the individual should be able to provide some acceptable identification such as driver's license or military or other identification cards.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Data records are obtained from the seven Reserve components.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-13710 Filed 5-1-80; 8:45 am]

BILLING CODE 3620-01-M

Department of the Army

Privacy Act of 1974, Notice of Deletion of Systems of Records

AGENCY: Department of the Army, DOD.

SUMMARY: The Department of the Army proposes to delete seven systems of records subject to the Privacy Act.

DATES: Proposed actions shall be effective May 2, 1980.

ADDRESS: Comments may be submitted to the Department of the Army, ATTN: DAAG–AMR–R, 1000 Independence Avenue, SW., Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Cyrus H. Fraker, Office of the Adjutant General, Headquarters, Department of the Army, Washington, D.C. 20314; telephone: 202/693–0973.

SUPPLEMENTARY INFORMATION: Department of the Army systems of records have been published in the following editions of the **Federal Register:**

44 FR 73729, December 17, 1979
45 FR 1658, January 8, 1980
45 FR 8399, February 7, 1980
45 FR 20992, March 31, 1980
45 FR 21673, April 2, 1980
45 FR 26117, April 17, 1980

April 28, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

DELETIONS

A0316.10DAIG

SYSTEM NAME:

316.10 Program Management and Review System (PROMARS) (44 FR 73799), December 17, 1979.

REASON:

Records are described in system of records A0309.05DAAG, Resource Management and Cost Accounting Files.

A0708.21bDACA

SYSTEM NAME:

708.21 Statement of Employment Files (44 FR 73880), December 17, 1979.

REASON:

Records are convered under system of records A0305.10cDACA, Joint Uniform Military Pay System-Army-Retired Pay.

A0711.02aDAPE

SYSTEM NAME:

711.02 Personnel Research Survey Questionnaire and Test Records (44 FR 73888), December 17, 1979.

REASON:

Records are not subject to the Privacy Act.

A0723.02aUSAREUR

SYSTEM NAME:

723.02 AYA Registration Files (44 FR 73900), December 17, 1979.

REASON:

Records are described in system of records A0723.09aDAAG, Recreation Services Program Files.

A0810.10aDAEN

SYSTEM NAME:

810.10 Military Construction Training Files (44 FR 73915), December 17, 1979.

REASON:

Records are described in system of records A0807.14aDAPE, Department of the Army Civilian Personnel Systems.

A1011.04bDAMO

SYSTEM NAME:

1011.04 Delphi Evaluation (44 FR 73953), December 17, 1979.

REASON:

Records are no longer used.

A1012.10aDASG

SYSTEM NAME:

1012.10 AMEDD Training Application Status Record (44 FR 73967), December 17, 1979.

REASON:

Records are no longer retrieved by personal identifier.

[FR Doc. 80-13706 Filed 5-1-80; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Privacy Act of 1974; Deletion of Records Systems

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice of systems of records deletions.

SUMMARY: The Office of the Secretary of Defense (OSD) systems of records notices as prescribed by the Privacy Act

have been published in the Federal Register as follows:

FR 79-37052 (44 FR 74088) December 17, 1979
FR 80-7517 (45 FR 15604) March 11, 1980
FR 80-8135 (45 FR 17056) March 17, 1980

The Office of the Secretary of Defense is deleting three systems of records subject to the Privacy act of 1974. Three systems of records are being deleted from the OSD inventory because the function and responsible activity for the systems have been realigned with the Defense Logistics Agency (DLA). The systems shall continue in effect under the Defense Logistics Agency's inventory of records but will be identified as Defense Logistics Agency systems of records. The effected systems are identified below.

FOR FURTHER INFORMATION CONTACT:
James S. Nash, Chief, Records Management Branch, Washington Headquarters Services, the Pentagon, Washington, D.C. 20301, Telephone (202) 695-0970.

April 28, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

The following Office of the Secretary of Defense (OSD) systems of records are deleted:

DOCHA 08

System name:

DoD Health Services Enrollment/ Eligibility System (DEERS). (44 FR 74115, December 17, 1979)

Reason:

This system is deleted from the OSD records system inventory and being added to the Defense Logistics Agency (DLA) inventory and reidentified as S322.50DLA-LZ. The system contents have been changed.

DMRA&L 16.0

System name:

Retired Personnel Master File. (44 FR 74108, December 17, 1979)

Reason:

This system is deleted from the OSD records system inventory and reidentified as S322.65DLA-LZ. The system contents have been changed.

DMRA&L 12.0

System name:

Reserve Components Common Personnel Data System (RCCPDS). (44 FR 74107, December 17, 1979)

Reason:

This system is deleted from the OSD records systems inventory and reidentified as S322.70DLA-LZ. The system contents have been changed.

[FR Doc. 80-13709 Filed 5-1-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA CASE NO. 51352-3470-06-41]

Powerplant and Industrial Fuel Use Act Notice of Dismissal of Exemption Petition

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice that on April 25, 1980, it dismissed a petition for a temporary public interest exemption from the prohibitions of Section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C 8301 *et seq.*, which was filed by the Houston Lighting and Power Company (HL&P or the Petitioner).

Notice of acceptance of the petition was published in the Federal Register (44 FR 66865, November 21, 1979), with a request for written comments. No comments were received.

HL&P's petition was subsequently analyzed by the staff of ERA which determined that HL&P's Parish Unit No. 6 did qualify for a temporary public interest exemption under the eligibility requirements set forth in 10 CFR 504.26, and that the granting of such exemption would be in the public interest. However, it has also been determined that Parish No. 6 would be in compliance with the applicable prohibitions of the Act prior to the effective date of any order granting the exemption. Therefore, in view of the fact that the need for the exemption would not exist at the time an order granting the exemption would become effective, ERA has determined to dismiss HL&P's petition.

Issued in Washington, D.C. on April 25, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-13460 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

American Statistical Association Ad Hoc Committee on Energy Statistics; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law No. 92-463, 86 Stat. 770), notice is hereby given that the American Statistical Association's Ad Hoc Committee on Energy Statistics will meet with representatives of the Energy Information Administration (EIA) on Friday, May 16, 1980, at the Holiday Inn Thomas Circle, 1115 Fourteenth Street, Northwest, Washington, D.C., from 9:00 a.m. to approximately 4:30 p.m., in the Cumberland Room.

The purpose of the meeting is to enable the EIA to utilize the American Statistical Association's Ad Hoc Committee on Energy Statistics to obtain advice on EIA programs and to benefit from the Ad Hoc Committee's expertise concerning other energy statistical matters.

The tentative agenda is as follows:

A. Introductory Remarks
B. Major Topics
1. Seasonal analysis and forecasting of petroleum inventory time series
2. State Energy Data System
3. Working with the States
4. Analysis of energy consumption and output in the industrial sector
5. A case study in model evaluation
C. Progress Reports
1. Collection of subjective data in the National Residential Energy Consumption Survey
2. Disclosure policy
3. What EIA is doing about gasohol
D. Other committee business
1. Topics for future meetings
2. Public comments

The meeting is open to the public. Any member of the public may file a written statement with EIA for forwarding to the committee, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should inform Mr. Thomas B. Jabine, Statistical Policy Expert, EIA, (202) 633-8474, or Dr. Fred C. Leone, Executive Director of the American Statistical Association, (202) 393-3253, at least five days prior to the meeting and reasonable provision will be made to include their presentations on the agenda. Subsequent to approval by the Committee, minutes and an executive summary of the meeting will be available for public review and copying at the Office of Planning and Evaluation, EIA, 12th and Pennsylvania Avenue, N.W., Room 6149, Mail Stop 4311, Washington, D.C., 20461, (202) 633-8707, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Issued at Washington, D.C. on April 25, 1980.

Lincoln E. Moses,

Administrator, Energy Information Administration.

[FR Doc. 80-13628 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP79-473]

Alabama-Tennessee Natural Gas Co.; Order Issuing Temporary Certificate, Initiating Hearing, and Granting Petitions To Intervene

Issued April 25, 1980.

Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) [1] filed in Docket No. CP79-473 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 10.7 miles of 12½-inch pipleline in Colbert County, Alabama, [2] designed to provide an additional 18,300 Mcf of daily system delivery capacity to render additional gas service to existing customers and initial gas service to North Mississippi Natural Gas Corporation (North Mississippi); and for a temporary certificate authorizing the delivery of natural gas to North Mississippi and the construction and operation of metering and regulating facilities to serve North Mississippi; all as more fully set forth in the application.[3]

Historically, Alabama-Tennessee purchases all of its gas from Tennessee Gas Pipeline Company, a Division of Tenneco Inc., (Tennessee). Alabama-Tennessee's existing contract with Tennessee provides for a maximum daily quantity of 129,145 Mcf at 14.73 psia.[4] Tennessee, however, has curtailed service to Alabama-Tennessee and may curtail service for an indefinite period in the future.[5]

To supplement its supply from Tennessee, Alabama-Tennessee has executed gas purchase contracts, with Sunmark Exploration Company (Sunmark) for the purchase, delivery, and processing of up to 20,000 Mcf of natural gas per day.[6] By Commission order issued November 20, 1978; in Docket No. CP78-352, Alabama-Tennessee received authority to construct and operate facilities necessary to deliver such gas to Tennessee for transportation to Alabama-Tennessee's mainline system. Tennessee in Docket No. CP78-491 received authorization to transport the gas from a proposed point of interconnection in Forrest County, Mississippi, to Tennessee's existing delivery point with Alabama-Tennessee near Barton, Alabama. The transportation service by Tennessee is on a best-efforts basis. Alabama-Tennessee has been purchasing gas from Sunmark to augment deliveries from Tennessee.

Alabama-Tennessee currently serves 16 distributor customers and seven industrial customers located in northern Alabama, the southwestern corner of Tennessee, and the northeastern corner of Mississippi. The existing peak day requirements on the Alabama-Tennessee system are 129,145 Mcf.

Alabama-Tennessee initially proposed new sales volumes of 18,300 Mcf natural gas per day. North Mississippi would receive 650 Mcf of gas per day to serve the town of Burnsville, Mississippi, and a new plant being built by the Kimberly-Clark Corporation (Kimberly-Clark). The Town of Burnsville currently uses propane and electricity as its major source of energy. The end use of the natural gas to be delivered to the Town of Burnsville would be entirely for domestic and small commercial heating (priority 1). The natural gas delivered to Kimberly-Clark would be for essential process purposes in a new mill using less than 300 Mcf of natural gas perday (priority 3). Five existing distributor customers have made contractual commitments to purchase a total of 2,785 Mcf of natural gas per day in excess of their existing entitlements. The other 11 distributor customers originally questioned the adequacy of Alabama-Tennessee's supplies but now indicate that they are interested in increasing their contract quantities to enable them to increase their peakday takes from Alabama-Tennessee.

Notice of the original and amended applications was published in the **Federal Register** on October 15, 1979 (44 FR 59270), and January 7, 1979 (45 FR 2365), respectively. The Tennessee Valley Municipal Gas Association (TVMGA) [7] filed on September 18, 1979, a petition (1) to intervene, (2) for order requiring amendment and supplementation of certificate application, and (3) for preliminary conference [8] and on January 29, 1980, a protest of amendment to application. Kimberly-Clark filed on March 7, 1980, a late petition to intervene in support of the proposed certificate and a motion requesting expedited consideration and disposition of the amended application for a temporary certificate. Alabama-Tennessee filed on October 3, 1980, an answer to the petition of TVGMA and on March 21, 1980, a joint motion with TVGMA for a temporary certificate and for expeditious processing of the application for a permanent certificate.

TVGMA's petition and protest expressed the following concerns:

(1) Whether the gas supply is adequate to support the projected new sales;

(2) Whether Tennessee has the existing capacity for firm transportation of the supplemental supplies of gas; and

[1] Alabama-Tennessee, an Alabama corporation having its principal place of business in Florence, Alabama, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by order issued July 2, 1948, in Docket No. G-585 (7 FPC 251).

[2] The total estimated cost of these facilities is $1,750,000 which would be financed from funds on hand.

[3] The original application filed in this docket on September 5, 1979, included a request for a temporary certificate authorizing service pending the outcome of the permanent certificate; the amended application filed on December 14, 1979, mofifies the request for the temporary certificate. A motion filed on March 21, 1980 further modfies the request for a temporary certificate.

[4] This service was authorized by the Federal Power Commission on August 27, 1969, in Docket No. CP69-222.

[5] In response to a staff data request dated November 13, 1979, Alabama-Tennessee stated that "Alabama-Tennessee is experiencing curtailment on its system at the present time and will continue to experience curtailment being imposed by our supplier, Tennessee Gas Pipeline Company, during the coming winter period and thereafter for an indefinite period. Effective November 1, 1979, Tennessee advises us that we will be curtailed to allow us all of Priorities 0, 1, 2 and approximately 67 percent of Priority 3, Alabama-Tennessee intends to supplement Tennessee's curtailed volumes by our field purchases of gas which will be transported by Tennessee from the producing area in southern Mississippi. It is anticipated that these supplemental volumes will allow Alabama-Tennessee to provide full service to our customers in Priorities 0, 1, 2, 3, and thereafter in lower priorities when available, depending on weather conditions."

Priority 3 on Alabama-Tennessee's system consists of large commercial requirements (50 Mcf or more on a peak day), firm industrial requirements for plant protection, feedstock and process needs, pipeline customer storage injection requirements, and firm industrial sales up to 300 Mcf per day.

[6] Certificate approval of the sale of natural gas from Sunmark to Alabama-Tennessee was granted in Docket No. CI78-816.

[7] TVMGA is an association of municipalities that are jurisdictional resale customers of Alabama-Tennessee. The members are Athens, Decatur, Florence, Hartselle, Huntsville, Moulton, Russellville, Sheffield, and Tuscumbia, all in the State of Alabama; Iuka, Mississippi; and Selmar, Tennessee. Each of the members owns and operates a gas distribution system.

[8] On November 29, 1979, an informal conference was held with the staff, Alabama-Tennessee, and all interested customers of Alabama-Tennessee attending. A second conference was held on March 19, 1980, at the request of Alabama-Tennessee. A third conference was held on April 15, 1980, at the direction of the Commission.

(3) Whether the new service to North Mississippi is in the public interest;

TVGMA's protest further stated that the temporary certificate requested in the amended appliation gives undue preference to certain customers and discriminates against other customers. The petition and protest both stated that the members of TVGMA are most desirous of obtaining increased peak day and annual gas supplies but only if the additional volumes will be truly firm and the proposed increase in annual deliveries will not hasten and make worse future curtailment on the Alabama-Tennessee system.

Kimberly-Clark's late petition to intervene states that it owns a new mill in Corinth, Mississippi, that must soon receive natural gas for equipment testing and other start-up activities which are critical to the timely commencement of full-scale operations and the long-term viability of the plant.

The petition further states that the plant has been designed to utilize natural gas for its process fuel requirements and has no alternate fuel facilities for these requirements. Kimberly-Clark states that good cause exists for the Commission to accept its late petition because it only recently became aware that the Commission might not issue the certificate to Alabama-Tennessee in time to permit equipment testing and start-up at the Corinth mill.[9]

The joint motion of Alabama-Tennessee and TVMGA states that TVMGA is now convinced that gas supplies available to Alabama-Tennessee are adequate to support the proposed system expansion. The motion requests that the Commission issue a permanent certificate as requested in the original application with minor modifications decreasing the maximum daily quantity to be delivered to certain customers. The motion further requests a temporary certificate authorizing the sale of 300 Mcf of natural gas per day to North Mississippi for resale to Kimberly-Clark. It states that "[u]nless gas service is available by April 1, 1980, full scale plant operations cannot commence on August 1, 1980, as scheduled and the future viability of the plant would be jeopardized to the detriment of both the plant and the local community. * * * Initially 140 local residents will be employed, the hiring of which would have to be deferred if natural gas service is not available by April 1, 1980." (at 5).

The Commission questions the existence of an adequate gas supply to warrant the proposed growth in the Alabama-Tennessee system. The natural gas to support the service proposed is purchased by Alabama-Tennessee from the production of two wells owned by Sunmark. The magnitude of the Sunmark gas reserves dedicated to Alabama-Tennessee is uncertain as is the reliability of production. The only other source of supply is Tennessee which is currently curtailing deliveries to its customers and, by Alabama-Tennessee's own admission, is expected to curtail service indefinitely. If all of the Sunmark gas were to be used for new sales, and if curtailment continues, Alabama-Tennessee would be unable to serve all of its existing requirements.

Even if Alabama-Tennessee should obtain enough gas to meet its new and existing requirements, it is questionable whether Tennessee's pipeline capacity is adequate to transport such quantities of gas on peak days. The transportation of the Sunmark gas by Tennessee for the account of Alabama-Tennessee is on a best-efforts basis. In an answer to the Staff's data request, Alabama-Tennessee states that "Tennessee has the capacity to deliver transportation volumes to Alabama-Tennessee except on such days as Tennessee may be utilizing their full system capacity. This is not expected to occur so long as curtailment is in effect." Accordingly, if Tennessee should acquire enough gas to deliver its full requirements, it may not have adequate pipeline capacity to transport the Sunmark gas.

For the foregoing reasons, the Commission finds that a formal evidentiary hearing should be held to determine (1) whether Alabama-Tennessee's gas supply is sufficiant to support the proposed new sales, (2) whether Tennessee has the existing capacity for firm transportation of the supplemental supplies of gas, and (3) whether the proposed new service is in the public interest. The determination of whether the proposed service would be in the public interest should include but not be limited to a consideration of the availability of alternate fuels. Furthermore, Kimberly-Clark should submit evidence concerning the feasibility of substituting alternative process fuels for natural gas at its Corinth mill. The Presiding Judge shall determine what other evidence should be considered and what procedure should govern the presentation of such evidence.

The Commission finds: (1) Based upon the allegations contained in Alabama-Tennessee's application and in the motion and petition filed by Kimberly-Clark, in this docket, an emergency exists within the meaning of Section 7 of the Natural Gas Act and temporary authorization should be granted authorizing the sale of natural gas to North Mississippi for resale to Kimberly-Clark and the construction and operation of facilities to accomplish such sale.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the application for a permanent certificate of public convenience and necessity in Docket No. CP79-473 be set for evidentiary hearing in accordance with the procedure hereinafter detailed.

(3) Participation in this proceeding by all petitioners to intervene may be in the public interest. Good cause exists to accept the late petition to intervene of Kimberly-Clark.

The Commission orders: (A) Upon the terms and conditions of this order, a temporary certificate is issued authorizing Alabama-Tennessee to sell natural gas, not to exceed 300 Mcf per day, to North Mississippi and to construct the tap and metering facilities necessary to provide such service.

(B) The natural gas sold to North Mississippi is to be utilized solely to serve the Kimberly-Clark plant in Corinth, Mississippi.

(C) The temporary certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Alabama-Tennessee's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly, the general terms and conditions set forth in Part 154 and in paragraphs (a), (c)(3), (c)(4), (e), and (f) of § 157.20 of such Regulations.

(D) Pursuant to the authority of the Natural Gas Act, particularly Sections 7 and 15 thereof, the Commission's Rules of Practice and Procedure (18 CFR, Part I), and the regulations under the Natural Gas Act (18 CFR, Chapter I, Subchapter (a)), a hearing shall be held on the subject application, in the manner provided for in the instant order.

(E) A Presiding Administrative Law Judge designated by the Chief Administrative Law Judge shall preside at a prehearing conference and

[9] It appears that Kimberly-Clark built its new plant with gas burning facilities in reliance on Alabama-Tennessee's assurances that certificated natural-gas service would be available when needed. The prudence of such a course of action is questionable, and other companies contemplating construction of new plants without alternate fuel facilities should be certain of gas supply before construction of such plants. However, to avoid economic hardship and in light of the absence of objections by other parties, the Commission will grant the temporary certificate requested in this proceeding. The Commission emphasizes that Kimberly-Clark should not rely on this temporary authorization as providing assurance of the continuing availability of this supply of natural gas on a permanent basis.

subsequent hearing in this proceeding, with authority to establish and change all procedural dates and to rule on all motions as provided by the Rules of Practice and Procedure.

(F) The Presiding Judge shall convene a prehearing conference on May 29, 1980 at 10:00 a.m. in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426.

(G) Petitioners to intervene are permitted to intevene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intevenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene; and, *Provided, further,* That the admission of said intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13533 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA80-90]

American Petrofina Co. of Texas, et al.; Application for Staff Adjustment

Issued April 25, 1980.

Take notice that on March 10, 1980, American Petrofina Co. of Texas, *et al.* (Applicant), P.O. Box 2159, Dallas, Texas 75221, filed with the Federal Energy Regulatory Commission (Commission) pursuant to section 502(c) of the Natural Gas Policy Act (NGPA) and § 1.41 of the Commission's Rules of Practice and Procedure an application for adjustment. Applicant seeks relief from § 271.505(a)(1) of the Commission's regulations issued under the NGPA.

Specifically, Applicant states that it sells natural gas to Texas Eastern Transmission Corporation (Texas Eastern) from the J. E. Love Lease located in Shelby County, Texas pursuant to a gas purchase contract dated April 1, 1970. Applicant states that the gas is sold in intrastate commerce and is subject to the maximum lawful price specified in section 105 of the NGPA and the Commission's implementing regulations at § 271.501, *et seq.*

Applicant further states that the well is currently shut-in because the water content of the gas product exceeds the amount permitted under the contract. However, Texas Eastern is permitting the Applicant to produce the well at 500 Mcf every other month in order to continue holding the lease. Applicant states that, under these conditions, the lease will continue to be uneconomical unless a dehydrater and compressor are used to reduce the water content of the gas and boost the producing rate. The installation of this equipment would require an expenditure by the Applicant in the amount of $54,335. In order to recover such investment, and a 15 percent return on the investment with estimated operating costs of $1,200 per month, Applicant estimates that it must receive $1.01 per Mcf for the gas. Applicant states that the current contract price for the gas is 19.5 cents per Mcf. However, pursuant to a letter agreement dated January 8, 1980 with Texas Eastern, Applicant states that Texas Eastern has agreed to amend the contract to provide that the total price for the gas sold would not exceed $1.01 per Mcf if the Commission acts favorably on Applicant's petition for a staff adjustment.

Specifically applicant alleges that it will suffer undue hardship unless it is permitted to sell the gas for a sum sufficient to allow recovery of its investment and realize a return of 15 percent. Applicant petitions the Commission to grant it an adjustment and special relief from compliance with § 271.505(a)(1) of the Commission's regulations, and permit the applicant and purchaser to amend the terms of the gas purchase contract.

The procedures applicable to the conduct of this adjustment proceeding are found in section 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24, issued March 22, 1979, (44 *Fed. Reg.* 19861, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of section 1.41(e). All petitions to intervene must be filed on or before May 19, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13534 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER79-182]

Commonwealth Edison Co.; Intent To Act

Issued April 25, 1980.

On March 26, 1980, the Village of Winnetka, Illinois, filed a motion requesting that a tariff filed by the Commonwealth Edison Company (Commonwealth) be rejected. Then on April 1, 1980, Illinois Cities also filed a motion requesting that Commonwealth's tariff filing be rejected. Commonwealth, in response, has requested an extension of time within which to file comments. Commonwealth has requested such an extension because of the complexity of the issues in the case.

The Commission finds that Commonwealth has good cause to request such an extension. Therefore, the motions filed by the Village of Winnetka and Illinois Cities should not be considered denied by operation of law under Section 1.12(e) of the Commission's rules. The Commission intends to issue an order on the merits of these motions in the very near future.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13535 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-16]

Michael Doyle; Filing of Petition for Review Under 42 U.S.C. 7194

Issued April 28, 1980.

Take notice that Michael Doyle on April 15, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before May 12, 1980, file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement and Litigation, Department of Energy, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13536 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3073]

Mr. Wayne R. Ellis of Boise, Idaho; Application for Short-Form License (Minor)

April 25, 1980.

Take notice that Mr. Wayne R. Ellis of Boise, Idaho (Applicant) filed on March 3, 1980, an application for license pursuant to the Federal Power Act [16 U.S.C. 791(a)–825(r)] for operation of the existing water power project known as the Clifford Rosenbalm Power Plant Project No. 3073. The project is located on the Bear Creek in the County of Boise, near the town of Lowman, Idaho. Correspondence with the Applicant should be directed to: Mr. Wayne R. Ellis, 6560 Emerald Street, Suite 122, Boise, Idaho 83704. The project occupies lands of the Boise National Forest.

Project Description.—The project consists of: (a) a 900-foot long diversion ditch carrying water from Bear Creek to; (b) a 360-foot long, 8-inch diameter, pipe leading to; (c) a wooden powerhouse, containing a single generating unit with installed capacity of 8 kW; (d) a 500-foot long tailrace ditch carrying water south to the Payette River; and (e) appurtenant facilities.

Purpose of Project.—Project power is used by the Applicant in his summer home adjacent to the project site.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comment.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before June 30, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than September 29, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (*as amended,* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (b) (*as amended,* 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules. of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before June 30, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–13537 Filed 5–1–80; 8:45 am]

BILLING CODE 6450–85–M

[Project No. 3065]

Electro Ecology Inc.; Application for Preliminary Permit

April 24, 1980.

Take notice that an application was filed on March 4, 1980, under the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r), by Electro Ecology Inc. for a preliminary permit. The project is to be known as the Wappingers Falls Project, located on Wappingers Creek, a tributary to the Hudson River in the Village of Wappingers Falls in Dutchess County, New York. Correspondence with the Applicant on this matter should be addressed to: Mr. William E. Hovemeyer, P. E., President, Electro Ecology Inc., P.O. Box 223, Freeport, New York 11520.

Purpose of Project—Project energy would be sold to Central Hudson Gas and Electric Company, the local utility.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform the studies, investigations, tests, and surveys, and prepare maps, plans, and/or specifications necessary for the preparation of an application for a FERC license. Applicant estimates the cost of the work under the permit would not exceed $5,000.

Project Description—The proposed project would redevelop the existing but inoperative Wappingers Falls Plant and would consist of: (1) an existing 20-foot-high and 172-foot-long concrete dam located at the head of a 64.5-foot-high natural falls; (2) a reservoir (Wappingers Lake) with a surface area of about 121.5 acres at spillway crest elevation of 84.5 feet m.s.l.; (3) a 40-foot-wide and 270-foot-long forebay formed by a 12-foot-high concrete wall adjoining the dam, containing a gated intake and a spillway; (4) a 9-foot-diameter and 924-foot-long riveted steel penstock; (5) a 50-foot-wide and 100-foot-long brick powerhouse containing two rebuilt turbines rated at 1,500 HP and 375 HP, connected to two new generators rators rated at 1,000 kW and 500 kW, respectively; (6) a new 4,160/13,200-volt substation; and (7) appurtenant facilities. Project energy would be transmitted to Central Hudson Gas and Electric Company's system through a connection at the new substation.

Applicant estimates the annual generation would average about 7,442,000 kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Angry Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for a preliminary permit. (A copy of the application may be obtained directly from the Applicant). Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before June 27, 1980, either the competing application itself or a notice

of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than August 26, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (as amended, 44 FR 61328, October 25, 1979.)

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before June 27, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13538 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-206]

Florida Power Corp., Order Accepting for Filing and Suspending Proposed Rates, Denying Motions To Reject, Granting Motion for Summary Disposition, Denying Request for Waiver of Notice Requirement, Granting Intervention and Establishing Hearing Procedures

Issued: April 25, 1980.

The Florida Power Corporation (Florida Power) on February 28, 1980,[1] tendered for filing proposed increases in rates for full requirements service, partial requirements service and transmission service. Florida Power also proposes to increase rates for two partial requirements customers served under individual rate schedules.[2] The proposals would increase Florida Power's revenues by approximately $21,500,000 (15.6%) based upon estimated sales for the test period ending December 31, 1980. In addition, Florida Power requests waiver of our notice requirements to allow the proposed rates to become effective as of March 28, 1980. Alternatively, Florida Power requested an effective date of April 28, 1980.[3]

Public notice of the filing was issued on February 4, 1980, with responses due on or before February 25, 1980. Petitions to intervene in this proceeding were filed on February 25 and February 27, 1980, by the Seminole Electric Cooperative, Inc. (Seminole), and the Florida municipals, respectively.[4] They request that the Commission grant intervention, and reject the filing, or, alternatively, suspend the proposed increased rates for five months, initiate price squeeze procedures and grants summary disposition of certain issues.

The Concerned Citizens League of the State of Florida (Concerned Citizens) on February 26, 1980, filed a protest and petition to intervene urging rejection of FPC's proposed rate increase.

On February 12, 1980, the Public Service Commission of the State of Florida filed a letter noting the absence of proposals relating to peak load pricing (time-of-day and seasonal rate differentials) in FPC's submittal.[5] The Public Service Commission urged our review of the issues of time-of-day and seasonal pricing in this proceeding.

We note that the questions of time-of-day and seasonal pricing are proper subjects for the hearing ordered below if any party he chooses to pursue them, including the Florida Commission should it petition to intervene late in this proceeding.

Florida Power has revised its fuel adjustment clause to include a provision for recovery of spent nuclear fuel costs. Florida Power proposes to include in current fuel expense for fuel clause purposes its estimated future (1984) expense in connection with storage and disposal of nuclear fuel "burned" during current and past periods. The estimated disposal expense associated with past period spent fuel is proposed now to be recorded now as a miscellaneous deferred debit (Account 186), and amortized to the fuel expense Account 518 over a five year period. Estimated nuclear fuel disposal cost is based on an estimate of $292.48 per kilogram of spent nuclear fuel. Florida Power states that it will file any change in that estimate under Section 205.

Section 35.14 of our regulations requires that a fuel clause provide for adjustments per kWh equal to the difference between the fuel cost per kWh of sales in the base period and in the current period, and requires that the fuel cost be the expense of fossil and nuclear fuel in the base and current periods. Since the nuclear fuel cost in the current period clearly does not include the estimated future disposal costs of fuel burned at some time in the past, this proposed feature of the fuel clause is not in compliance with the Commission's regulations. We shall summarily dispose of this issue and permit Florida Power to file a conforming clause which includes only those disposal costs related to fuel currently being burned,[6] and without prejudice to a further rate proposal to separately amortize disposal costs associated with nuclear fuel consumed in the past. If such further rate proposal is proffered prior to the time of actual cost incurrence, the submittal should fully justify the proposed timing of the amortization of the estimated future cost.

Florida Power has not utilized labor ratios in functionalizing its general plant. We shall require Florida Power to meet the burden of showing that the use of labor ratios for the functionalization of general plant is unreasonable as applied to it, not merely that its alternative method might be reasonable. This requirement is consistent with prior Commission action.[7]

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[1] Florida Power originally tendered this filing on January 28, 1980, but the filing was deficient in technical details necessary for its evaluation. It was refiled on February 28, 1980.

[2] *See* Attachment A for identification of customers and related rate schedule designations.

[3] On March 12, 1980, the Florida municipalities of Alachua, Barton, Bushnell, Chattahoochee, Fort Meade, Gainesville, Lake Helen, Lakeland, Leesburg, Mount Dora, Newberry, Ocala, Quincy, Tallahassee and Williston, and the Sebring Utilities Commission and the Utilities Commission of New Smyrna Beach, Florida (Florida municipals) filed a motion in opposition to Florida Power's request for waiver of the notice requirements.

[4] The petition to intervene of Florida municipals was filed two days late.

[5] The Public Service Commission's letter shall be treated as a protest under Section 1.10 of our Rules of Practice and Procedure (18 C.F.R. § 1.10) since the Commission gave no indication that it wished to intervene in the proceeding.

[6] The Commission currently has before it on exceptions a case in which a utility company has proposed to flow through its fuel adjustment clause the estimated disposal costs associated with all nuclear fuel in the reactor. In that case, the utility company's fuel clause did not include language specifically providing for inclusion of nuclear fuel disposal costs, nor did the utility admit an obligation to file changes in nuclear fuel disposal costs as rate changes under Section 205. *See Carolina Power and Light Co.*, Docket No. ER77-485 *et al.*

[7] *See, Gulf States Utilities Company*, Docket No. ER80-57 (issued December 28, 1979); *Upper Pennisula Power Company*, Docket No. ER79-107

Footnotes continued on next page

Florida Power has used two different demand allocators in preparing its Statements M and N, which the company admits overstates the wholesale cost of service by approximately $800,000. In response to our deficiency notice, the company states that an error in its computer program caused the wholesale revenue requirement to be overstated. Florida Power requests that we accept its filing on condition that it file corrected rate schedules. We shall direct Florida Power to file revised cost of service data, revenue data, and rate schedules eliminating the effects of the error within 30 days from the date of this order.

In accordance with Commission policy established in *Arkansas Power & Light Company*, Docket No. ER79–339, order issued August 6, 1979, we will phase the price squeeze issue raised by Seminole and Florida municipals. This will allow a decision first to be reached on the cost of service, capitalization and rate of return and rate of return issues. If, in the view of the intervenors or Staff, a price squeeze persists, a second phase of the proceeding may follow.

Our review indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. In addition, FPC has not shown good cause for waiver of the Commission Regulations to allow the proposed rates to become effective March 28, 1980. Accordingly, the Commission shall accept Florida Power's submittals for filing and suspend the rates for one day, to become effective April 29, 1980, subject to refund, pending the outcome of an investigation and hearing. We shall grant the petitions to intervene of Seminole, Florida municipals and Concerned Citizens.

The Commission Orders (A) The motions to reject Florida Power Corporation's rate filing are denied.

(B) Florida Power Corporation's request for waiver of the notice requirements of 18 CFR 35.11 is denied. Florida Power Corporation's proposed rates, as refiled to comply with this order, are hereby accepted for filing and suspended for one day, to become effective April 29, 1980, subject to refund pending the outcome of an investigation and hearing.

(C) Seminole's and Florida municipals' request for summary disposition on Florida Power's proposed fuel adjustment clause is hereby granted.

(D) Within 30 days from the date of issuance of this order, Florida Power Corporation is hereby ordered to submit revised cost of service data, comparative revenue data (Statements M and N), and associated rate schedules reflecting elimination of the Company's estimated $800,000 error in its development of the allocated cost of service, and to submit a fuel adjustment clause which conforms to section 35.14 of the regulations and which recognized all claimed test period fuel expense in Statement O for Period II.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed in this docket.

(F) Seminole, Florida municipals and the Concerned Citizens League shall be permitted to intervene in this proceeding pursuant to Section 1.8(a) of the Commission's Regulations, subject to the Rules and Regulations of the Commission; *Provided, however,* That participation by the intervenors shall be limited to matters set forth in their petitions to intervene; and *Provided, further,* That the admission of the intervenors shall not be construed as recognition by the Commission that they might be agrieved because of any order or orders by the Commission entered in this proceeding.

(G) The Commission Staff shall serve Top Sheets in this proceeding on or before August 25, 1980.

(H) We hereby order initiation of price squeeze procedures and further order that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for a consideration of price squeeze, would be just and reasonable. The Presiding Judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in Section 2.17 of the Commission's Regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(I) Florida Power Corporation must meet the burden of showing that the use of labor ratios is an unreasonable method of functionalizing its general plant.

(K) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing discovery conference in this proceeding to be held within 45 days of the issue of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. This conference will be for the purpose of expediting discovery and resolving any initial controversies relating to data requests and discovery. In addition, the Presiding Judge shall convene a formal settlement conference to be held within 10 days after the service of Top Sheets. The Presiding Judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(L) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

Florida Power Corp.

[Docket No. ER80–206]

Dated: Undated.

Filed: February 28, 1980.

Other Parties: (1) and (2) The Cities of Alachua, Barton, Bushnell, Chattachoochee, Fort Meade, Lake Helen, Leesburg, Mount Dora, Newberry, Ocala, Quincy, Sebring, and Williston; The Seminole Electric Cooperative, Inc. and The Orlando Utilities Commission.

Designations

FPC Electric Tariff, First Revised Volume No. 1

(1) Full Requirements (FR) and Transmission:

Sheet No.	*Supersedes*
4th Revised Sheet No. 3	3rd Revised Sheet No. 3
4th Revised Sheet No. 4	3rd Revised Sheet No. 4
4th Revised Sheet No. 23	3rd Revised Sheet No. 23
5th Revised Sheet No. 24	4th Revised Sheet No. 24

(2) Partial Requirements (PR) and Transmission:

Sheet No.	*Supersedes*
4th Revised Sheet No. 41	3rd Revised Sheet No. 41
4th Revised Sheet No. 42	3rd Revised Sheet No. 42
3rd Revised Sheet No. 43	2nd Revised Sheet No. 43

(3) Other Party: Reedy Creek Utility Company, Inc.: Supplement No. 6 to Rate Schedule FPC No. 74 (Supersedes Supplement No. 4).

Footnotes continued from last page
(issued February 12, 1979); *Missouri Utilities Company*, Docket No. ER79–21 (issued February 2, 1979); *see also*, Opinion Nos. 20 and 20–A, issued August 3, 1978 and October 30, 1978, respectively, *Minnesota Power & Light Company*, Docket Nos. E–9499 and E–9502.

(4) Other Party: City of Wauchula: Supplement No. 5 to Rate Schedule FPC No. 77 (Supersedes Supplement No. 4).

[FR Doc. 80-13539 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-349]

Florida Power Corp.; Filing

April 25, 1980.

The filing Company submits the following:

Take notice that on April 22, 1980, Florida Power Corporation (Florida Power) tendered for filing an Interconnection Agreement between Florida Power and the Sebring Utilities Commission dated as of February 1, 1980. The Agreement provides for the following interconnection services: emergency energy, short-term firm capacity and energy, economy energy, long-term firm capacity energy, and secondary energy. Florida Power asks that the sixty (60)-day notice requirement be waived so that the Agreement in accordance with its terms, may be permitted to become effective on February 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13540 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3079]

State of Idaho Water Resources Board; Application for Preliminary Permit

April 25, 1980.

Take notice that State of Idaho Water Resources Board (Applicant) filed on March 14, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3079 to be known as the Clear Springs Power Project located on the Snake River in the Counties of Gooding and Twin Falls, near the town of Buhl, Idaho. The project would affect lands of the United States administered by the Bureau of Land Management. Correspondence with the Applicant should be directed to: Messrs. C. Stephen Allred and Wayne Haas, Idaho Department of Water Resources, Statehouse, Boise, Idaho 83720.

Project Description—The proposed project would consist of: (a) a dam, which would be between 25 and 50 feet high, across the Snake River creating a reservoir with gross storage capacity of up to 90,000 acre-feet; (b) a powerhouse to be located at the downstream toe of the dam with rated capacity of between 15 and 30 MW depending on the height of the dam; and (c) appurtenant facilities.

Purpose of Project—Project energy would be sold to an investor owned utility or a rural electric cooperative operating in the State of Idaho.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 36-month permit to prepare a definitive project report, including results of foundation studies, preliminary designs, economic analysis and environmental studies. The cost of the above activities along with preparation of an environmental impact report, obtaining agreements with Federal, State and local agencies, preparing a license application and final field surveys and designs is estimated by the Applicant to be $200,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before June 30, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than August 29, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (*as amended,* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (*as amended,* 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before June 30, 1980. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13541 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-348]

Iowa Power & Light Co; Filing

April 25, 1980.

The filing Company submits the following:

Take notice that Iowa Power and Light Company (Iowa Power), on April 21, 1980 tendered for filing proposed changes in Iowa Power and Light Company FPC Rate Schedule No. 46, which sets forth rates for wholesale electric service to Harlan Municipal Utilities (City).

Proposed Supplement No. 13 to Rate Schedule No. 46 provides for a change in the floor price for emergency energy and

power as well as a change in billing due dates and interest charges on late payment thereof. This change is needed for compliance with the rates shown in the Mid-Continent Area Power Pool Agreement.

Iowa Power requests that the Commission waive its prior notice requirements and accept Proposed Supplement No. 13 for filing with a retroactive effective date of February 21, 1980. Iowa Power states that copies of the filing have been served upon the City and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13542 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-26]

Kansas-Nebraska Natural Gas Co., Inc.; Filing of Petition for Review Under 42 U.S.C. 7194

Issued: April 28, 1980.

Take notice that Kansas-Nebraska Natural Gas Company, Inc. on April 15, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before May 12, 1980, file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement and Litigation, Department of Energy, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13543 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-27]

Louisiana Power & Light Co.; Filing of Petition for Review Under 42 U.S.C. 7194

Issued April 28, 1980.

Take notice that Louisiana Power & Light on April 1, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before May 12, 1980, file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement and Litigation, Department of Energy, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13544 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2939]

Macon County Recreation Commission; Application for Preliminary Permit

April 24, 1980.

Take notice that on July 27, 1979, amended November 10, 1979, the Macon County Recreation Commission filed an application for preliminary permit pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r), for proposed Project No. 2939 to be known as the Whitewater Reservoir Project in Macon County, Georgia. The project would be located on Whitewater Creek at Applicant's existing dam.

Purpose of Project.—Power generated by the project would be sold to the Georgia Power Company. Revenues from the project would support the Macon County Recreation Commission's recreation projects throughout Macon County, Georgia.

Proposed Scope and Cost of Studies Under Permit.—Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would study the feasibility of installing hydroelectric generating units at the existing dam. The proposed work would include preliminary designs, economic analysis, and an environmental assessment. Based on the results of the feasibility study, Applicant would decide whether to proceed with more detailed studies and the preparation of application for license. Applicant estimates that the work to be performed under this preliminary permit would cost $40,000.

Project Description.—The project would consist of: (1) an existing 60-foot-long, 22-foot-high concrete dam; (2) the Whitewater Creek Reservoir with a surface area of 85 acres; (3) a proposed powerhouse containing two generating units having a total installed capacity of 500 kW. The proposed project would generate an average 2,747,000 kWh annually.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit

comments on the described application for a preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before June 27, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than August 26, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended*, 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (*as amended*, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions To Intervene.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before June 27, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13545 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP80-23, et al.]

Midwestern Gas Transmission Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

April 25, 1980.

Take notice that the pipelines listed in the Appendix hereto submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 12, 1980. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
4/16/80	Midwestern Gas Transmission Co.	RP80-23	Report.
4/16/80	East Tennessee Natural Gas Co.	RP78-65	Report.
4/16/80	Tennessee Natural Gas Lines, Inc.	RP79-21	Report.
4/21/80	Midwestern Gas Transmission Co.	RP78-23	Report.

[FR Doc. 80-13546 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-48]

Montana-Dakota Utilities Co.; Application

April 25, 1980.

Take notice that on April 10, 1980, Montana-Dakota Utilities Company (Applicant), a corporation organized under the laws of the State of Delaware and qualified to do business in the States of Minnesota, Montana, North Dakota, South Dakota, and Wyoming, with its principal business office at Bismarck, North Dakota, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order for authority to issue up to 350,000 shares of Common Stock, par value $10, to assure continued availability of Common Stock for the Applicant's Employee Stock Ownership Plan (ESOP).

The net proceeds from the issuance and sale of the Common Stock are to be used for the Applicant's continuing construction program, which may include the repayment of short-term borrowings incurred for that purpose.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rule of Practice and Procedure (18 CFR 1.8 or 1.10). 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. 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. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13547 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-85]

National Fuel Gas Supply Corp.; Amendment to Proposed Refund Plan

April 25, 1980.

Take notice that on April 18, 1980 National Fuel Gas Supply Corporation ("National Fuel") tendered for filing an amendment to its proposed refund plan, filed on April 1, 1980, under Section 282.506 of the Commission's Regulations to flow-through refunds received from its suppliers which are applicable to periods prior to January 1, 1980.

National Fuel states that since April 1, 1980 it has received an additional refund of approximately $1,000,000 for periods prior to January 1, 1980 and it requests that the refund plan filed on April 1, 1980 be amended to include the flow-through of this amount. National Fuel further states that it has been informed by its suppliers that additional refunds for periods prior to January 1, 1980 will be made between now and May 31, 1980, the termination date for National Fuel's adjustment to Account No. 191 under the Purchased Gas Adjustment Clause of its FERC Gas Tariff. National Fuel requests that its refund plan be further amended to include the flow-through of these amounts.

National Fuel states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of the filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13548 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-91]

U.S. Department of Energy, Naval Petroleum Reserves at Elk Hills; Petition for Declaratory Order

Issued: April 25, 1980.

Take notice that on April 22, 1980, the U.S. Department of Energy filed a petition for declaratory order pursuant to § 1.7(c) of the Federal Energy Regulatory Commission's regulations (18 CFR 1.7(c)). The petition requests the Commission's concurrence in DOE's proposed methodology for determining the maximum lawful price of natural gas scheduled to be produced and sold from the Naval Petroleum Reserves at Elk Hills, California. The petition is on file with the Commission and is available for public inspection.

DOE has requested that the Commission shorten the usual thirty day comment period due to the fact that DOE must receive the Commission's ruling on an expedited basis in order to proceed with the sales from the Naval Petroleum Reserves as scheduled. Accordingly, interested parties are given 15 days from the date of issuance of this notice to file written comments concerning this petition for declaratory order. Comments should be filed on or before May 9, 1980 with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C., 20426

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13549 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA80-107]

Oasis Pipe Line Co.; Application for Adjustment

April 28, 1980.

On April 11, 1980, Oasis Pipe Line Company (Oasis) filed with the Federal Energy Regulatory Commission an Application for Adjustment under Section 502(c) of the Natural Gas Policy Act, wherein Oasis sought relief from the Commission's Regulations governing transportation by intrastate pipelines as set forth in 18 CFR 284.123(b)(1)(ii). Oasis states that it is necessary for the Commission to grant this adjustment to remove major uncertainties associated with its performance of Section 311(a)(2) transportation on behalf of interstate pipelines in Texas. Oasis' application is on file with the Commission and is available for public inspection.

The procedures applicable to the conduct of this adjustment proceeding are found in Section 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979, as amended by Order 24-B issued March 24, 1980.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Section 1.41. All petitions to intervene must be filed on or before May 19, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13550 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-350]

Ohio Power Co.; Filing

April 25, 1980.

The filing Company submits the following:

Take notice that Ohio Power Company (Ohio Power) on April 22, 1980 tendered for filing Amendment No. 5, dated as January 1, 1968, among Ohio Power, Buckeye Power, Inc. and Cardinal Operating Company.

Ohio Power states that Amendment No. 5 provides a means pursuant to which the respective entitlements of Buckeye Power, Inc. and Ohio Power to the capacity and energy available at the Cardinal Station may be further clarified and defined and facilitate the wholesale sale of off-peak power from the Cardinal Station, Ohio Power requests waiver of the Commission's notice requirements and requests an effective date of April 15, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13551 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3127]

Pioneer Hydroelectric Developers; Application for Preliminary Permit

April 28, 1980.

Take notice that Pioneer Hydroelectric Developers (Applicant) filed on April 1, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3127 to be known as the Ware Project located on the Ware River in the Town of Ware, Hampshire County, Massachusetts at an existing dam constructed in 1880. Correspondence with the Applicant should be directed to: Peter B. Clark, President, Clark-McGlennon Associates, Inc., 148 State Street, Boston, Massachusetts 02109.

Project Description—The proposed project would consist of: (1) a 34-foot high, 115-foot long main upper dam of stone and concrete construction; (2) a 9-foot high, 50-foot long spillway extension of concrete construction; (3) a 16-foot long emergency spillway of concrete construction; (4) a gatehouse containing 5 timber slide gates; (5) a reservoir with negligible storage capacity; (6) a 115-foot long overflow weir of stone construction; (7) an 18-foot high, 102-foot long lower dam of stone construction; (8) a settling pond; (9) an intake structure; (10) an 8-foot diameter penstock from 500 to 600 feet in legnth; (11) a powerhouse containing two turbine/generator units with a total rated capacity of from 1090 to 1500 kW; and (12) appurtenant facilities. The proposed project would generate up to 6,800,000 kWh annually saving the equivalent of 11,270 barrels of oil or 3200 tons of coal.

Purpose of Project—Energy generated by the project would be sold to an

adjacent industrial complex, the main employer in Ware. Surplus energy would be sold to either Massachusetts Electric Company, Massachusetts Municipal Wholesale Electric Company (MMWEC) or other industrial users in Ware.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include an economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be up to $35,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before July 7, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than September 8, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (as amended, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR §§ 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before July 7, 1980. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13552 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-21]

Saffari Mobil Service; Filing of Petition for Review Under 42 U.S.C. 7194

Issued: April 28, 1980.

Take notice that Saffari Mobil Service on April 14, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before May 12, 1980, file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement and Litigation, Department of Energy, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol Street, N.E. Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13553 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-347]

Southern California Edison Co.; Filing

April 25, 1980.

The filing company submits the following:

Take notice that on April 21, 1980, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, an agreement dated March 18, 1980, with the City of Pasadena ("Pasadena"). The agreement is entitled: "Edison-Pasadena Interruptible Transmission Service Agreement II".

Under the terms of the agreement, Edison will provide to Pasadena up to a maximum of 200 megawatts of interruptible transmission service from the Four Corners Project switchyard and/or Moenkopi Switching Station to Eldorado Substation for non-firm energy purchased by Pasadena. The rates and charges for such service are set forth in the agreement and are subject to change under the terms set forth therein.

Edison has requested that the Agreement be made effective as an initial rate schedule 60 days after acceptance for filing by FERC.

Copies of this filing were served upon the Public Utilities Commission of the State of California and City of Pasadena.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and § 1.10 of the Commission's rules of practice and procedure (18 CFR § 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13554 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2984]

S. D. Warren Co.; Application for Major License for Constructed Project

April 28, 1980.

Take notice that an application was filed on October 15, 1979, under the Federal Power Act, 16 U.S.C. § 791(a)-825(r), by S. D. Warren Company, a division of Scott Paper Company for a major license for the constructed Eel Weir Project located on the Presumpscot River in Cumberland County, Maine. Correspondence with the applicant should be sent to: John B. Blatz III, Associate Counsel, S. D. Warren, a Division of Scott Paper Company, Scott Plaza One, Philadelphia, Pennsylvania 19113 and Bernard A. Foster, III, Nancy J. Hubbard, Ross, March & Foster, 730 15th Street, N.W., Washington, D. C. 20005. The Presumpscot River is a navigable water of the United States.

Project Description

The Eel Weir Project No. 2984 consists of: (1) a 115-foot-long, 23-foot-high stone masonry spillway dam; (2) a 10-foot-high, 150-foot-long stone and earth-fill section at the east abutment; (3) a 90-foot-long, 5-foot-high stone and earth-fill section at the west abutment; (4) five 6'5"-high by 4'9"-wide gates which discharge to the river downstream of the dam; (5) four 8'10"-high by 7-foot-wide canal intake gates with 15-foot-high, 60-foot-long, stone and earth-fill sections on the east and west flanks; (6) a 12-mile-long reservior (Sebago Lake) with a usable storage capacity of 230,000 acre-feet; (7) a 90-foot-long fish screen located approximately 100 feet upstream of the canal gates; (8) a 90-foot-long timber-sheathed overflow weir located immediately downstream from the canal gates; (9) a 4,826-foot-long, 15-foot-deep earthen canal extending from the reservoir to the powerhouse; (10) a masonry powerhouse containing three generating units with a total rated capacity of 1,800 kW; and (11) appurtenant facilities.

The Eel Weir Project was originally completed in 1903. No major changes have been made to the facilities since that time except for normal and routine maintenance.

All power generated by the project is and will continue to be used by Applicant's Westbrook plant for operation of the facilities required for production of its paper products.

Extensive semi-private and public recreational facilities exist at the project on Sebago Lake. No additional recreational development is proposed by the Applicant.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before July 3, 1980 either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than October 31, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (as amended, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be filed on or before July 3, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13555 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-25]

Woodruff Standard Service Station; Filing of Petition for Review Under 42 U.S.C. 7194

Issued: April 28, 1980.

Take notice that Woodruff Standard on April 1, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before May 12, 1980, file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement and Litigation, Department of Energy, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-13556 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1483-3]

Availability of Environmental Impact Statements

Agency: Office of Environmental Review (A-104), US Environmental Protection Agency.

Purpose: This notice lists the environmental impact statements (EISS) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's regulations (40 CFR Part 1506.9).

Period Covered: This notice includes EIS's filed during the week of April 21, 1980 to April 25, 1980.

Review Periods: The 45-day review period for draft EIS's listed in this notice is calculated from May 2, 1980 and will end on June 16, 1980. The 30-day review period for final EIS's as calculated from May 2, 1980 will end on June 2, 1980.

EIS Availability: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency

which has filed an EIS during the period covered by the notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

Back Copies of EIS's: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources: or public availability and/or hard copy reproduction of EIS's filed prior to March 1980: Environmental Law Institute, 1346 Connecticut Avenue NW., Washington, DC 20036.

For Hard Copy Reproduction or Microfiche: Information Resources Press, 1700 North Moore Street, Suite 700A, Arlington, VA 22209, (703) 558–8270.

For Further Information Contact: Kathi L. Wilson, Office of Environmental Review (A–104), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 245–3006.

Summary of Notice: On July 30, 1979, the CEQ regulations became effective. Pursuant to section 1506.10(A), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of April 21, 1980 to April 25, 1980 the 30-day review period will be calculated from May 2, 1980. The review period will end on June 2, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of April 21, 1980 to April 25, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and county(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and county(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous notices of availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: April 29, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A–104).

Appendix I—EIS's Filed With EPA During the Week of April 21 through 25, 1980

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A, Admin. Building, Washington, D.C. 20250, (202) 447–3965.

Forest Service

Draft Supplement

Western Spruce Budworm Mgmt. (DS–1), Coconino County, Ariz., April 21: Proposed are four alternatives regarding a western spruce epidemic on 100,000 acres of the Kaibab National Forest and the Grand Canyon National Park, Coconino County, Arizona. This document supplements final EIS, No. 790159 filed 2–9–79 and provides the most current information available. (EIS Order No. 800312.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.

Draft Supplement

Harry S. Truman Dam, Downstream Measures (DS–2), Benton County, Mo., April 25: Proposed are downstream measures for the Harry S. Truman Dam and Reservoir located on the osage River in Benton County, Missouri. The plan under consideration includes: (1) relocation of a water oriented recreational facility, including removal of middle bridge; (2) placement of a left bank levee from recreation facility to US 65; (3) placement of a right bank levee including the island; and (4) acquisition of land behind each levee. This statement supplements final EIS, No. 730340, filed 2–28–73. (Kansas City District.) (EIS Order No. 800300.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Daniel Sullivan, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007, (212) 264–1858.

Draft

Atlantic Highlands and Highlands WWT Facilities, Monmouth County, N.J., April 22: Proposed is the awarding of financial assistance for the construction of wastewater treatment facilities for the Boroughs of Atlantic Highlands and Highlands in Monmouth County, New Jersey. The alternatives consider: 1) joint treatment at the existing Atlantic Highlands site, 2) joint treatment at the Army Air Defense site, 3) joint treatment at Gravel Pit #1, and 4) joint treatment at Gravel Pit #2. The gravel pits are located on Route 36 in Middletown Township. (EIS Order No. 800294.)

Contact: Mr. John Hagan, Region IV, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30308, (404) 881–7458, FTS 257–7458.

Draft

Upper Ocmulgee River Basin Water Quality Management, several counties in Georgia, April 24: Proposed is a water quality management plan for the Upper Ocmulgee River Basin located in several counties of Georgia. The recommended strategy for point sources involves the utilization of land application for all new expansions of existing or approved facilities and all future facilities in the Basin. It also includes: 1) reduction of nonpoint source loadings through strict enforcement, and 2) a thorough evaluation of the use of on-lot disposal systems to reduce loading to surface waters. (EPA–904/9–80–049) (EIS Order No. 800299.)

FEDERAL ENERGY REGULATORY COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Room 3000, S–22, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357–8228.

Anyone desiring to protect or file a petition to intervene with the FERC on the basis of a draft EIS listed below should do so in accordance with the requirements of FERC's rules of practice and procedure, 18 CFR 1.8, 1.10 (1979), within the time period set forth in this notice, unless otherwise stated.

Draft

Trailblazer Pipeline System, Wyoming, Colorado, and Nebraska, April 25: Proposed is the construction and operation of the Trailblazer Pipeline System extending from the Uintah County, Wyoming through Colorado to Gage County, Nebraska. The facilities would consist of approximately 800 miles of 36-inch diameter pipeline and 27,400 horsepower of compression. The pipeline would transport natural gas from the Rocky Mountain area to markets of that area, the east, and midwest. The alternatives consider: 1) no action, 2) use existing pipelines, and 3) pipeline sizing. (FERC/EIS–0018–D.) (EIS Order No. 800304.)

Swan Lake Project No. 2911, Licenses, Tongass National Forest, Alaska, April 24: Proposed is the issuance of a license for the construction and operation of the Swan Lake Project, a conventional hydroelectric facility, to be located on Falls Creek within the Tongass National Forest, Alaska. The project will include: 1) a dam downstream from the

outlet of the existing Swan Lake, 2) a power tunnel, 3) a switchyard, 4) an access road, 5) a transmission line, and 6) appurtenant facilities. The generating equipment would have an installed capacity of 22,000 kW. The 115 kV transmission line would extend for approximately 30.5 miles to the existing Bailey Switchyard in Ketchikan. Comments made by: AHP, USDA, DOC, HEW, DOI, EPA, DOE, HEW, State and Agencies. (EIS Order No. 800295.)

Note.—Sulton River Project, Spada Lake, Amendment of License, Washington.

The following information is published as an addendum to the Notice published in the April 18, 1980, Federal Register:

Anyone desiring to protest or file a petition with the FERC on the basis of the above DEIS should do so in accordance with the requirements of FERC's rules of practice and procedure, 18 CFR 1.8, 1.10 (1979), by June 2, 1980.

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Carl W. Penland, Acting Director, Environmental Affairs Division, General Services Administration, 18th and F Streets, N.W., Washington, D.C. 20405 (202) 566–1416.

Draft

Queens Federal Building, Consolidation, April 24: Proposed is a federal building in the Borough of Queens, New York to consolidate the Social Security Administration Northeastern Program Service Center now located in four separate locations in the Queens area. The facility would be provided by either construction or a combination of construction, acquisition and renovation of a historically, architecturally or culturally significant building. The alternatives consider: 1) no action, and 2) consolidation leasing at another location. (EIS Order No. 800306).

Department of HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755–6300.

Draft

Turtle Creek Subdivision, Mortgage Insurance, Houston County, Ga., April 21: Proposed is the issuance of HUD home mortgage insurance for the Turtle Creek Subdivision in Warner Robins, Houston County, Texas. The development would encompass 610 acres and contain approximately 1274 dwelling units. (HUD–RO4–EIS–78–13). (EIS Order No. 800291).

El Conquistador Development, Trujillo Alto, Puerto Rico, April 25: Proposed is the issuance of HUD home mortgage insurance for the El Conquistador Development located in Trujillo Alto, Puerto Rico. The development would encompass 114.77 acres and consist of 266 houses and 477 apartments. In addition, land will be reserved for the following uses: 1) active/passive parks, 2) schools, 3) a cultural center, 4) public use, 5) institutional, and 6) accessory uses. (EIS Order No. 800305).

Copperfield Subdivision, Mortgage Insurance, Harris County, Tex., April 21: Proposed is the issuance of HUD home mortgage insurance for the Copperfield Subdivision located in Harris County, Texas. The development would encompass approximately 1800 acres and contain 5,178 detached single houses in four villages. The development will also contain apartments, schools, commercial and retail sites, church sites, and recreational facilities. (HUD–RO6–EIS–80–3D). (EIS Order No. 800292).

Final

Settlers Bay Village, Wasiela, Alaska, April 24: Proposed is the issuance of HUD home mortgage insurance for the Settlers Bay Village near Wasiela, Alaska. The project will consist of approximately 1,204 single-family lots, roads, utilities, and recreation facilities. (HUD–R10–EIS–79–6F). Comments made by: AHP, DOT, USDA, EPA, DOI, USA, State Agencies. (EIS Order No. 800297).

Department of Interior

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240 (202) 343–3891.

Bureau of Land Management

Draft

Humbug Spires Wilderness Designation, Silver Bow County, Mont., April 25: Proposed is the designation of 9,648 acres as wilderness and 1,257 acres for other multiple use management within the Humbug Spires in Silver Bow County, Montana. The alternatives include: designation of the entire area, designation of the original primitive area, and designation of a physiographic unit, and no action. (DES–80–26). (EIS Order No. 800302).

Rocky Mountain Liquid Hydrocarbon Pipeline, Permit, several, April 21: Proposed is the granting of right-of-way for the construction of the Rocky Mountain Liquid Hydrocarbon Pipeline from Hobbs Station in Gaines County, Texas through New Mexico, Colorado and Utah to the Rocky Mountain Overthrust Area of Wyoming. The pipeline would extend for 1,172 miles and would be used to transport up to 65,000 barrels per day of mixed stream hydrocarbons. The alternatives consider no action, delay of action, and three route alignments. (DES–80–25). (EIS Order No. 800290).

Bear Trap Canyon Wilderness Designation, Madison County, Mont., April 25: Proposed is the designation of wilderness areas within the Bear Trap Canyon in Madison County, Montana. The recommended alternative includes the designation of approximately 5,719 acres of public lands as wilderness and the return of 93 acres of public land to other multiple use management. Under this alternative the area would be closed to motor vehicles, timber harvesting would not be permitted and development of the mineral resources would be limited or excluded. The alternatives include: (1) designation of entire area or original primitive area, and (2) designation of a physiographic unit. Portions of the area are located in the Gallatin and Beaverhead National Forests. (DES–80–27). (EIS Order No. 800301).

Nuclear Regulatory Commission

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, Nuclear Regulatory Commission, P–518, Washington, D.C. 20555 (301) 492–8446.

Final

LaCrosse Boiling Water Reactor, Vernon County, Wis., April 24: Proposed is the conversion of Provisional Operating Licenses No. 45 to a full-term operating license for the LaCrosse Boiling Water Reactor operated by the Dairyland Power Cooperative and located on the Mississippi River in Vernon County, Wisconsin. The plant employs one boiling water reactor to produce up to 165 megawatts thermal. A steam turbine-generator uses this heat to provide 50 MW (net) of electrical power capacity. The exhaust steam is cooled by a once-through flow of water obtained from the Mississippi River and discharged to it. Comments made by: AHP, USDA, DOC, HEW, DOI, EPA, DOE, State Agencies, Individuals and Businesses. (EIS Order No. 800296).

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426–4357.

Federal Highway Administration

Draft

72nd Street, NB–370 to L Street/US 275, Douglas and Sarpy Counties, Nebr., April 22: Proposed is the improvement of South 72nd Street to a four-lane divided urban arterial from NB–370 to the existing channelized intersection with L Street/US 275 in Douglas and Sarpy Counties, Nebraska. The improvement has been divided into two portions. The first portion begins at L Street and terminates at Harrison Street. The second portion begins at NB–370 and terminates at the south line of Valley Road. The total length of improvement is 5 miles. (FHWA–NEB–EIS–80–01–D). (EIS Order No. 800293).

Final

ID–64, Nezperce to Kamiah, Lewis County, Idaho, April 24: Proposed is the replacement or improvement of ID–64 between the communities of Nezperce and Kamiah in Lewis County, Idaho, within the boundary of the Nezperce Indian Reservation. The improved facility would be a secondary state highway consisting of two 12-foot travel lanes with 2-foot shoulders within a 120-foot right of way. The new facility would follow the existing highway alignment with minor improvements for a total project length of approximately 14.7 miles. (FHWA–IDA–78–02–F). Comments made by: EPA, AHP, DOI, USDA, DOC, DOE, State Agencies, Groups and Individuals. (EIS Order No. 800298).

I–33 Improvements, US–69 to OK–33, Mayes and Delaware Counties, April 25: Proposed is the improvement of OK–33 from its junction with US 69 at Chouteau in Mayes County, easterly to the junction of OK–33 near Kansas, Delaware County, Oklahoma. The

length of the project is approximately 38 miles. The alternatives considered include: 1) construction of new alignment to the north of the existing highway, 2) improvement of existing alignment, 3) construction of a new alignment to the south of the existing highway, and 4) do nothing. (FHWA–OK–EIS–79–03–F). Comments made by: HUD, EPA, COE, State Agencies. (EIS Order No. 800308).

I–5, Jantzen Beach–Delta Park Interchange, Multnomah County, Oreg., April 25: Proposed is the upgrading of I–5 (Pacific Highway) between the Jantzen-Beach-Delta Park Interchanges in Multnomah County, Oregon. The plan involves: 1) replacement of three overpass structures with one bridge, 2) modification of the Union/West Marine Intersection, 3) separation of I–5 northbound traffic movements going to Union Avenue/West Marine Drive from Denver Avenue to northbound I–5 traffic, 4) replacing existing Oregon Slough Bridge with an eight lane facility, 5) increasing ramp capacity, 6) signalizing the Union Avenue to I–5 on-ramp intersection, and 7) metering the northbound on-ramp at Jantzen Beach. (FHWA–OR–EIS–79–07–F). Comments made by: USDA, DOT, DOI, EPA, State and Local Agencies, Businesses, and Individuals. (EIS Order No. 800310).

Waverly Bypass, TN–1, Humphreys County, Tenn., April 25: The proposed project is an improvement of TN–1 from the end of the present four-lane section about 5.2 miles west of TN–13 in downtown Waverly, Tennessee to about 2.7 miles east of TN–13. The project will pass through or around Waverly, Tennessee, in Humphreys County and varies from 7.8 to 8.6 miles in length depending on the alternative selected. The proposed improvement will have four traffic carrying lanes throughout its length. (FHWA–TN–EIS–77–08–F). Comments made by: HUD, DOI, USDA, FERC, DOT, TVA, COE, HEW, State and Local Agencies, Individuals, and Businesses. (EIS Order No. 800307).

Railroad Highway Demonstration Project, Metairie, Jefferson County, April 25: Proposed is a railroad highway demonstration project located in Metairie, Jefferson County, Louisiana. The plan involves the removal of the Louisiana and Arkansas (L&A) Railway track along US 61, Airline Highway, from Williams Boulevard to Turnball Drive. The L&A traffic will be switched to other tracks. Other features included are: 1) some work done on the New Orleans Terminal (NOT) railroad facilities, 2) removal of the interchange track known as Long Siding between Labarre Road and Magnolia Drive, and 3) a replacement interchange track located between Central Avenue and Shewsburg Road. (FHWA–LA–EIS–78–01–D). Comments made by: DOI, EPA, Local Agencies, Individuals, (EIS Order No. 800309).

U.S. 20, Long Pine Junction, East and West, Brown County, Nebr., April 21: Proposed is improvement of the US 20/Long Pine Junction and approaches in Brown County, Nebraska. The improvements extend for 2.5 miles beginning approximately 1.3 miles west of the junction and terminating at the Brown County-Rock County line. Five alignment alternatives are considered which would pass through the Long Pine Recreation area. Two alternatives which would bypass the recreation area are also considered. The selected plan parallels the present alignment to the north for approximately one-third of the route and then rejoins the present roadway. (FHWA–NEBR–EIS–78–05–F). Comments made by: DOT, USAF, COE, USDA, HUD, EPA, DOI, State and Local Agencies. (EIS Order No. 800289).

EIS's Filed During The Week of Apr. 21 Through 25, 1980

[Statement title index—by State and county]

State	County	Status	Statement title	Accession No.	Date filed	Originating No.
Alaska		Final	Swan Lake Project No. 2911, Licenses, Tongass NF.	800295	Apr. 23, 1980	FERC
		Final	Settlers Bay Village, Wasiela	800297	Apr. 24, 1980	HUD
Arizona	Coconino	Supple	Western Spruce Budworm Mgmt. (DS–1)	800312	Apr. 21, 1980	USDA
Colorado	Several	Draft	Trailblazer Pipeline System	800304	Apr. 25, 1980	FERC
Georgia	Several	Draft	Upper Ocmulgee River Basin Water Quality Management.	800299	Apr. 24, 1980	EPA
	Houston	Draft	Turtle Creek Subdivision, Mortgage Insurance	800291	Apr. 21, 1980	HUD
Idaho	Lewis	Final	ID–64, Nezperce to Kamiah	800298	Apr. 24, 1980	DOT
Louisiana	Jefferson	Final	Railroad Highway Demonstration Project, Metairie	800309	Apr. 25, 1980	DOT
Missouri	Benton	Supple	Harry S. Truman Dam, Downstream Measures (DS–2).	800300	Apr. 25, 1980	COE
Montana	Madison	Draft	Bear Trap Canyon Wilderness Designation	800301	Apr. 25, 1980	DOI
	Silver Bow	Draft	Humbug Spires Wilderness Designation	800302	Apr. 25, 1980	DOI
Nebraska	Gage	Draft	Trailblazer Pipeline System	800304	Apr. 25, 1980	FERC
	Brown	Final	U.S. 20, Long Pine Junction, East and West	800289	Apr. 21, 1980	DOT
	Douglas	Draft	72nd Street, NB–370 to L Street/U.S. 275	800293	Apr. 22, 1980	DOT
	Sarpy	Draft	72nd Street, NB–370 to L Street/U.S. 275	800293	Apr. 22, 1980	DOT
New Jersey	Monmouth	Draft	Atlantic Highlands and Highlands WWT Facilities	800294	Apr. 22, 1980	EPA
New York		Draft	Queens Federal Building, Consolidation	800306	Apr. 24, 1980	GSA
Oklahoma	Delaware	Final	I–33 Improvements, U.S.–69 to OK–33	800308	Apr. 25, 1980	DOT
	Hayes	Final	I–33 Improvements, U.S.–69 to OK–33	800308	Apr. 25, 1980	DOT
Oregon	Multnomah	Final	I–5, Jantzen Beach-Delta Park Interchange	800310	Apr. 25, 1980	DOT
Puerto Rico		Draft	El Conquistador Development, Trujillo Alto	800305	Apr. 25, 1980	HUD
Several		Draft	Rocky Mountain Liquid Hydrocarbon Pipeline, Permit.	800290	Apr. 21, 1980	DOI
Tennessee	Humphreys	Final	Waverly Bypass, TN–1	800307	Apr. 25, 1980	DOT
Texas	Harris	Draft	Copperfield Subdivision, Mortgage Insurance	800292	Apr. 21, 1980	HUD
Wisconsin	Vernon	Final	La Crosse Boiling Water Reactor	800296	Apr. 24, 1980	NRC
Wyoming	Uintah	Draft	Trailblazer Pipeline System	800304	Apr. 25, 1980	FERC

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Waiver/extension	Date review terminates
DEPARTMENT OF COMMERCE					
Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377–4335.	Hawaiian Monk Seal Critical Habitat, Northern Hawaiian Islands, Hawaii.	Draft 800151	Mar. 7, 1980	Extension	May 14, 1980.
Department of Interior					
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of Interior, Washington, D.C. 20240, (202) 343–3891.	Owyhee Grazing Mgmt. Program, Idaho and Oregon.	Draft 800261	Apr. 18, 1980	Extension	June 10, 1980.
	Shiloh National Military Park, General Mgmt. Plan, Hardin County, Tenn.	Draft 800197	Mar. 28, 1980	Extension	June 2, 1980.

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*—Continued

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Waiver/ extension	Date review terminates
Department of Interior					
	Humbug Spires Wilderness Designation, Silver Bow County, Mont.	Draft 800302	May 2, 1980 (see app. I).	Extension	June 21, 1980.
	Bear Trap Canyon Wilderness Designation, Madison County, Mont.	Draft 800301	May 2, 1980 (see app. I).	Extension	June 21, 1980.
	Currituck Outer Banks National Wildlife Refuge, Currituck County, N.C.	Draft 791258	Dec. 28, 1979	Extension	May 15, 1980.
DEPARTMENT OF NAVY					
Mr. Ed Johnson, Head, Environmental Impact Statement/RDT&E Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, (202) 697-3689.	Atlantic Fleet Weapons Training Facility, Vieques.	Draft 800048	Jan. 28, 1980	Extension	May 15, 1980.
U.S. ARMY CORPS OF ENGINEERS					
Mr. Richard Makinen, Office of Environmental Policy, ATTN: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314.	Dickey-Lincoln School Lakes, Allagash River Watershed, St. John River, Dickey, Maine.	Draft Supp. 800167	Mar. 14, 1980	Extension	May 5, 1980.

Appendix III.—*EIS'S Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No.	Date notice published in FEDERAL REGISTER	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Correction
FEDERAL ENERGY REGULATORY COMMISSION				
Dr. Jack M. Heinemann, Advisor on Environmental Quality, Room 3000 S-22, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20554, (202) 357-8228.	Kerchoff Project No. 96, Fresno and Madera Counties, Calif.	Final 791302		This EIS was not filed with the EPA at the time of distribution. It should have appeared in the March 26, 1979 FEDERAL REGISTER. The comment period was terminated on May 7, 1979. Following is a description of the project as it would have appeared: Considered in this proposal is an application by the Pacific Gas and Electric Company for a license to modify, operate and maintain the Kerckhoff Project, FERC No. 96, located on the San Joaquin River in Fresno and Madera Counties, California. The modified project would utilize the existing reservoir, powerhouse, and transmission facilities in addition to proposed new facilities. Alternatives include denial of application for license, alternative forms of power generation, methods of construction, facilities, and operational modes. (FERC-EIS-0005-F.)

[FR Doc. 80-13638 Filed 5-1-80; 8:45 am]

[FRL 1482-3]

Administrator's Toxic Substances Advisory Committee

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: There will be a meeting of the Administrator's Toxic Substances Advisory Committee from 8:30 a.m. to 5 p.m. on Tuesday, May 20, 1980. The meeting will be held at the Crystal City Marriott, Salons E and F, 1999 Jefferson Davis Highway, Arlington, Virginia and will be open to the public.

FOR FURTHER INFORMATION CONTACT: Ms. Marsha Ramsay, Executive Secretary, Administrator's Toxic Substances Advisory Committee, Office of Pesticides and Toxic Substances (TS/793), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Telephone: 202–755–4854.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to discuss matters related to EPA's implementation of the Toxic Substances Control Act (Pub. L. 94–469). The agenda includes a discussion of the process by which the Office of Pesticides and Toxic Substances balances risks and benefits in determining which chemicals will be tested and controlled, and by what means; the Committee's report on the implementation of TSCA in its first three years, and recommendations for the future; and an update on the implementation of the Toxic Substances Control Act.

The meeting will be open to the public and time will be set aside for public comments. Any member of the public wishing to present an oral or written statement should contact Ms. Marsha Ramsay at the address or phone number listed above.

Dated: April 24, 1980.

Edwin H. Clark, II,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80-13524 Filed 5-1-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1482-4; OPP-00117]

State-FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Registration and Classification; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a two-day meeting of the Working Committee on Registration and Classification of the State-FIFRA Issues Research and Evaluation Group (SFIREG) held at the : Radisson-Muehlebach Hotel, 12th St. and Baltimore Ave., Kansas City, MO 64105, 816–471–1400. The meeting will be open to the public.

DATE: Wednesday and Thursday, May 21–22, 1980, beginning at 8:30 a.m. each day.

FOR FURTHER INFORMATION CONTACT:

Mr. Barry Patterson, New Mexico Department of Agriculture, Las Cruces, New Mexico 88001, 505–646–2133; or

Mr. P. H. Gray, Jr. (TS–770–M), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202–472–9400.

SUPPLEMENTARY INFORMATION: This is the fourth meeting of the Working Committee on Registration and Classification. The meeting will be concerned with the following topics:

1. EPA's label improvement program;
2. Scientific Advisory Panel recommendations concerning granular formulations;
3. Section 18 exemptions and their relationship to conditional registration;
4. Briefing on Purdue computerized registration system;
5. Subpart E Registration Guidelines;
6. Briefing on New Mexico restricted use pesticide regulations and their impact on private applicator certification; and
7. Other items as appropriate.

Dated: April 25, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-13525 Filed 5-1-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-618-DR]

Mississippi; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Mississippi (FEMA–618–DR), dated April 19, 1980, and related determinations.

DATED: April 25, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634–7845.

NOTICE: The Notice of a major disaster for the State of Mississippi dated April 19, 1980, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 19, 1980.

The following Counties for Public Assistance in addition to Individual Assistance:

Forrest
Harrison
Jackson

The following Counties for Individual Assistance and Public Assistance:

Adams
George
Pike
Walthall

Although the above counties are designated for Public Assistance, the limited monies currently available in the President's Disaster Relief Fund preclude any approval of project applications based on this designation until such time as sufficient additional funds become available.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-13499 Filed 5-1-80; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL RESERVE SYSTEM

ADCO Co.; Formation of Bank Holding Company

ADCO Company, Brule, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company be acquiring 80 percent or more of the voting shares of Bank of Brule, Brule, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 23, 1980. 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.

Board of Governors of the Federal Reserve System, April 24, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-13473 Filed 5-1-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views 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 interest, or unsound banking practices." Any comment on an application that requests a hearing must include 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 that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than May 23, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Citicorp, New York, New York (commercial leasing activities; entire United States): to engage, through its subsidiaries, Citicorp Omni Lease, Inc., and Citicorp Global Lease, Inc., in leasing personal or real property or acting as agent, broker, or advisor in leasing such property and servicing such leases, subject to the qualifications of the Board's Regulation Y (12 CFR 225.4(a)(6) (a) and (b)). These activities would be conducted from an office in Wilmington, Delaware, serving the entire United States.

B. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

Aplington Insurance, Inc., Aplington, Iowa (insurance activities; Iowa): to continue to engage in the activity of acting as insurance agent or broker for general insurance in a community that has a population not exceeding 5,000. These activities would be conducted from officers in Aplington, Iowa, serving the area within a seven mile radius. Comments on this application must be received by May 22, 1980.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, April 24, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-13477 Filed 5-1-80; 8:45 am]

BILLING CODE 6210-01-M

Elk River Bancshares, Inc.; Formation of Bank Holding Company

Elk River Bancshares, Inc., Elk River, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 95.5 percent or more of the voting shares of First National Bank of Elk River, Elk River, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 23, 1980. 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.

Board of Governors of the Federal Reserve System, April 24, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-13474 Filed 5-1-80; 8:45 am]

BILLING CODE 6210-01-M

FSB Bancorp, Inc.; Formation of Bank Holding Company

FSB Bancorp, Inc., Peachtree City, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of The Fayette State Bank, Peachtree City, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

FSB Bancorp, Inc., Peachtree City, Georgia, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage through its subsidiary, FSB Services Corp., in the activity of providing management consulting advice to nonaffiliated banks in the installation, maintenance, and modification of computer software. These activities would be performed from offices of Applicant's subsidiary in Peachtree, Georgia, and the geographic areas to be served are Fayette County and adjacent areas of Coweta, Fulton, Clayton, and Spaulding Counties, Georgia. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views 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.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 23, 1980.

Board of Governors of the Federal Reserve System, April 24, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-13476 Filed 5-1-80; 8:45 am]

BILLING CODE 6210-01-M

Wilson Bancshares, Inc.; Formation of Bank Holding Company

Wilson Bancshares, Inc., Weston, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 92 per cent of the voting shares of Bank of Weston, Weston, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 23, 1980. 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.

Board of Governors of the Federal Reserve System, April 24, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-13475 Filed 5-1-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following request for clearance of reports intended for use in collecting information from the public were accepted by the Regulatory Reports Review Staff, GAO, on April 25, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before May 20, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Interstate Commerce Commission

The ICC requests clearance of revised Quarterly Report, Form QFR, required to be filed by some 996 Class I common carriers of property, 40 Class I household goods carriers, and 464 Class II Instruction 27 carriers pursuant to Section 11145 of the Interstate Commerce Act. Data collected by Form QFR are used for economic regulatory purposes. The report form is revised to conform with the Commission's decision of November 2, 1979, in Docket No. 37002, Revision to Quarterly Report Form QFR, and Elimination of Filing Requirement for Certain Carriers. The revisions to QFR were made to simplify the form and relieve certain carriers from the filing requirement. Those relieved are Class I and II contract carriers and all instruction 28A, B & C Class II motor carriers of property. In order to retain Commission access to valuable information, ICC will require those carriers relieved from filing Form QFR to submit Form QFR-S which will consist of selected data necessary to the Commission. The ICC estimates quarterly reporting burden for carriers will average 4¼ hours per report and that reports will be filed by approximately 1500 carriers.

The ICC requests clearance of new Form QFR-S, Selected Quarterly Data of Results of Operations, required to be filed by some 556 contract motor carriers of property and 1,720 Class II non-instruction 27 carriers. Form QFR-S has been designed to conform with the Commission's decision of November 2, 1979, in Docket No. 37002, Revision to Quarterly Report Form QFR, and Elimination of Filing Requirement for Certain Carriers. This Final Rule relieved the above-mentioned carriers from filing Form QFR. However, in order to retain Commission access to valuable information, relieved carriers will be required to submit Form QFR-S. Form QFR-S is a single page report and will consist of selected data necessary to the Commission. The ICC estimates reporting burden will average 1 hour per quarterly report and that reports will be filed by approximately 2,276 carriers.

Although the Order (Docket No. 37002) required the information to be filed 30 days after the end of the quarter (April 30, 1980), clearance of the QFR and QFR-S forms was not sought by ICC until April 1980. This action violated the Federal Reports Act, as amended (44 U.S.C. 3512). On April 25, 1980, the Commission sent out notices to all respondents advising them of a delay in filing until the GAO completes its review. This notice represents the start of the review.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-13577 Filed 5-1-80; 8:45 am]

BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 118; Case No. 1568]

The Gas Co. of New Mexico, the New Mexico Public Service Commission; Proposed Intervention in Gas Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the New Mexico Public Service Commission concerning the application of the Gas Company of New Mexico for an increase in its gas rates. GSA represents the interest of the executive

agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets, N.W., Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20405), telephone 202–566–0750, on or before June 2, 1980, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding. (Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4)).

Dated: April 22, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-13445 Filed 5-1-80; 8:45 am]

BILLING CODE 6820-AM-M

[Intervention Notice 117]

Public Service Co. of Colorado, the Colorado Public Utilities Commission; Proposed Intervention in Electric, Gas, and Steam Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Colorado Public Utilities Commission concerning the application of the Public Service Company of Colorado for an increase in electric, gas, and steam rates. GSA represents the interest of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets, N.W., Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20405), telephone 202–566–0750, within 30 days of the publication of this notice in the Federal Register, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding. (Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4)).

Dated: April 23, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-13446 Filed 5-1-80; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Psychology and Psychiatry Education Review Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of May 1980.

Psychology Education Review Committee

May 16, 1980; 9:00 a.m.

Silver North Room, Holiday Inn-Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910

Open—May 16, 9:00 a.m. to 10:00 a.m.

Closed—Otherwise

Contact: Mrs. Joanna L. Kieffer, Room 9C–08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1220

Purpose: The committee is charged with the initial review, based on the scientific and technical merit, of applications submitted to the NIMH for Federal assistance of activities for psychology education/training personnel to provide mental health services to unserved/underserved geographic areas, populations, and/or public mental health facilities; for increasing the supply of minority mental health manpower; for developing strategies of primary prevention; and for increasing mental health skills and knowledge of general health care personnel, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 a.m. to 10:00 a.m. on May 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Psychiatry Education Review Committee

May 29–30 1980; 9:30 a.m.

Conference Room C, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Open—May 29, 9:30 a.m. to 11:30 a.m.

Closed—Otherwise

Contact: Brian B. Doyle, M.D., Room 9C–02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4728

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for psychiatric education to meet mental health services personnel needs in priority areas: Services to unserved or underserved populations, geographic areas, or public mental health facilities; to develop linkages with the general health services delivery system and provide mental health training for general health services personnel; and to increase the supply of minority mental health personnel, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:30 a.m. to 11:30 a.m. on May 29, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Substantive program information may be obtained from the contact persons listed above. The NIMH Committee Management Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mrs. Zelia Diggs, Office of the Associate Director for Extramural Programs, NIMH, Room 9–95, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: April 30, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-13744 Filed 5-1-80; 11:19 am]

BILLING CODE 4110-88-M

Food and Drug Administration

Docket No. 80P–0064

Abcor, Inc.; Panel Recommendation on Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency is issuing for public comment the recommendation of the Dental Devices Section of the Opthalmic; Ear, Nose, and Throat; and Dental Devices Panel that the Abcor Caries Detector be reclassified from class III (premarket approval) into class II (performance standards). This recommendation was made after review of a reclassification petition filed by Abcor, Inc., Wilmington, MA 01887. After reviewing the Panel recommendation and any public comments received, the agency will approve or deny the reclassification by order in the form of a letter to the petitioner. The agency's decision on this reclassification petition will be announced in the Federal Register.

DATES: Comments by June 2, 1980.

ADDRESSES: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gregory Singleton, Bureau of Medical Devices (HFK–460), Food and Drug Administration, Department of Health, Education, and Welfare, 8575 Georgia Ave., Silver Spring, MD 20910, 301–427–7536.

SUPPLEMENTARY INFORMATION: On June 18, 1979, Abcor, Inc., Wilmington, MA 01887, submitted to the Food and Drug Administration (FDA) a premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) (the act) stating that it intended to market a device the manufacturer calls "Abcor Caries Detector." After reviewing the information in the premarket notification, FDA determined that the device is not substantially equivalent to any device that was in commercial distribution before May 28, 1976; nor is the device substantially equivalent to a device that has been placed in commercial distribution since that date and subsequently reclassified. Accordingly, the device is automatically classified into Class III under section 513(f)(1) of the act (21 U.S.C. 360c (f)(1)).

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a device that is in Class III because of section 513(f)(1) can be marketed, it must either be reclassified under section 513(f)(2) or have an approval of an application for premarket approval under section 515 of the act (21 U.S.C. 360e), unless there is in effect for the device an investigational device exemption under section 520(g) of the act (21 U.S.C. 360j(g)).

On September 27, 1979, Abcor, Inc., submitted to FDA a reclassification petition for the device under section 513(f)(2) of the act, which requires FDA to refer a classification petition to the appropriate classification panel and to receive a recommendation on whether to approve or deny a petition. On October 1, 1979, the Dental Devices Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel (the Panel) reviewed the petition and recommended that the device be reclassified into Class II.

To determine the proper classification of the device, the Panel considered the criteria specified in section 513(a)(1) of the act.

For the purpose of classification, the Panel assigned to this generic type of device the name "electrical caries detection device" and described this type of device as a device used to detect decay and precarious lesions in the occlusal (biting) surfaces of the back teeth by measuring the electrical resistance of the tooth.

Summary of the Reasons for the Recommendation

The Panel made the following determinations in support of its recommendation:

1. The device is not an implant, is neither life-sustaining nor life-supporting and does not present an unreasonable risk of illness or injury.

2. The device is powered by an electrical power source which will not present a potential hazard to the patient if there is a power failure. The device emits an acceptable level of energy into the body and a malfunction of the device will not result in unsafe energy levels.

3. The materials used in the device for contact with the body (stainless steel) are generally acceptable to the dental profession and no additional control requirements are necessary.

4. Although general controls are not sufficient to provide reasonable assurance of the safety and effectiveness of the device, sufficient scientific and medical data exist to establish a performance standard to provide such assurance by prescribing for this device acceptable ranges of sensitivity and specificity.

Summary of Data on Which the Recommendation Is Based

The Panel's recommendation was based on safety and effectiveness data presented orally and in writing at the Panel meeting on October 1, 1979. Dr. George White, who is the chairman of the Department of Oral Pediatrics at Tufts University, is the principal investigator in the development of the Abcor Caries Detector. The studies that Dr. White conducted involved the clinical examination of 200 teeth which were to be extracted for orthodontic purposes. Two caries detection devices were used to examine the teeth: a conventional explorer, and the Abcor Caries Detector. The devices in the study were tested to determine inter-device error, and it was found that agreement occurred 95 percent of the time when the teeth were examined independently by the explorer and the Abcor Caries Detector.

The teeth were then extracted and histological sections and microscopic examinations were performed. The data showed, after compilations, that there was a false-positive reading of 1.5 percent of the teeth examined with the Abcor Caries Detector and a false-positive reading of 1.0 percent of the teeth examined with the explorer. In these cases, the presence of caries, reported by the Abcor Caries Detector and the explorer, was not confirmed by histologic examination. However, the number of false-negative readings with the Abcor Caries Detector was 8.5 percent of the teeth examined, whereas the number of false-negative readings with the explorer was 26.5 percent of the teeth examined. In these cases, the presence of caries was confirmed by histological examination but was not detected by the explorer or the Abcor Caries Detector. The sensitivity of the Abcor Caries Detector was determined to be comparable to the explorer in detecting caries.

Risks to Health

The maximum amount of current to which patients are exposed with the Abcor caries detector is less than .15 microampere (μA), which is considerably less than the current used in pulp vitality testing device (electrical devices used to probe the pulp to determine whether the nerve is dead or alive). The device operates on an 8-volt battery whose current is limited to 15 μA or less by two 300-kilo ohm resistors. This amount of current is less than the 10 μA maximum amount of current exposure suggested for extreme risk patients with externalized pacemakers or heart catheters by the American Association for Medical Instrumentation (AAMI).

Additional Findings

The Panel recommended that development of this standard be a low priority because the device does not present an unreasonable risk of illness or injury.

The petition and the transcript of the Panel meeting are on file in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, where they may be seen by interested persons, between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may, on or before June 2, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this recommendation. Four

copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 22, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-13153 Filed 5-1-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 76-0002]

Diethylstilbestrol (DES); Food Use of Cattle Illegally Implanted With DES

Correction

In FR Doc. 80-12237, appearing on page 27014, in the issue of Tuesday, April 22, 1980, make the following corrections:

1. On page 27014, second column, the thirty-sixth line should have read; "use and exposure to DES residues in".

2. On page 27015, second column, second complete paragraph, the word "date" should read "data".

3. On page 27016, "Table 1." should have appeared as set forth below:

Table 1.—*Estimated Average Concentrations of Residues Resulting From the Implantation of DES in Cattle*

Study	Number of animals	Tissue	Tissue concentration (ppt) (days after implant)				Parts per trillion [1]
			30	60	90	120	
Ref.2 [2]	4	Liver	400	450	440	700	
		Muscle	32	17	69	27	
Ref. 1 [2]	7	Liver	510	420	690	([3])	Liver=500.[4]
			490	570	520	320	
		Muscle	([5])	([5])	([5])	([5])	Muscle=36 ppt.[6]

[1] Estimated average tissue concentrations (ppt) while implant present. Data from both studies combined.
[2] Study used ethyl-labeled DES.
[3] This animal (number 477) received only one 15 mg implant rather than the two implants provided for in the formerly approved conditions of use. It has, therefore, been excluded.
[4] Average of 11 animals.
[5] None detected. Limit of detection of method used estimated to be 44 ppt. These values were not used in the average.
[6] Average of 4 animals.

BILLING CODE 1505-01-M

[Docket No. 80N-0095]

Headquarters Laboratory Facilities, State of Maryland, Prince Georges County; Availability of Draft Environmental Impact Statement

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of a draft environmental impact statement. The statement addresses the environmental impact of the agency's proposed master plan to build new laboratory and office facilities and relocate in stages on government-owned land in Beltsville, MD.

DATE: Comments on the draft statement must be submitted by July 1, 1980.

ADDRESSES: Copies of the draft statement are available from the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857; written comments on the statement may be submitted to the Hearing Clerk at the above-named address.

FOR FURTHER INFORMATION CONTACT: William H. Hoffman, Chief, Long Range Facilities Planning Staff (HFA-200), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4432.

SUPPLEMENTARY INFORMATION: Laboratory research is essential to FDS's effectiveness in protecting the public against impure and unsafe food, drugs, cosmetics, and medical devices. Yet, several of the agency's current laboratory facilities are functionally obsolete and beyond renovation. Following a review of alternative sites in the Washington metropolitan area for construction of new laboratory, laboratory support, animal testing, and related facilities, a 244-acre site in Beltsville was selected for construction of the facilities. The proposed site is environmentally valuable for its rural character and ecological diversity. The proposed action would result in the conversion of 90 acres from woodland to laboratory, office, and pasture use, resulting in the removal of part of the existing natural habitat. The existing rural and ecological diverse character of approximately 65 percent of the site would be preserved.

The agency invited community and professional participation in a "scoping meeting," held September 12, 1979, at Beltsville. The meeting was intended to give all interested parties the opportunity to make known their concerns or comments about the proposed FDA plans and to determine the scope of issues to be addressed before development of a draft environmental impact statement. Notice of intent to hold this meeting was published in the **Federal Register** (44 FR 47619; August 14, 1979) and in local newpapers circulated in the area of the proposed construction site. Individuals and organizations who might be expected to be interested in the proposed action were personally invited.

Noitice is hereby given that FDA has prepared a document entitled "Draft Environmental Impact Statement—Headquarters Laboratory Facilities," which addresses the environmental impact of FDA's proposed construction and relocation plans. Copies of the statement are available from the Hearing Clerk at the above address.

All interested persons are requested to submit five copies of comments on this draft statement to the Hearing Clerk at the above address on or before July 1, 1980. All comments received shall be available for public examination at the office of the Hearing Clerk at the above address, from 9 a.m. to 4 p.m., Monday through Friday.

The statement is issued under the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190) (sec. 102(2)(c), 83 Stat. 853 (42 U.S.C. 4321-4347)), the Council on Environmental Quality regulations published in the **Federal Register** November 29, 1978 (43 FR 55978-56007, 40 CFR Parts 1500-1508), Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970 as amended by Executive Order 11991, May 24, 1977), and FDA's environmental regulations (21 CFR Part 25).

Dated: April 25, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-13466 Filed 5-1-80; 8:45 am]

BILLING CODE 4110-03-M

National Institute of Education

Program of Research Grants on Organizational Processes in Education; Institutions of Postsecondary Education; Application Notice

Notice is given that applications are being accepted for grants in the Program of Research Grants on Organizational Processes in Education: Institutions of Postsecondary Education, according to the authority contained in Section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e).

This announcement covers applications for new awards that are to be considered in Fiscal Years 1980 and 1981. Awards will be made for research on organizational processes in, or related to, postsecondary institutions.

A college, university, State, local or intermediate education agency, public or private for-profit or non-profit agency, organization, group, individual, or any combination of these, is an eligible applicant. A grant to a for-profit organization is subject to any special conditions that the Director may prescribe.

Closing Date: June 5, 1980.

A. *Application and Program Information:* Those who wish to receive a copy of the program announcement may request one by sending a self-addressed mailing label to the Postsecondary Organization and Management Studies Team, EPO, Mail Stop 16, National Institute of Education, 1200 19th Street NW., Washington, D.C. 20208 (202–254–5555). (A stamped envelope is not usable.) Those who have requested that their names be placed on the mailing list for the program need not repeat their requests.

This announcement, which covers the initial year of the program, contains the guidelines governing the program, information on the availability of funds, expected number of awards, eligibility and review criteria, and application instructions.

The program is initially scheduled for a three-year period, but may be extended following a review of its activities through 1983. In each year of this period, two review and funding cycles will be completed. Funds will be set aside to support new work in both small and major grant categories and to continue support of satisfactorily conducted, previously approved, multi-year projects without requiring the latter to recompete for funds.

This program will award major grants and small grants. A major grant is for a project whose direct costs exceed $15,000. A project supported by a major grant may take up to three years' duration; but initial funding in most cases will not exceed 12 months, with subsequent funding contingent upon satisfactory performance and the availability of funds. A grant application that proposes a multi-year project must be supported by an explanation of the need for multi-year support, an overview of the objectives and activities proposed, and the budget estimates necessary to attain these objectives in any year after the first year of the project.

An application for a major grant is made in two stages. An applicant for a major grant must first submit a preapplication and may submit an application only after receipt of NIE comments on the preapplication. Consideration of preapplications is designed to strengthen the full applications that are submitted later and to discourage the submission of applications that have little chance of award. However, no applicant who has submitted a preapplication will be denied the opportunity to present an application. The deadline for submission of a full application for review in the same cycle will be four to five months after the closing date for the submission of the preapplication, but an application may be submitted for review in any subsequent cycle once the preapplication has been evaluated.

A small grant supports a project for a duration of up to 12 months for which direct costs do not exceed $15,000. An application for a small grant is a single-stage application without the requirement of a preapplication.

B. *Closing Dates and Review Cycles:*

Major Grants

Preapplications due	Comments returned	Full applications due	Decisions announced
June 5, 1980...	Aug. 1980.....	Oct. 21, 1980	Feb. 1981.
Oct. 21, 1980..	Dec. 1980.....	Mar. 25, 1981	July 1981.
Mar. 25, 1981.	May 1981.....	Oct. 6, 1981 ..	Jan. 1982.
Oct. 6, 1981....	Dec. 1981.....	.....	

Small Grants

Applications due	Decisions announced
June 5, 1980.....	Sept. 1980.
Oct. 21, 1980.....	Jan. 1981.
Mar. 25, 1981.....	June 1981.
Oct. 6, 1981.....	Jan. 1982.

C. *Estimated Distribution of Program Funds:* Approximately $100,000 is available in FY 1980. Only 4 to 7 small grants will be awarded out of Fiscal Year 1980 funds. No major grants will be awarded out of Fiscal Year 1980 funds. An estimated $700,000 is budgeted for funding both small and major grants in FY 1981. In any event, only projects of the highest quality will be supported, whether or not the resources of the program are exhausted. Further, nothing in the program announcement should be construed as committing NIE to award any specific amount.

D. *Applications Delivered by Mail:* An application sent by mail should be securely wrapped and addressed as follows: Proposal Clearinghouse, Mail Stop 1, National Institute of Education, 1200 19th Street NW., Washington, D.C. 20208. The lower left-hand corner of the package should display the words, "Organizational Processes in Education: Institutions of Postsecondary Education," and indicate the type of application: "Preapplication," "Full," or "Small." Applications will be accepted for review only if they are mailed on or before the closing date and proof of mailing is provided. Proof of mailing consists of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

Note.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicant should check with their local post offices before relying on this method.

Applicants are urged to use certified or other forms of mail for which receipts can be obtained.

Each applicant whose application does not meet the deadline dates shown above will be notified that the late application will not be considered in the immediate review cycle, but will be held over for consideration in the next one, or returned if the applicant prefers.

E. *Applications Delivered by Hand:* A hand-delivered application must be taken to the Proposal Clearinghouse, National Institute of Education, Room 813, 1200 19th Street NW., Washington, D.C. The Proposal Clearinghouse will accept hand-delivered applications between 8 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand-delivered will not be accepted after 4:30 p.m. on the closing dates indicated above, but will be considered in the next round of the competition or returned upon request.

F. *Applicable Regulations:* The regulations applicable to this program include (a) the amended regulation for the Program of Research Grants on Organizational Processes in Education (45 CFR 1480), published in the Federal Register on April 2, 1980, 45 FR 21657,

and further amended and published in the **Federal Register** on April 3, 1980, 45 FR 22545; (b) National Institute of Education General Provisions (45 CFR 1400–1424), as amended and published in the **Federal Register** on April 3, 1980, 45 FR 22543; and (c) the Education Division General Administrative Regulations (45 CFR 100a and 100c), published in the **Federal Register** on April 3, 1980, 45 FR 22494, which will apply to the administration of grants under this program.

(Catalog of Federal Domestic Assistance Number 13.950, Educational Research and Development)

Dated: April 28, 1980.

Michael Timpane,

Acting Director, National Institute of Education.

[FR Doc. 80-13620 Filed 5-1-80; 8:45 am]

BILLING CODE 4110-39-M

Office of Education

Education Appeal Board; Cease and Desist Hearing for State of California and Richmond, Calif., Unified School District

ACTION: Notice of Cease and Desist Hearing for the State of California and the Richmond, California Unified School District.

SUMMARY: This notice advises readers that the Education Appeal Board will conduct a cease and desist hearing for the California State Department of Education and the Richmond, California Unified School District on May 13, 1980. This notice also advises readers that interested third parties may apply to intervene in the cease and desist proceedings before the Board.

EFFECTIVE DATE: May 1, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Baord, 400 Maryland Avenue SW. (Room 2141, FOB–6), Washington, D.C. 20202. Telephone (202) 245–7835.

SUPPLEMENTARY INFORMATION: On May 25, 1979, interim final regulations were published in the **Federal Register** that established the Education Appeal Board as the successor to the Title I Audit Hearing Board in the Office of Education, HEW (45 CFR Part 100e (1979)). Those regulations became effective on June 29, 1979.

Final regulations establishing procedures for the Education Appeal Board were published in the **Federal Register** on April 3, 1980 (45 FR 22634), and are expected to become effective on May 4, 1980. The final regulations will apply to all Eduction Appeal Board proceedings conducted after May 4, 1980.

The Education Appeal Board will conduct a cease and desist hearing for the California State Department of Education and the Richmond, California Unified School District on May 13, 1980, at 10:30 a.m. in Room 3000, 400 Maryland Avenue SW, Washington, D.C. At the hearing, a panel of the Education Appeal Board will consider whether a cease and desist order should issue against the California State Department of Education and the Richmond Unified School District on the basis of a cease and desist complaint issued by the Commissioner of Education on April 4, 1980.

In the cease and desist complaint, the Commissioner charges that the Richmond Unified School District is violating advisory council requirements under Title I of the Elementary and Secondary Education Act of 1965, as amended, as interpreted in the Interpretive Rule issued by the Office of Education on October 27, 1978, by prohibiting a husband and wife from serving concurrently on a Title I advisory council. The Commissioner also charges that the California State Department of Education is failing to carry out its Title I administrative responsibilities with regard to Richmond.

At the hearing, the California State Department of Education and the Richmond Unified School District will have the opportunity to present reasons why the Education Appeal Board should not issue a cease and desist order based on the violations of law charged in the complaint.

Section 100e.43 of the interim final regulations and section 100d.43 of the final regulations establishing Education Appeal Board procedures provide that an interested person, group, or agency may, upon application to the Board Chairperson, intervene in cease and desist proceedings before the Education Appeal Board.

The application must indicate to the satisfaction of the Board Chairperson or, as appropriate, the Panel Chairperson, that the intervenor has an interest in and information relevant to the specific issues raised in the cease and desist complaint. If an application to intervene is approved, the intervenor becomes a party to the proceedings.

An intervenor in the cease and desist proceedings will be given an opportunity at the hearing on May 13, 1980, to make an oral statement of position, present any supporting documentation, and respond to questions from the Panel members and other parties. As an alternative to appearing at the hearing, the intervenor may submit to the Panel a written statement of position, and any supporting documentation, postmarked no later than May 13, 1980 (see section 100e.45 of the Board's interim final regulations or section 100d.45 of the Board's final regulations for filing requirements). An intervenor must notify the Chairman of the Education Appeal Board by May 5, 1980, in writing, whether the intervenor intends to appear at the May 13, 1980, cease and desist hearing or make a written submission postmarked no later than May 13, 1980.

All applicaitons to intervene or questions should be addressed to Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, SW, (Room 2141, FOB–6), Washington, D.C. 20202, telephone (202) 245–7835.

(20 U.S.C. 1234)

(Catalog of Federal Domestic Assistance Number not applicable)

Dated: April 28, 1980.

William L. Smith,

Commissioner of Education.

[FR Doc. 80-13573 Filed 5-1-80; 8:45 am]

BILLING CODE 4110-02-M

Education Appeal Board; Evidentiary Hearing Scheduled in the Appeal of the State of Pennsylvania

AGENCY: Office of Education, HEW.

ACTION: Notice of Evidentiary Hearing Scheduled in the *Appeal of the State of Pennsylvania*, Docket 2–(32)–77.

SUMMARY: This notice advises readers that the Education Appeal Board has scheduled an evidentiary hearing in the *Appeal of the State of Pennsylvania*, Docket No. 2–(32)–77 for May 21 and 22, 1980. This notice also advises readers that interested third parties may apply to intervene in the Board proceedings.

EFFECTIVE DATE: May 2, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue SW. (Room 2141, FOB–6), Washington, D.C. 20202. Telephone (202) 245–7835.

SUPPLEMENTARY INFORMATION: On May 25, 1979, interim final regulations were published in the **Federal Register** that established the Education Appeal Board as the successor to the Title I Audit Hearing Board in the Office of Education, HEW (45 CFR Part 100e (1979)). Those regulations became effective on June 29, 1979.

Final regulations establishing procedures for the Education Appeal Board were published in the **Federal Register** on April 3, 1980 (45 FR 22634),

and are expected to become effective on May 4, 1980. The final regulations will apply to all Education Appeal Board proceedings conducted after May 4, 1980.

The Education Appeal Board has scheduled an evidentiary hearing in the *Appeal of the State of Pennsylvania,* Docket No. 2–(32)–77, for May 21 and 22, 1980. The hearing will be held in Room 3000, 400 Maryland Avenue SW., Washington, D.C., and will begin each day at 10:00 a.m.

In its appeal, Pennsylvania is contesting the final audit determination of the Deputy Commissioner of Elementary and Secondary Education requesting a refund of money from the State for a violation of the comparability requirements contained in Title I of the Elementary and Secondary Education Act of 1965, as amended, and the implementing regulations. The dispute involves the administration of the Philadelphia Title I project in fiscal year 1973. The amount remaining in dispute in the appeal is $4,636,118.25.

Section 100e.43 of the interim final regulations and § 100d.43 of the final regulations establishing Education Appeal Board procedures provide that an interested person, group, or agency may, upon application to the Board Chairperson, intervene in appeals before the Education Appeal Board.

The application must indicate to the satisfaction of the Panel Chairperson, that the intervenor has an interest in and information relevant to the specific issues raised in the Pennsylvania appeal. If an application to intervene is approved, the intervenor becomes a party to the proceedings.

All such applications or questions should be addressed to Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue SW. (Room 2141, FOB–6), Washington, D.C. 20202, telephone (202) 245–7835.

(20 U.S.C. 1234)

(Catalog of Federal Domestic Assistance Number not applicable)

Dated: April 28, 1980.

William L. Smith,

Commissioner of Education.

[FR Doc. 80–13572 Filed 5–1–80; 8:45 am]

BILLING CODE 4110–02–M

Law School Clinical Experience Program; Extension of Closing Date for Transmittal of Applications for New Projects for Fiscal Year 1980

Notice is given that the April 30, 1980 deadline for transmittal of applications under the Law School Clinical Experience Program is extended to June 16, 1980. This Notice was originally published in the **Federal Register** on March 3, 1980 (45 FR 13823).

Authority for this program is contained in Title XI, of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1136–1136b)

This program issues awards to accredited law schools.

The purpose of the Law School Clinical Experience Program is to establish or expand projects at accredited law schools to provide supervised clinical experience to students in the practice of law.

Closing Date for Transmittal of Applications: Applications for awards must be mailed (post-marked) or hand-delivered by June 16, 1980.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.584, Washington, DC 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing:

(1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, DC.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, DC, time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information:

(1) *Eligible Applicants.* Only accredited law schools may apply for awards.

(20 U.S.C. 1136(a)).

(2) *Funding Criteria.* The Notice of Proposed Rulemaking governing the Law School Clinical Experience Program, published in the **Federal Register** on February 19, 1980 (45 FR 10821–10823), is applicable to awards to be made for fiscal year 1980. The proposed regulations broadly define the types of projects the Commissioner intends to support under this program. The regulations also specify the selection criteria to be used in evaluating applications.

Available Funds: The President has proposed budget rescissions to the Congress that may eliminate funds for this program. If the Congress approves the proposed rescissions, a notice to the public will be published in the **Federal Register,** stating that the rescissions have been approved. However, the deadline established in this notice will not be extended, and applicants should prepare and submit applications pending further notification. Applications must be submitted to the Application Control Center at the address included in this notice.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Graduate Training Branch, U.S. Office of Education (Room 3060, Regional Office Building 3), 400 Maryland Avenue SW., Washington, DC. 20202.

Applications must be prepared and submitted in accordance with the criteria, instructions, and forms included in the program information packages.

Applicable Regulations: The regulations applicable to this program are:

(1) The Education Division General Administrative Regulations (EDGAR) in Part 100a (Direct Grant Programs) and Part 100c (Definitions) published in the **Federal Register** on April 3, 1980 (45 FR 22494–22631); and

(2) The Notice of Proposed Rulemaking for the Law School Clinical Experience Program published in the **Federal Register** on February 19, 1980 (45 FR 10821–10823).

Further Information: For further information contact Dr. Donald N. Bigelow, Chief, Graduate Training Branch, U.S. Office of Education, (Room 3060, Regional Office Building 3), 400 Maryland Avenue SW., Washington, DC 20202. Telephone: (202) 245–2347.

(20 U.S.C. 1136, 1136a and b)

(Catalog of Federal Domestic Assistance Number 13.584; Law School Clinical Experience Program)

Dated: April 25, 1980.

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80-13574 Filed 5-1-80; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. D-80-600]

Delegations to Particular Positions; Acting Assistant Secretary for Housing-Federal Housing Commissioner

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Delegation of Authority.

SUMMARY: The Assistant Secretary for Housing-Federal Housing Commissioner is revising the designation of officials authorized to serve as Acting Assistant Secretary for Housing-Federal Housing Commissioner in the absence of the Assistant Secretary. This revision is necessary to reflect a reorganizational alignment.

EFFECTIVE DATE: March 25, 1980.

FOR FURTHER INFORMATION CONTACT: Barbara Hunter, Office of Management, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6623. This is not a toll free number.

SUPPLEMENTARY INFORMATION: This designation supersedes the designation of Acting Assistant Secretary for Housing-Federal Housing Commissioner published at 44 FR 3035, January 15, 1979. Since the amendment involves only internal matters of agency management, it does not require comment or public procedure. Accordingly, the designation of officials to serve as Acting Assistant Secretary is amended to read as follows:

Acting Assistant Secretary for Housing-Federal Housing Commissioner.

(a) Designation. The officials appointed to, or designated to serve as Acting during a vacancy in the following positions, are hereby designated to serve as Acting Assistant Secretary for Housing-Federal Housing Commissioner during the absence of the Assistant Secretary for Housing-Federal Housing Commissioner with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Housing-Federal Housing Commissioner: Provided, That no official is authorized to serve as Acting Assistant Secretary for Housing-Acting Federal Housing Commissioner unless all other officials whose appointed, or designated Acting, position titles precede his in this designation are unable to act by reason of absence:

(1) Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

(2) Deputy Assistant Secretary for Policy and Budget.

(3) Deputy Assistant Secretary for Multifamily Housing.

(4) Deputy Assistant Secretary for Public Housing and Indian Programs.

(5) Deputy Assistant Secretary for Single Family Housing and Mortgagee Activities.

(6) Director, Office of Management.

(b) Authorization. Each head of an organizational unit of Housing is authorized to designate an employee under his jurisdiction to serve as Acting during the absence of the head of the unit.

Authority: Section 7(d), Department of HUD Act of 1965, U.S.C. 3535(d).

Issued at Washington, D.C., April 25, 1980.

Clyde T. McHenry,

Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 80-13461 Filed 5-1-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Outer Continental Shelf Advisory Board; Mid-Atlantic Technical Working Group; Meeting Cancellation

The meeting of the Mid-Atlantic Technical Working Group, scheduled for May 5-6 in New York and announced on page 26141 of the April 17 **Federal Register**, has been cancelled. The meeting will be rescheduled at a future date.

For further information contact: Richard Barnett, New York Outer Continental Shelf Office, 26 Federal Plaza, Suite 32-120, New York, New York 10007 (phone: (212) 264-5580).

Judith B. Gresham,

Acting Manager, New York OCS Office.

[FR Doc. 80-13450 Filed 5-1-80; 8:45 am]

BILLING CODE 4310-84-M

Scientific Committee of the Outer Continental Shelf (OCS) Advisory Board; Agenda of Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, 5 U.S.C. App. I and the Office of Management and Budget's Circular A-63, Revised.

The Scientific Committee of the Outer Continental Shelf Advisory Board will meet on June 4, 1980 from 9:00 a.m. to 4:30 p.m., on June 5, 1980 from 9:00 a.m. to 4:30 p.m., and on June 6, 1980 from 9:00 a.m. to 12:00 p.m. The meeting will be held in Room 507 of the Clark Laboratory Building, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts.

The agenda for the meeting will include the following subjects:

- Role and Responsibilities of the Biological Task Force for Georges Bank
- Review of the North and Middle Atlantic OCS Environmental Studies Program
- Use of Environmental Studies Information in the Sale #42 Secretarial Issue Document
- Review of Projected Studies to Support the Secretary's March 1980 Proposed Final Leasing Schedule.

The meeting of this committee is open to the public. Approximately 50 visitors can be accommodated on a first-come/first-served basis. All inquiries concerning this meeting should be addressed to: Piet deWitt, Chief, Branch of Offshore Studies (543), Bureau of Land Management, Washington, D.C. 20240, telephone: (202) 343-7744.

Approved: April 28, 1980.

Guy R. Martin,

Assistant Secretary of the Interior.

Ed Hastey,

Associate Director, Bureau of Land Management.

[FR Doc. 80-13498 Filed 5-1-80; 8:45 am]

BILLING CODE 4310-84-M

New Mexico Wilderness Inventory; Amendment

April 30, 1980.

AGENCY: Bureau of Land Management, Interior.

ACTION: Amend FR Doc. 80-9240.

SUMMARY: This notice corrects errors in the notice of proposed intensive wilderness inventory decisions printed in the **Federal Register**, Volume 45, No. 62, 45 FR 20572, dated March 28, 1980.

La Cruces District Public Meeting: June 3, West Ballroom, Corbett Center, New Mexico State University, Las

Cruces, New Mexico, 7:00 p.m. to 10:00 p.m.

Total Roswell District acreage proposed as Wilderness Study Areas is 26,166.

The previous **Federal Register** notice incorrectly listed the following units as proposed Wilderness Study Areas. These inventory units are proposed for deletion from further consideration as wilderness:

BLM district and name	Number	Acreage
La Cruces:		
Rodeo	NM-030-001	5,600
Granite Gap (South)	NM-030-006	25,860
Millsite Creek	NM-030-008	9,720
Beacon Hill	NM-030-009	37,660
Pyramids	NM-030-011	52,860
UHL Draw	NM-030-012	30,660
Red Rock	NM-030-025	14,460
Mud Springs Peak	NM-030-027	12,900
High Lonesome	NM-030-029	12,640
Florida Mountains	NM-030-034B	45,526
Sierra Rica Mountains	NM-030-036	28,760
Cedar Mountains	NM-030-042	213,656
East Portrillo	NM-030-051	26,300
West Portrillo Mountains.	NM-030-052B	148,455
Mount Riley	NM-030-052C	7,400
Robledo Mountains	NM-030-063	38,670
Las Uvas Mountains	NM-030-065	37,760
Magdalena Peak	NM-030-066	82,247
Potter	NM-030-086	8,535
Carrizozo Lava Flow	NM-030-110A(2)	6,190
Carrizozo Lava Flow	NM-030-110A(3)	10,440
Brokeoff Mountains (E).	NM-030-112C	5,840
Wind Mountain	NM-030-135	7,720
Flat Top Mountain	NM-030-136	5,340
Alamo Mountain	NM-030-137	5,090
Cress Garden	NM-030-155	11,760
Total		*1,087,787
Socorro:		
Shoemaker	NM-020-027B	7,760
Stallion	NM-020-040	42,700
Padilla	NM-020-051	24,800
Lumbre	NM-020-056A	10,700
Crawford Hollow	NM-020-056B	12,240
Canyon	NM-020-061	8,300
Big Yucca	NM-020-064	5,900
Offspring	NM-020-065	3,600
Total		*143,601

*District totals include portions of recommended WSA's which are proposed for deletion due to a lack of wilderness characteristics.

Total proposed acreage lacking wilderness characteristics is 1,326,692.

Larry S. Woodard,

Acting State Director.

[FR Doc. 80-13579 Filed 5-1-80; 8:45 am]

BILLING CODE 4310-84-M

[INT DEIS 80-29]

Kanab/Escalante Rangeland Management Program Kanab/Escalante Area, Utah; Availability of Draft Environmental Impact Statement and Public Hearing

Pursuant to the National Environmental Policy Act of 1969 and a 1975 Federal Court order, the Bureau of Land Management has prepared a draft environmental impact statement for the proposed Kanab/Escalante rangeland management programs in parts of Kane, Garfield, and Washington Counties in Utah, and Coconino County in Arizona.

There are six alternative proposals: (1) Continuation of Present Management, (2) Elimination of Livestock Grazing, (3) Multiple Resource Enhancement, (4) Adjustment to Grazing Capacity, (5) Rangeland Management Recommendation, and (6) Livestock Optimization. The objective of the alternatives is to provide land use management on the basis of multiple use and long-term sustained yield of the natural resources on 2,567,466 acres of public land.

Alternative 5, Rangeland Management Recommendation is the BLM preferred alternative. Under this alternative, the initial allocation of forage would be 68,298 AUMs for livestock and 69,253 AUMs for wildlife and the protection of other resources. The adjustment in grazing use for livestock would be less than a one percent reduction from past grazing use. The preferred alternative includes implementation of grazing management systems, construction of the needed range improvements (water developments, fences, and stock trails) and vegetation treatments (burning, chaining, plowing, and seeding) on 52,500 acres of sagebrush and woodland to improve rangeland productivity. Under this alternative the production of desirable vegetation would increase, overall watershed conditions would improve and wildlife habitat would improve. After 20 to 25 years the potential grazing capacity under this alternative would be 91,444 AUMs for livestock and 71,627 AUMs for wildlife and other resources. Critical erosion condition would improve on about 105,000.

The Director, Bureau of Land Management, invites written comments on the draft statement to be submitted by July 1, 1980 to: District Manager, Bureau of Land Management, P.O. Box 724, Cedar City, Utah 84720.

A limited number of copies are available upon request to the District Manager at the above address. Public reading copies will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240, Telephone: (202) 343-5717.

Cedar City District Office, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah 84720, Telephone: (801) 586-2401.

Utah State Office, Bureau of Land Management, University Club Building, 135 East South Temple, Salt Lake City, Utah 84111, Telephone: (801) 524-4228.

Kanab Resource Area Office, Bureau of Land Management, 320 North First East, Kanab, Utah 84741, Telephone: (801) 644-2672.

Escalante Resource Area Office, Bureau of Land Management, Escalante, Utah 84726, Telephone: (801) 826-4291.

Dixie Resource Area Office, Bureau of Land Management, 24 East St. George Blvd., St. George, Utah 84770, Telephone: (801) 673-4654.

Notice is hereby given that oral and/or written comments will be received at the public hearings to be held at the elementary school Kanab, Utah, on June 10, 1980, 7:30 p.m. and at the high school Escalante, Utah on June 11, 1980, 7:30 p.m.

Written and oral comments concerning adequacy on the draft statement will receive consideration in preparation of the final environmental impact statement.

Dated: April 18, 1980.

Ed Hastey,

Associate Director.

[FR Doc. 80-13500 Filed 5-1-80; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: Wayne E. Dodd, Whippoorwill acres, Rd, #2, Box 120, Milford, DE 19963.

The applicant requests a permit to buy in intersate commerce 1 pair of Hawaiian (Nene) geese (*Branta sandvicensis*) from the Philadelphia zoo for propagation purposes.

Humane care ant treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington D.C. 20240.

This application has been assigned file number PRT 2-7010. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: April 28, 1980.

Donald Donahoo,

Chief, Permit Branch Federal Wildlife Permit Office, U.S. Fish and Wildlife Service

[FR Doc. 80-13623 Filed 5-2-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Notice of Receipt of Application

Applicant: Betty C. Tanner, 527 Tancanyon Road, Duarte, California 91010

The applicant requests a permit to purchase and import one male and one female golden parakeet (*Aratinga guarouba*) from a commercial source in Ecuador for the purpose of enhancement of propagation or survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-6545. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: April 29, 1980.

Donald Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-13622 Filed 5-1-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Natural History Museum of Los Angeles County, George C. Page Museum, 5801 Wilshire Blvd., Los Angeles, CA 90036.

The applicant requests a permit to export 2 Vicuna (*Vicugna vicugna*) skeletons to the Royal Ontario Museum, Toronto Candada for scientific purposes.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-7008. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: April 28, 1980.

Donald Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-13624 Filed 5-2-80; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take walrus as authorized by the Marine Mammal Protection Action of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 18).

1. Applicant:

a. Name: Dr. Ronald O. Skoog, Commissioner, Alaska Department of Fish & Game.

b. Address: Game Division, Subport Building Juneau, AK 99801.

2. Type of permit: Scientific Research

3. Name and Number of Animals: Walrus *(Odobenus rosmarus divergens)* 60

4. Type of Activity: Take

5. Location of activity: Bristol Bay, Alaska

6. Period of Activity: Two years beginning April 1, 1980.

The purpose of this application is to determine feeding habits of walrus inhabiting Bristol Bay.

Concurrent with the publication of this notice in the **Federal Register** the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2-6354. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240, 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 Director.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 605, 1000 North Glebe Road, Arlington, Virginia.

Dated: April 29, 1980.

Donald Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 80-13621 Filed 5-1-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: USFWS, Section of Wildlife Ecology on Public Lands, Denver Wildlife Research Center, Bldg. 16, Federal Center, Denver, CO 80225.

The applicant requests a permit to take, capture, radio tag, photograph and release black-footed ferrets (*Mustela nigripes*); and to take, harass by treeing and photographing, eastern cougars (*Felis concolor cougar*) for scientific purposes. Activities to be conducted throughout species range.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-7004. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: April 28, 1980.

Donald Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-13625 Filed 5-1-80; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that McMoRan Offshore Exploration Company, has submitted a Development and Production Plan describing the

activities it proposes to conduct on Lease OCS–G 2360, Block A–447, High Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans availble to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: April 25, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region

[FR Doc. 80-13447 Filed 5-1-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1608, Block 60, South Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: April 25, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region

[FR Doc. 80-13448 Filed 5-1-80; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Santa Monica Mountains National Recreation Area Advisory Commission will be held at 801 Via de la Paz, Pacific Palisades, CA, on Wednesday, May 14, at 9:30 a.m.

The Advisory Commission was established by Public Law 95–625 to provide for the free exchange of ideas between the National Park Service and the public and to facilitates the solicitation of advice or other counsel from members of the public on problem pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members fo the Commission are as follows:

Dr. Norman P. Miller, Chairperson
Honorable Marvin Braude
Dr. Henry David Gray
Ms. Mary C. Hernandez
Mr. Michael Levett
Ms. Susan Barr Nelson
Mr. Carey Peck
Ms. Sara Dixon
Ms. Marilyn Whaley Winters

The major agenda items will be:

Call to Order
Review of minutes
Discussion of procedures
Status Report of SMMNRA
Resource Management Briefing
Discussion on State Comprehensive Plan
General Management Plan update and discussion
Discussion on interim use guideline for acquired property
Meeting date/place/and time

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 23018 Ventura Boulevard, Woodland Hills, CA 91364.

Minutes of the meeting will be available for public inspected by June 14, 1980, at the above address.

Dated: April 24, 1980.

Howard Chapman,

Regional Director, Western Region.

[FR Doc. 80-13528 Filed 5-1-80; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware Citizens Advisory Council Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Upper Delaware Citizens Advisory Council will be held at 7 p.m., May 23, 1980, at the Arlington Hotel, Narrowsburg, New York. The Advisory Council was established by Pub. L. 95–625, Section 704(f) to encourage maximum public involvement in the development and implementation of plans and programs authorized by the Act and section noted above. The Council is to meet and report to the Delaware River Basin Commission, to the Secretary of the Interior and to the Governors of New York and Pennsylvania on the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region.

The matters to be discussed at this meeting include:

1. Implementation of Section 704 of the National Parks and Recreation Act of 1978
2. New Business

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning the matters to be discussed. The statement should be addressed to the Council, c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, NY 12764.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact John T. Hutzky, Area Manager, Upper Delaware National Scenic and Recreational River, Drawer C,

Narrowsburg, NY 12764, phone 914–252–3947.

Minutes of the meeting will be available for inspection four weeks after the meeting at the temporary headquarters of the Upper Delaware National Scenic and Recreational River in Narrowsburg, NY.

Dated: April 21, 1980.

James W. Coleman, Jr.,

Acting Regional Director, Mid-Atlantic Region

[FR Doc. 80–13527 Filed 5–1–80; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5, The Motor Carrier Board, Members Krock, Taylor, and Williams.

Agatha L. Mergenovich,

Secretary.

MC–FC–35480. By decision of April 8, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 The Motor Carrier Board conditionally approved the lease for a period of 5 years commencing February 25, 1980, by Wilton E. Taylor d/b/a Gene Taylor Heavy Hauling of Mesquite, TX, of Certificate of Registration MC 99850 (Sub-2) issued February 9, 1976 to Texas Steel Culvert Company, Inc. of Arlington, TX authorizing transportation of oilfield equipment and pipe, when moving as oilfield equipment, between all points in Texas. Subject to the following conditions: If the lease is cancelled the parties shall notify this Commission immediately, in writing, of the cancellation and the date on which it did or will occur. Applicant's representative is: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102, (817) 335–2505.

MC–FC–78521. By decision of April 21, 1980 issued under 49 U.S.C. 10931 10932 and the transfer rules at 49 CFR 1132, the Motor Carrier Board approved the transfer to Dugan Truck Line, Inc., Wichita, KS, of Certificate of Registration No. MC 121668, issued May 20, 1971, to Golden Plains Express, Inc., Wichita, KS, evidencing a right to engage in transportation in interstate commerce corresponding in scope to Certificate of Convenience and Necessity Route No. 8435, embraced in order dated April 15, 1970, as affirmed by order dated August 5, 1970, issued by the State Corporation Commission of Kansas. Applicant's Representative: Paul V. Dugan, 2707 W. Douglas, Wichita, KS 67213.

MC–FC–78524. By decision of April 9, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132, The Motor Carrier Board conditionally approved the transfer to Caravan Transportation, Inc. of Jamaica, NY of Certificate No. MC 133826 Sub-1 issued June 14, 1971 to Brookhattan Transportation, Inc. of Jamaica, NY authorizing transportation of passengers and their baggage, in round-trip charter operations, beginning and ending at New York, N.Y., and extending to points in New York, New Jersey, Connecticut, and Pennsylvania. Applicant's representative is: Sidney J. Leshin, 212 Plaza 9–3700, 575 Madison Avenue, New York, NY 10022. TA application has not been filed. Transferee holds no authority.

MC–FC–78535. By decision of April 10, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, The Motor Carrier Board conditionally approved the transfer to Ragen Transportation Company, Inc. of Certificate MC 44373, issued November 4, 1964, to William Ragen and Catherine Ragen, a partnership, d.b.a. Ragen Transportation Co., subsequently transferred to Catherine Ragen, an individual, d.b.a. Ragen Transportation Co., pursuant to decision entered April 28, 1978, in MC–FC–77360, authorizing the transportation over regular routes of cork, cork products, rugs, carpets, olives, mushrooms, and poultry, between Gloucester City, N.J., and New York, N.Y., serving no intermediate points, but serving the off-route points of Clarksboro and Swedesboro, N.J.: From Gloucester City over New Jersey Highway 45 to junction U.S. Highway 130, thence over U.S. Highway 130 to Junction U.S. Highway 1, and thence over U.S. Highway 1 to New York, and return over the same route; and over irregular routes (1) of cork, cork products and olives, between Gloucester City, NJ, and Philadelphia, PA; (2) textile machinery, between Beverly, NJ, on the one hand, and, on the other, Norristown, Pottstown, and Spring City, PA; (3) general commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Beverly, NJ, and Philadelphia, PA; and (4) general commodities, except those of unusual value, classes A and B explosives, livestock, used furniture, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Monmouth, Burlington, and Camden Counties, NJ, on the one hand, and, on the other, Philadelphia and Bristol, PA, New York, Verplanok, and Poughkeepsie, NY, and points in Westchester County, NY. Applicant's representative is : Edwin R. Jonas, III, P.O. Box 240, 132 Kings Highway, East Haddonfield, NJ 08033.

MC–FC–78549. By decision of April 10, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 The Motor Carrier Board conditionally approved the transfer to Gary Davis, of Lawrence, KS, of Certificate MC–124223 issued September 18, 1962 to John Ross, of Perry, KS, authorizing the

transportation of mill feed and dry fertilizer, in bulk, packages, bags and containers, from St. Joseph and Kansas City, MO, to points in Jefferson County, KS, that part of Shawnee County, KS, on and east of U.S. Highway 75 and on and north of U.S. Highway 40, that part of Douglas County, KS, lying south of the Kansas River, on and north of U.S. Highway 40 and on and west of U.S. Highway 59, and that part of Douglas County north of the Kansas River, including all points on the above-mentioned highways. Applicant's representative is: Clyde N. Christey, 1010 Tyler, Suite 110–L, Topeka, KS 66612.

MC–FC–78550. By decision of April 10, 1980 issued under 49 CFR 10926 and the transfer rules at 49 C.F.R. Part 1132 The Motor Carrier Board conditionally approved the transfer to A. W. Martin, Inc. of Prospect, CT, of the following Certificates issued to Leonard E. Belcher, Inc. of Springfield, MA; (1) MC 27583, issued September 4, 1942, authorizing the transportation of petroleum products, in tank trucks, over regular routes, from East Hartford, Glastonbury, Portland, Rocky Hill, Devon, and New Haven, Conn., and Providence, R.I., on the one hand, and, on the other, Athol, Holyoke, Springfield, Northampton, Palmer, Greenfield, and North Wilbraham, Mass., over the following routes: From Devon, Conn., over U.S. Highway 1 to New Haven, Conn., thence over U.S. Highway 5 to Hartford, Conn., thence over U.S. Highway 5A to Springfield, Mass., thence over U.S. Highway 5 via Holyoke and Northampton, Mass., to Greenfield, Mass., from Hartford, Conn., over U.S. Highway 6 to East Hartford, Conn., thence over U.S. Highway 5 to Springfield, Mass., from Rocky Hill, Conn., over Connecticut Highway 9 to Hartford, Conn., from Portland, Conn., over Connecticut Highway 15, via Glastonbury, Conn., to East Hartford, Conn., from Portland, Conn., over Connecticut Highway 15 to Middletown, Conn., and thence over Connecticut Highway 9 to Hartford, Conn., from Holyoke, Mass., over U.S. Highway 202 to Athol, Mass., from Providence, R.I., over U.S. Highway 44 to Putnam, Conn., thence over Connecticut Highway 93 to Connecticut-Massachusetts State Line, thence over Massachusetts Highway 93 to Sturbridge, Mass., thence over U.S. Highway 20, via Palmer and North Wilbraham, Mass., to Springfield, Mass., return, with no transportation for compensation to the above-specified origin points. Service is authorized to the off-route points of East Longmeadow, Conn., in connection with said carrier's operations over U.S. Highway 5, and Three Rivers, Mass., in connection with said carrier's operations over U.S. Highway 20, restricted to delivery only; (2) MC–27583 (Sub-1), issued February 19, 1972, authorizing the transportation of *petroleum products*, over regular routes, from Glastonbury and Rocky Hill, Conn., to Brattleboro, Vt., as follows: From Glastonbury over Connecticut Highway 15 to East Hartford, Conn., thence over U.S. Highway 5 to Brattleboro; from Rocky Hill over Connecticut Highway to Hartford, Conn., thence over U.S. Highway 5 to Brattleboro; and return, with no transportation for compensation over these routes to Glastonbury and Rocky Hill, Conn.; service is authorized from the intermediate points of Wethersfield, Conn., for pick-up only, and (3) MC–27583 (Sub-3), issued June 1, 1943, authorizing the transportation of *Petroleum products*, in tank trucks, over irregular routes, from Providence, R.I., Hartford, East Hartford, Glastonbury, Portland, Rocky Hill, Cromwell, and New Haven, Conn., to Brattleboro, Vt., Athol, Mass., and points and places in Franklin, Hampden, and Hampshire Counties, Mass., and return with no transportation for compensation. Applicant's representatives are: Daniel M. Keyws, Jr., 1243 Main Street, Springfield, MA 01103 and Thomas W. Morrett, 342 North Main Street, West Hartford, CT 06117.

MC–FC–78551. By decision of April 9, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 The Motor Carrier Board conditionally approved the transfer to San Luis Rey Turf Express, Inc., of Certificate No. MC 119426 Sub-1 and Sub-8 issued March 11, 1971 and July 10, 1972, to Gookstetter Horse Van Service, Inc., (later changed to Van Champ Horse Van Service, Inc.), which were acquired by Pony Express Horse Transportation, Inc. pursuant to MC–FC–78049, authorizing the transportation of (1) *Horses*, other than ordinary, and in the same vehicle with such horses, *stable supplies and equipment* used in their care, *mascots*, and the *personal effects* of *attendants;* (a) Between specified points in Washington, Oregon, Idaho, Montana, California, Arizona, and Kentucky. The Board imposed the following condition as a prerequisite to consummation of the transfer; Prior to or concurrently with consummation, V. Van Dyke must submit legal evidence of his authority to foreclose on the promissory note of Pony Express Horse Transportation, Inc., and to acquire its operating rights. Transferee's representative is: V. Van Dyke, Secretary, San Luis Rey Turf Express, Inc. 150 South River St., Seattle, WA 98108.

MC–FC–78557. By decision of April 9, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 The Motor Carrier Board conditionally approved the transfer to Ashland and Shanokin Auto Bus of Mt. Carmel, PA of Certificate MC–109736 (Sub-38) issued January 15, 1979 to Capitol Bus Company of Harrisburg, PA authorizing the transportation in MC 109736 (Sub-38) of irregular routes passengers and their baggage, in round trip charter operations, and in special operations, in round trip sightseeing or pleasure tours, beginning and ending at points in Columbia, Lycoming, Montour, Northumberland, Snyder, and Union Counties, PA, and extending to points in the United States, (including AK, but excluding HI). The condition imposed by the Board is as follows: If the transaction is consummated, the irregular route operating rights of transfer at MC 109736 (Sub-23) Section (B), shall be modified by deletion of the following origin counties in PA: Columbia, Lycoming, Montour, Northumberland, Snyder and Union. Applicant's representative is: S. Berne Smith, Esquire McNees, Wallace & Nurick, P.O. Box 1166 (100 Pine Street), Harrisburg, PA 17108. TA application has not been filed. Transferee holds no authority.

MC–FC–78560. By decision of April 4, 1980 under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132. The Motor Carrier Board approved the transfer to McArdle Transportation, Inc., of Hazel Green WI, of Certificates MC 145406 Subs 4, 14, 15, 13, and 31, issued March 18, 1980, February 20, 1980, October 11, 1979, and February 15, 1980, to Midwest Express, Inc., of Dubuque, IA authorizing the transportation of (1) *frozen donuts*, from the facilities of Prestige Donuts, Inc., at or near Cincinnati, OH to points along the international boundary line between the United States and Canada in MI and NY, (2) *frozen foodstuffs*, from the facilities of Blue Star Foods, at or near Omaha, NE, to points along the international boundary line between the United States and Canada in MI and NY, restricted to traffic originating at the named origin and destined to the facilities of Export Packers at Mississauga, Ontario, Canada. (3) *bacon* from the facilities of Sugar Creek Packing Co., at or near Bloomington, IL, Dayton and Washington Court House, OH, (a) to points along the international boundary line between the United States and Canada in MI, NY, and WA and (b) to points in AL, IA, IL, IN, MN,

MS, ND, PA, and WI, restricted to traffic originating at the named origins and destined to points in the indicated destination states; and Certificate MC 145406 (Sub-13F), issued October 11, 1979 as follows: *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Packerland Packing Co., Inc., at or near Green Bay, Eau Claire, and Chippewa Falls, WI, to points in CA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations; and Certificate MC 145406 (Sub-14F), issued February 20, 1980 as follows: *natural cheese, cheese products, and cheese packaging materials,* (1) from the facilities of Mountain Farms, Inc., at Hyde Park, UT, to points in California, Idaho, Oregon, and Washington, and (2) from points in Iowa, Minnesota, (except Minneapolis, St. James, Butterfield and Madelia, MN), and Wisconsin to the facilities of Mountain Farms, Inc., at Hyde Park, UT, restricted in parts (1) and (2) to traffic originating at the named origin and destined to the indicated points; and Certificate MC 145406 (Sub-15F), issued February 20, 1980 as follows: *meats, meat products, meat byproducts and articles distributed by meat-packing houses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from the facilities of Wilson Foods Corporation at or near (1) Albert Lea, MN, and (2) Cedar Rapids, Cherokee,and Des Moines, IA, to points in California, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations; and Certificate MC 145406 (Sub-31F), issued February 15, 1980 as follows: *meats, meat products, meat by-products and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation at Cherokee, IA, to points in Illinois. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. 11349. Applicant's representative is: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705.

MC-FC-78565. By decision of April 8, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 the Motor Carrier Board conditionally approved the transfer to Eagle Freightlines Corporation, Fort Collins, CO of Permit No. MC 142964 (Sub-2,) issued October 29, 1979, to Ronar Trucking, Inc., Commerce City, CO authorizing transportation of *meat, meat products, meat by-products and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Sterling CO, to points in MD, NJ, NY, MA and PA, under continuing contract(s) with Sterling Colorado Beef Company, of Sterling, CO. Applicant's representative is: Willian J. Lippman, 330 Steele Park, 50 South Steele St., Denver, CO 80209.

Note.—Transferee has applied for authority to temporarily lease transferor's permit.

MC-FC-78573. By decision of April 21, 1980 issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR Part 1132 the Motor Carrier Board approved the transfer to Wood's Van Lines, Inc., San Jose, CA, of Certificate of Registration MC 121170 (Sub-1), issued March 10, 1964, to H.A.C. Transportation Company, a Corporation, San Leandro, CA evidencing a right to engage in transportation in interstate commerce corresponding in scope to 63574, dated April 17, 1962, issued by the Public Utilities Commission of the State of California, subject to the condition that prior to or concurrently with consummation of this transfer, transferee shall file a certifice copy of the State certificate as reissued to transferee, or—if the State Commission does not reissue the certificate—a certified copy of the State order approving the transfer of the underlying intrastate rights; and a written notice confirming the date of consummation of that intrastate transaction. Applicants' Representative: Ronald C. Chauvel, 100 Pine St., Suite 2550, San Francisco, CA 94111.

[FR Doc. 80-13618 Filed 5-1-80; 8:45 am]
BILLING CODE 7035-01-M

Transportation of Government Traffic; Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of general commodities (except classes A and B explosives, radioactive materials, etiologic agents, shipments of secret materials, and weapons and ammunition which are designated sensitive by the United States Government), between points in the United States (including Alaska and Hawaii), restricted to the transportation of traffic handled for the United States Government or on behalf of the United States Government where the government contractor (consignee or consignor), is directly reimbursed by the government for the transportation costs, under the Commission's regulations (49 CFR 1062.4), pursuant to a general finding made in Ex Parte No. MC-107, *Government Traffic,* 131 M.C.C. 845 (1979).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission within 20 days from the date of this publication. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the **Federal Register,** subject to its tariff publication's effective date, or the filing of an effective tender pursuant to 49 U.S.C. 10721.

GT-212-80 (special certificate—Government traffic), filed April 7, 1980. Applicant: Jay Lines, Inc., 720 N. Grand Street, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Government agency involved: Department of Defense, General Services Administration, Postal Service, and U.S. Department of Agriculture.

GT-213-80 (special certificate—Government traffic), filed April 7, 1980. Applicant: Hamric Transportation, Inc., P.O. Box 1124, 3318 E. Jefferson Street, Grand Prairie, TX 75050. Representative: James W. Hightower, Hightower, Alexander & Cook, P.C., 5801 Marvin D. Love Street, Suite 301, Dallas, TX 75237. Government agency involved: Departments of Defense, and Agriculture; Commodity Credit Corporation, Federal Aviation Administration, General Services Administration, National Aeronautics and Space Administration, Tennessee Valley Authority, U.S. Weather Bureau, and Nuclear Regulatory Commission.

GT-214-80 (special certificate—Government traffic), filed April 7, 1980. Applicant: Ellsworth Freight Lines, Inc., 310 E. Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Government agency involved: Departments of

Agriculture, Defense, and Education; Commody Credit Corporation, and General Services Administration.

GT–215–80 (special certificate—Government traffic), filed April 7, 1980. Applicant: Haney Truck Line, P.O. Box 485, Cornelius, OR 97113. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. Government agency involved: Departments of Defense, and Agriculture.

GT–216–80 (special certificate—Government traffic), filed April 8, 1980. Applicant: Paul Yates, Inc., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, Director of Traffic (address same as applicant). Government agency involved: Department of Defense.

GT–217–80 (special certificate—Government traffic), filed April 8, 1980. Applicant: Gary G. Bunday, d.b.a. Gary Bunday Trucking, 1710 Terrace Avenue, Bozeman, MT 59715. Representative: Gary G. Bunday (address same as applicant). Government agency involved: General Services Administration.

GT–218–80 (special certificate—Government traffic), filed April 11, 1980. Applicant: Arrow Trucking Co., P.O. Box 7280, Tulsa, OK 74105. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Government agency involved: U.S. Department of Defense, General Services Administration, and National Aeronautics and Space Administration.

GT–219–80 (special certificate—Government traffic), filed April 8, 1980. Applicant: Morgan Drive-Away, Inc., 28651 U.S. 20 W, Elkhart, IN 46514. Representative: James B. Buda (address same as applicant). Government agency involved: Agencies listed at page XII of the Federal Directory (1979 edition).

GT–220–80 (special certificate—Government traffic), filed April 8, 1980. Applicant: B. J. Express Inc., 4928 Assisi Lane, Cincinnati, OH 45238. Representative: Stephen D. Strauss, 2613 Carew Tower, Cincinnati, OH 45202. Government agency involved: Departments of Defense, and Commerce; and General Services Administration.

GT–221–80 (special certificate—Government traffic), filed April 8, 1980. Applicant: Auto & Truck Forwarding, Inc., 29303 Pacific Street, Hayward, CA 94545. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 11th Street N.W., Washington, DC 20001. Government agency involved: General Services Administration, US Departments of Defense, Agriculture, Transportation, Energy, and Interior; National Railroad Passenger Service Corporation, Tennessee Valley Authority, National Aeronautics and Space Administration, U.S. Postal Service, and U.S. Government Printing Office.

GT–222–80 (special certificate—Government traffic), filed April 8, 1980. Applicant: Howlett Trucking, 2621 Medina Drive, San Bruno, CA 94066. Representative: James Milton Howlett (address same as applicant). Government agency involved: Department of Defense, and General Services Administration.

GT–223–80 (special certificate—Government traffic), filed April 8, 1980. Applicant: North Penn Transfer, Inc., P.O. Box 230, Lansdale, PA 19446. Representative: John W. Frame, ICC Practitioner, P.O. Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Government agency involved: Department of Defense and General Services Administration.

GT–224–80 (special certificate—government traffic), filed April 8, 1980. Applicant: GRADY MOVING & STORAGE, INC., Brynn Marr Rd., P.O. Box Q, Jacksonville, NC 28540. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1112, Washington, DC 20036. Government agency involved: Departments of Defense, Transportation, and General Service Administration.

GT–225–80 (special certificate—government traffic), filed April 8, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Ave., Overland Park, KS 66207. Representative: John M. Records, P.O. Box 7270, Overland Park KS 66207. Government agency involved: General Services Administration.

GT–226–80 (special certificate—government traffic), filed April 9, 1980. Applicant: NORTH ALABAMA TRANSPORTATION, INC., P.O. Box 38, Ider, AL 36081. Representative: William P. Jackson, 3426 N Washington Blvd., P.O. Box 1240, Arlington, VA 22201. Government agency involved: U.S. Government Manual (1979–80 edition).

GT–230–80 (special certificate—government traffic), filed April 9, 1980. Applicant: FLORIDA MOVING & STORAGE OF JACKSONVILLE, INC., P.O. Box 6985, Jacksonville, FL 32205. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Government agency involved: U.S. Government Manual (1979–80 edition).

GT–231–80 (special certificate—government traffic), filed April 9, 1980. Applicant: CTC TRANSPORTATION, INC., 514 N. Clairborne Ave., New Orleans, LA 70112. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Government agency involved: U.S. Government Manual (1979–80 edition).

GT–232–80 (special certificate—government traffic), filed April 9, 1980. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Government agency involved: Department of Defense.

GT–227–80 (special certificate—government traffic), filed April 9, 1980. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Charles S. Perry (address same as applicant).

GT–228–80 (special certificate—government traffic), filed April 9, 1980. Applicant: OLIN WOOTEN TRANSPORT CO., INC., P.O. Box 731, Hazlehurst, GA 31539. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Government agency involved: U.S. Government Manual (1979–80 edition).

GT–229–80 (special certificate—government traffic), filed April 9, 1980. Applicant: ALL STATES MOVING & STORAGE CO., INC., 2800 Navy Blvd., Pensacola, FL 32505. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Government agency involved: U.S. Government Manual (1979–80 edition).

GT–233–80 (special certificate—government traffic), filed April 9, 1980. Applicant: SOUTH WEST LEASING, INC., 2014 Black Hawk St., Waterloo, IA 50704. Representative: Roger Herman, P.O. Box 152, Waterloo, IA 50704. Government agency involved: Departments of Agriculture, Defense, and Education; Commodities Credit Corp., and General Services Administration.

GT–234–80 (special certificate—government traffic), filed April 10, 1980. Applicant: COMMERCIAL CARRIERS, INC., 20300 Civic Center Drive, 4th Floor, P.O. Box CS 5027, Southfield, MI 48037. Representative: Paul H. Jones, Director, Traffic Administration (address same as applicant). Government agency involved: Environmental Protection Agency, Departments of Defense, State; General Services Administration, U.S. Forest Service, and U.S. Postal Service.

GT–235–80 (special certificate—government traffic), filed April 9, 1980. Applicant: NATIONWIDE AUTO TRANSPORTERS, INC., 140 Sylvan Ave., Englewood, NJ 07632.

Representative: Mel P. Booker, 110 S. Columbus St., Alexandria, VA 22314. Government agency involved: U.S. Government Manual (1979–80 edition).

GT–236–80 (special certificate—government traffic), filed April 10, 1980. Applicant: LONG TRANSPORTATION COMPANY, 14650 W. Eight Mile Rd., Oak Park, MI 48237. Representative: Donald C. Hichman (address same as applicant). Government agency involved: Department of Defense.

GT–237–80 (special certificate—government traffic), filed April 10, 1980. Applicant: INDIAN VALLEY ENTERPRISES, INC., 855 Maple Ave., Harleysville, PA 19438. Representative: John W. Frame, ICC Practitioner, P.O. Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Government agency involved: Department of Defense and General Services Administration.

GT–238–80 (special certificate—government traffic), filed April 10, 1980. Applicant: HEARTLAND EXPRESS, INC., P.O. Box 129, St. Clair, MO. Representative: William H. Shawn, 1730 M St. NW., Suite 501, Washington, DC 20036. Government agency involved: Department of Defense and General Services Administration.

GT–239–80 (special certificate—government traffic), filed April 10, 1980. Applicant: YOUNGBLOOD TRUCK LINES, INC., U.S. Hwy. 25, P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, 1250 Connecticut Ave. NW., Suite 600, Washington, DC 20036. Government agency involved: Department of Defense and General Services Administration.

GT–240–80 (special certificate—government traffic), filed April 11, 1980. Applicant: C. I. WHITTEN TRANSFER CO., P.O. Box 1833, Huntington, WV 25719. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Government agency involved: Departments of Defense, Treasury, General Services Administration, National Aeronautics and Space Administration, and Tennessee Valley Authority.

GT–241–80 (special certificate—government traffic), filed April 11, 1980. Applicant: MURROW'S TRANSFER, INC., P.O. Box 4095, High Point, NC 27263. Representative: Richard A. Mehley, 1000 16th St. NW., Washington, DC 20036. Government agency involved: Departments of Defense, Housing and Urban Development, General Services Administration, and Veterans Administration.

GT–243–80 (special certificate—government traffic), filed April 11, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, ICC Practitioner, Suite 348 Penn Bldg., 425 13th St. NW., Washington, DC 20004. Government agency involved: Department of Defense and General Services Administration

GT–244–80 (special certificate—government traffic), filed April 11, 1980. Applicant: WISCONSIN PACIFIC EXPRESS, INC., P.O Box 190, Weyauwega, WI 54983. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Government agency involved: U.S. Department of Agriculture.

GT–245–80 (special certificate—government traffic), filed April 11, 1980. Applicant: RICHARD A. ZIMA, d.b.a. ZIPCO TRUCKING, P.O. Box 715, West Bend, WI 53095. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Government agency involved: Department of Defense.

GT–246–80 (special certificate—government traffic), filed April 11, 1980. Applicant: NU-CAR CARRIERS, INC., P.O. Box 172, Bryn Mawr, PA 19010. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Government agency involved: General Services Administration.

GT–247–80 (special certificate—government traffic), filed April 11, 1980. Applicant: DIRECT COURIER, INC., 800 N. Taylor St., Arlington, VA 22003. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Government agency involved: National Institute of Health and Department of Agriculture.

GT–248–80 (special certificate—government traffic), filed April 11, 1980. Applicant: IML FREIGHT, INC., 10 Exchange Place, Salt Lake City, UT 84111. Representative: Eldon E. Bresee, Director of Commerce (address same as applicant). Government agency involved: Department of Defense.

GT–249–80 (special certificate—government traffic), filed April 11, 1980. Applicant: NATIONAL TRANSFER, INC., d.b.a. NATIONAL MOTOR FREIGHT, 5265 Utah Ave. S., Seattle, Washington 98134. Representative: Lawrence V. Smart, Jr., 419 NW. 23rd Ave., Portland, OR 97210. Government agency involved: U.S. Coast Guard and General Services Administration.

GT–250–80 (special certificate—government traffic), filed April 11, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 S. 11th St., Fort Smith, AR 72901. Representative: Joseph K. Reber, Manager of Commerce, P.O. Box 48, Fort Smith, AR 72902. Government agency involved: Department of Defense, General Services Administration, Internal Revenue Service, and Government Printing Office.

GT–251–80 (special certificate—government traffic), filed March 26, 1980. Applicant: CRESCENT INDUSTRIES, INC., P.O. Box 1237, Greenville, TX 75401. Representative: John Magill (address same as applicant). Government agency involved: Department of Defense.

By the Commission.

Agatha L. Mergenovich

Secretary.

[FR Doc. 80–13619 Filed 5–1–80; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M–80–53–C]

Black Gold Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Black Gold Coal Company, Inc. P.O. Box 225, Roanoke, Virginia 24002 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its Mine No. 1 located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Petitioner is mining coal ranging from 26 to 29 inches in height, utilizing self-propelled mining equipment that is 27 to 28 inches in height.

2. Under these low-seam conditions the equipment operator's field of vision is limited to only the side of the equipment.

3. Lighting fixtures on the side of the equipment would tend to "blind" the operator and other miners nearby, requiring them to constantly adjust to changes in illumination. This would impair their vision, thereby imposing a safety hazard to themselves and other miners.

4. Stationary lighting fixtures could only be placed along the ribs which would also similarly impair the equipment operator's and nearby miners' vision, imposing a safety hazard to themselves and other miners.

5. Stationary lights would also create additional, debilitating heat in the confiningly small areas in which the miners must work.

6. Lighting fixtures on the sides and tops of the self-propelled mining equipment will be sheared off or the lamps frequently broken, diminishing

the safety of the operator by increasing the prospect of more serious equipment failure, wedging, jamming or upset.

7. As the lights are sheared off the equipment, roof bolts, cross beams and straps will be sheared off, thereby damaging or destroying roof support.

8. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 2, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 24, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-13562 Filed 5-1-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-18-C]

Blue Hawk Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Blue Hawk Coal Company, Inc., Post Office Box 1196, Paintsville, Kentucky 41240 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its I-U Mine located in Johnson County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Petitioner is mining a coal seam ranging from 32" to 39" in height.

2. Petitioner states that installation of lighting fixtures tothe mines' equipment would result in a diminution of safety for the miners affected because the lights would scrape the roof and cause flying particles to fly back into the face of the equipment operator.

3. For this reason, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 2, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 24, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-13563 Filed 5-1-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-59-C]

Carbon Fuel Co.; Petition for Modification of Application of Mandatory Safety Standard

Carbon Fuel Company, 1300 One Valley Square, Charleston, West Virginia 25301 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Morton No. 43 and No. 31 Mines located in Kanawha County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The mining height in the petitioner's mines ranges from 46 to 52 inches with undulating top and bottom conditions.

2. The roofs in these mines are comprised of sandstone and gray, hard, sandy shale.

3. The fire clay bottoms develop severe ruts in the wet areas of each mine.

4. Petitioner states that installation and use of cabs or canopies on shuttle cars, scoops and roof bolters used in these mines would result in a diminution of safety to the miners affected because:

a. The cab or canopy will reduce the size of the already small operator compartment, causing operator fatigue and forcing parts of the operator's body to protrude from the cab or canopy, exposing the operator to other moving equipment or objects;

b. Canopies installed will come in contact with the roof, destroying the roof control support system or suspended electrical cables; and

c. The canopy may hamper the rapid escape of the equipment operator in the event of an emergency.

5. As an alternative method which will guarantee the safety of the miners affected, petitioner proposes to:

a. Fix a minimum mining height for each type of machine which defines minimum mining height as the minimum height from the floor of the mine to the bottom of the necessary roof support in which a certain type of equipment can safely operate with a canopy;

b. Apply the minimum mining height for each machine uniformly throughout the mines, all of which exhibit similar characteristics;

c. Install canopies on the mine's equipment wherever conditions in the mines permit its safe usage.

6. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 2, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 24, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-13564 Filed 5-1-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-58-C]

Eastern Associated Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Eastern Associated Coal Corporation, 1728 Koppers Building, Pittsburgh, Pennsylvania 15219 has filed a petition to modify the application of 30 CFR 75.305 (weekly examination for hazardous conditions) to its Joanne Mine located in Marion County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The return entries are badly deteriorated and contain many major falls because of a previous mine fire, rendering safe travel virtually impossible.

2. The return airways allow sufficient flow of air to effectively ventilate the affected areas of the mine; however, the deteriorated conditions of the airways has made it exceedingly hazardous to conduct ventilation and methane tests as required by the standard.

3. An as alternative method which will provide the same measure of protection as that of the standard, petitioner proposes to:

a. Establish and maintain 3 specified ventilation check points to be examined weekly by a certified person;

b. Record the weekly air quantity and methane readings on a date board located at each check point;

c. Maintain access to and from the check points in a condition safe for travel; and

d. Investigate any methane accumulation above 2.0% or an increase in CH_4 above .50%, or decrease in air quantity of 10%.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 2, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Viriginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 24, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-13565 Filed 5-1-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-46-C]

K. Kiser Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

K. Kiser Coal Company, P.O. Box 114, Rockhouse, Kentucky 41561 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 2 Mine located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Petitioner is mining a coal seam ranging from 43 to 50 inches in height with consistent ascending and descending grades creating dips in the coal bed.

2. The roof is sandstone with hill seams running with the direction of mining, requiring cross collars for maximum roof support. The use of collars and roof bolts and plates reduces total height to 41 inches or less.

3. Installation of canopies of the mine's scoops and roof bolting machines would result in a diminution of safety because of the low seam height. Installation of canopies would hamper the operator's field of vision and cramp the equipment operator's movements, greatly increasing the possibility of an accident.

4. For these reasons, petitioner request a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 2, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 24, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-13566 Filed 5-1-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-287-C]

Melody Mountain Coals, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Melody Mountain Coals, Inc., Virgie, Kentucky 41572 had filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. The petition concerns the installation of a cab or canopy to a roof bolting machine.

2. Petitioner states that the miners are currently working in 60" coal and bolting within 25" of the rib when necessary.

3. Petitioner further states that installation of a cab or canopy on the roof bolter would restrict bolting because with a canopy, bolting could only occur within approximately 35" of the rib, which would create an imminent danger for the miners affected.

4. For these reasons, petitioner requests a modification of the standard for the mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 2, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 24, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-13567 Filed 5-1-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-54-C]

Red Ash Smokeless Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Red Ash Smokeless Coal Corporation, Post Office Box 659, Richlands, Virginia 24641, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its Mine No. 1 located In Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Petitioner is mining coal ranging from 26 to 29 inches in height, utilizing self-propelled mining equipment that is 27 to 28 inches high.

2. Under these low seam conditions, the equipment operator's field of vision is limited only to the side of the equipment.

3. Lighting fixtures on the side of such equipment would tend to "blind" the equipment operators and other miners nearby, requiring them to constantly adjust to changes in illumination, imparing their vision, thereby imposing a safety hazard to themselves and other miners.

4. Stationary lights could only be placed along the ribs which would also impair the vision of the equipment operators and other miners, imposing a safety hazard to them.

5. Stationary lights would also create additional, debilitating heat in the confiningly small areas in which the miners must work.

6. Lighting fixtures on the sides and tops of the self-propelled mining equipment will be sheared off or the lamps frequently broken, diminshing the safety of the operator by increasing the prospect of more serious equipment failure, wedging, jamming or upset.

7. As lighting fixtures are sheared off, roof bolts, cross beams and straps will be sheared off, thereby damaging or destroying roof support.

8. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 2, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 24, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-13568 Filed 5-1-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-40-M]

Sunshine Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Sunshine Mining Company, P.O. Box 1080, Kellogg, Idaho 83837 has filed a

petition to modify the application of 30 CFR 57.19–110 (protection provided when deepening a shaft) to its Sunshine Mine located in Shoshone County, Idaho. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns shaft sinking and timbering in the No. 12 shaft.

2. As an alternative to the use of "shaft doors" below the top station of No. 12 shaft, petitioner proposes the use of bulkheads in compartments not used for hoisting, and utilizing the conveyances in the hoisting compartments above the shaft crew while they are working in the bottom.

3. Petitioner further states that use of conveyances for overhead protection is a normal operating procedure in shaft repair work as well as in shaft sinking.

4. This alternative method will provide the same measure of safety for the miners as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 2, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 24, 1980.

Frank A. White,

Director Office of Standards, Regulations and Variances.

[FR Doc. 80–13569 Filed 5–1–80; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–80–41–M]

Sunshine Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Sunshine Mining Company, Post Office Box 1080, Kellogg, Idaho 83837 has filed a petition to modify the application of 30 CFR 57.15–5 (safety belts and lines) to its Sunshine Mine located in Shoshone County, Idaho. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Persons repairing shafts perform inspection and repair work from the crosshead work deck of the various shaft conveyances.

2. The petitioner states that the use of a safety rope poses a hazard to these persons for the following reasons:

(a) If material should fall down the shaft from above them, they cannot step off into the timber where they would be safe.

(b) If the safety rope is tied short enough to prevent falling off the work deck, they are unable to perform any work.

3. For these reasons the petitioner feels that application of the standard would result in a diminution of safety for the mines affected, and, therefore, requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 2, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 24, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80–13570 Filed 5–1–80; 8:45 am]

BILLING CODE 4510–43–M

Pension and Welfare Benefit Programs

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 29 U.S.C. 1142, a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m. on Tuesday, May 20, 1980, in Room N–4437C, U.S. Department of Labor, Third and Constitution Avenue, NW Washington, D.C.

The purpose of the meeting is to discuss the items listed below and to invite public comment on any aspect of the administration of ERISA.

1. Department of Labor Progress Report.

2. Council Work Group Reports: Legislative Work Group; Reporting, Disclosure and Recordkeeping Work Group; Communications Work Group; Portability Work Group.

3. Statements from the Public.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA, by submitting 30 copies on or before May 19, 1980, to the Administrator, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room S–4522, Third and Constitution Avenue, NW, Washington, DC 20216.

Persons desiring to address the Council should notify Edward F. Lysczek, Executive Secretary of the Advisory Council, in care of the above address or by calling (202) 523–8753.

Signed at Washington, D.C. this 28th day of April 1980.

Ian D. Lanoff,

Administrator of Pension and Welfare Benefit Programs.

[FR Doc. 80–13512 Filed 5–1–80; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 80–25]

Exemption From the Prohibitions for Certain Transactions Involving the Eagle Metals Co. Profit Sharing Plan Located in Seattle, Wash. (Exemption Application No. D–1757)

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the cash sale of certain real property (the Property) in Portland, Oregon by the Eagle Metals Profit Sharing Plan (the Plan) to Alcan Aluminum Corp. (Alcan), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216 (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 22, 1980 notice was published in the **Federal Register** (45 FR 11960) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the cash sale of the Property by the Plan to Alcan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this

exemption. The applicants have represented that they have complied with the requirements of the notification to interested persons as set forth in the notice of pendency. One comment was received by the Department which favored the proposed exemption in the form in which it was proposed. The applicants also notified the Department that the Property had been reappraised at $415,000 which is $35,000 higher than the original appraisal as published in the notice of pendency. No requests for a hearing were received.

The notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1979 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in Erisa Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale by the Plan of the Property located at 1211 North Loring Street in Portland, Oregon for $415,000 to Alcan provided that this amount is at least the fair market value of the Property at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C. this 28th day of April 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80–13588 Filed 5–1–80; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 80–24]

Exemption From the Prohibitions for Certain Transactions Involving the Wells Fargo Bank Yield-Tilt Market Fund for Employee Benefit Trusts Located in San Francisco, Calif. (Exemption Application No. D–1587)

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the purchase or sale of securities between Wells Fargo Bank Yield-Tilt Market Fund for Employee Benefit Trusts (the Yield-Tilt Fund) and certain employee benefit plans (the Plans) with respect to which the Wells Fargo Bank (the Bank) is a fiduciary.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523–7222. (This is not a toll-free number.)**SUPPLEMENTARY INFORMATION:** On December 28, 1979, notice was published in the **Federal Register** (44 FR 76884) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (D) of the Code, for the purchase or sale of securities between the Yield-Tilt Fund and the Plans. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act,

which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(1) and 406(b)(3) of the Act and section 4975(c)(1) (E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the restrictions of section 406(a) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to purchase or sale of securities between the Yield-Tilt Fund and the Plans as described in the notice of pendency.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 28th day of April 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80–13589 Filed 5–1–80; 8:45 am]

BILLING CODE 4510–29–M

Proposed Exemption for Certain Transactions Involving the National Security Bank Profit Sharing Plan Located in Chicago, Ill. (Application No. D–1843)

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed loan of $500,000 to the National Security Bank Profit Sharing Plan (the Plan) by the National Security Bank of Chicago (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before June 20, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20216, Attention: Application No. D–1843. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an appliction filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. A notice of pendency for this proposed transaction was previously published in the **Federal Register** on February 1, 1980 (45 FR 7325). Pursuant to a request by the applicant this revised notice of pendency supersedes the prior notice of pendency and is being published to reflect certain changes to the proposed transaction.

2. The Plan is a profit sharing plan with 100 participants. As of December 31, 1978 the Plan had total net assets of approximately $700,000. The trustees of the Plan (the Trustees) are Mr. Walter McNeely, President of the Employer and Mr. Frank Julian, Cashier of the Employer. The Employer is a national bank and a member of the Federal Reserve System.

3. The Employer proposes to lend $500,000 (the Loan) to the Plan for a period of up to two years. The Plan will, on the same day the Loan is made, invest the proceeds of the Loan in $500,000 worth of obligations of the U.S. Treasury (Treasury Obligations) which will have a maturity date that is identical to the maturity date of the Loan. The Treasury Obligations will be U.S. Treasury Bills, U.S. Treasury Notes, or U.S. Treasury Bonds. The Treasury Obligations will be pledged by the Plan as security for the Loan. The Plan will receive as a net return (Excess Interest) the amount equal to the difference between the rate the Plan receives on the Treasury Obligations and the rate the Plan is required to pay on the Loan. The Loan will not be made if at the time of its making the rate of interest which the Plan is required to pay to the Employer is equal to or more than the

rate of interest on the Treasury Obligations that would be purchased by the Plan.

In summary, the applicant represents that the Loan will satisfy the statutory criteria of section 408(a) of the Act as follows: (1) The Trustees of the Plan represent that the Loan is in the best interests of the Plan; (2) the Loan will allow the Plan to receive a positive cash flow without the direct investment of Plan assets; and (3) the Loan is for a short term with Treasury Obligations as collateral.

Notice to Interested Persons

Notice will be made within 20 days of the publication of the notice of pendency in the **Federal Register** to each participant currently employed by the Employer by hand delivery or by an insertion in such employee's pay envelope. Persons who are currently receiving benefits or who have terminated their employment with the Employer and who are entitled to benefits from the Plan will be notified by mail. The notice will contain a copy of the notice of pendency as published in the **Federal Register** and a statement informing interested persons of their right to comment or request a hearing within the period set forth in the notice of pendency.

Tax Consequences of Transaction

The Department of the Treasury has characterized payment of excess interest in transactions of this type to be an employer contribution for purposes of code sections 401, 404, and 415. Alternatively, the Department of the Treasury intends to treat such excess interest as unrelated debt-financed income under section 514 of the code.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to a loan of $500,000 for a period of up to two years by the Employer to the Plan which will be secured by Treasury Obligations. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 28th day of April 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-13587 Filed 5-1-80; 8:45 am]

BILLING CODE 4510-29-M

Proposed Exemption for a Transaction Involving the R. H. Grover, Inc., Profit Sharing Plan and Trust, Located in Missoula, Mont. (Application No. D-1309)

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of real property (and related transactions) by the R. H. Grover, Inc. Profit Sharing Plan and Trust (the Plan) to R. H. Grover, Inc. (the Employer), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan and the Employer.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before June 2, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. D–1309. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Humphrey, of the Department of Labor, telephone (202) 523–8972. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the

Department of an application for exemption from the restrictions of section 406(a)(1)(A) and (D) and 406(b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A), (D) and (E) of the Code. The proposed exemption was requested in an application filed by the administrator of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a profit sharing plan having eight participants. The Plan has one trustee, Richard H. Grover, who is the majority shareholder of the Employer. An independent pension consulting firm serves as plan administrator.

2. In July 1976, the Plan purchased a parcel of real property for $65,000 with the intention of leasing a portion of it to the Employer, a plumbing and heating contractor. Under the terms of the lease agreement, the Employer leased the western half of this parcel (the western half) and constructed at its own expense a building designed to meet its particular needs. The lease runs for a period of 10 years from January 1, 1977 and returns $48,000 to the Plan over the term of the lease. Under the terms of the lease, the plan may require an adjustment of the rental amount for the second 5 year period of the initial term and at the beginning of each of three 10 year renewal terms. On termination of the lease, the Plan becomes owner of the building and any improvements made thereon. The applicants represent that the lease is on terms as favorable to the Plan as a lease negotiated at arm's-length with an unrelated third party. The other half of the parcel (the eastern half) has remained in the hands of the Plan and does not produce income for the Plan.

3. The building has been specifically designed to handle pipe of twenty inch diameter and larger and the location of the property affords convenient access for delivery from suppliers and transportation of the finished material to the Employer's contract jobs. Comparable facilities are not readily available in the area and there is little or no demand for such unique facilities. The site and facility, however, are key factors in the profitable completion of contracts entered into by the Employer and loss of the use of the facility through operation of the Act's prohibited transaction provisions would jeopardize the existence of both the Plan and the Employer.

4. In order to terminate the prohibited lease without harm to the Plan, the Employer proposes to purchase the western half and the remaining, unleased eastern half of the parcel from the Plan for $128,777 in cash. The purchase price reflects the appraised value of the land as of May 1, 1979, $113,600, together with accretions to its value of 1.67 percent per month for the period from May 1, 1979.* This value is based on the determinations of Mr. C. Robert White, an independent appraiser.

5. The Employer represents that it will pay the Plan an additional $13,137. This amount represents the value of the Plan's right to receive the building at the end of the first 10 year lease term and was determined by discounting the independently appraised value of the building of $25,600 as of May 1, 1979 by 10 percent per year over the remaining 7 year period of the 10 year lease term.

6. The Plan recognizes that the lease described above constitutes a prohibited transaction under the Act and Code. Accordingly, the Employer represents that it will pay all excise taxes which are applicable under section 4975(a) of the Code by reason of the lease within 5 days of the publication in the **Federal Register** of a final notice of the granting of the exemption proposed herein.

7. In summary, it is represented that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act because:

a. The Plan will receive cash in an amount equal to the fair market value of the property (including the present value of its right to receive the building under the lease) as determined by independent appraisal.

b. With regard to the prohibited lease, the parties will fully comply with the excise tax provisions of section 4975(a) of the Code.

c. The sale of the property to the Employer will avoid losses to the Plan which could result upon the termination of the lease and sale of the property to a third.

d. Finally, the sale of both halves of the parcel to the Employer prevents the possibility of future conflicts arising from the Employer's control of adjacent property.

Notice to Interested Parties

All Plan participants and beneficiaries will be notified by letter, containing a copy of the notice of pendency of the proposed exemption as published in the **Federal Register**, and advising these persons of their rights to comment and/or to request a hearing within the period of time specified above. Such notification will be given no later than 10 days after the notice of pendency is published in the **Federal Register.**

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under sections 406(a)(1)(B) and (C), 406(b)(3), and 407 of the Act and section 4975(c)(1)(B), (C) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code,

*In view of the length of time which has passed since the appraisal was made, the proposed exemption provides that the Plan must receive no less than the fair market value of the property, and in any event, not less that the value indicated by the independent appraisal.

including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a)(1)(A) and (D), and 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A), (D), and (E) of the Code shall not apply to (1) the sale of the real property by the R. H. Grover, Inc. Profit Sharing Plan and Trust to R. H. Grover, Inc. for the greater of $128,777 or the fair market of the real property; and to the payment to the Plan by the Employer of the greater of the fair market value of the Plan's present right to receive the building under the lease or $13,137.

The proposed exemption, if granted will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 28th day of April 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, United States Department of Labor.

[FR Doc. 80–13590 Filed 5–1–80; 8:45 am]

BILLING CODE 4510–29–M

Office of the Secretary

Affirmative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of certifications of eligibility to apply for worker adjustment assistance issued during the period April 21–25, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

In the following cases it has been concluded that all of the criteria have been met.

TA–W–6669, 6916, 6959–6966, 6968–91, 6993, 6995–98, 7170; Ford Motor Co., Dearborn, Mich.

Investigations were initiated on December 28, 1979, February 5, 1980 and February 11, 1980 in response to petitions which were filed on behalf of workers at 40 component parts plants and support facilities of the Ford Motor Company. The workers produce various types of components used in the manufacture of Ford Motor cars, trucks, vans and general utility vehicles.

In order to determine if increased imports contributed importantly to production and employment declines at Ford Motor Company's component parts plants and support facilities, the Department sought to determine the degree to which each of these facilities was integrated into the production of Ford Motor cars, trucks, vans, and general utility vehicles which have been subject to import injury. Where substantial integration was established the Department considered imports of "like or directly competitive" cars, trucks, vans and general utility vehicles in determining import injury to workers producing component parts at the various plants.

The Department has determined that increased imports contributed importantly to the decline in sales or production and to total or partial separations of workers at 17 of Ford Motor Company's car and truck assembly plants (TA–W–6438, 6849–50, 6874, 6946–48, 6950–58, 6955A). Workers at these plants are engaged in production of one or more of the following car or truck lines: Pinto, Bobcat, Fairmont, Zephyr, Granada, Monarch, Ford LTD, Mercury, Continental, pick-ups, vans, and general utility vehicles.

During the course of the investigation, it was established that each of the 40 component parts plants and support facilities produced a significant proportion of its output for use in one or more of the Ford car and truck lines which have been subject to import injury. Therefore, each of these component parts plants and support facilities is substantially integrated into the production of the trade-impacted Ford car and truck lines.

In this case, therefore, the certifying officer has determined that:

All workers of the following plants and support facilities of the Ford Motor Company who became totally or partially separated from employment on or after the impacted dates listed are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W	Facility and location	Impact date
6959	Chesterfield Trim, Chesterfield Township, MI.	Jan. 30, 1979.
6960	Utica Trim, Utica, MI	Jan. 30, 1979.
6961	Milan Plastics, Milan, MI	Oct. 1, 1979.
6962	Saline Plant, Saline, MI	Jan. 30, 1979.
6963	Mt. Clemens Paint, Mt. Clemens, MI	Aug. 1, 1979.
6964	Mt. Clemens Vinyl, Mt. Clemens, MI	Aug. 1, 1979.
6965	Dearborn Engine, Dearborn, MI	Nov. 1, 1979.
6966	Northville Valve, Northville, MI	Aug. 1, 1979.
6968	Michigan Casting, Dearborn, MI	Jan. 30, 1979.
6969	Lima Engine, Lima, OH	Mar. 1, 1979.
6970	Dearborn Specialty Foundry, Dearborn, MI.	July 1, 1979.
6971	Sheffield, Sheffield, AL	July 1, 1979.
6972	Vulcan Forge, Dearborn, MI	July 1, 1979.
6973	Pattern Shop, Dearborn, MI	July 1, 1979.
6974	Rawsonville, Rawsonville, MI	Jan. 30, 1979.
6975	Sandusky, Sandusky, OH	Jan. 30, 1979.
6976	Ypsilanti, Ypsilanti, MI	Jan. 30, 1979.
6977	Chicago Stamping, Chicago Heights, IL.	Aug. 1, 1979.
6978	Cleveland Stamping, Cleveland, OH	Jan. 30, 1979.
6979	Dearborn Stamping, Dearborn, MI	Aug. 1, 1979.
6980	Dearborn Tool & Die, Dearborn, MI	Aug. 1, 1979.
6981	Monroe Stamping, Monroe, MI	Jan. 30, 1979.
6982	Woodhaven Stamping, Woodhaven, MI.	Aug. 1, 1979.
6983	Maumee Stamping, Maumee, OH	Aug. 1, 1979.
6984	Dearborn Frame, Dearborn, MI	Jan. 30, 1979.
6985	Fairfax, Cincinnati, OH	June 1, 1979.
6986	Sharonville, Sharonville, OH	July 1, 1979.
6987	Canton Forge, Canton, OH	Sept. 1, 1979.
6988	Sterling, Sterling Heights, MI	July 1, 1979.
6989	Van Dyke, Sterling Heights, MI	July 1, 1979, 1979.
6990	Sheldon Road, Plymouth, MI	July 1, 1979.
6991	Green Island, Troy, NY	Aug. 1, 1979.
6993	Glass Technical Center, Lincoln Park, MI.	Feb. 1, 1979.
6995	Tulsa Glass, Tulsa, OK	July 14, 1979.
6996	General Services, Dearborn, MI	Aug. 1, 1979.
6997	Engineering Facility & Service, Dearborn, MI.	Nov. 1, 1979.
6998	Dearborn Steel, Dearborn, MI	Aug. 1, 1979.
6669	Nashville Glass, Nashville, TN	Dec. 17, 1979.
6916	Livonia, Livonia, MI	July 1, 1979.
7170	Indianapolis Stamping, Indianapolis, IN.	July 1, 1979.

TA–W–6999, 7009, 7015–16, 7071, 7074–76, 7078–80: General Motors Corp., Buick Assembly, Flint, Mich.; Chevrolet Assembly, Flint, Mich.; Oldsmobile Assembly, Lansing, Mich.; Pontiac Assembly, Pontiac, Mich.; GMAD—Doraville, Ga.; GMAD—Arlington, Tex.; GMAD—Fremont, Calif.; GMAD—Janesville, Wis.; GMAD—Leeds (Kansas City), Mo.; GMAD—Van Nuys, Calif.; GMAD—Norwood, Ohio

The investigation was initiated on February 11, 1980 in response to a petition which was filed by the United Automobile, Aerospace and Agricultural Workers of America (U.A.W.) on behalf of workers at the final assembly plants of General Motors Corporation listed in the appendix.

Mid-size cars produced by GM include the Chevrolet Malibu, Camaro and Monte Carlo, Pontiac LeMans, Grand Prix and Firebird, Oldsmobile Cutlass and Cutlass Supreme, and the Buick Century and Regal. U.S. imports of mid-size automobiles increased absolutely and relative to domestic production in MY 1979 compared to MY 1978 and increased relatively in the first four months of MY 1980 compared to the same period in MY 1979.

Company imports of mid-size cars increased absolutely and relative to domestic production in MY 1979 compared to MY 1978 and relatively in the first four months of MY 1980 compared to the same period in MY 1979.

Imported mid-size cars are like or directly competitive with mid-size cars produced at the Buick, Oldsmobile and Pontiac assembly plants, and at the Doraville, Arlington, Fremont, Leeds (Kansas City), Van Nuys, and Norwood plants of the General Motors Assembly Division (GMAD).

Standard cars produced by GM include the Chevrolet Impala and Caprice, the Pontiac Catalina and Bonneville, the Oldsmobile Delta 88 and Ninety-Eight and the Buick LeSabre and Electra. Also included as standard cars were the MY 1978 Oldsmobile Toronado and the MY 1978 Buick Riviera.

The design changes from MY 1978 to MY 1979 were indicative of the changes being undertaken by domestic automobile manufacturers during the MY 1977–MY 1979 period. MY 1979 was the year of transition as several car lines were phased out and replaced by smaller models. Design changes emphasized downsizing, improved fuel mileage and modified passenger seating. While GM's standard cars were less affected by changes in size than its mid-size cars, automobiles manufacturerd by GM's domestic competitors were greatly affected. Moreover, GM undertook its design changes generally one year earlier than its domestic competitors. As a result of design changes throughout the domestic industry during the MY 1977–MY 1979 period, the traditional distinctions between the mid-size and standard cars became less clear. Because the traditional classes of cars became blurred, imports of both mid-size and standard cars can be considered competitive with GM mid-size and standard cars in MY 1979 and MY 1980.

U.S. imports of mid size cars increased both absolutely and relative to domestic production in MY 1979 compared to MY 1978 and increased relative to domestic production in the first quarter of MY 1980 compared to the same period in MY 1979. U.S. imports of standard cars increased both absolutely and relative to domestic production in MY 1979 compared to MY 1978.

Imported mid-size and standard cars are like or directly competitive with standard cars produced at the Buick, Oldsmobile and Pontiac assembly plants and at the South Gate, Janesville and St. Louis GMAD plants.

Nearly all the light duty trucks sold by GM are pickup trucks. U.S. imports of pickup trucks increased from 1977 to 1978 and from 1978 to 1979, both absolutely and relative to domestic production and consumption.

Company imports of light duty trucks increased in the 1979 model year compared with MY 1978 and in the first 4 months of MY 1980 compared with the same MY 1979 period.

Imported pickup trucks are like or directly competitive with light duty trucks produced at the Chevrolet assembly plant and at the Fremont, Janesville, and St. Louis GMAD plants.

GM produces a utility vehicle which is sold as the Chevrolet Blazer or the GMC Jimmy. U.S. imports of utility vehicles increased from 1977 to 1978 and from 1978 to 1979, both absolutely and relative to domestic production and consumption.

Imported utility vehicles are like or directly competitive with Blazer and Jimmy vehicles produced at the Chevrolet assembly plant and the Fremont GMAD plant.

In this case, therefore, the certifying officer has determined that:

All workers of the final assembly plants of General Motors Corporation listed in the appendix who became totally or partially separated from employment on or after the impact date listed in the appendix are eligible to apply for adjustment assitance under Section 223 of the Trade Act of 1974.

Appendix

TA–W	Plant and location	Impact date
6999	Buick Assembly, Flint, MI	Sept. 1, 1979.
7009	Chevrolet Assembly, Flint, MI	Aug. 1,1979.
7015	Oldsmobile Assembly, Lansing, MI	Sept. 1, 1979.
7016	Pontiac Assembly, Pontiac, MI	July 1, 1979.
7071	General Motors Assembly Division (GMAD), Doraville, GA.	June 1, 1979.
7074	GMAD, Arlington, TX	Dec. 1, 1979.
7075	GMAD, Fremont, CA	Sept. 1, 1979.
7076	GMAD, Janesville, WI	Nov. 1, 1979.
7078	GMAD, Leeds (Kansas City), MO	Oct. 1, 1979.
7079	GMAD, Van Nuys, CA	Oct. 1, 1979.
7080	GMAD, Norwood, OH	Nov. 1, 1979.

TA–W–7171; Peter Freund Knitting Mills, Inc., North Bergen, N.J.

The investigation was initiated on February 25, 1980 in response to a petition which was filed on behalf of workers at Peter Freund Knitting Mills, Incorporated, North Bergen, New Jersey. The workers produce men's and ladies' sweaters and men's and boys' knit shirts.

U.S. imports of women's, misses' and children's sweaters increased relative to domestic production in 1978 compared to 1977. The ratio of imports to domestic production has been 115 percent or above in every year from 1974 through 1978.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased absolutely and relative to domestic production in 1978 compared with 1977. The ratio of imports to domestic production reached the highest level in the most recent five years in 1978, at 94.1 percent. Imports increased absolutely in 1979 compared to the average level of imports for the 1975–1978 period.

Peter Freund Knitting Mills performed contract work for manufacturers and also operated as a manufacturer, selling directly to retail customers. A Departmental survey revealed that retail customers, which accounted for a substantial portion of Peter Freund's sales decline from 1978 to 1979, increased their purchases of sweaters from foreign sources during this time period. In addition, retail customers of the manufacturers for whom Peter Freund worked also increased purchases of imported sweaters while descreasing business with the manufacturers. The manufacturers experiencing decreased orders, in turn, decreased their contracts with Peter Freund Knitting Mills from 1978 to 1979.

In this case, therefore, the certifying officer has determined that—

All workers of Peter Freund Knitting Mills, Incorporated, North Bergen, New Jersey who became totally or partially separated from employment on or after January 28, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7213; Sunrise Fashions, Inc., North Bergen, N.J.

The investigation was initiated on February 25, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Sunrise Fashions, Incorporated, North Bergen, New Jersey. The workers produce ladies' spring and winter coats.

U.S. imports of women's, misses' and children's coats and jackets increased absolutely and relative to domestic production in each year from 1975 through 1978 compared to the preceding year.

Dawn Imports International, Incorporated, which is a company affiliated with Sunrise, sells only imported ladies' coats. Sales of imported coats by Dawn increased in value in 1979 compared to 1978 and in January 1980 compared to January 1979.

A Departmental survey was conducted with retail customers of Sunrise Fashions, Incorporated. The survey revealed that customers representing a substantial portion of Sunrise's sales decline, in 1979 compared to 1978, increased their imports of ladies' coats in the same period.

In this case, therefore, the certifying officer has determined that,

"All workers of Sunrise Fashions, Incorporated, North Bergen, New Jersey who became totally or partially separated from employment on or after June 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

I hereby certify that determinations were issued with respect to all of the aforementioned cases during the week of April 21st—25th, 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–13558 Filed 5–1–80; 8:45 am]

BILLIING CODE 4510–28–M

Negative Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of negative determinations regarding eligibility to apply for worker adjustment assistance issued during the period April 21–25th, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of workers in the workers's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely,

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat threof, and to the absolute decline in sales or production.

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA–W–7183; Anchor Motor Freight, Inc., Linden, N.J.

The investigation was initiated on February 25, 1980 in response to a petition which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America on behalf of workers at Anchor Motor Freight, Incorporated, Linden, New Jersey. The workers at Anchor Motor Freight, Incorporated are engaged in providing the service of transporting automobiles.

The investigation revealed that workers at Anchor Motor Freight, Incorporated do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Anchor Motor Freight, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Anchor Motor Freight, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any company producing automobiles.

All workers engaged in transporting automobiles at Anchor Motor Freight, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by Anchor Motor Freight, Incorporated. All employee benefits are provided and maintained by Anchor Motor Freight, Incorporated. Workers are not, at any time, under employment or supervison by customers of Anchor Motor Freight, Incorporated. Thus, Anchor Motor Freight, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of Anchor Motor Freight, Incorporated, Linden, New Jersey are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–6779; Arvin Industries, Inc., Arvin Automotive Division, Greenwood, Ind.

The investigation was initiated on January 15, 1980 in response to a petition which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers at the Greenwood, Indiana plant of the Arvin Automotive Division of Arvin Industries, Incorporated. Workers at the Greenwood plant produce exhaust pipes for cars and light trucks.

The investigation revealed that criterion (3) has not been met.

The Department conducted a survey of the exhaust pipe customers of Arvin Industries, Incorporated. None of the customers surveyed decreased purchases of exhaust pipe from Arvin Industries while increasing purchases of imported exhaust pipe in 1979 compared to 1978 and for the January-February period of 1980 compared to the same period of 1979.

Imports of cars cannot be considered to be like or directly competitive with exhaust systems produced at the Greenwood plant. Imports of exhaust systems must be considered in determing import injury to workers producing exhaust pipe at the Greenwood, Indiana plant of the Arvin Automotive Division of Arvin Industries.

In this case, therefore, the certifying officer has determined that all workers of the Greenwood, Indiana plant of the Arvin Automotive Division of Arvin Industries, Incorporated are denied eligibility to apply for adjustment assistant under Section 223 of the Trade Act of 1974.

TA–W–7184; Auto Convoy Co., Shreveport, La.

The investigation was initiated on February 25, 1980 in response to a petition which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America on behalf of workers at the Auto Convoy Company, Shreveport, Louisiana. The workers at the Auto Convoy Company are engaged in providing the service of transporting automobiles and trucks.

The investigation revealed that workers at Auto Convoy Company do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if

their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Auto Convoy Company by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Auto Convoy Company and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any company producing motor vehicles.

All workers engaged in transporting automobiles and trucks at Auto Convoy Company are employed by that firm. All personnel actions and payroll transactions are controlled by Auto Convoy Company. All employee benefits are provided and maintained by Auto Convoy Company. Workers are not, at any time, under employment or supervision by customers of Auto Convoy Company. Thus, Auto Convoy Company and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of the Auto Convoy Company, Shreveport, Louisiana are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7210; Auto Convoy Co., Tulsa, Okla.

The investigation was initiated on February 25, 1980 in response to a petition which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America on behalf of workers at the Auto Convoy Company, Tulsa Oklahoma. The workers at the Auto Convoy Company are engaged in providing the service of transporting automobiles and trucks.

The investigation revealed that workers at Auto Convoy Company do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Auto Convoy Company by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Auto Convoy Company and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any company producing motor vehicles.

All workers engaged in transporting automobiles and trucks at Auto Convoy Company are employed by that firm. All personnel actions and payroll transactions are controlled by Auto Convoy Company. All employee benefits are provided and maintained by Auto Convoy Company. Workers are not, at any time, under employment or supervision by customers of Auto Convoy Company. Thus, Auto Convoy Company and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of the Auto Convoy Company, Tulsa Oklahoma are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7087; C. H. Masland and Sons, Inc., Carlisle, Pa.

The investigation was initiated on February 12, 1980 in response to a petition which was filed by the International Union of Operating Engineers and the Amalgamated Clothing and Textile Workers Union on behalf of workers at C. H. Masland and Sons, Incorporated, Carlisle, Pennsylvania. Workers at the Carlisle, Pennsylvania plant produce automotive carpet.

The investigation revealed that criterion (3) has not been met.

The petitioners allege that imports of automobiles have affected sales of automotive carpeting by C. H. Masland. Automobiles cannot be considered to be like or directly competitive with automotive carpeting. Imports of automotive carpeting must be considered in determining import injury to workers producing automotive carpeting.

U.S. imports of automotive carpeting declined both absolutely and relative to domestic production from 1978 to 1979. A survey of customers of C. H. Masland revealed that none of the customers purchase imported automotive carpeting.

In this case, therefore, the certifying officer has determined that all workers of C. H. Masland and Sons, Incorporated, Carlisle, Pennsylvania are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7188; Chrysler Corp., Michigan City Molded Products Division, Michigan City, Ind.

The investigation was initiated on February 25, 1980 in response to a petition which was filed on behalf of workers at the Michigan City Molded Products Division of Chrysler Corporation, Michigan City, Indiana. Workers at the plant produce blow-and injection-molded plastic components for use in cars and trucks.

The investigation revealed that criterion (3) has not been met.

Recent declines in employment at the Michigan City Molded Products Division of Chrysler Corporation can be largely attributed to normal seasonal fluctuations in plant production levels. Production of molded plastic components at the Michigan City Molded Products Division normally occurs about four to six months in advance of car and truck production at Chrysler's assembly plants. The Michigan City plant's manufacturing cycle typically runs from early spring, when component production for the upcoming model year's cars and trucks begins, to early winter, when production and employment are temporarily curtailed in order to reduce inventories and facilitate minor retooling of the plant for the next model year.

Plant production increased in adjusted value terms from MY 1978 to MY 1979 and remained stable in the period August 1979–February 1980 compared to the period August 1978–February 1979.

Average employment of production workers at the Michigan City Molded Products Division increased from MY 1978 to MY 1979. For the most part, layoffs which occurred during the last quarter of MY 1979 and the first half of MY 1980 were sporadic and of a short-term nature. Chrysler is currently in the process of recalling workers who were temporarily laid off from the Michigan City plant in January and February 1980. Because Chrysler will increase its use of molded plastic components in May 1981 cars and trucks, further layoffs are not anticipated at the Michigan City Molded Products Division in the foreseeable future.

In this case, therefore, the certifying officer has determined that all workers of the Michigan City Molded Products Division of Chrysler Corporation, Michigan City, Indiana, are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974.

TA–W–7187; Chrysler Corp., Marysville Parts Depot, Marysville, Mich.

The investigation was initiated on February 25, 1980 in response to a petition which was filed on behalf of workers at the Marysville Parts Depot of Chrysler Corporation, Marysville, Michigan. Workers at the Marysville Parts Depot are engaged in the distribution of automotive parts.

The investigation revealed that criterion (3) has not been met.

The Marysville Parts Depot sells replacement parts and accessories to Chrysler, Dodge and Plymouth dealerships and other parts depots. The Marysville Depot also spray coats certain sheet metal automotive parts with a primer to protect them during storage and shipping. Through the Marysville Depot, dealerships are equipped with the parts required to maintain and repair all car and truck models which Chrysler has marketed in the U.S. during the past five years. A majority of the parts which Chrysler distributes through its parts depots, including the Marysville Depot, are produced by unaffiliated firms. Further, a significant share of Chrysler's own production of replacement parts consists of components which are ultimately used to service either vehicles manufactured prior to MY 1979 or those which have not been subject to import injury. Consequently, a direct and significant connection cannot be established between production declines at certified Chrysler manufacturing plants and the decline in part sales and employment at the Marysville Parts Depot.

Previous Department certifications of workers at seven assembly plants (TA–W–5979–83, 6037–38) and at 23 auxiliary manufacturing plants (TA–W–5984–94, 5996–6004, 6039–40, 6543) of the Chrysler Corporation were based on a finding of import injury which was limited to certain car and truck lines produced duriny MY 1979 (August 1978–July 1979). In the course of these investigations, it was established that part production at most of the certified auxiliary plants was predominantly integrated into the production of finished vehicles at certified company assembly plants. Production of replacement parts for trade-impacted Chrysler car and truck lines accounted for an insignificant portion of the total operations of the 23 certified auxiliary plants.

In this case, therefore the certifying officer has determined that all workers at the Marysville Parts Depot of Chrysler Corporation, Marysville, Michigan, are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7364; Clinton Pattern Corp., Toledo, Ohio

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the Pattern, Mold and Model Makers' Association on behalf of workers at Clinton Pattern Corporation, Toledo, Ohio. Workers at the plant produce wood patterns.

The investigation revealed that criterion (1) has not been met.

Average employment of pattern makers remained constant at Clinton Pattern in 1979 compared to 1978, and increased in the first quarter of 1980 compared to the same quarter of 1979. Employment increased or remained constant in each quarter of 1979 and 1980 compared to the same quarter of the previous year. Average hours worked per employee increased in 1979 compared to 1978, and in the first quarter of 1980 compared to the like quarter in 1979. There is no immediate threat of separations at the firm.

Sales increased in value at Clinton Pattern in 1979 compared to 1978, and in the first quarter of 1980 compared to the same quarter in 1979.

In this case, therefore, the certifying officer has determined that all workers of the Clinton Pattern Corporation, Toledo, Ohio are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7185; Complete Auto Transit, Flint, Mich.

The investigation was initiated on February 25, 1980 in response to a petition which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America on behalf of workers at Complete Auto Transit. The workers at Complete Auto Transit are engaged in providing the service of transporting automobiles and trucks.

The investigation revealed that workers of Complete Auto Transit do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Complete Auto Transit by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Complete Auto Transit and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any company producing motor vehicles.

All workers engaged in transporting automobiles and trucks at Complete Auto Transit are employed by that firm. All personnel actions and payroll transactions are controlled by Complete Auto Transit. All employee benefits are provided and maintained by Complete Auto Transit. Workers are not, at any time, under employment or supervision by customers of Complete Auto Transit. Thus, Complete Auto Transit and not any of its customers, must be considered to be the "workers' firm."

In this case, therefore, the certifying officer has determined that all workers of Complete Auto Transit, Flint, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7212; Detroit Gasket, Newport, Tenn.

The investigation was initiated on February 25, 1980, in response to a petition which was filed by the Sheet Metal Workers International Association on behalf of workers at Detroit Gasket, Newport, Tennessee. Workers at the Newport plant produce gaskets.

The investigation revealed that criterion (3) has not been met.

The petitioners alleged that imports of automobiles caused decreased sales of gaskets by Detroit Gasket. Automobiles cannot be considered to be like or directly competitive with gaskets. Imports of gaskets must be considered in determining import injury to workers producing gaskets.

U.S. imports of gaskets increased absolutely but decreased relative to domestic production and consumption in 1979 compared with 1978.

The Department conducted a survey of customers accounting for most of Detroit Gasket's sales. One customer reported increasing purchases of imported gaskets while decreasing purchases of gaskets from the subject firm. Purchases of imported gaskets by this firm, however, represented an insignificant proportion of its total gasket purchases. Also, imported gaskets, as a percentage of total demand for gaskets by the customer, declined from 1978 to 1979.

In this case, therefore, the certifying officer has determined that all workers of Detroit Gasket, Newport, Tennessee are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7180; Engle Industries, Inc., Merrimac, Mass.

The investigation was initiated on February 25, 1980 in response to a petition which was filed on behalf of workers at Engle Industries, Incorporated, Merrimac, Massachusetts, formerly known as Engle-Lewis Counter Company, Incorporated. The workers produce shoe counters.

The investigation revealed that criterion (3) has not been met.

U.S. imports of shoe components, including shoe counters, are negligible. Industry sources indicate that it is not profitable to import shoe components. Prices of domestic shoe components are generally competitive with or lower than those of imported shoe components.

In this case, therefore, the certifying officer has determined that all workers of Engle Industries, Incorporated, Merrimac, Massachusetts, formerly known as Engler-Lewis Counter Company, Incorporated, are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–6782; Essex Group, Inc., De Kalb, Ill.

The investigation was initiated on January 15, 1980 in response to a petition which was filed by the International Brotherhood of Electrical Workers on behalf of workers at the De Kalb, Illinois plant of Essex Group, Incorporated. Workers at the De Kalb plant produce electrical cord.

The investigation revealed that criterion (3) has not been met.

A Department survey revealed that most surveyed customers did not purchase any imported electrical cord. Customers which did purchase imports decreased such purchases in 1979, compared with 1978.

In this case, therefore, the certifying officer has determined that all workers at the De Kalb, Illinois plant of Essex Group, Incorporated are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7167, 7512; General Electric Co., Wiring Device Department Providence, R.I. Middletown, R.I.

The investigations were initiated on February 19, 1980 (TA–W–7167) and March 31, 1980 (TA–W–7512) in response to a petition which was filed by the United Electrical, Radio and Machine Workers on behalf of workers at the General Electric Company Wiring Device Department, Providence, Rhode Island, and a petition which was filed on behalf of workers at the General Electric Company Wiring Device Department, Middletown, Rhode Island. The workers produce electrical wiring devices.

The investigation revealed that criterion (3) has not been met.

On December 11, 1979 the General Electric Company announced plans to transfer production of wiring devices from the Middletown, Rhode Island and Providence, Rhode Island plants to a location in Acuna, Mexico. This transfer will not begin to affect employees at Middletown and Providence until September 1980 and will not be completed until 1981. However, this impending transfer may create a situation in the future that may warrant coverage under the provisions of the Trade Act of 1974 if the transfer results in increased imports into the U.S. The petitioners are encouraged to file a request to reopen the investigation when imports from the Mexican operation have begun.

A survey of customers who purchase electrical wiring devices produced at the Providence and Middletown plants was conducted by the Department. Survey results indicate that customers did not purchase imports of electrical wiring devices during 1978, 1979 and 1980.

In this case, therefore, the certifying officer has determined that all workers of the Providence, Rhode Island and Middletown, Rhode Island plants of the General Electric Company Wiring Device Department are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7072 and 7083; General Motors Corp., General Motors Assembly Division, Linden, N.J. and Willow Run, Mich.

The investigation was initiated on February 11, 1980 in response to a petition which was filed by the United Automobile, Aerospace and Agricultural Workers of America (U.A.W.) on behalf of workers at the Linden, New Jersey plant and the Willow Run, Michigan plant of the General Motors Assembly Division of General Motors Corporation. Workers at the Linden, New Jersey plant produce Riviera, Toronado, Eldorado and Seville automobiles. Workers at the Willow Run, Michigan plant produce Citation, Omega, Skylark and Phoenix automobles.

The investigation revealed that criterion (3) has not been met.

Linden, N.J., Plant (TA–W–7072)

The cars assembled at the plant in model year (MY) 1979 all share the same basic body type. (The model year runs from September through August.) The Linden plant has been the only General Motors plant assembling cars with this body type in MY 1979 and MY 1980. Total GM company sales and production of cars with this body type increased from MY 1978 to MY 1979 and in the first four months of MY 1980 compared with the same MY 1979 period.

Employment of production workers at the plant increased from MY 1978 to MY 1979 and in the first 2 quarters of MY 1980 compared to the same periods in MY 1979. Employment was higher in every quarter of MY 1979 than in the same MY 1978 period.

Willow Run, Mich., Plant (TA–W–7083)

In MY 1978–80 the plant has produced several models of mid-size cars which share the same basic body type. In the second quarter of MY 1979 these models underwent a basic design change. Production at Willow Run was discontinued during a prolonged model changeover in that period.

Employment of production workers at the Willow Run plant increased from MY 1978 to MY 1979 and in the first 5 months of MY 1980 compared with the same MY 1979 period. In each month from February 1979 through January 1980 employment was higher than in the same month of the preceding year.

Total GM company sales and production of cars with this body type increased in the first 4 months of MY 1980 compared with the same MY 1979 period, and were virtually unchanged in MY 1979 compared with MY 1978.

In this case, therefore, the certifying officer has determined that all workers of the Linden, New Jersey plant and the Willlow Run, Michigan plant of the General Motors Assembly Division of General Motors Corporation are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7156; International Packings Corp., Scottsburg, Ind.

The investigation was initiated on February 19, 1980 in response to a petition which was filed on behalf of workers at the Scottsburg, Indiana plant of International Packings Corporation. Workers at the Scottsburg plant produce precision-moded rubber seals and gaskets.

The investigation revealed that criterion (3) has not been met.

The petitioner alleged that imports of automobiles caused reductions in sales of seals and gaskets by International Packings Corporation. Seals and gaskets are not like or directly competitive with automobiles. Imports of seals and gaskets must be considered in determining import injury to workers at the Scottsburg, Indiana plant of International Packings Corporation.

U.S. imports of seals are negligible, representing less than one percent of domestic production in 1978 and 1979.

U.S. imports of gaskets decreased relative to domestic production in 1979 compared with 1978.

A survey of customers of the subject firm revealed that customers either did not purchase imports of rubber seals or gaskets, or increased purchases from International Packings Corporation in 1979 compared with 1978 while purchasing a negligible amount of imported seals and gaskets.

In this case, therefore, the certifying officer has determined that all workers of the Scottsburg, Indiana plant of International Packings Corporation are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7253; Island Creek Coal Co., Northern Division, Donegan 10–A Mine, Craigsville, W.Va.

The investigation was initiated on March 3, 1980 in response to a petition which was filed on behalf of workers at Island Creek Coal Company, northern Division, Donegan 10–A Mine, Craigsville, West Virginia. The workers produce metallurgical coal. The investigation revealed that criterion (3) has not been met.

The petition was filed on behalf of workers engaged in employment related to the mining of metallurgical coal. In accordance with Section 222 of the Trade Act of 1974 and 29 CFR 90.2 a domestic article may be "directly competitive" with an imported article at a later stage of processing. Coke is metallurgical coal at a later stage of processing. Imports of coke and imports of metallurgical coal should be considered in determining import injury to workers mining metallurgical coal.

U.S. imports of metallurgical coal and coke decreased both absolutely and relative to domestic production in 1979 compared to 1978.

The metallurgical coal extracted from Donegan 10–A Mine was cleaned and shipped to customers from Donegan 1 Preparation Plant. More than eighty percent of the coal shipped from the Donegan 1 Preparation Plant in 1979 was exported. The remainder was sold to a domestic steel company.

A Department survey revealed that the domestic steel company did not purchase any imported coal. Further, the survey revealed that the steel company substantially increased purchases of domestic coke in 1979 compared to 1978.

In this case, therefore, the certifying officer has determined that all workers of Island Creek Coal Company, Northern Division, Donegan 10–A Mine, Craigsville, West Virginia are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7168; Jos. Schlitz Brewing Company, Baldwinsville, N.Y.

The investigation was initiated on February 19, 1980 in response to a petition which was filed by the International Brotherhood of Teamsters on behalf of workers at the Baldwinsville, New York brewery of the Jos. Schlitz Brewing Company. The workers produced malt beverages.

The investigation revealed that criterion (3) has not been met.

Domestic production of all malt beverages increased in each year from 1976 through 1979. Although Schlitz's share of the domestic market declined from 1977 to 1978 and again from 1978 to 1979, industry data indicate that combined sales by the top two competitors of Schlitz increased substantially over the same period. The Baldwinsville, New York brewery of Schlitz was purchased by one of these competitors in February 1980. The facility will be reopened after it is rebuilt to meet the purchaser's production requirements.

Consumer prices for improted malt beverages are considerably higher than prices paid for most domestic brands and imported malt beverages are more competitive with higher priced "super-premium" malt beverages than with premium or "popular-priced" malt beverages. Schlitz did not offer a "super-premium" beer until 1980.

The ratio of imported malt beverages to domestic production did not exceed 2.6 percent from 1975 through 1979. During this period apparent U.S. demand for malt beverages increased from both domestic and foreign sources.

In this case, therefore, the certifying officer has determined that all workers of the Baldwinsville, New York brewery of the Jos. Schlitz Brewing Company are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7202; Life Savers, Incorporated, Canajoharie, N.Y.

The investigation was initiated on February 25, 1980 in response to a petition which was filed on behalf of workers at the Canajoharie, New York plant of Life Savers, Incorporated. The workers produce primarily chewing gum and some confection products.

The investigation revealed that criterion (3) has not been met.

Life Savers' Canajoharie plant produces chewing gum and candy. Chewing gum accounted for the overwhelming majority of production at the Canajoharie plant.

U.S. imports of chewing gum decreased both absolutely and relative to domestic production from 1978 to 1979. The import-to-domestic production ratio fluctuated between 1.1 and 1.9 percent during the 1975 to 1979 period.

U.S. imports of confectionary products decreased both absolutely and relative to domestic production from 1978 to 1979. The import-to-domestic production ratio fluctuated between 3.5 and 4.2 percent during the 1975 to 1979 period.

A Departmental survey conducted with Life Savers' retail customers revealed that, from 1978 to 1979, customers did not increase their purchases of imported chewing gum which is like or directly competitive with the chewing gum produced at the Canajoharie plant.

With respect to the production of candy products, company-wide domestic sales increased in value from 1977 to 1978 and increased in both quantity and value from 1978 to 1979. Sales continued to increase in January–February 1980 compared to the same period in 1979.

In this case, therefore, the certifying officer has determined that all workers of the Canajoharie, New York plant of Life Savers, Incorporated are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7110–7112; McLouth Steel Corp., Trenton, Mich.; Gibraltar, Mich.; Detroit, Mich.

The investigation was initiated on February 13, 1980 in response to a petition which was filed by the United Steelworkers of America on behalf of workers at McLouth Steel Corporation, Trenton, Michigan; Gibraltar, Michigan and Detroit, Michigan. Workers at the Trenton plant produce hot rolled carbon steel strip; workers at the Gibraltar plant produce cold rolled carbon steel strip and workers at the Detroit plant produce cold rolled stainless steel strip.

The investigation revealed that criterion (3) has not been met.

Imports of hot and cold rolled carbon steel strip and cold rolled stainless steel strip declined both absolutely and relative to domestic shipments in 1979 compared to 1978. Imports of these products have not exceeded five percent of domestic shipments during the period from 1977 to 1979.

In this case, therefore, the certifying officer has determined that all workers of McLouth Steel Corporation, Trenton, Michigan; Gibraltar, Michigan and Detroit, Michigan are denied eligibility

to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7182, 7182–A; Merritt Brothers Cedar Products, Bay City, Oreg., Garibaldi, Oreg.

The investigation was initiated on February 25, 1980 in response to a petition which was filed on behalf of workers at Merritt Brothers Cedar Products, Bay City, Oregon. The investigation revealed that Merritt Brothers operates a related mill in Garibaldi, Oregon. Workers at the firm produce cedar shingles and shakes.

The investigation revealed that criterion (3) has not been met.

Merritt Brothers' production of cedar shakes and shingles is primarily for the new housing segment of the construction industry on the west coast and in the southwest. According to U.S. Department of Commerce statistics, the annual rate of housing starts in March 1980 was 1.04 million units, 44 percent below the rate of 1.87 million units reported for September 1979 when interest rates began increasing sharply. The annual rate of housing starts in March 1980 is 42 percent lower than in March 1979, and is the lowest rate in five years.

Although imports of shingles and shakes increased during the first three quarters of 1979 compared with the same period in 1978, the subject firm's production increased substantially in 1979 compared with 1978. A survey of Merritt Brothers' customers revealed decreased purchases of cedar shingles and shakes from both foreign and domestic sources in the first quarter of 1980 compared to the first quarter of 1979. Customers cited the sharp decline in the housing industry as the major reason for decreased purchases of cedar singles and shakes.

In this case, therefore, the certifying officer has determined that all workers of Merritt Brothers Cedar Products, Bay City, Oregon and Garibaldi, Oregon are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7220; Millington Plastics Company, Upper Sandusky, Ohio

The investigation was initiated on February 25, 1980 in response to a petition which was filed by the Allied Industrial Workers Union on behalf of workers at Millington Plastics Company, Upper Sandusky, Ohio. The workers produce injection molded plastic parts for the automotive industry.

The investigation revealed that criterion (3) has not been met.

The Department conducted a survey of customers of Buckeye International, Incorporated, the parent company and selling agent for Millington Plastics Company. The survey revealed that surveyed customers did not purchase imported plastic parts like or directly competitive with those products produced by Millington Plastics in 1978, 1979 or the first 2 months of 1980.

Imports of cars cannot be considered to be like or directly competitive with injection molded plastic parts produced at the Millington Plastics Company. Imports of plastic parts must be considered in determining import injury to workers producing injection molded plastic parts at the Millington Plastics Company.

In this case, therefore, the certifying officer has determined that all workers of the Millington Plastics Company, Upper Sandusky, Ohio are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7176; Muskie Tool and Die Corporation, Warren, Michigan

The investigation was initiated on February 25, 1980 in response to a petition which was filed on behalf of workers at Muskie Tool and Die Corporation, Warren, Michigan. Workers at Muskie Tool and Die produce die details and tooling aids.

The investigation revealed that criterion (3) has not been met.

The petitioner alleged injury due to imports of automobiles. Only imports of products like or directly competitive with articles produced by the subject firm can be considered in determining import injury to workers of that firm under Section 222 of the Trade Act of 1974. Therefore, only imports of die details and tooling aids can be considered in determining import injury to workers of Muskie Tool and Die Corporation, which produces only die details and tooling aids.

U.S. imports of die details and tooling aids are negligible.

In this case, therefore, the certifying officer has determined that all workers of the Muskie Tool and Die Corporation, Warren, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7207; National Steel Pellet Company, Keewatin, Minnesota

The investigation was initiated on February 25, 1980 in response to a petition which was filed by the United Steelworkers of America on behalf of workers at National Steel Pellet Company, Keewatin, Minnesota. The workers produce iron ore pellets.

The investigation revealed that criterion (3) has not been met.

The ratio of U.S. imports of iron ore, pellets, and sinter to domestic production decreased in 1979 compared to 1978.

Surveyed customers of National Steel Pellet Company revealed that these customers had not decreased purchases from the subject firm and increased purchases of imports.

The petitioners allege that imports of steel are adversely affecting steel production which, in turn, affects production of iron ore. The majority of iron ore pellets produced at National Steel Pellet Company are used in the production of steel at two National Steel facilities. Workers at these facilities were denied eligibility to apply for adjustment assistance benefits in February, 1980.

In this case, therefore, the certifying officer has determined that all workers of National Steel Pellet Company, Keewatin, Minnesota are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7320; Plesco Products, Incorporated, Worcester, Massachusetts

The investigation was initiated on March 10, 1980 in response to a petition which was filed on behalf of workers and former workers at Plesco Products, Incorporated, Worcester, Massachusetts. The workers produce disposable hospital garments.

U.S. imports of Disposable Hospital Garments and Accessories increased absolutely and relative to domestic production in each year from 1976 through 1978 and increased absolutely in 1979 compared to 1978.

Plesco Products, Incorporated began importing disposable hospital garments in June 1979. The level of these company imports increased in quantity and value and as a percent of total company sales in each quarter from July 1979 through March 1980.

In this case, therefore, the certifying officer has determined that:

"All workers of Plesco Products, Incorporated, Worcester, Massachusetts who became totally or partially separated from employment on or after December 23, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

TA–W–6967, 6992; Powertrain and Chassis Product Engineering Office, Dearborn, Michigan and Wixom Warehouse, Wixom, Michigan

The investigation was initiated on February 11, 1980 in response to a petition which was filed by the United Auto Workers on behalf of workers at the Powertrain and Chassis Product

Engineering Office, Dearborn, Michigan and at the Wixom Warehouse, Wixom, Michigan of Ford Motor Company. Workers at the Powertrain and Chassis Product Engineering Office provide support services which are an integral part of the production of cars, trucks, vans and general utility vehicles at the Ford Motor Company. Workers at the Wixom Warehouse provide storage services for glass auto parts for Ford cars, trucks, vans and general utility vehicles.

The investigation revealed that criterion (1) has not been met.

Employment at the Powertrain and Chassis Product Engineering Office increased in each quarter of MY 1979 compared with the same periods in MY 1978 and continued to increase in the first two quarters of MY 1980 compared with the same period in MY 1979. No layoffs have occurred at this facility since January 1979.

Employment at the Wixom Warehouse remained constant in calendar year 1978 and the first half of calendar year 1979, increased in June 1979 and has remained at the higher level since that time. There have been no layoffs or reductions in hours.

In this case, therefore, the certifying officer has determined that all workers of the Powertrain and Chassis Product Engineering Office, Dearborn, Michigan, and the Wixom Warehouse, Wixom, Michigan of Ford Motor Company are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7199; Rose Cloak and Suit Company, Incorporated, Plainview, New York

The investigation was initiated on February 25, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Rose Cloak and Suit Company, Incorporated, Plainview, New York. Workers at the plant produce primarily women's coats.

The investigation revealed that criterion (3) has not been met.

U.S. imports of women's, misses' and children's coats and jackets decreased absolutely in 1979 compared with 1978.

Sales of ladies' coats produced at Rose Cloak and Suit Company, Incorporated increased during the first quarter of 1980 compared with the same period in 1979.

Employment of production workers at Rose Cloak and Suit Company, Incorporated increased in 1979 compared with 1978. Total payroll, used in lieu of hours of employment, also increased in 1979 compared with 1978. Quarterly declines were the result of normal seasonal fluctuations.

In this case, therefore, the certifying officer has determined that all workers of Rose Cloak and Suit Company, Incorporated, Plainview, New York are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–WQ–6907; Seton Leather Company, Newark, New Jersey

The investigation was initiated on February 1, 1980 in response to a petition which was filed on behalf of workers of Seton Leather Company, Newark, New Jersey. The workers produce tanned and finished cattlehide leather.

The investigation revealed that criterion (3) has not been met.

U.S. imports of upholstery leather decreased in unit volume in 1979 compared to 1978.

Automotive upholstery leather represented the major portion of company sales. The Department conducted a survey of customers who purchased automotive upholstery leather from Seton Leather Company. The survey revealed that customers who accounted for the predominant loss in company sales did not purchase import automotive upholstery leather in 1978 and 1979.

In this case, therefore, the certifying officer has determined that all workers of Seton Leather Company, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7200 and 7201; Soft Knit Undies, Incorporated and Palm Undies, Incorporated; Rio Piedras, Puerto Rico

The investigation was initiated on February 25, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers of Soft Knit Undies, Incorporated and Palm Undies, Incorporated, both of Rio Piedras, Puerto Rico. The workers at both firms produced ladies' panties until the firms permanently closed the end of December 1979.

The investigation revealed that criterion (3) has not been met.

The Department of Labor investigation revealed that Palm Undies, Incorporated contracted exclusively with Soft Knit Undies, Incorporated for the production of ladies' panties. Soft Knit sold the panties it produced to one manufacturer. This manufacturer, in turn, sold the panties and other ladies' underwear to a distributor who sold the panties and underwear to retail customers. The ownership of all four companies (Palm, Soft Knit, the manufacturer and the distributor) was identical. The Department investigation revealed that sales of the manufacturer and the distributor declined in 1979 compared to 1978. The Department surveyed the retail customers of the distributor. Many of the customers surveyed either reduced purchases of imported panties from 1978 to 1979 or purchased no imported panties in 1978 or 1979. Most of the customers who reduced purchases from the distributor and increased purchases of imports in 1979 compared to 1978 also increased purchases from other domestic sources. In addition, sales and production of the manufacturer who remained in operation after the closure of Palm and Soft Knit increased in the first two months of 1980 compared to the same period of 1979.

In this case, therefore, the certifying officer has determined that all workers of Soft Knit Undies, Incorporated and Palm Undies, Incorporated, both of Rio Piedras, Puerto Rico are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–6910; The Standard Products Company, Winnsboro, Illinois

The investigation was initiated on February 1, 1980 in response to a petition which was filed on behalf of workers at the Winnsboro, South Carolina plant of The Standard Products Company. Workers at the Winnsboro plant produce exterior decorative trim.

The investigation revealed that criterion (3) has not been met.

Imported automobiles cannot be considered to be like or directly competitive with exterior decorative trim. Imports of exterior decorative trim must be considered in determining import injury to workers producing exterior decorative trim at the Winnsboro, South Carolina plant of The Standard Products Company.

The Department conducted a survey of major customers of The Standard Products Company. The survey revealed that none of these customers purchased imports of exterior decorative trim (fascia trim, exterior side molding, trimseal, windlace, weatherstripping) during 1979 or the first quarter of 1980.

In this case, therefore, the certifying officer has determined that all workers of the Winnsboro, South Carolina plant of The Standard Products Company are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7196; Styles by Hiedi, Incorporated, New York, New York

The investigation was initiated on February 25, 1980 in response to a petition which was filed on behalf of workers at Styles by Hiedi, Incorporated, New York, New York. The workers produce primarily ladies' leather and cloth coats.

The investigation revealed that criterion (3) has not been met.

U.S. imports of women's, misses' and children's coats and jackets and of women's misses' and infants' leather coats and jackets declined absolutely in 1979 compared to 1978.

The Department surveyed the customers of Styles by Hiedi, Incorporated. Most customers indicated either that they did not import ladies' coats or that their imports declined from 1978 to 1979. Only one customer indicated both declining purchases from Styles by Hiedi and increasing imports of ladies' coats. That customer's imports accounted for an insignificant proportion of its total purchases of ladies' coats for 1978 and 1979.

In this case, therefore, the certifying office has determined that all workers of Styles by Hiedi, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA–W–7157; Superior Shake and Shingle Coompant, Incorporated, Concrete, Washington

The investigation was initiated on February 19, 1980 in response to a petition which was filed on behalf of workers of Superior Shake and Shingle Company, Incorporated, Concrete, Washington. workers at the firm produce cedar shingles and shakes.

The investigation revealed that criterion (3) has not been met.

Superior Shake's production of cedar shakes and shingles is primarily for the new housing segment of the construction industry on the West Coast and in the Southwest. The mill's November, 1979 closing coincides with a sharp downturn in domestic housing starts during the fourth quarter of 1979 which has continued through the first quarter of 1980. According to U.S. Department of Commerce statistics, the annual rate of housing starts in March 1980 was 1.04 million units, 44 percent below the rate of 1.87 million units reported for September 1979 when interest rates began increasing sharply. The annual rate of housing starts in March 1980 is 42 percent lower than in March 1979, and is the lowest rate in five years.

Although imports of shingles and shakes increased during the first three quarters of 1979 compared with the same period in 1978, the subject firm's sales, production and employment increased substantially in eleven months of operation in 1979 compared with the same period in 1978. Superior Shake's increased sales and production in 1979 indicate import competition was not an important factor in the November shutdown of the mill.

A survey of Superior Shake's 1979 customers revealed decreased purchases of shingles and shakes from both foreign and domestic sources during the first quarter of 1980 compared with the first quarter of 1979. Customers cited the decreasing number of housing starts as the determinative factor in their reduction of purchases from domestic firms.

In this case, therefore, the certifying officer has determined that all workers of Superior Shake and Shingle Company, Incorporated, Concrete, Washington are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I hereby certify that determinations were issued with respect to all of the aformentioned cases during the week of April 21–25th 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–13557 Filed 5–1–80; 8:45 am]

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[TA–W– 6917, 7059, and 7082]

General Motors Corp., General Motors Assembly Division, Lakewood, Ga., GMC Truck & Coach Assembly Division, Pontiac, Mich., General Motors Assembly Division, Lordstown, Ohio; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation (TA–W–6917) was initiated on February 5, 1980 in response to a petition which was filed on behalf of workers at the Lakewood, Georgia plant of the General Motors Assembly Division of General Motors Corporation. Workers at the Lakewood, Georgia plant produce Chevrolet subcompact cars and Chevrolet and GMC light duty trucks.

Investigations were initiated on February 11, 1980 in response to a petition filed by the United Automobile, Aerospace and Agricultural Workers (U.A.W.) on behalf of workers and former workers at the Pontiac, Michigan plant of GMC Truck and Coach Assembly Division (TA–W–7059) and at the Lordstown, Ohio plant of General Motors Assembly Division of General Motors Corporation (TA–W–7082). Workers at the Pontiac, Michigan plant produce vans and light, medium and heavy duty trucks. Workers at the Lakewood, Georgia plant produce subcompacts and light duty trucks.

General Motors Assembly Division—Lakewood, Ga. (TA–W–6917)

With respect to the production of subcompact cars the investigation revealed that criterion (2) has not been met.

Since the third quarter of MY 1979, the Lakewood plant has assembled the Chevette, a subcompact car. Total GM production of the Chevette increased in MY 1979 compared to MY 1978 and increased in the first four months of MY 1980 compared to the same period in MY 1979.

With respect to the production of light duty trucks, all the criteria have been met.

U.S. imports of pick-up trucks increased both absolutely and relative to domestic production and consumption in 1978 compared to 1977 and increased in 1979 compared to 1978.

GM imports light duty trucks. These imports, which are like or directly competitive with domestically produced light duty trucks, increased relative to domestic production in MY 1979 compared to MY 1978 and increased in the first four months of MY 1980 compared to the same period in MY 1979. Nearly all the light duty trucks imported and domestically produced by GM are pick-up trucks.

GMC Truck & Coach Assembly Division, Pontiac, Mich. (TA–W–7059)

With respect to the production of medium duty trucks the investigation revealed that criterion (3) has not been met.

U.S. imports of medium duty trucks and truck chassis decreased absolutely and relative to domestic production in 1978 compared to 1977 and in 1979 compared to 1978. The ratios of imports to domestic production and consumption have remained below 5 percent in 1978 and 1979.

With respect to the production of vans and light and heavy duty trucks, all of the requirements have been met.

U.S. imports of passenger vans increased relative to domestic production and consumption in 1978 compared to 1977. U.S. imports of both passenger and utility vans increased relative to domestic production and consumption in 1979 compared to 1978.

Company imports of passenger vans increased relative to GM's domestic production in MY 1979 compared to MY 1978. Company imports of both passenger and utility vans increased relative to GM's domestic production in the first four months of MY 1980 compared to the same period in MY 1979.

General Motors Assembly Division—Lordstown, Ohio (TA–W–7082)

With respect to the production of subcompact automobiles, the investigation revealed that criterion (2) has not been met.

During the MY 1978–80 period, the Lordstown plant's total production of subcompact cars, which includes the Chevrolet Monza, Pontiac Sunbird, Oldsmobile Starfire and Buick Skyhawk increased in MY 1979 compared to MY 1978 and increased in the first four months of MY 1980 compared to the above period in MY 1979.

Total GM domestic production of subcompact automobiles also increased in MY 1979 compared to MY 1978 and in the first four months of MY 1980 compared to the same period in MY 1979.

With respect to the production of vans, all the criteria have been met.

U.S. imports of passenger vans increased in 1978 compared to 1979 relative to domestic production and consumption. Imports of both passenger and utility vans increased relative to domestic production and consumption in 1979 compared to 1978.

General Motors imports both passenger and utility vans. Company imports of passenger vans increased relative to GM's domestic production in MY 1979 compared to MY 1978. Company imports of both passenger and utility vans increased relative to domestic production in the first four months of MY 1980 compared to the same period in MY 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with vans and light and heavy duty trucks produced at the Pontiac, Michigan plant of GMC Truck and Coach Assembly Division of General Motors Corporation and that increased imports of articles like or directly competitive with light duty trucks produced at the Lakewood, Georgia plant and with vans produced at the Lordstown, Ohio plant of the General Motors Assembly Division of General Motors Corporation contributed importantly to the decline in sales or production and to the total or partial production of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

All workers of the Pontiac, Michigan plant of GMC Truck and Coach Assembly Division engaged in employment related to the production of vans and light and heavy duty trucks and all workers of the Lakewood, Georgia plant of the General Motors Assembly Division of General Motors Corporation engaged in employment related to the production of light duty trucks who became totally or partially separated from employment on or after September 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974; and

All workers of the Lordstown, Ohio plant of the General Motors Assembly Division of General Motors Corporation engaged in employment related to the production of vans who became totally or partially separated from employment on or after September 22, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of April 1980.

Herbert N. Blackman,

Associate Deputy Under Secretary, International Affairs.

[FR Doc. 80–13559 Filed 5–1–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–6610]

Republic Steel Corp., Buffalo District, Buffalo, N.Y.; Negative Determination Regarding Application for Reconsideration

By an application dated March 23, 1980, one of the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of Republic Steel Corporation, Buffalo District, Buffalo, New York. The determination was published in the **Federal Register** on March 4, 1980 (45 FR 14165).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner claims in his application for reconsideration that employment and production at the Buffalo District of Republic Steel Corporation have declined significantly since the fourth quarter of 1979 as a result of slackening demand for steel by the automotive industry which has been injured by competition from foreign car manufacturers. The petitioner submits, in effect, that the workers at the Buffalo District producing hot-rolled carbon and alloy steel bars have been adversely affected by increases in imports of cars and should be certified as eligible to apply for adjustment assistance on the basis of this adverse effect.

A requirement which must be satisfied for certification under the worker adjustment assistance provisions of the Trade Act of 1974 is the following: that increases of imports of articles "like or directly competitive" with the articles produced by the workers' firm have contributed importantly to the separation of workers and to the decline in sales or production at the workers' firm. In establishing what articles are "like or directly competitive" with the carbon alloy and steel bars produced by the Buffalo District, the Department must consider articles which are either substantially identical or substantially equivalent for commercial purposes, i.e., are adapted to the same uses and are essentially interchangeable. Clearly, automobiles are neither substantially identical nor substantially equivalent for commercial purposes with steel bars. Therefore, when determining the impact of like or directly competitive imports on the domestic production of hot-rolled carbon and alloy steel bars, the Department must consider imports of such steel bars.

Aggregate U.S. imports of hot-rolled carbon and alloy steel bars decreased absolutely and relative to domestic shipments in 1978 compared with 1977 and 1979 compared with 1978. U.S. imports of hot-rolled alloy steel bars increased in 1978 compared with 1977; however, production and employment also increased at the Buffalo District in this period. U.S. imports of hot-rolled alloy steel bars decreased absolutely and relative to domestic shipments in 1979 compared with 1978.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 25th day of April 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-13560 Filed 5-1-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6739]

Steel Parts Corp.; Negative Determination Regarding Application for Reconsideration

By application dated April 7, 1980, the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing clutch plates, bushing components and automotive and truck door hinges at the Steel Parts Corporation, Tipton, Indiana, plant. The determination was published in the **Federal Register** on March 14, 1980, (45 FR 16656).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioners claim that imports of automobiles caused workers producing clutch plates, bushing components and automotive and truck door hinges at the Steel Parts Corporation, Tipton, Indiana, to be laid off.

The Department's review indicated that workers at the Steel Parts Corporation, Tipton, Indiana, did not meet the "contributed importantly" test of the Trade Act of 1974. In the Department's survey of customers of the Steel Parts Corporation, responses were received which represented over half of the Steel Parts Corporation's total sales in 1978 and 1979. The survey indicated that none of the customers imported clutch plates and bushing components in 1978 or 1979. Production of automotive and truck door hinges increased in 1979 compared to 1978.

The Department does not agree with the petitioners in their claim that imports of automobiles can be used in determining import injury for workers producing automobile components, even though they may have had a secondary impact on supplies of component parts to domestic automakers. The Department has already determined that imports of a finished article cannot be considered like or directly competitive with components of that article. Imports of such components must be considered by themselves in determining import injury to workers. The courts have concluded that imported finished articles are not like or directly competitive with domestic component parts thereof, *United Shoe Workers of America AFL-CIO v. Bedell, 506 F 2d. 174 (1974).* In that case, the court held that imported women's shoes were not like or directly competitive with the shoe counters, a component of footwear.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 24th day of April 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-13561 Filed 5-1-80; 8:45 am]

BILLING CODE 4510-28-M

Steel Tripartite Committee; Working Group on Environmental Protection

Correction

In FR Doc. 80-12816, appearing at page 28017 in the issue of Friday, April 25, 1980, the room number in the fifth line of the second paragraph should have read, "2126".

BILLING CODE 1505-01

MINIMUM WAGE STUDY COMMISSION

Invitation to Submit Testimony and Comments

The Minimum Wage study Commission was established by Pub. L. 95-151, the Fair Labor Standards Act Amendments of 1977. The Commission, whose statutory life ends on June 24, 1981, is "to conduct a study of the Fair Labor Standards Act of 1938 and the social, political and economic ramifications of the Act * * *"

The law further specifies that the study shall include but not be limited to—

(A) The beneficial effects of the minimum wage, including its effect in ameliorating poverty among working citizens;

(B) The inflationary impact (if any) of increases in the minimum wage prescribed by that Act;

(C) The effect (if any) such increases have on wages paid employees at a rate in excess of the rate prescribed by that Act;

(D) The economic consequence (if any) of authorizing an automatic increase in the rate prescribed in that Act on the basis of an increase in a wage, price, or other index;

(E) The employment and unemployment effects (if any) of providing a different minimum wage rate for youth, and the employment and unemployment effects (if any) on handicapped and aged individuals of an increase in such rate and of providing a different minimum wage rate for such individuals;

(F) The effect (if any) of the full-time student certification program on employment and unemployment;

(G) The employment and unemployment effects (if any) of the minimum wage;

(H) The exemptions from the minimum wage and overtime requirements of that Act;

(I) The relationship (if any) between the Federal minimum wage rates and public assistance programs, including the extent to which employees at such rates are also eligible to receive food stamps and other public assistance;

(J) The overall level of noncompliance with that Act;

(K) The demographic profile of minimum wage workers; and

(L) The extent to which the exemptions from the minimum wage and overtime requirements of the Fair Labor

Standards Act of 1938 may apply to employees of conglomerates.

The Commission was not created simply to provide another forum in which to display familiar arguments. The Congress intended that it should collect and analyze the evidence which shows how the Fair Labor Standards Act has, in fact, affected the society and the economy. To do this, the Commission has engaged a professional staff, and has secured the services under contract of other experts. The Commission's findings of fact will largely depend on the evidence these experts provide to us.

In addition to stating the facts, the Commission will almost certainly make recommendations to the Congress and to the President with regard to possible changes in the law and regulations under the law. The Commission believes it would be helpful in assessing the facts and in reaching conclusions about the implications of those facts if interested and qualified individuals and groups were to submit *written* comments to the Commission.

As a public body soliciting comments from the public at large, we do not consider it appropriate to limit such comments. However, to make the materials submitted most useful for us and most effective for you, we suggest the following:

1. To the extent possible, written comments should be organized in terms of the separate items within the legislative mandate of the Commission (see above). Persons submitting statements may want to address all, some or only one of the mandated issues, but it will help the Commission if the mandate being addressed is clearly identified.

2. While arguments from principle are wholly legitimate, and indeed necessary for the Commission's purposes, those submitting statements may assume that the Commissioners are aware of most of the broad hypotheses regarding the minimum wage, pro and con. The most useful statements will be those which provide, in manageable form, new data on the impact of the Act on the individual or group submitting the statement, or those represented by that individual or group. Evidence is more useful than argument at this stage of the process.

3. It would be appreciated if each statement could be submitted in 12 copies.

4. Obviously, evidence and arguments may be presented to the Commission at any time by any interested citizen. But to be most useful, they should be before us in time to be studied by the Commissioners. Though it is in no sense a cut-off date, we suggest that statements be submitted to the Commission by December 31, 1980, if at all possible. Statements submitted later than that date may in some cases come to the attention of the Commissioners after the Commission has made preliminary or even final decisions on the issues covered.

Louis E. McConnell,

Executive Director.

[FR Doc. 80-13580 Filed 5-1-80; 8:45 am]

BILLING CODE 4510-23-M

Meeting

In accordance with Section 10(a)(a) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Executive Session meeting:

Name: Minimum Wage Study Commission
Date: May 13, 1980
Time: 10:30 a.m.
Place: 1430 K St. NW, Suite 1102, Washington, D.C. 20005

Original notice of this meeting date appeared in the **Federal Register** March 27, 1980. This meeting will be closed to the public.

Proposed Agenda

1. Budget
2. Potential research contractors

Next meeting of the Commission will be Tuesday, June 10, 1980.

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, Executive Director, 1430 K St. NW, Suite 500, Washington, D.C. 20005, telephone (202) 376-2450.

Louis E. McConnell,

Executive Director.

[FR Doc. 80-13581 Filed 5-1-80; 8:45 am]

BILLING CODE 4510-23-M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Meeting; Correction

The National Commission on Unemployment Compensation will hold its May meeting at 1815 N. Lynn Street, Suite 440, Rosslyn, Virginia—*Not* Austin, Texas, as originally announced. The meeting will begin at 9:00 A.M., on Thursday, May 15 and conclude at 5:30 P.M., on Friday, May 16. Because the Saturday, May 17 session has been cancelled, there may be some adjustment from the draft agenda published in the April 24, 1980, **Federal Register** (45 FR 27846).

Telephone inquiries and communications concerning this meeting should be directed to: Roger Webb, Deputy Executive Director, National Commission on Unemployment Compensation, 1815 N. Lynn Street, Room 440, Rosslyn, Virginia 22209, (703) 235-2782.

Signed at Washington, D.C., this 28th day of April 1980.

Roger Webb,

Deputy Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 80-13582 Filed 5-1-80; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for PCM; Subcommittee on Genetic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Genetic Biology of the Advisory Committee for Physiology, Cellular & Molecular Biology.
Date and Time: May 22-24, 1980.
Place: Room 321, National Science Foundation, 1800 G Street, N.W. Washington, D.C. 20550.
Type of meeting: Closed.
Contact Person: Dr. Philip D. Harriman, Program Director, Genetic Biology Program, Room 326. National Science Foundation, Washington, D.C. 20550, telephone (202) 632-5985.
Purpose of subcommittee: To provide advice and recomendations concerning support for research in genetic biology.
Agenda: To review and evaluate research proposals as part of the selction process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary of confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

April 29, 1980.

[FR Doc. 80-13601 Filed 5-1-80; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for PCM; Subcommittee on Human Cell Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Human Cell Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.
Date and time: May 27–28, 1980 at 9:00 a.m.
Place: Room 421, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Herman W. Lewis, Program Director, Human Cell Biology Program, Room 326, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–4200.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Human Cell Biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determine was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

April 29, 1980.

[FR Doc. 80–13611 Filed 5–1–80; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Physiology, Cellular, and Molecular Biology; Subcommittee on Cell Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Cell Biology, of the Advisory Committee for Physiology, Cellular, and Molecular Biology.
Date and time: May 19, 20, and 21, 1980; 9 a.m. to 5 p.m. each day.
Place: Room 321, National Science Foundation, 1800 G Street, N.W., Washington, DC 20550.
Type of meeting: Closed.
Contact person: Dr. J. Eugene Fox, Program Director, Cell Biology Program, Room 333, National Science Foundation, Washington, DC 20550. Telephone: 202/632–4718.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Cell Biology.
Agenda: To review and evaluate research proposals as part of the selection process of awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

April 29, 1980.

[FR Doc. 80–13602 Filed 5–1–80; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee on Special Research Equipment; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting.

Name: Advisory Committee on Special Research Equipment (2-year and 4-year colleges).
Date and time: May 22–23, 1980—9:00 a.m. to 5:00 p.m.
Place: Rooms 1224 and 421, National Science Foundation, 1800 G Street, N.W., Washington, D.C.
Type of Meeting: Closed.
Contact person: Dr. Howard H. Hines, Program Director, Room 428, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357–9615.
Purpose of committee: To evaluate research equipment proposals.
Agenda: To review and evaluate research equipment proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

April 29, 1980.

[FR Doc. 80–13606 Filed 5–1–80; 8:45 am]

BILLING CODE 7555–01–M

Committee Management; Notice of Renewal; Advisory Committee for Information Science and Technology

Pursuant to the Federal Avisory Committee Act, Pub. L. 92–463, the Acting Director of the National Science Foundation has determined that the renewal of the Advisory Committee for Information Science and Technology is necessary and is in the public interest in connection with the performance of duties imposed upon the National Science Foundation by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Committee Management Secretariat Staff, General Services Administration, pursuant to Section 14(a)(1) of the Federal Advisory Committee Act and OMB circular No. A–63, Revised.

Authority for the Advisory Committee for Information Science and Technology shall expire on May 19, 1982, unless the Director of the National Science Foundation formally determines that continuance is in the public interest.

M. Rebecca Winkler,

Committee Management Coordinator.

April 29, 1980.

[FR Doc. 80–13600 Filed 5–1–80; 8:45 am]

BILLING CODE 7555–01–M

Executive Committee Advisory Committee for Social and Economic Science; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: The Executive Committee of the Advisory Committee for Social and Economic Science.
Date and time: May 19 and 20, 1980; 9:00 a.m. to 5:00 p.m. each day.
Place: Room 338, National Science Foundation, 1800 G Street, NW. Wash., D.C. 20550.
Type of meeting: Closed.
Contact person: B. W. Rubinstein, Acting Division Director, Social and Economic Science, Room 316, National Science Foundation, Washington, DC 20550. Telephone (202) 357–7966.
Purpose of committee: To provide advice and recommendations concerning NSF support for research in social and economic sciences.

Agenda: Review and comparison of declined proposals (and supporting documentation) with the successful awards under the Sociology Program and the Political Science Program, including review of peer review materials and other priviledged material.

Reason for closing: The Subcommittee will be reviewing grants and declinations jackets which contain the names of applicant institutions and principal investigators and priviledged information contained in declined proposals. This session will also include a review of peer review documentation pertaining to applicants. These matters are within exemption (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.

Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

April 29, 1980.

[FR Doc. 80–13603 Filed 5–1–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee for Computer Science of the Advisory Committee for Mathematical and Computer Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463 as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for Computer Science of the Advisory Committee for Mathematical and Computer Sciences.

Date and time: May 28, 29 and 30, 1980—9:00 a.m. each day.

Place: Room 642, National Science Foundation, 1800 G. Street, N.W., Washington, D.C. 20550.

Type of meeting: Part Open: 5/28 Closed—9:00 a.m. to 5:00 p.m.; 5.29 Closed—9:00 a.m. to 12:00 noon; 5/29 Open—1:00 p.m. to 5:00 p.m. 5/30 Open—9:00 a.m. to 5:00 p.m.

Contact person: Mr. Kent K. Curtis, Head, Computer Science Section, Room 339, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 357–9746. Anyone planning to attend this meeting should notify Mr. Curtis no later than 5/21/80.

Summary minutes: May be obtained from the Contact Person at the above stated address.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Computer Science.

Agenda:

Wednesday, May 28, 1980—9:00 a.m. to 5:00 p.m.—Closed

Review and comparison of declined proposals (and supporting documentation) with successful awards under the Theoretical Computer Science Program, including review of peer review materials and other privileged material.

Preparation of a report based upon the above review.

Thursday, May 29, 1980—9:00 a.m. to 12:00 noon—Closed

9:00 a.m.—Review and discussion of proposals under consideration for funding in the following three areas:

9:10 a.m.—Computer Science Research Network, Dr. Charles W. Kern.

10:00 a.m.—Experimental Computer Science, Dr. W. Richards Adrion.

11:00 a.m.—Discussion of report of Oversight Review of Theoretical Computer Science.

Thursday, May 29, 1980—12:00 noon to 5:00 p.m.—Open

12:00 noon—Brown Bag Lunch, Report on Japanese Activities in Computer Science, Dr. Edward A. Feigenbaum.

1:30 p.m.—NSF Priorities, Dr. William Klemperer.

2:30 p.m.—Division of Mathematical and Computer Sciences Priorities, Dr. John R. Pasta.

3:30 p.m.—Young Investigator's Program, Dr. Meera Blattner.

Friday, May 30, 1980—9:00 a.m. to 3:00 p.m.—Open

9:00 a.m.—NSF Priorities for Support of Computer Science, Dr. Paul R. Young.

12:00 noon—Lunch.

1:00 p.m.—Advisory Committee Organization and Function, Dr. Paul R. Young.

3:00 p.m.—Adjourn.

Reason for closing: The Subcommittee will be reviewing grants and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer delegated the authority to make such determinations by the Acting Director, NSF on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80–13612 Filed 5–1–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee on Developmental Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Developmental Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.

Date and time: May 26, 27, 28, and 29th, 1980—starting at 7:30 p.m., on May 26, 9 a.m. to 5 p.m. on May 27 and 28, and 9 to 12 noon on the 29th.

Place: Room 543, National Science Foundation, 1800 G Street, N.W. Washington, D.C. 20550.

Type of meeting: Closed.

Contact Person: Dr. Mary E. Clutter, Program Director, Developmental Biology Program, Room 326, National Science Foundation, Washington, D.C. 20550, telephone 202/632–4314.

Purpose of subcommittee: To provide advice and recommendations concerning support of research in developmental Biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

April 29, 1980.

[FR Doc. 80–13615 Filed 5–1–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee on Geography and Regional Science; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Geography and Regional Science of the Advisory Committee for Social and Economic Science.

Date and time: May 23, 1980; 8:30 a.m. to 5 p.m.

Place: Room 540, National Science Foundation, 18th and G Street, N.W., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Barry M. Moriarty, Program Director, Geography and Regional Science, Room 312, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357–7326.

Purpose of Subcommittee: To provide advice and recommendations concerning support for research in Geography and Regional Science.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

April 29, 1980.

[FR Doc. 80–13609 Filed 5–1–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee on Linguistics; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: subcommittee on Linguistics of the Advisory Committee for Behavioral and Neural Sciences.

Date and time: May 22 and 23, 1980; 9:00 a.m. to 5:00 p.m. each day.

Place: Room 628, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of meeting: Closed—5/22–9:00 a.m. to 5:00 p.m.; 5/23—1:00 p.m. to 5:00 p.m.; Open—5/23—9:00 a.m. to 12:00 noon.

Contact person: Dr. Paul G. Chapin, Progarm Director, Linguistics Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone (202) 357–7696.

Summary minutes: May be obtained from the contact person, Dr. Paul G. Chapin, at the above stated address.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Linguistics.

Agenda:

Closed—May 22, 9:00 a.m. to 5:00 p.m., May 23, 1:00 p.m. to 5:00 p.m. to review and evaluate research proposals as part of the selection process for awards.

Open—May 23, 9:00 a.m. to 12:00 noon. General discussion of the current status and future plans of the Linguistics Program.

Reason for closing: The Proposals being reviewed include information of a proprietary or confidential nature, including technical information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. the Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

April 29, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80–13607 Filed 5–1–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee on Memory and Cognitive Processes; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Memory and Cognitive Processes of the Advisory Committee for Behavioral and Neural Sciences.

Date and time: May 27 and 28, 1980, 9 a.m. to 5 p.m. each day.

Place: National Science Foundation, 1800 G Street, N.W., Room 338, Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Joseph L. Young, Program Director, Memory and Cognitive Processes Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone (202) 634–1583.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Memory and Cognitive Processes.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

April 29, 1980.

[FR Doc. 80–13610 Filed 5–1–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee on Metabolic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 9–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Metabolic Biology of the Advisory Committee for Physiology, Cellular, and Metabolic Biology.

Date and time: May 29 and 30, 1980; 9:00 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G St., N.W., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Elijah B. Romanoff, Program Director, Metabolic Biology Program, Room 331, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 632–4312.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Metabolic Biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section (10)d of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

April 29, 1980.

[FR Doc. 80–13613 Filed 5–1–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee on Molecular Biology, Group B, of the Advisory for Physiology, Cellular, and Molecular Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Molecular Biology, Group B, of the Advisory Committee for Physiology, Cellular, and Molecular Biology.

Date and time: May 22 and 23, 1980; 9:00 a.m. to 5:00 p.m. each day.

Place: Room 643, National Science Foundation, 1800 G Street, N.W., Washington, DC 20550.

Type of meeting: Closed.

Contact person: Dr. Donald M. Green, Program Director, Biochemistry Program, Room 330, National Science Foundation, Washington, DC 20550, Telephone: 202/632–4260.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Molecular Biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a

proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

Becky Winkler,

Committee Management Coordinator.

April 29, 1980.

[FR Doc. 80–13606 Filed 5–1–80; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Physiology, Cellular and Molecular Biology Subcommittee on Metabolic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Metabolic Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.

Date and time: May 31 and June 1, 1980; 9:00 a.m. to 5:00 p.m. each day.

Place: Tulane University Medical School, New Orleans, Louisiana.

Type of meeting: Closed.

Contact person: Dr. Elijah B. Romanoff, Program Director, Metabolic Biology Program, Room 331, National Science Foundation, Wash., D.C. 20550, Telephone: (202) 632–4312.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Metabolic Biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section (10)d of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on July 6, 1979.

Becky Winkler,

Committee Management Coordinator.

April 29, 1980.

[FR Doc. 80–13616 Filed 5–1–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee on Neurobiology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting.

Name: Subcommittee on Neurobiology of the Advisory Committee for Behavioral and Neural Sciences.

Date and time: May 21, 22, and 23, 1980: 9:00 a.m. to 5:00 p.m. each day.

Place: Room 543, National Science Foundation, 1800 G Street, N.W., Washington, D.C.

Type of Meeting: Closed.

Contact person: Dr. A. O. Dennis Willows, Program Director, Neurobiology Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202/634–4036.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Neurobiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

April 29, 1980.

[FR Doc. 80–13604 Filed 5–1–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee on Political Science of the Advisory Committee for Social and Economic Science; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Political Science of the Advisory Committee for Social and Economic Science.

Date and time: May 22–23, 1980 9:00 a.m. to 5:00 p.m. each day.

Place: Room 536, National Science Foundation, 1800 G Street, N.W. Washington, D.C. 20050.

Type of meeting: Closed.—9:00 a.m. to 5:00 p.m. May 22–23, 1980.

Contact Person: Dr. Gerald C. Wright, Jr., Program Director, Political Science Program, Room 312, National Science Foundation, Washington, D.C. 20550, Telephone (202) 632–4348.

Purpose of subcommittee: To provide advice and recommendations concerning research in Political Science.

Agenda: Closed: to review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

April 29, 1980.

[FR Doc. 80–13605 Filed 5–1–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee on Social and Developmental Psychology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Social and Developmental Psychology of the Advisory Committee for Behavioral and Neural Sciences.

Date and time: May 29–30, 1980: 9:00 a.m. to 5:00 p.m. each day.

Place: Room 643, National Science Foundation, 1800 G Street, N.W. Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Robert A. Baron, Program Director, Social and Developmental Psychology, Room 320, National Science Foundation, Wash. D.C. 20550, telephone (202–632–5714).

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Social and Developmental Psychology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reasons for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

April 29, 1980.

[FR Doc. 80–13614 Filed 5–1–80; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50–416 and 50–417]

Mississippi Power & Light Co. and Middle South Energy, Inc., Grand Gulf Nuclear Station, Units Nos. 1 and 2; Issuance of Amendments to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 5 to Construction Permits CPPR–118 and CPPR–119 issued to the Mississippi Power & Light Company *et al.* for construction of the Grand Gulf Nuclear Station, Unit Nos. 1 and 2. These amendments allow a change in the Environmental Protection Program to delete a requirement for monitoring and documenting stage and correlating stage with surface water quality measurements. The amendments are effective as of the date of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations. Prior public notice of these amendments is not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action see: (1) The application for amendments dated July 10, 1979; (2) supplemental letter dated September 12, 1979; (3) Amendment No. 5 to Construction Permit CPPR–118, and (4) Amendment No. 5 to Construction Permit CPPR–119. All of these items and other related material are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Local Public Document located at the Claiborne County Courthouse, Port Gibson, Mississippi.

A copy of items (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 25th day of April 1980.

For the Nuclear Regulatory Commission.

Ronald L. Ballard,

Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 80–13485 Filed 5–1–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–244]

Rochester Gas and Electric Corp.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 32 to Provisional Operating License No. DPR–18, to Rochester Gas and Electric Corporation (the licensee), which revised the license and its appended Technical Specifications for operation of the R. E. Ginna Plant (facility) located in Wayne County, New York. This amendment is effective as of its date of issuance.

The amendment authorizes the licensee to possess and use four mixed oxide fuel assemblies.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 14, 1979 (transmitted by letter dated December 20, 1979) and supplements thereto dated February 20, 1980 and March 5, 1980, (2) Amendment No. 32 to License No. DPR–18, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 15th day of April, 1980.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Acting Director, Division of Operating Reactors.

[FR Doc. 80–13486 Filed 5–1–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–346]

Toledo Edison Co. and Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 24 to Facility Operating License No. NPF–3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised the license for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

The amendment consolidates License Conditions 2.C.(3)(h) and 2.C.(4) to provide for a delay in the completion of the fire protection modifications. The licensees had been required to complete all fire protection modifications by April 22, 1980, except for a service water system backup which was required to be provided by mid-1984. As a result of the license amendment, the licensees will now be required to complete such modifications prior to plant heatup following the current refueling outage,

except that the service water system backup is to be provided by mid-1984.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d()4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 22, 1979, as supplemented April 10, 1980, (2) Amendment No. 24 to License No. NPF–3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 22nd day of April 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 80–13484 Filed 5–1–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–356]

University of Illinois at Urbana-Champaign; Notice of Proposed Renewal of Facility License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R–117, issued to The University of Illinois at Urbana-Champaign (the licensee), for operation of the Low Power Reactor Assembly located on the licensee's campus at Urbana, Illinois.

The renewal would extend the expiration date of Facility License No. R–117 to November 1, 1989, in accordance with the licensee's timely application for renewal dated September 24, 1979, as supplemented October 9, 1979.

Prior to renewal of the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By June 2, 1980, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed furing the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert W. Reid: (petitioner's name and telephone number); (date petition was mailed); (University of Illinois); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the Granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a)(i)–(v) and § 2.714(d).

For further details with respect to this action, see the application for renewal dated September 24, 1979, as supplemented October 9, 1979, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland, this 24th day of April, 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors

[FR Doc. 80-13349 Filed 5-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-148]

The University of Kansas; Notice of Proposed Renewal of Facility License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R-78, issued to The University of Kansas (the licensee), for operation of the pool-type nuclear reactor located on the licensee's campus at Lawrence, Kansas.

The renewal would extend the expiration date of Facility License No. R-78 to April 7, 1990, in accordance with the licensee's timely application for renewal dated March 4, 1980.

Prior to renewal of the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By June 2, 1980, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert W. Reid: (petitioner's name and telephone number); (date petition was mailed); (Kansas); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive

Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a)(i)–(v) and § 2.714(d).

For further details with respect to this action, see the application for renewal dated March 4, 1980, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland, this 24th day of April, 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors, Branch No. 4, Division of Operating Reactors.

[FR Doc. 80-13348 Filed 5-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-124]

Virginia Polytechnic Institute and State University; Notice of Proposed Renewal of Facility License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R-62, issued to Virginia Polytechnic Institute and State University (the licensee), for operation of the Argonaut-type nuclear reactor located on the licensee's campus at Blacksburg, Virginia.

The renewal would extend the expiration date of Facility License No. R-62 to November 16, 1989, in accordance with the licensee's timely application for renewal dated October 2, 1979, as supplemented March 19, 1980. The Commission is also considering an increase from 100 KW (thermal) to 500 KW (thermal) in the reactor's maximum authorized steady-state power level as requested in the licensee's renewal application.

Prior to renewal of the license and authorization of the power increase, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By June 2, 1980, the licensee may file a request for a hearing with respect to these actions and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the actions under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and crossexamine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert W. Reid: (petitioner's name and telephone number); (date petition was mailed); (Virginia Polytechnic Institute and State University); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a)(i)–(v) and § 2.714(d).

For further details with respect to this action, see the application dated October 2, 1979, as supplemented March 19, 1980, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland, this 24th day of April, 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 80–13350 Filed 5–1–80; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Proposed New Routine Use for an Existing System of Records

AGENCY: Office of Personnel Management.

ACTION: Notice; Proposed new routine use for an existing system of records.

SUMMARY: The purpose of this document is to propose a new routine use for the Office's General personnel Records system (OPM/GOVT–1). This proposal will permit, once the routine use is in effect, the disclosure of personal records from the Office's Central Personnel Data File (CPDF) to the Federal Acquisition Institute (FAI) for use in promoting efficiency and effectiveness in procurement of property and services by and for Executive Branch agencies as required by the Federal Procurement Act, as amended.

COMMENT DATE: Any interested party may submit written comments regarding the proposal. To be considered, comments must be received on or before June 2, 1980.

ADDRESS: Address comments to: Deputy Assistant Director for Work Force Information, Office of Personnel Management (Room 6410), 1900 E Street, N.W., Washington, D.C. 20415. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: William H. Lynch, Work Force Records Management Branch (202) 254–9790.

SUPPLEMENTARY INFORMATION: Pursuant to Public Law 93–400 (88 Stat. 796) as amended by Pub. L. 96–83, the Federal Acquisition Institute (FAI) is required to recommend and promote programs of the Office of Personnel Management and of executive agencies for the recruitment, training, career development, and performance evaluation or procurement personnel (41 U.S.C. 405(c)(6)). To support these programs, the FAI established the Federal Acquisition Personnel Information System (FAPIS) on September 24, 1978, under the provisions of the FAI's notice of the new system of records in the **Federal Register** (45 FR 8399).

To avoid a costly duplication of the Office's data collection mechanisms, the FAI has proposed, in consultation with the Office and with Office's formal concurrence, that the Central Personnel Data File (CPDF) be the primary, but not the only, source of data for FAPIS. Such data would include information which is

considered public for most Federal employees (i.e., as stated in 5 CFR 294.702(a)), along with Social Security Numbers, dates of birth, educational levels, dates upon which the employees received degrees, types of positions (e.g., supervisory or managerial), and other such data on the employees involved. Such data can be readily extracted from the CPDF for employees in procurement occupational series. For employees in other series, the FAI may periodically survey its member agencies to identify such employees who spend the predominant amount of their work hours on procurement tasks. The FAI may furnish the Office with the identity of these individuals to obtain data from the CPDF files.

The purpose of the FAPIS is to develop statistical studies and reports on the procurement workforce. Individually identifiable data is necessary only for such purposes as: (1) merging data obtained by the FAI from separate systems of records (e.g., the CPDF and FAI task analysis surveys); (2) longitudinal studies of trends in the careers of the members of different occupations and specializations; and (3) selecting stratified random samples of individuals for special surveys. Under the system notice for FAPIS, the only individually identifiable data that the FAI may release to its member agencies (and only to those agencies) are lists of names, Social Security Numbers, birth dates, organizational mailing addresses and organizational phone numbers. As stated in the routine use section of the FAPIS system notice: "Purposes served thereby are to identify specific individuals who should be included in agency reports on members of the acquisition and logistics workforce and/or to locate specific individuals for personnel research. *No individually identifiable data will be disclosed that would permit an individual's employing agency to make a decision about the individual*" (emphasis added). This limitation is a prerequisite for releasing data from the CPDF to the FAI.

The FAI will use data about individuals in the FAPIS to prepare reports and studies which include the following:

1. Annual reports on separations and accessions (both internal and external) by organizational, occupational, and geographic categories and, based in part on historical data, on projections of future separations and accessions. These reports will be invaluable to staffing programs of the FAI and its member agencies.

2. Annual reports on the characteristics of newly hired employees, such as their educational levels and academic majors. These data are vital to evaluating the staffing programs of the FAI and its member agencies.

3. Annual reports on the educational levels of employees by organizational, occupational, and geographic categories. These reports will be invaluable to the educational programs of the FAI and its member agencies.

4. Annual reports on the training provided by organizational, occupational and geographic categories. These reports will be invaluable in planning and evaluating the training programs of the FAI and its member agencies.

Section 406 of title 41, U.S. Code, states ". . . (2) except where prohibited by law, agencies shall furnish . . . and give access to . . . records in its possession . . ." Therefore, in order to comply with this requirement when the records are subject to the Privacy Act, it is necessary to establish a routine use that permits disclosure of the data. The principal purpose of the CPDF system is to provide statistical reports on the makeup of the Federal work force for use by OPM, Federal agencies, the Congress, and the public. Such information enables users to determine that personnel management policies and practices remain effective in dealing with changing work force characteristics and to initiate changes that improve the productivity of the work force. The Office believes the routine use permitting disclosure of the data to the FAI is compatible with these purposes for maintaining the CPDF system of records. An important consideration in deciding to permit disclosure under this routine use is the assurance that the FAI, when contacting individuals in the system for additional data, will inform them of the fact that they are part of the FAI system. The information will be retained in FAI's system of records as published in the **Federal Register** (45 FR 8399) of February 7, 1980.

The CPDF records are part of the General Personnel Records system (OPM/GOVT–1). A notice for this system of records was published in the **Federal Register** (44 FR 61705) of October 26, 1979. The system name and the complete list of the routine uses (including the proposed new routine use bb in italics) for this system of records appears below.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

OPM/GOVT-1

SYSTEM NAME:

General Personnel Records.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to Government training facilities (Federal, State, and local) and to non-Government training facilities (private vendors of training courses or programs, private schools, etc.) for training purposes.

b. To disclose information to educational institutions on appointment of a recent graduate to a position in the Federal service, and to provide college and university officials with information about their students working under the Cooperative Education Volunteer Service, or other similar programs where necessary to the students obtaining of credit for the experience gained.

c. To disclose information to officials of foreign governments for clearance before a Federal employee is assigned to that country.

d. To disclose information to the Department of Labor; Veterans Administration; Social Security Administration; Department of Defense; Federal agencies that have special civilian employee retirement programs; or a national, state, county, municipal, or other publicly recognized charitable or social security administration agency (e.g., state unemployment compensation agencies); where necessary to adjudicate a claim under the retirement, insurance or health benefit program(s) of the Office of Personnel Management or an agency cited above, or to conduct an analytical study of benefits being paid under such programs.

e. To disclose to the Official of Federal Employee's Group Life Insurance information necessary to verify election, declination, or waiver of regular and/or optional life insurance coverage or eligibility for payment of claim for life insurance.

f. To disclose to health insurance carriers contracting with the Office of Personnel Management to provide a health benefits plan under the Federal Employees Health Benefits Program, information necessary to identify enrollment in a plan, to verify eligibility for payment of a claim for health benefits or to carry out the coordination of benefits provisions of such contracts.

g. To disclose information to a Federal, State, or local agency for determination of an individual's entitlement to benefits in connection with Federal Housing Administration programs.

h. To consider and select employees for incentive awards and other honors and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee awards or honors.

i. To consider employees for recognition through quality step increases, and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee recognition.

j. To disclose information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

k. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

l. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), where necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, of letting of a contract, or the issuance of a license, grant, or other benefit.

m. To disclose information to an agency in the executive, legislative, or judicial branch, or the District of Columbia Government, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

n. To disclose information to the Office of Management and Budget at

any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

o. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

p. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

q. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

r. By the agency maintaining the records or the Office to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

s. To provide an official of another Federal agency information he or she needs to know in the performance of his or her official duties related to reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained.

t. When an individual to whom a record pertains is mentally incompetent or under other legal disability, information in the individual's record may be disclosed to any person who is responsible for the care of the individual, to the extent necessary to assure payment of benefits to which the individual is entitled.

u. To disclose to the agency-appointed representative of an employee all notices, determinations, decisions, or other written communications issued to the employee, in connection with a psychiatric examination ordered by the agency under:

(1) fitness-for-duty examination procedures; or

(2) agency-filed disability retirement procedures.

v. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

w. To disclose information to officials of; the Merit Systems Protection Board, including the Office of the Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

x. To disclose to a requesting agency the home address and other relevant information concerning those individuals who, it is reasonably believed, might have contracted an illness, been exposed to, or suffered from a health hazard while employed in the Federal work force.

y. To disclose specific civil service employment information required under law by the Department of Defense on individuals identified as members of the Ready Reserve, to assure continuous mobilization readiness of Ready Reserve units and members.

z. To disclose information to the Department of Defense, National Oceanic and Atmospheric Administration, United States Public Health Service, and the United States Coast Guard needed to effect any adjustments in retired or retained pay required by the dual compensation provisions of Section 5532 of title 5, United States Code.

aa. To disclose to prospective non-Federal employers, the following information about a current or former Federal employee:

(1) Tenure of employment;

(2) Civil service status;

(3) Length of service in the agency and the Government; and

(4) When separated, the date and nature of action as shown on the Notification of Personnel Action, Standard Form 50.

bb. *To disclose information to the Federal Acquisition Institute about Federal employees in procurement occupations and positions in other occupations whose incumbents spend the predominant amount of their work hours on procurement tasks; provided that the FAI shall only use the data for such purposes and under such conditions as prescribed by the notice of the Federal Acquisition Personnel Information System as published in the Federal Register on February 7, 1980 (45 FR 8399).*

[FR Doc. 80–13489 Filed 5–1–80; 8:45 am]

BILLING CODE 6325–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1826]

Alabama; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Lee and

Mobile Counties and adjacent counties within the State of Alabama constitute a disaster area because of damage resulting from severe storms, tornadoes and flooding beginning on or about April 12, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 19, 1980, and for economic injury until the close of business on January 19, 1981, at:

Small Business Administration, District Office, 908 South 20th Street, Birmingham, Alabama 35205.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 23, 1980.

William H. Nauk, Jr.,

Acting Administrator.

[FR Doc. 80-13479 Filed 5-1-80; 8:45 am]

BILLING CODE 8025-01-M

Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulation governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Investment Act, added by section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Effective May 1, 1980, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR § 107.301(c) is 11.075% per annum.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

April 28, 1980.

[FR Doc. 80-13480 Filed 5-1-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1825]

Mississippi; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Forrest, Harrison, Jackson and Marion Counties and adjacent counties within the State of Mississippi constitute a disaster area because of damage resulting from severe storms, flooding, mudslides, tornadoes and high winds beginning on or about March 28, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 19, 1980, and for economic injury until close of business on January 19, 1981, at: Small Business Administration, District Office, New Federal Building—Suite 322, 100 W. Capitol Street, Jackson, Mississippi 39201.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 23, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-13478 Filed 5-1-80; 8:45 am]

BILLING CODE 8025-01-M

Region V Advisory Council Public Meeting

The Small Business Administration Region V Advisory Council, located in the georgraphical area of Cleveland, Ohio, will hold a public meeting from 9:30 a.m. to 2:00 p.m., Friday, May 16, 1980, at the Bond Court Hotel, 777 St. Clair Avenue, Cleveland, Ohio, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call S. Charles Hemming, District Director, U.S. Small Business Administration, Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199—(216) 522-4182.

Dated: April 28, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-13481 Filed 5-1-80; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 87
Friday, May 2, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2 p.m. on Monday, May 5, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Kaye, Scholer, Fierman, Hays & Handler, New York, New York, in connection with the receivership of American Bank & Trust Company, New York, New York.

Memorandum and Resolution re: Amendment to Part 303 of the Corporation's rules and regulations entitled "Applications, Requests, Submittals, and Notices of Acquisition of Control" relating to delegations of authority.

Memorandum and Resolution re: Petition for Attorney's Fees by Public Interest Law Firm.

Memorandum re: Contingency Fee Arrangement with Local Counsel.

Memorandum re: Revised Procedures for Employee Performance Appraisals.

Memorandum re: Procedures for Determining Acceptable Level of Competence for Within-grade Pay Increases for General and Liquidation Graded Employees.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: April 28, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–873–80 Filed 4–29–80; 4:37 pm]

BILLING CODE 6714–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, May 5, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

Public Bank of St. Cloud, a proposed new bank, to be located at the intersection of U.S. Highway 192/441 and New York Avenue, St. Cloud, Florida, for Federal deposit insurance.

Mechanicsburg Citizens Bank, a proposed new bank, to be located on West Main Street, Mechanicsburg, Illinois, for Federal deposit insurance.

Wabash Valley Bank of Vincennes, a proposed new bank, to be located at 2400 Hart Street, Vincennes, Indiana, for Federal deposit insurance.

Application for consent to merge and establish branches:

Northern Central Bank, Williamsport, Pennsylvania, an insured State nonmember bank, for consent to merge, under its charter and title, with The Lewisburg National Bank, Lewisburg, Pennsylvania, and to establish the two offices of The Lewisburg National Bank as branches of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,292–L—Franklin National Bank, New York, New York.

Case No. 44,297–L—American Bank & Trust, Orangeburg, South Carolina.

Case No. 44,298–L—The Bank of Bloomfield, Bloomfield, New Jersey.

Memorandum re: Astro Bank, Houston, Texas.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: April 28, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–874–80 Filed 4–29–80; 4:37 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject matter of agency meeting. Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30

p.m. on Monday, April 28, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), concurred in by Director William M. Isaac (Appointive), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a notice of acquisition of control of First Bank of Oakland Park, Oakland Park, Florida.

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Waccamaw State Bank, a proposed new bank, to be located in the vicinity of the intersection of 2nd Avenue North and U.S. Highway 17, Surfside Beach, South Carolina, for Federal deposit insurance.

Notice of acquisition of control: United of America Bank, Chicago, Illinois.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsections (c)(6), (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8) and (c)(9)(A)(ii)).

The meeting was recessed and reconvened at 4:25 p.m. that same day, whereupon the Board determined, on motion of Chairman Sprague, seconded by Director Isaac, concurred in by Director Heimann, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the application of First Pennsylvania Bank, N.A., Bala-Cynwyd, Pennsylvania, for assistance under Section 13(c) of the Federal Deposit Insurance Act; that no earlier notice of this change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 28, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-875-80 Filed 4-29-80; 4:37 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of change in subject matter of agency meeting. Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, April 28, 1980, the Board of Directors of the Federal Deposit Insurance Corporation determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of certain personnel matters.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: April 28, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-876-8 Filed 4-29-80; 4:37 pm]

BILLING CODE 6714-01

5

[FR No. 827]

FEDERAL ELECTION COMMISSION.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 1, 1980, 10 a.m.

CHANGE IN MEETING: The following matters have been added to the agenda.

1. Proposed Curtailment of Spending.
2. Clearinghouse Workshop.

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, May 6, 1980, 10 a.m.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Personnel. Labor/management relations. Audit and review policy.

DATE AND TIME: Wednesday, May 7, 1980, 10 a.m. (Executive session).

MATTERS TO BE CONSIDERED: Audit and review policy (continued).

DATE AND TIME: Thursday, May 8, 1980, 10 a.m.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings.
Correction and approval of minutes.
Certifications.
Advisory Opinions:
AO 1979-69. James F. Clark (Alaska Loggers' Assoc./Clarence Kramer Political Action Cmte.)
AO 1980-24. Diane Greene, Pres., The Democratic Handbook.
AO 1980-32. Fred L. Gibson, Treasurer, Dannemeyer for Congress Cmte.
AO 1980-47. Dennis M. Devaney (Conroy for Senate Cmte.—Md.)
Regulations Governing Presidential Election Campaign Fund, General Election Financing.
1980 Election and related matters.
Presidential Monthly Status Report.
Budget execution report.
Appropriations and budget.
Pending legislation.
Classification actions.
Routine administrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-877-80 Filed 4-29-80; 4:43 pm]

BILLING CODE 6715-01-M

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., May 7, 1980.

PLACE: Hearing room one, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Matson Navigation Company—Proposed decreased bunker surcharge.
2. Agreement No. 2846-44: Modification of the basic Agreement of the West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference to provide for right of independent action for conference members.
3. Agreement No. 5200-D.R.-4: Modification of the Pacific Coast European Conference dual rate contract to make it applicable to intermodal rates.
4. Proposed Rulemaking for the Exemption of Tariff Matter Covering the Movement of Cargo Between Foreign Countries Either Transhipped From One Water Carrier to Another at United States Ports or Transported Overland Through the U.S. From the Filing Requirements of Section 18(b) of the Shipping Act, 1916.
5. Proposed Rulemaking for the Exemption of Terminal Leases or Arrangements Solely Involving Facilities Located in Foreign Countries from the Filing and Approval Requirements of Section 15 of the Shipping Act, 1916.
6. Proposed Rulemaking for the Exemption of Nonexclusive Container and/or Equipment Interchange Agreements from the Filing

Requirements of Section 15 of the Shipping Act, 1916.

7. Petition of Refrigerated Express Lines for reconsideration of the Commission's denial of petition for issuance of regulations to meet conditions unfavorable to shipping in the foreign trade of the United States.

8. Docket No. 80-11: Shippers' Requests and Complaints; Reporting Requirements—Review of comments received in response to notice of proposed rulemaking.

9. Informal Docket No. 666(I): FMC Corporation v. Argentine Line—Review of Settlement Officer's decision.

10. Informal Docket No. 750(I): General Electric De Colombia, S.A. v. Flota Mercante Grancolombiana, S.A.—Review of Settlement Officer's decision.

11. Informal Docket No. 724(I): Cotton Import and Export v. Sea-Land Service, Inc.—Review of Settlement Officer's decision.

12. Docket No. 79-29: Angel Romero—Independent Ocean Freight Forwarder Application and Foreign Freight Forwarders, Inc.—Possible Violations of Section 44, Shipping Act, 1916—Review of initial decision.

13. Docket No. 79-74: Japan/Korea and Gulf Freight Conference (Agreement No. 3103-67—Extension of Intermodal Authority)—Petition to reopen of Proponents.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-880-80 Filed 4-30-80; 3:45 pm]

BILLING CODE 6730-01-M

7

FEDERAL RESERVE SYSTEM.

(Board of Governors).

TIME AND DATE: 10 a.m., Wednesday, May 7, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: Summary Agenda: Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed revision to the monthly Survey of Debits to Demand and Savings Deposits Accounts (FR 2573).

Discussion Agenda:

1. Proposal relating to foreign bank overdrafts under the marginal reserve/special deposit program for managed liabilities.

2. Proposed allowance for artwork in new Federal Reserve Bank buildings.

3. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: April 30, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-879-80 Filed 4-30-80; 1:15 pm]

BILLING CODE 6210-01-M

8

FEDERAL RESERVE SYSTEM.

Board of Governors

TIME AND DATE: Approximately 12 noon, Wednesday, May 7, 1980 (following a recess at the conclusion of the open meeting).

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed negotiation of construction contracts for the new Federal Reserve Bank of San Francisco building project.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Date: April 30, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-878-80 Filed 4-30-80; 12:35 pm]

BILLING CODE 6210-01-M

9

CHRYSLER CORPORATION LOAN GUARANTEE BOARD.

TIME AND DATE: May 1, 1980 at 3:15 p.m.

PLACE: Board Room, Federal Reserve System, Second Floor, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed to the public.

MATTERS TO BE DISCUSSED: The Board will reconvene the adjourned meeting of April 29, 1980 and continue its deliberations. The Board has received an application from the Chrysler Corporation for commitments to guarantee and guarantees under the Chrysler Corporation Loan Guarantee Act (P.L. 96-185) ("Act"). The Board will consider whether the Chrysler Corporation has satisfied the requirements necessary for such Federal assistance, as set forth in the Act.

CONTACT PERSON FOR MORE INFORMATION: Brian M. Freeman, Secretary of the Board (202) 566-5888.

This notice is given as a result of Court order. The position of the Board is that it is not subject to the Government in the Sunshine Act.

Dated: April 30, 1980.

Brian M. Freeman,

Secretary of the Board.

[S-881-80 Filed 5-1-80; 8:45 am]

BILLING CODE 4810-27-M

federal register

Friday
May 2, 1980

Part II

Department of Labor

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California—CA78-5123	Aug. 18, 1978.
Indiana—IN80-2015	Apr. 11, 1980.
Missouri:	
MO79-4093	Nov. 23, 1979.
MO79-4094	Nov. 9, 1979.
Montana:	
MT80-5112	Apr. 18, 1980.
MT80-5111	Mar. 28, 1980.
Nebraska—NE80-4022	Apr. 4, 1980.
New Mexico:	
NM79-4103	Nov. 2, 1979.
NM79-4104	Nov. 2, 1979.
New York:	
NY79-3032	Oct. 12, 1979.
NY79-3036	Dec. 21, 1979.
NY80-3009	Feb. 29, 1980.
Pennsylvania:	
PA78-3054	Aug. 11, 1978.
PA79-3012	May 18, 1979.
Virginia—VA79-3056	Dec. 21, 1979.

Supersede as Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersede as decision numbers are in parentheses following the numbers of the decisions being superseded:

New Jersey—NJ77-3092 (NJ80-3024)	Oct. 7, 1977.
North Carolina—NC78-1081 (NC80-1061)	Sept. 29, 1978.
North Carolina—NC80-1016 (NC80-1065)	Jan. 4, 1980.
Pennsylvania—PA78-3065 (PA80-3037)	Sept. 22, 1978.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 25th day of April 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

DECISION NO. CA78-5123 - Mod. #11
(43 FR 36839 - August 18, 1978)
Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

Add:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DIVERS:					
Diver (Wet Pay)	$27.40	1.63	2.16		.09
Diver (Stand-by)	13.70	1.63	2.16		.09
Diver Tender	12.70	1.63	2.16		.09

DECISION #M079-4093 - MOD. #1
(44 FR 67308 - November 23, 1979)
Franklin, Jefferson, Lincoln, St. Charles, Warren Counties & City & County of St. Louis, Missouri

Change:

Elevator constructors	$11.80	.895	.69	3%+a	.025
Glaziers	12.58	1.02	1.78	13.2%	.01
Painters:					
Zone II					
Brush	11.85	.68	.37		.15
Spray	13.35	.68	.37		.15
Plumbers (Franklin, Jefferson, St. Charles, St. Louis & City, and Warren Counties)	12.505	.80	.95	.90	.20
Sprinkler fitters	14.71	.75	1.05		.12
Terrazzo workers	13.05				

Omit:

Laborers:					
Residential rehabilitation work	6.05	.45	1.00		

DECISION #M079-4094 - MOD. #1
(44 FR 65310 - November 9, 1979)
Franklin, Jefferson, Lincoln, St. Charles, Warren Counties & City & County of St. Louis, Missouri

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Boilermakers	$13.02	1.275	1.00		.05
Elevator constructors	11.80	.895	.69	3%+a	.025
Glaziers	12.58	1.02	1.78	13.2%	.01
Painters:					
Zone 2					
Brush	11.85	.68	.37		.15
Spray	13.35	.68	.37		.15
Plumbers (Franklin, Jefferson, St. Charles, St. Louis & City, and Warren Counties)	12.505	.80	.95	.90	.20
Sprinkler fitters	14.71	.75	1.05		.12
Terrazzo workers	13.05				

Omit:

Laborers:					
Zone 1					
Residential rehabilitation work	6.05	.45	1.00		

DECISION #MT80-5112-Mod. #1
(45 FR 26643 - April 18, 1980)
Statewide, Montana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties:					
Electricians	$12.20	.65	3%+.50		1/2%
Cable Splicers	12.80	.65	3%+.50		1/2%
Add:					
Plasterers:					
Big Horn, Carbon, Golden Valley, Stillwater, Treasure, and Wheatland Cos.	9.90	.85			
Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, Rosebud, and Wibaux Counties	10.00				
Cement Masons:					
Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, Rosebud, and Wibaux Counties	10.00				

DECISION #MT80-5111-Mod. #2
(45 FR 20651 - March 28, 1980)
Statewide, Montana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties:					
Electricians	$12.20	.65	3%+.50		1/2%
Cable Splicers	12.80	.65	3%+.50		1/2%
Laborers:					
(See Attached)					

DECISION NO. MT80-5111 (Cont'd)

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asphalt Raker	$ 9.60	.62	.53		.05
Axeman	9.30	.62	.53		.05
Burning Bar	9.46	.62	.53		.05
Car and Truck Loaders, Scissorman	9.30	.62	.53		.05
Caisson Workers (free air)	9.46	.62	.53		.05
Carpenter Tender	9.30	.62	.53		.05
Cement Handlers	9.46	.62	.53		.05
Cement Mason Tender	9.46	.62	.53		.05
Choker Setter	9.46	.62	.53		.05
Chuck Tender and Nipper (above ground)	9.30	.62	.53		.05
Concrete Laborers (wet or dry); Bucketman and Signalman	9.46	.62	.53		.05
Concrete or Asphalt Saw	9.46	.62	.53		.05
Concrete Vibrator (5" and over)	9.60	.62	.53		.05
Cosmolene applying and removing	9.30	.62	.53		.05
Core Drill	10.30	.62	.53		.05
Curb Machine	9.46	.62	.53		.05
Drills, Air-tract, self-propelled, cat or truck mounted air operated	9.60	.62	.53		.05
Drills, Air-tract, with dual mast	9.60	.62	.53		.05
Drills, Air-tract, self-propelled, Mustang type or similar	9.60	.62	.53		.05
Dumpman (spotter)	9.30	.62	.53		.05
Dumpman (grademan)	9.46	.62	.53		.05
Fence Erector and Installer (including installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers)	9.30	.62	.53		.05
Form Stripper	9.30	.62	.53		.05

DECISION NO. MT80-5111 (Cont'd)

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Form Setter	$ 9.46	.62	.53		.05
Grade Setter	10.30	.62	.53		.05
General Laborer	9.30	.62	.53		.05
Hand Faller	9.46	.62	.53		.05
High Scaler	9.60	.62	.53		.05
High Pressure Machine Nozzleman	9.60	.62	.53		.05
Heater Tender	9.30	.62	.53		.05
Jackhammer, Pavement Breaker, Wagon Drills, Concrete Vibrator, Mechanic Tamper, Vibrating Roller, hand steered and other power tools	9.46	.62	.53		.05
Landscape Laborers	9.30	.62	.53		.05
Nozzleman-air and water, gunite and Placo Machine	9.46	.62	.53		.05
Pipe Layer (all types)	9.46	.62	.53		.05
Pipe Wrapper	9.46	.62	.53		.05
Post Hole Digger (power auger)	9.46	.62	.53		.05
Power Saw, bucking	9.46	.62	.53		.05
Power Saw, falling	9.60	.62	.53		.05
Powderman Tender	9.46	.62	.53		.05
Powderman	10.30	.62	.53		.05
Power Driven Wheelbarrow	9.46	.62	.53		.05
Riprapper	9.46	.62	.53		.05
Riprap Tender	9.30	.62	.53		.05
Scaleman	9.20	.62	.53		.05
Sandblaster	9.60	.62	.53		.05
Sandblaster Tail Hoseman, Pot Tender	9.30	.62	.53		.05
Sodcutter-hand operated	9.30	.62	.53		.05
Spike Driver, single, dual or hand	9.46	.62	.53		.05
Stake Jumper for Equipment	9.30	.62	.53		.05
Switchman	9.46	.62	.53		.05
Tar Pot	9.46	.62	.53		.05
Tool Checker, Tool Houseman	9.30	.62	.53		.05
Welder	10.30	.62	.53		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NE80-4022 - Mod. #1 (45 FR 23260 - April 4, 1980) Douglas, Sarpy and Otoe Counties, Nebraska					
Change: Description of Work to read: "Building Projects including single family homes and garden type apartments up to and including 4 stories"					
Asbestos workers	$14.02	.70	.71		.03
Add: Roofers (Douglas & Sarpy Cos.):					
Roofer's helpers (handling roofing materials, erecting and dismantling scaffold for roofers, and removing and cleaning up old roof)	50%JR	.70	.20		.01

DECISION #NM79-4103-Mod. #3
44 FR 63443-November 2, 1979
Statewide, New Mexico

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
PAINTERS RESIDENTIAL ZONE III					
Brush & roller	$8.60	.70	.40		.05
Spray & sandblast	9.25	.70	.40		.05
Paperhangers	8.82	.70	.40		.05
Vinyl hangers	8.70	.70	.40		.05
PAINTERS (ZONE IV)					
Class 4-A	7.12	.35	.20		.05
Class 4-B	7.62	.35	.20		.05
Class 4-C	7.37	.35	.20		.05
Class 4-D	7.22	.35	.20		.05
Class 4-E	7.70	.35	.20		.05
Class 4-F	7.45	.35	.20		.05
SHEET METAL WORKERS:					
Zone 1	10.87	.53	1.00		.12
Zone 2	9.62	3%+.51	.385		.04
Zone 3	8.35	.20			.05
Zone 4	11.87	.53	1.00		.12

PAINTERS ZONE AND CLASSIFICATION DEFINITION FOR ZONE IV RESIDENTIAL CONSTRUCTION IN SANTA FE, SANDOVAL, RIO ARRIBA AND TAOS COUNTIES

Class A - Brush and roller
Class B - Spray, parking lot stripping
Class C - Paperhangers
Class D - Vinyl hangers
Class E - Drywall finishers- ames tool op., machine texture
Class F - Drywall finishers - hand finisher

SHEET METAL WORKERS ZONE DEFINITIONS

ZONE 1 - Bernalillo, Catron, Chaves, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Miguel, Santa Fe, Socorro, Union, Taos, Torrance, Valencia, San Juan Counties & Kirtland Air Force Base

ZONE 2 - Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Sierra and Otero Counties

ZONE 3 - Holloman Air Force Base, White Sands and McGregor Ranges

ZONE 4 - Los Alamos County

DECISION #NM79-4103 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD: Add to Zone I Painters Definition "Sandoval Co."					
ADD: PAINTERS ZONE IV FOR RESIDENTIAL IN SANTA FE, TAOS AND RIO ARRIBA COUNTIES:					
Brush & roller	$8.60	.70	.40		.05
Spray & sandblast	9.25	.70	.40		.05
Paperhangers	8.82	.70	.40		.05
Vinyl hangers	8.70	.70	.40		.05
SHEET METAL WORKERS:					
Zone 1	12.77	.53	1.20		.17
Zone 2	15.02	.53	1.20		.17
Zone 3	13.77	.53	1.20		.17
Zone 4	15.62	.53	1.20		.17
Zone 5	10.72	3%+.51	.485		.06

SHEET METAL WORKERS ZONE DEFINITIONS

ZONE 1 - Bernalillo, Catron, Chaves, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union and Valencia Counties, New Mexico

ZONE 2 - Any area except that described as zone 1; Kirtland Air Force Base, East and West; Rio Rancho; Paradise Hills; and area including 10 miles each direction east and west of Interstate Highway 25 and extending north and south, terminating with but including Bernalillo and Belen; all area identified by corner reference points beginning at and including Pojoaque, to Chimayo, to Velarde to Abiquiu and back to Pojoaque.

ZONE 3 - Los Alamos County
ZONE 4 - San Juan County
ZONE 5 - Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Sierra and Otero Counties, including Holloman Air Force Base, White Sands and McGregor Ranges

DECISION NO. NM79-4103 (Contd)

CHANGE:

COMMERCIAL LINE WORK
Applies to switching stations and substations adjacent to power plants in Zone 1 and zone 2 in Luna, Dona Ana, Otero and Hidalgo Counties, exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico.

ZONE I
The area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss and Biggs Field; the area within a five mile radius of any city, town or municipality within which an employer establishes or maintains his place of business; the area within ten mile radius from the post office in Las Cruces, New Mexico, and within a five mile radius from the post office in Alamogordo, New Mexico.

ZONE II
All other areas of the jurisdiction except those specified in zone 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE I					
Linemen - technicians	$10.15	.60	3%		½%
Cable splicers	10.40	.60	3%		½%
Equipment opr. (includes helicopter opr.)	9.64	.60	3%		½%
Equipment opr. (includes helicopter mechanic)	8.93	.60	3%		½%
Powderman	8.93	.60	3%		½%
Groundman & Jackhammer Oprs.	7.21	.60	3%		½%
ZONE II					
Linemen - technicians	11.60	.60	3%		½%
Cable splicers	11.85	.60	3%		½%
Equipment Opr. (includes helicopter opr.)	11.02	.60	3%		½%
Equipment Opr. (includes helicopter mechanic)	10.21	.60	3%		½%
Powderman	10.21	.60	3%		½%
Groundman & Jackhammer Oprs.	8.24	.60	3%		½%

COMMERCIAL LINE WORK
Applies to switching stations adjacent to power plants in Eddy and Lea Counties; the following zones listed shall be designated from main Post Office of Artesia, Carlsbad, Hobbs & Lovington.
Zone A - 0 - 12 miles
Zone B - 12 - 22 miles
Zone C - 22 to 40 miles
Zone D - 40 miles and beyond

DECISION NO. NM79-4103 (Cont'd)

CHANGE: (cont'd) COMMERCIAL LINE WORK CONTD:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE A					
Linemen - technician	$12.20	.60	3%		½%
Cable splicers	12.55	.60	3%		½%
Equipment Opr. (includes helicopter opr.)	11.59	.60	3%		½%
Equipment Opr. (includes helicopter mechanic)	10.74	.60	3%		½%
Powderman	10.74	.60	3%		½%
Groundman & Jackhammer Oprs	8.66	.60	3%		½%
ZONE B					
Linemen - technician	12.55	.60	3%		½%
Cable splicers	12.90	.60	3%		½%
Equipment opr. (includes helicopter opr)	11.94	.60	3%		½%
Equipment opr. (includes helicopter mechanic)	11.09	.60	3%		½%
Powderman	11.09	.60	3%		½%
Groundman & Jackhammer Oprs.	9.01	.60	3%		½%
ZONE C					
Linemen - technician	12.70	.60	3%		½%
Cable splicers	13.05	.60	3%		½%
Equipment opr. (includes helicopter opr)	12.09	.60	3%		½%
Equipment opr. (includes helicopter mechanic)	11.24	.60	3%		½%
Powderman	11.24	.60	3%		½%
Groundman & Jackhammer Oprs.	9.16	.60	3%		½%
ZONE D					
Linemen - technician	12.95	.60	3%		½%
Cable splicers	13.30	.60	3%		½%
Equipment opr. (includes helicopter opr)	12.34	.60	3%		½%
Equipment opr. (includes helicopter mechanic)	11.49	.60	3%		½%
Powderman	11.49	.60	3%		½%
Groundman & Jackhammer Oprs.	9.41	.60	3%		½%

DECISION #NM79-4104 - Mod. #2
44 FR 63456-November 2, 1979
Statewide, New Mexico

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
CARPENTERS	$6.50	.10	.20	.10	.04
IRONWORKERS, Reinforcing	6.00	.25	.25		
LABORERS:					
Group I	3.53	.20	.15		
Group II	3.83	.20	.15		
Group III	3.83	.20	.15		
Group IV	4.23	.20	.15		
POWER EQUIPMENT OPERATORS:					
Group I	5.81	.15	.10		.01
Group II	6.01	.15	.10		.01
Group III	6.59	.15	.10		.01
Group IV	6.61	.15	.10		.01
Group V	6.61	.15	.10		.01
Group VI	6.76	.15	.10		.01
Group VII	6.81	.15	.10		.01
Group VIII	6.96	.15	.10		.01
Group IX	7.46	.15	.10		.01
Group X	8.26	.15	.10		.01
TRUCK DRIVERS:					
Distributor (asphalt)	5.08	.26			
Dump or batch truck:					
Under 8 CY	4.68	.26			
8 CY and under 16 CY	4.88	.26			
Diesel-powered transport	5.28	.26			
Flatbed, 1-1/2 ton	4.68	.26			
Flatbed, over 1-1/2 ton	4.88	.26			
Lowboy, heavy equipment	5.28	.26			
Lowboy, light equipment	5.08	.26			
Off-highway hauler	5.08	.26			
Pick-up truck 3/4 ton or under	4.68	.26			
Trailer or semi-trailer dump & transit mix	5.08	.26			
OMIT:					
TRUCK DRIVERS (TANK TRUCK):					
3,0001 gal to 6,000 gal.	$4.45	.26			
6,001 gal and over	4.65	.26			
ADD:					
TRUCK DRIVERS (TANK TRUCK):					
Under 6,000 gal	4.88	.26			
Over 6,000 gal.	5.08	.26			

DECISION NO. NY79-3032 - Mod. #1
(44 Fr 59061 - October 12, 1979)
Chemung County, New York

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	13.28	.90	.68		.06
Carpenters, Heavy & Highway	11.61	.45	.60		.045
Cement Masons, Heavy & Highway	11.40	.60	.50		
Laborers, Building	8.32	.50	.30		
Sprinkler Fitters	13.54	.75	1.05		
Laborers, Heavy & Highway					
Class A	9.79	.65	.50	a	
Class B	9.99	.65	.50	a	
Class C	10.19	.65	.50	a	
Class D	10.39	.65	.50	a	
Power Equipment Operators Heavy & Highway					
Group I	12.35	1.15	1.25	a	.15
Group II	11.94	1.15	1.25	a	.15
Group III	10.78	1.15	1.25	a	.15
Group IV	9.75	1.15	1.25	a	.15
Truck Drivers, Heavy & Highway					
Class 1	9.78	1.11	.85	a	
Class 2	9.83	1.11	.85	a	
Class 3	9.88	1.11	.85	a	
Class 4	10.03	1.11	.85	a	
Class 5	10.18	1.11	.85	a	
Line Construction					
Electrical Overhead and Underground Distribution Work:					
Lineman and Technicians	11.00	1.40	3%+.75	k	
Cable Splicers	14.45	1.40	3%+.75	k	
Groundman Digging Machine Operator and Groundman Dynamite man	9.90	1.40	3%+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	8.80	1.40	3%+.75	k	
Groundman Truck Driver (Tractor Trailer)	9.35	1.40	3%+.75	k	
Driver Mechanic, Groundman - Experienced	8.25	1.40	3%+.75	k	

NY79-3032(Cont'd)

Line Construction (cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All Overhead Transmission Line Work and Lighting for Athletic Fields:					
Lineman and Technician	12.50	1.40	3%+.75	k	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.25	1.40	3%+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	10.00	1.40	3%+.75	k	
Groundman Truck Driver (Tractor Trailer Unit)	10.625	1.40	3%+.75	k	
Driver Mechanic, Groundman - Experienced	9.375	1.40	3%+.75	k	
Sub-station, Switching Structures (when not part of the line), Trafic Signal, Street lighting, and Electrical, Telephone or CATA Commercial Work:					
Lineman and Technicians	13.15	1.40	3%+.75	k	
Cable Splicers	14.465	1.40	3%+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	10.52	1.40	3%+.75	k	
Groundman Truck Driver (Tractor Trailer Unit)	11.1175	1.40	3%+.75	k	
Driver Mechanic, Groundman - Experienced	9.8625	1.40	3%+.75	k	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.835	1.40	3%+.75	k	
Telephone and other Communication Systems, Both overhead and underground:					
Linemen & Installer Repairmen	8.34	.40	3%+.25	k	1%
Splicers	8.89	.40	3%+.25	k	1%
Groundman Digging Machine Operator	7.73	.40	3%+.25	k	1%

NY79-3032 (Cont'd)

Line Construction (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Groundman	5.72	.40	3%+.25	k	1%
Groundman Truck Driver	6.82	.50	3%+.25	k	1%
Groundman Dynamiteman	6.60	.40	3%+.25	k	1%

Paid Holidays: A-NewYear's Day; B-Memorial Day; C-Indempendence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

k. Paid Holiday: A through F, Washington's Birthday, Good Friday, and Election Day for President of the United States and Governor of New York State, provided the employee works the day before and after the holiday.

DECISION NO.: NY79-3036 - Mod. #1
(44 FR 56402 - December 21, 1979)
Oneida County, New York

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	13.28	.90	.68		.06
Carpenters, Heavy & Highway	11.325	.70	.60	a	.03
Cement Masons, Heavy & Highway	11.00	.60	.90		
Electricians: (Remainder of County)					
Electricians	12.55	.80	3%+.60		.07
Cable Splicers	13.75	.80	3%+.60		.07
Elevator Constructors	11.87	.745	.56	b+c	.025
Glaziers: Twps. of Florence, Camden, Vienna, Annsville, Verona, Vernon, Augusta, Lee, Rome City, Ava, Western, Floyd, Boonville, and Steuben	11.00	.80			.01
Ironworkers: Structural, Ornamental, Reinforcing, Machinery Mover, Rigger, Rodmen, Fence Erector and Stone					
Derrickman	10.87	1.11	1.02		.04
Sheeters	11.12	1.11	1.02		.04
Sheeter, Bucker-up	10.995	1.11	1.02		.04
Laborers, Building (Remainder of County)					
Laborers, Common	8.975	.65	.65	e	
Chain Saw Op., Pavement Breaking Op., Scaffold Builders, Mortar Mixers, Pipelayers, Gas Buggy Op., Vibrator Op., Air or Electric-tool Op., Plasterer's Helper, Acetylene Torch Op. on Demolition Work	9.175	.65	.65	e	
All Rock Drilling Equipment Ops.	9.375	.65	.65	e	
Blasters	9.575	.65	.65	e	
Plumbers & Steamfitters	11.96	.89	1.36		.05
Sprinkler Fitters	13.54	.75	1.05		.08

DECISION NO.: NY79-3036 - Mod #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers, Heavy & Highway Twps. of Florence, Camden, Annsville, Lee, Ava, Boonville, Western, Steuben, Vienna, Rome, Floyd, Westmoreland, Veron, Augusts, and Verona					
Class A	9.84	.65	.75	a	
Class B	10.04	.65	.75	a	
Class C	10.24	.65	.75	a	
Class D	10.44	.65	.75	a	
Remainder of County					
Class A	8.54	1.50	1.20	a	
Class B	8.74	1.50	1.20	a	
Class C	8.94	1.50	1.20	a	
Class D	9.14	1.50	1.20	a	
Power Equipment Operators Heavy & Highway					
Group I	12.25	1.25	1.25	a	.15
Group II	11.84	1.25	1.25	a	.15
Group III	10.86	1.25	1.25	a	.15
Group IV	9.65	1.25	1.25	a	.15
Truck Drivers, Heavy & Highway					
Class 1	9.78	1.11	.85	a	
Class 2	9.83	1.11	.85	a	
Class 3	9.88	1.11	.85	a	
Class 4	10.03	1.11	.85	a	
Class 5	10.18	1.11	.85	a	

DECISION NO.: NY79-3036 - Mod. #1 (Cont'd)

Line Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead and Underground Distribution Work:					
Lineman and Technicians	11.00	1.40	3%+.75	k	
Cable Splicers	14.45	1.40	3%+.75	k	
Groundman Digging Machine Operator and Groundman Dynamite man	9.90	1.40	3%+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	8.80	1.40	3%+.75	k	
Groundman Truck Driver (Tractor Trailer)	9.35	1.40	3%+.75	k	
Driver Mechanic, Groundman - Experienced	8.25	1.40	3%+.75	k	
All Overhead Transmission Line Work and Lighting for Athletic Fields:					
Lineman and Technician	12.50	1.40	3%+.75	k	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.25	1.40	3%+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	10.00	1.40	3%+.75	k	
Groundman Truck Driver (Tractor Trailer Unit)	10.625	1.40	3%+.75	k	
Driver Mechanic, Groundman - Experinced	9.375	1.40	3%+.75	k	
Sub-Station, Switching Structures (when not part of the line), Trafic Signal, Street Lighting, and Electrical, Telephone or CATV Commercial Work:					
Lineman and Technicians	13.15	1.40	3%+.75	k	
Cable Splicers	14.465	1.40	3%+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	10.52	1.40	3%+.75	k	
Groundman Truck Driver (Tractor Trailer Unit)	11.1775	1.40	3%+.75	k	
Driver Mechanic, Groundman - Experienced	9.8625	1.40	3%+.75	k	

DECISION NO.: NY79-3036 - Mod. #1 (Cont'd)

Line Construction (cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Groundman Digging Machine Operator, Groundman Dynamite Man	11.835	1.40	3%+.75	k	
Telephone and other Communication Systems, Both overhead and underground:					
Linemen and Installer Repairmen	8.34	.40	3%+.25	k	1%
Splicers	8.89	.40	3%+.25	k	1%
Groundman Digging Machine Operator	7.73	.40	3%+.25	k	1%
Groundman	5.72	.40	3%+.25	k	1%
Groundman Truck Driver	6.82	.40	3%+.25	k	1%
Groundman Dynamiteman	6.60	.40	3%+.25	k	1%

Paid Holidays: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

Footnotes:

k. Paid Holidays: A through F, Washington's Birthday, Good Friday, and Election Day for President of the United States and Governor of New York State, provided the employee works the day before and after the holiday.

DECISION NO.: NY80-3009 - Mod. #1
(45 FR 13604 - February 29, 1980)
Cattaraugus, Chautaugua, & Erie Counties, New York

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Omit:					
Ironworkers					
Sheeter, Bucker-up					
Change:					
Carpenters, Heavy & Highway					
Cattaraugus Co. (Twps. of Persia & Perrysburg)	9.03	1.60	2.05		.025
Cattaraugus Co. (Remainder of County) Chautaugua County	10.53	.80	1.35	a	.025
Cement Masons, Heavy & Highway					
Cattaraugus (excluding the twp. of Perrysburg and the Village of Gonawanda), Chautaugua County	10.63	.70	1.10		.07
Laborers, Heavy and Highway					
Erie County					
Class A	9.795	1.65	1.56	a	.10
Class B	9.995	1.65	1.56	a	.10
Class C	10.195	1.65	1.56	a	.10
Class D	10.395	1.65	1.56	a	.10
Chautaugua & Cattaraugus Counties					
Class A	9.44	.80	1.00	a	
Class B	9.64	.80	1.00	a a	
Class C	9.84	.80	1.00	a a	
Class D	10.04	.80	1.00	a	
Truck Drivers:					
Class 1	9.99	.80	.95	o	
Class 2	10.04	.80	.95	o o	
Class 3	10.09	.80	.95	o o	
Class 4	10.24	.80	.95	o o o	
Class 5	10.39	.80	.95	o	

DECISION NO: PA78-3054
MOD. NO. 7
(43 FR 35868 - August 11, 1978)
Bucks, Chester, Delaware, Montgomery, Philadelphia Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters	$11.47	2.63	1.40	a	.13
Power Equipment Operators:					
Heavy Construction:					
Group 1	13.50	7.9%	10.3%	c	1.8%
Group 2	13.24	7.9%	10.3%	c	1.8%
Group 3	12.37	7.9%	10.3%	c	1.8%
Group 4	12.16	7.9%	10.3%	c	1.8%
Group 5	11.85	7.9%	10.3%	c	1.8%
Group 6	11.68	7.9%	10.3%	c	1.8%
Group 7	11.17	7.9%	10.3%	c	1.8%
Group 8	10.43	7.9%	10.3%	c	1.8%
Power Equipment Operators:					
Highway Construction					
Group 1	13.25	7.9%	10.3%	c	1.8%
Group 2	13.02	7.9%	10.3%	c	1.8%
Group 3	12.41	7.9%	10.3%	c	1.8%
Group 4	11.89	7.9%	10.3%	c	1.8%
Group 5	11.52	7.9%	10.3%	c	1.8%
Group 6	11.17	7.9%	10.3%	c	1.8%
Group 7	10.43	7.9%	10.3%	c	1.8%

DECISION NO. PA79-3012
MOD. NO. 5
(44 FR 29253 - May 18, 1979)
Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming and York Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Power Equipment Operator					
Heavy Construction					
ZONE 1					
Group 1	$13.14	7.9%	10.3%	a	1.8%
Group 2	12.85	7.9%	10.3%	a	1.8%
Group 3	11.97	7.9%	10.3%	a	1.8%
Group 4	11.20	7.9%	10.3%	a	1.8%
Group 5	10.72	7.9%	10.3%	a	1.8%
Group 6	9.80	7.9%	10.3%	a	1.8%
Group 7	13.39	7.9%	10.3%	a	1.8%
Group 7-A	13.64	7.9%	10.3%	a	1.8%
Group 7-B	13.89	7.9%	10.3%	a	1.8%
ZONE II					
Group 1	13.19	7.9%	10.3%	a	1.8%
Group 2	12.90	7.9%	10.3%	a	1.8%
Group 3	12.03	7.9%	10.3%	a	1.8%
Group 4	11.26	7.9%	10.3%	a	1.8%
Group 5	10.49	7.9%	10.3%	a	1.8%
Group 6	9.88	7.9%	10.3%	a	1.8%
Group 7	13.44	7.9%	10.3%	a	1.8%
Group 7-A	13.69	7.9%	10.3%	a	1.8%
Group 7-B	13.93	7.9%	10.3%	a	1.8%
Power Equipment Operator:					
Highway Construction					
Group 1	11.59	7.9%	10.3%	a	1.8%
Group 2	10.75	7.9%	10.3%	a	1.8%
Group 3	10.24	7.9%	10.3%	a	1.8%
Group 4	9.80	7.9%	10.3%	a	1.8%
Group 5	9.25	7.9%	10.3%	a	1.8%
Group 6	11.84	7.9%	10.3%	a	1.8%
Group 6-A	12.09	7.9%	10.3%	a	1.8%
Group 6-B	12.34	7.9%	10.3%	a	1.8%

DECISION NO. IN80-2015 - MOD #1
(45 FR 24985 - April 11, 1980)
Statewide, except Lake, LaPorte, Porter, & St. Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Truck Drivers:					
Group A	$9.805	31.50a	37.00a		
Group B	9.755	31.50a	37.00a		
Group C	9.705	31.50a	37.00a		
Group D	9.655	31.50a	37.00a		
Group E	9.605	31.50a	37.00a		
Group F	9.555	31.50a	37.00a		
Group G	9.505	31.50a	37.00a		
Group H	9.455	31.50a	37.00a		
Group I	9.405	31.50a	37.00a		
Group J	9.355	31.50a	37.00a		
Group K	9.305	31.50a	37.00a		
Group L	9.205	31.50a	37.00a		
Omit:					
Laborers: Sewer, Tunnel, & Water Construction Schedule					
Add:					
Laborers: Sewer, Tunnel, & Water Construction Schedule					

DECISION NO. IN80-2015(Cont'd)
LABORERS: SEWER, TUNNEL, & WATER CONSTRUCTION

	ZONE 2	ZONE 2A	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP 1	9.20	9.00	9.00	9.20	9.40
GROUP 2	9.35	9.15	9.15	9.35	9.55
GROUP 3	9.40	9.20	9.20	9.40	9.60
GROUP 4	9.50	9.30	9.30	9.50	9.70
GROUP 5	10.05	9.85	9.85	10.05	10.25
GROUP 6:					
A.	9.40	9.20	9.20	9.40	9.60
B.	9.55	9.35	9.35	9.55	9.75
C.	10.00	9.80	9.80	10.00	10.20
D.	9.50	9.30	9.30	9.50	9.70

Fringe Benefits Payments			
H & W	Pensions	Vacation	Education and/or Appr. Tr.
.85	.75		.09

ZONES

ZONE 1: Jasper, Lake, LaPorte, Newton, Porter, & Starke Counties (Excluded from this schedule)
ZONE 2: Elkhart Co.
ZONE 2A: Kosciusko, LaGrange, & Marshall Counties
ZONE 3: Benton, Blackford, Boone, Carroll, Cass, Clinton, Delaware, Fayette, Fulton, Grant, Hamilton, Hancock, Henry, Howard, Jay, Madison, Marion, Miami, Montgomery, Pulaski, Randolph, Rush, Shelby, Tippecanoe, Tipton, Union, Wayne, & White Counties
ZONE 4: Bartholomew, Brown, Clark, Clay, Crawford, Dearborn, Decatur, Floyd, Fountain, Franklin, Greene, Harrison, Hendricks, Jackson, Jefferson, Jennings, Johnson, Lawrence, Martin, Monroe, Morgan, Ohio, Orange, Owen, Parke, Perry, Putnam, Ripley, Scott, Sullivan, Switzerland, Vermillion, Vigo, Warren, & Washington Counties
ZONE 5: Daviess, DuBois, Gibson, Knox, Pike, Posey, Spencer, Vanderburgh, & Warrick Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. VA79-3056-Mod. #1 (44 FR 75912-December 21, 1979) Albermarle County & the Independent city of Charlottesville, Virginia					
CHANGE:					
Ironworkers Structural	$10.75	.55	.75		.05

SUPERSEDEAS DECISION

STATE: NEW JERSEY

LOCATION: BERGEN, ESSEX, HUDSON & PASSAIC COUNTIES

DECSION NO.: NJ80-3024

DATE: DATE OF PUBLICATION

Supersedes Decision No. NJ77-3092 dated October 7, 1977 in 42 FR 54726

DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & REFRIGERATION MECHANICS: Installation of refrigeration equipment for any type of building where the combined compressor tonnage does not exceed 5 tons; installation of water-cooled air conditioning that does not exceed 10 tons (includes the piping of component system and the erection of the water tower); installation of air-cooled air conditioning that does not exceed 15 tons	9.10	.065	.31	a	.04
ASBESTOS WORKERS	14.06	1.32	1.56		.04
BOILERMAKERS	12.76	8%	20%+.25	10%	.02
BOILERMAKERS HELPERS	12.23	8%	20%+.25	10%	.02
BRICKLAYERS, STONEMASONS, CEMENT MASONS & PLASTERERS:					
AREA 1	12.75	.92	1.00		.05
AREA 2	12.10	.84	.90		.02
AREA 3	11.75	1.22	1.70		.03
AREA 4					
Bricklayers & Stonemasons	12.96	.87	.75		
Cement Masons	11.70	.75	1.00		
Plasterers	11.70	.75	1.00		.05
AREA 5	11.80	.95	1.00		.02

Areas coverd by Bricklayers and Stonemasons

Area 1 - Bergen (north Arlington and Lyndhurst east of Ridge Road, north to Rutherford Ave. and Barrys' Creek, and west of the Hackensack River), Essex (except Millburn Twp), and Hudson (that Portion west of the Hackensack River) Counties

Area 2 - Bergen (Wallington, part of East Patterson, Garfield, Lodi, North Arlington, and part of Lyndhurst) and Passaic Counties'

Area 3 - Bergen (remainder of County) County

Area 4 - Hudson (remainder of county) County

Area 5 - Essex (Millburn Twp.) County

DECISION NO. NJ80-3024

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS, INSULATORS & MILLWRIGHTS:					
AREA 1					
Carpenters & Insulators	12.57	8%	7%		½%
Millwrights	12.82	8%	7%		½%
AREA 2					
Carpenters & Insulators	12.57	8%	7%		½%
AREA 3	11.39	1.02	1.52		.05
AREA 4					
Carpenters & Insulators	12.13	8%	7%	5%	1/5%
Millwrights	12.38	8%	7%	5%	1/5%

AREAS COVERED BY CARPENTERS, INSULATORS & MILLWRIGHTS

AREA 1 - Essex and Hudson (that portion west of the Hackensack River) Counties

AREA 2 - Passaic County

AREA 3 - Bergen (east of Hackensack River including but not limited to Cliffside, Fort Lee, Grantwood, Palisades Park, Ridgefield Edgewater, Fairview, Leonia & Coytesville) and Hudson (that part east of the Hackensack River) Counties

AREA 4 - Bergen (remainder of county) County.

DOCKBUILDERS & PILEDRIVERMEN	11.45	1.40	1.78	.76	.02
DRYWALL TAPERS & FINISHERS	10.60	1.50	.50		.10
ELECTRICIANS & CABLE SPLICERS:					
Family residence construction not to exceed 4 unit apartments (Note: Firewalls alone are not a determinative criterion.)	7.25	7%	3%		.05
Other residential construction:					
Essex County	13.75	9%	12%		
Bergen & Hudson Counties	13.69	11%	9%+.58		1.5%
Passaic County:					
Wiremen	14.25	7%	10%		
Cable Splicers	15.32	7%	10%		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTION:					
New Construction					
Mechanics	10.12	.495	.32+b	c+d	.02
Helpers	7.59	.495	.32+b	c+d	.02
Probationary Helpers	5.06				
Modernization					
Mechanics	9.35	.495	.32+b	c+d	.02
Helpers	7.01	.495	.32+b	c+d	.02
Probationary Helpers	5.06				
Contract Repairs					
Mechanics	8.50	.495	.32+b	c+d	.02
Helpers	6.38	.495	.32+b	c+d	.02
Probationary Helpers	5.06				
GLAZIERS:					
Bergen & Passaic Counties	11.17	.80	2.00	1.25	.03
Essex & Hudson Counties	13.45	1.00	2.00		.05
IRONWORKERS - STRUCTURAL, ORNAMENTAL & REINFORCING	12.55	1.05	2.85	1.15	.11
LABORERS:					
AREA 1					
Group 1	8.40	.85	.85		.07
AREA 2					
GROUP 1	8.25	1.10	.75		.07
AREA 3					
GROUP 1	9.65	.45	.55		.07
GROUP 2	9.90	.45	.55		.07
AREA 4					
Unskilled Laborers	8.80	.80	.50		.07
AREA 5					
Unskilled Laborers	8.50	.75	.85		.07
AREA 6					
Group 1	8.10	.90	1.10		.07
AREA 7					
Unskilled Laborers	8.15	.80	1.20		.07

CLASSIFICATION DEFINITIONS FOR LABORERS

AREA 1 - Group 1 - Laborers, air tool operators (jackhammers, vibrators), mason tenders, mortar mixers, pipelayers (concrete & clay) & plasterer tenders.

AREA 2 - GROUP 1 - Laborers, air tool operators (jackhammers, vibrators), mason tenders, mortar mixers, pipelayers (concrete & clay) plasterer tenders, wrecking & excavation.

AREA 3 - Group 1 - Regular Laborers

AREA 3 - Group 2 - Carpenters Tenders, Bell Men, Mortar mixers, scaffold men & pneumatic hammer operators.

AREA 6 - Group 1 - Unskilled laborers, air tool operators, mason tenders, mortar mixers & pipelayers (concrete & clay).

AREAS COVERED BY LABORERS

AREA 1 - Bergen (Athenia, Allwood, Clifton (to Piaget Ave.), Dellawanna, Lodi, plus Garfield, Passaic, and Wallington Twps.) and Passaic Counties

AREA 2 - Bergen (remainder of county) County.

AREA 3 - Essex (City of East Orange, Townships of South Orange and Maplewood)

AREA 4 - Essex (Orange & Montclair) County.

AREA 5 - Essex (Millburn Township) County.

AREA 6 - Essex (remainder of county) and Hudson (Kearny, East Newark and Harrison) Counties.

AREA 7 - Hudson (remainder of county) County.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	11.40	.15	.40		.02
LEADBURNERS	10.75	.40	.25	e	.01
LINE CONSTRUCTION:					
Essex County:					
Linemen, Cable Splicers, Line Equipment Operators, Line Truck Operators & Groundmen	13.75	9%	12%		3/4%

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Line Construction (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Passaic County:					
Linemen & Equipment Operators	14.25	7%	10%		3/4%
Cable Splicers	15.32	7%	10%		3/4%
Groundmen	9.975	7%	10%		3/4%
Bergen & Hudson Counties:					
Linemen, Cable Splicers, Equipment Operators & Groundmen	13.69	11%	9%+.58		3/4%
MARBLE SETTERS, TERRAZZO WORKERS, & TILE SETTERS:					
Marble Setters	10.00	1.13	1.19	f	
Terrazzo Workers	11.18	1.21	1.50		
Tile Setters	9.15	.80	2.10		
MARBLE, TERRAZZO, AND TILE FINISHERS:					
Marble Finishers	8.28	1.09	1.23	f	
Terrazzo Finishers	9.49	.76	1.95		
Tile Finishers	9.35	.90	.90		
PAINTERS:					
Bergen & Passaic Counties:					
New & Old construction of one & two family houses:					
Painters & Tapers	9.30	1.35	2.60		.06
Other residential construction:					
Painters & Tapers	11.65	1.35	2.60		.06
Steel Outside	12.65	1.35	2.60		.06
Spray	13.20	1.35	2.60		.06
Essex & Hudson (West half of County) Counties:					
Painters on New Construction and Major Alterations	10.75	.70	.60	.35	.05
Painters on Repaint Work	9.80	.70	.60	.35	.05
Spraying or application of hazardous or dangerous materials on repaint work	10.40	.70	.60	.35	.05

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PAINTERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Exterior work exceeding 3 stories in height for painting of open structural steel and on interior work which requires painting higher than 20' above the ground or floor	10.90	.70	.60	.35	.05
Repaint work as described above	9.95	.70	.60	.25	.05
Spraying or application of hazardous or dangerous materials	11.35	.70	.60	.35	.05
Hudson (remainder of county) County:					
Painters, paperhangers tapers, coverers, spacklers, preparatory and cleaning work	10.30	.90	1.75	.50	
Extension ladder work (36 feet or over), scaffold work (except one or two family homes), and boatswain chair	11.45	.90	1.75	.50	
Spraying and sandblasting	12.00	.90	1.75	.50	
PIPEFITTERS:					
Bergen, Hudson, and Passaic Counties	12.00	1.00	1.90	1.00	.25
Essex County	13.00	.91	1.17	1.30	.07
PLUMBERS:					
Bergen, Hudson (excluding East Newark, Harrison, and Kearney), and Passaic Counties	13.60	1.00	1.35		.25
Hudson (East Newark, Harrison, and Kearney only) and Essex Counties	13.905	1.10	1.17		.25

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	15.31	7%	15%	g	3%
GROUP 2	13.49	7%	15%	g	3%
GROUP 3	12.61	7%	15%	g	3%
GROUP 4	12.50	7%	15%	g	3%
GROUP 5	12.27	7%	15%	g	3%
GROUP 6	11.78	7%	15%	g	3%
GROUP 7	11.49	7%	15%	g	3%
GROUP 8	11.32	7%	15%	g	3%
GROUP 9	11.27	7%	15%	g	3%
GROUP 10	11.15	7%	15%	g	3%
GROUP 11	11.10	7%	15%	g	3%
GROUP 12	10.86	7%	15%	g	3%
GROUP 13	10.46	7%	15%	g	3%
GROUP 14	10.29	7%	15%	g	3%
GROUP 15	9.95	7%	15%	g	3%
GROUP 16	7.97	7%	15%	g	3%

CLASSIFICATION DEFINITIONS FOR POWER EQUIPMENT OPERATORS

GROUP 1 - Helicopters pilot/engineer

GROUP 2 - Autograde-combination subgrader; base MTL spreader & base trimmer (CMI & similar type); autograde placer-trimmer-spreader-combination (CMI & similar types); autograde slip form paver (CMI & simlar types); back hoes (all types, including all combination hoe loaders); central power plants (all types); concrete paving machines; cranes (all types including overhead & straddle travelling type); cranes, gantry; derricks - land or floating (building & heavy construction rate only); drillmaster; quarry master (down the hole drill); draglines; elevator grader; engines, large diesel (1625 HP) and staging pump; front end loaders (5 yds & over); gradalls; grader, rago; helicopters co-pilot and communication engineer; jacks, screw air hydraulic power operated unit or console type (not hand jack or pile load test type); locomotive (large); mucking machines; pavers (21E and over); paver, resinous; Broyhill; pavement and concrete breaker (i.e. superhammer); pavement breaker, truck mounted; piledriver; scooper (loader and shovel) Koehring; shovels; treechopper with boom; trench machines

POWER EQUIPMENT OPERATOR (CONT'D)

GROUP 3 - Pump, staging.

GROUP 4 - A-frame, boom attachment on loaders; boring & drilling machines; brush chopper, chipper & shredder; Cableways; carryalls; cherry pickers - 6 tons & under (over 6 tons - crane rate applies); concrete pump; concrete pump system, pumpcrete, squeezecrete & similar types; conveyors, 125' & over; economobiles (hilo,lull,hyster, similar type equipment); forklifts; front end loaders (2yds. but less than 5yds); groove cutting machines (ride or type); heater planer; hoist (Chicago Boom); Pans, LeTourneau, DW's, Ukes, pumpcrete-unit type; pumpcrete machines, squeezecrete and concrete pumping; scrapers-Letourneau; DW's, Ukes; side booms; squeezecrete; "straddle" carrier, Ross and similar types; winch trucks (hoisting).

GROUP 5 - Aerial platform (used as hoist); hoist, all types except Chicago Boom type (building & heavy construction rate only); elevator or house cars (building and heavy construction rate only); roof hoists.

GROUP 6 - Asphalt spreaders; bridge deck finisher; grader, finish only; rollers-backtop.

GROUP 7- Asphalt curbing machines; asphalt plant engineer; autograde tube finisher & texturing machine (CMI & similar types); autograde curecrete machine (CMI & similar types); autograde curb trimmer & sidewalk shoulder, slipform (CMI & similar types); barbending machines (power); batchers, batching plant & crusher on site; bet conveyor systems; boilers and steam jennies (building & heavy construction rate only); boom type skimmmer machines (building & heavy construction rate only); car dumpers (railroad); compressor and blower type units; concrete breaking machines; concrete finishing machines; concrete saws & cutters (ride on type); concrete spreaders-hetzel, recomatic & similar types; concrete vibrators (highway, road, street & sewer construction rate only); conveyors, under 125 ft.; crushing machines; ditching machine, small (ditch witch or similar); drill doctor (duties include dust collector); dope pots (mechanical with or without pump); dumpsters; fine grade machine (large type); front end loaders (lyd & over but less than 2 yds) - highway, road, street & sewer construction rate only; front end loaders (under 2 yds) - building and heavy construction rates only; generators; giraffe grinders; graders and motor patrols; gunnite machines (excluding nozzle); hammer vibratory (in conjunction with generator); hoppers; hopper doors (power operated); ladders (motorized) - building & heavy construction rate only; laddervator; lights, portable generating light plants; locomotive (dinky type); mechanic; mixers (excepting paving mixers); motor patrols & graders; pavers (under 21E); pavement breakers - small, self-propelled ride on type (also maintains compressor or hydraulic unit); pipe bending machine (power); pitch pump; plaster pump (regardless of size) - building & heavy construction rate only; post hole digger; rod bending machines (power); scales, power; seaman pulverizing mixer; silos; skimmer machines (boom type) - highway, road, street & sewer construction rate only; steam jennies and boilers; steel cutting machines, services & maintains; vibrating plants (used in conjunction with unloading); welder and repair mechanic

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POWER EQUIPMENT OPERATOR (CONT'D)

GROUP 8 - Compressors (2 or 3 within a total distance of 100' constitutes a battery) - building & heavy construction rate only; welding machines, gas or electric converters of any type - (2 or 3 in battery) - building and heavy construction rates only; welding system, multiple (rectifier transformer type) - building & heavy construction rate only.

GROUP 9 - Brooms & sweepers; bulldozer, D5 and over; fireman; sprinkler and water pump trucks (used on job site or in conjunction with jobsite); stone spreaders; sweepers & brooms; tractors, D8 & over; water and sprinkler trucks (used on job site or in conjunction with job site); Field Engineer: Party Chief

GROUP 10 - Compressors (2 or 3 within a total distance of 100' constitutes a battery) - highway, road, street and sewer construction rate only.

GROUP 11 - Front end loaders (under 1 yd.) - highway, road, street & sewer construction rate only.

GROUP 12 - Bulldozer under D5; rollers - grade fill or stone base; tractors, under D8.

GROUP 13 - Compressor (single); heaters (Nelson or other type including propane, natural gas or flow type units); pumps (4 inch suction & over including submersible pumps); pumps (2 of less than 4 inch suction including submersible pumps); pumps, diesel engine & hydraulic (immaterial of power) - highway, road, street & sewer construction rate only; temporary heating plant (Nelson or other type, including propape, natural gas or flow type units); welding machines, gas or electric converters of any type - single (building & heavy construction rate only); welding machines, gas or electric converters of any type (2 or 3 in battery) - highway, road street & sewer construction rate only; wellpoint systems (including installation and maintenance).

GROUP 14 - Concrete spreaders, (small type) convey or loaders (not including elevator graders) - highway, road, street & sewer construction rate only; farm tractors (highway, road, street & sewer construction rate only); fertilizing equipment; fine grade machine (small type) - highway, road, street and sewer construction rate only; form line graders (small type) - highway, road, street & sewer construction rate only; grease, gas, fuel and oil supply trucks; mixers, concrete small (highway, road, street and sewer construction rate only); mulching equipment; road finishing machines (small type) - highway, road, street and sewer construction only; seeding equipment; tamping machines, vibrating self-propelled; welding machines, gas or electric converters of any type-single (highway, road, street and sewer cnstruction rate only).

GROUP 15 - Assistant engineer/oiler; mechanics helper; tire repair and maintenance; field engineer: transit/instrument man

GROUP 16 - Field engineer: rodman/chainman

DECISION NO. NJ80-3024

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Bergen & Passaic Counties:					
Composition	13.10	1.14	1.00		
Slate & Tile	12.15	1.00	1.30		
Essex County:					
Composition, Damp, Waterproofing, Slate, and Tile	13.61	1.00	1.00		
Hudson County:					
West of the Hackensack River:					
Composition, Damp, Waterproofing, Slate, and Tile	13.61	1.00	1.00		
East of the Hackensack River:					
Composition, Damp, and Waterproofing	9.85	1.59	2.65	.65	
SHEET METAL WORKERS:					
Bergen and Hudson Counties	11.16	5%+.85	5%+.28	4%+.06	.02
Essex and Passaic Counties	11.75	4%+.67	4%+.46	8%	.01
SOFT FLOOR LAYERS	9.19	6%	5%+.50		
SPRINKLER FITTERS	14.08	.75	1.55		.07
TRUCK DRIVERS:					
Bergen, Hudson, and Passaic Counties:					
GROUP 1	7.27	.68	.75	h+i	
GROUP 2	7.50	.68	.75	h+i	
GROUP 3	7.55	.68	.75	h+i	
GROUP 4	7.65	.68	.75	h+i	
GROUP 5	7.75	.68	.75	h+i	
Essex County:					
GROUP 1	9.12	j	1.03	h+i	
GROUP 2	9.35	j	1.03	h+i	
GROUP 3	9.40	j	1.03	h+i	
GROUP 4	9.50	j	1.03	h+i	
GROUP 5	9.60	j	1.03	h+i	

CLASSIFICATION DEFINITIONS FOR TRUCK DRIVERS

GROUP 1 - Mechanic Helper

GROUP 2 - Drivers on the following type vehicles: Straight Dumps, Flats, Floats, Pickups, Container Haulers, Fuel, Water Sprinkler, Road Oil, Stringer, Bead, Hot Pass, Bus, Dumpcrete, Transit Mixers, Half Truck, Winch Truck, Side-o-Matic, Dynamite, Powder, X-Ray, Welding, Skid, Jeep, Station Wagon, Stringer, A-Frame, All Dual Purpose Trucks, Trucks with mechanical tail gates, Asphalt Distributor, Batch Trucks, Seeding, Mulching, Fertilizer, Air Compressor Trucks (in transit) , Parts Chaser, Escort, Scissor, Hi-lift, Telescope, Concrete Breaker, Gin Pole, Stone, Sand, Asphalt Distributor & Spreader, Nipper, Fuel Trucks (drivers on Fuel Trucks including handling of hose & nozzle-entire unit), Team Drivers, Vacuum or Vac-all Trucks (entire unit), Skid Truck (debris container - - entire unit), concrete Mobile Trucks (entire unit), Expediter (parts chaser), Beltcrete Trucks, Pump Crete Trucks, Line Truck, Reel Truck, Wreckers, Utility Trucks, Tack Trucks, Warehousemen, Warehouse Parts-Men, Yardmen, Lift Truck in Warehouse, Helper when required on Lift Truck in Warehouse, Warehouse Clerk, Parts Man, Material Checkers, Receivers, Shippers, Binning Men(Materials), Cardex Man, helper when required on Broyhill Coal Tar Epoxy Truck & Asphalt & Bituminous Distributor Truck, Drivers on the following type vehicles: Broyhill Coal Tar Epoxy Trucks, Little-Ford Bituminous Distributor, Slurry Seal Truck or Vehicle, Thiokol Track Master Pickup (Swamp Cat Pickup), Bucket Loader Dump Truck & any Rubber Tired Tractor used in pulling & towing Farm Wagons & Trailers of any discription, similar type vehicles, Off-site & On-site Repair Shop, and Agitator Mixers

GROUP 3 - Drivers on straight 3-Axle Materials: Truck & Floats.

GROUP 4 - Drivers on all Euclid Type Vehicles: Euclids, International Harvesters, Wabcos, Caterpillar, Koehring, Tractors & Wagons, Dumptors, Straight, Bottom, Rear & Side Dumps, Carryalls & Scrapers (not self loading-loading over the top), Water Sprinkler Trailer, Water Pulls & similar types of Vehicles; Drivers on Tractors & Trailer type vehicles: Flat, Floats, I-beams, Low Beds, Water Sprinkler, Bituminous Transit Mix, Road Oil, Fuel, Bottom Dump Hopper, Rear Dump, Office, Shanty, Epoxy, Asphalt,Agitator Mixer, Mulching, Stringer, Seeding, Fertilizing Pole, Spread, Bituminous Distributor, Water Pulls (entire unit) (Tractor Trailer), Reel Trailer, and similar types of vehicles.

GROUP 5 - Winch Trailers Drivers

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Years' Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day

FOOTNOTES:

a. Holidays: New Years' Day, Washingtons' Birthday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Armistice Day, and Christmas Day

b. Employer contributes $8.00 per day per employee to an Annuity Fund.

c. Holidays: A through F; plus Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day & Armistice Day.

d. Employees with 6 months of service but less than 5 years of service receive 2 weeks vacation; those with 5 or more years of service receive 3 weeks vacation.

e. Holidays: A through F; plus Washington's Birthday, Good Friday and Christmas Eve, providing the employee has worked 45 full days for the employer during 120 calendar days immediately prior to the holiday and the employee works his regularly scheduled work days immediately preceeding and following the holiday.

f. Holiday: St Patrick's Day

g. Holidays: A through F; plus Wasington's Birthday, Presidential Election Day and Veterans' Day providing the employee works any of the 3 days in the 5 days preceeding the holiday and the first work day after the recognized holiday.

h. Holidays: A through F; plus Lincoln's Birthday, Washington's Birthday, Good Friday, General Election Day,Columbus Day and Veterans Day provided the employee has been assigned to work or "shapes" one day of the calendar week during which the holiday falls.

i. Employees working or receiving pay for 80 days within a year receive one week's vacation (48 hours); 126 days receive two weeks vacation (96 hours); 145 days receive 15 days (120 hours); 15 years seniority and 145 days receive 4 weeks vacation (160 Hours).

j. Employer contribution of $124 per month per employee to Health and Welfare funds.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses 29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: North Carolina

COUNTIES: Forsyth, Stokes, Surry & Yadkin

DECISION NUMBER: NC80-1061

DATE: Date of Publication

Supersedeas Decision No. NC78-1081 dated September 29, 1978 in 43 in FR 45159

DESCRIPTION OF WORK: Residential construction consisting of single family homes and apartments up to and uncluding 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning Mechanic	6.00				
Bricklayers	7.00				
Carpenters	5.00				
Carpet layers	5.23				
Cement Masons	5.00				
Drywall Finisher	4.00				
Drywall Hangers	7.15				
Electricians	5.52				
Insulation Installer	4.81				
Laborers:					
Unskilled	3.61				
Mason tenders	3.81				
Painters, brush	4.55				
Plumbers & Pipefitters	6.57				
Roofers	5.00				
Sheet metal workers	4.83				
Soft Floor layers	5.23				
Truck drivers	3.61				
Welders - Rate for Craft.					
POWER EQUIPMENT OPERATORS:					
Bulldozers	5.00				
Grader	5.19				
Loaders	4.89				
Pans - Scrapers	5.00				
Paving machines	4.25				
Roller	4.00				
Tractor	4.08				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))

SUPERSEDEAS DECISION

STATE: North Carolina

COUNTIES: Gaston & Mecklenburg

DECISION NO: NC80-1065

DATE: Date of Publication

Supersedes Decision No. NC80-1016 dated January 4, 1980 in 45 FR 1374

DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including four stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning Mechanic	$6.03				
Bricklayers	7.50				
Carpenters	5.46				
Cement Masons	5.00				
Drywall Finishers	6.22				
Drywall Hanger	4.50				
Electricians	6.18				
Glaziers	5.63				
Insulation Installer	5.25				
Laborers:					
Laborers, unskilled	3.78				
Mason Tenders	3.85				
Pipelayers	4.55				
Painters, Brush	5.00				
Plumbers & Pipefitters	5.66				
Roofers	4.50				
Sheet Metal Workers	4.99				
Soft Floor Layers	4.50				
Tile Setters	5.50				
Truck Drivers	4.12				
POWER EQUIPMENT OPERATORS:					
Backhoes	5.61				
Bulldozers	4.00				
Graders	5.26				
Loaders	4.00				
Pan - Scrapers	4.75				
Pavers	4.50				
Rollers	4.11				
Screed	4.42				
Tractors	4.65				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Sullivan
DECISION NO.: PA80-3037 DATE: Date of Publication
Supersedes Decision No. PA78-3065 dated September 22, 1978, in 43 FR 43226.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes or apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	11.875	.80	.60		.01
Boilermakers	14.64	1.175	1.00		.02
Bricklayers	10.55	.55	.70		.01
Carpenters:					
Benton Air Force Base	11.39	.55	.65		.05
Remainder of County	10.92	.55	.65		.05
Cement Masons	10.60				
Electricians:					
Eastern part of County	12.54	.65	3%+1.05		.03
Western part of County	9.98	.60	3%+.85	.75	.02
Glaziers	10.50	.65	.85		
Ironworkers:					
Structural	12.80	a			.10
Reinforcing	12.70	a			.10
Laborers:					
Unskilled & window washers	9.52	.55	.80		
Mason tenders incl. scaffold builders	9.92	.55	.80		
Semi-skilled: Pneumatic, electrical & mechanical tool ops., under the jurisdiction of the laborers - 2" pumps-non-metallic pipelaying & making of joints clay, terra cotta, ironstone, vitrified concrete, handling of buring torches, asphalt or other hot materials, cement finihers & blaster helpers, power buggies, walk along hoist	9.72	.55	.80		
Plasters tenders, blasters & wagon drill operators	9.84	.55	.80		
Line Construction:					
Linemen & cable splicer	12.37	.55	3%		3/8 of1%
Winch truck operator	8.68	.55	3%		3/8 of1%
Groundman	8.30	.55	3%		3/8 of1%
Millwrights	12.57	.55	.65		.05
Painters:					
Brush	9.95	.75	.50		.10
Tapers	10.21	.75	.50		.10
Hazardous	11.21	.75	.50		.10
Piledrivermen	11.52	2.48	1.40	b	.13

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plasterers	10.20				
Plumbers	10.45	.79	.70	.75	.05
Glaziers	10.50	.65	.85		
Roofers	10.65	.90	.85		
Sheet Metal Workers	11.52	.70	.76		.02
Soft Floor Layers	9.60	.55	.65		.05
Sprinkler Fitters	13.55	.75	1.05		.08
Steamfitters	11.45	.74	.60	.50	.05
Stone Masons	10.55	.55	.70		.01
Terrazzo Workers	10.00	.55	.70		.01

Welders - rate of craft

FOOTNOTES:
a. Employer contributes $2.60 per hour to a combined health and welfare and pension fund.

b. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day and Christmas Day.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))."

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$13.19	7.9%	10.3%	a	1.8%
GROUP 2	12.90	7.9%	10.3%	a	1.8%
GROUP 3	12.03	7.9%	10.3%	a	1.8%
GROUP 4	11.26	7.9%	10.3%	a	1.8%
GROUP 5	10.79	7.9%	10.3%	a	1.8%
GROUP 6	9.88	7.9%	10.3%	a	1.8%
GROUP 7	13.44	7.9%	10.3%	a	1.8%
GROUP 7-A	13.69	7.9%	10.3%	a	1.8%
GROUP 7-B	13.93	7.9%	10.3%	a	1.85

CLASSIFICATIONS DEFINITIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helocopters, machines similar to the above

GROUP 2 : All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist wirh two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type bachoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt palnt engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishingmachines concrete breaking machines, rollers, seaman pulverzing mixer, power broom, seeding spreader, tireman (for power equipment) machines similar to above

GROUP 5: - Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc): 100 ft. and over

GROUP 7-A: 150 ft. and over
GROUP 7-B: 200 ft. and over

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

[FR Doc. 80-13282 Filed 5-1-80; 8:45 am]
BILLING CODE 4510-27-C

federal register

Friday,
May 2, 1980

Part III

Reader Aids

List of Acts Requiring Publication in the Federal Register, 1979

LIST OF ACTS REQUIRING PUBLICATION IN THE FEDERAL REGISTER, 1979

Additions to Table III, January 1979 through December 1979

This table lists the subject matter, public law number, and citations to the U.S. Statutes at Large and U.S. Code for those Acts of the first session of the 96th Congress which require publication in the *Federal Register*.

Table III appears in the CFR Index and finding aids revised as of January 1, 1980.

Description of Act	*Citation*
Trade Agreements Act of 1979	Public Law 96–39; 93 Stat. 144; 19 U.S.C. 2501 note.
Fishery Conservation and Management Act of 1976, amendment.	Public Law 96–61; 93 Stat. 408; 22 U.S.C. 1978.
Panama Canal Act of 1979	Public Law 96–70; 93 Stat. 490; 22 U.S.C. 3794.
Export Administration Act of 1979	Public Law 96–72; 93 Stat. 503; 50 U.S.C. app. 2401 et seq.
National parks and recreational lands	Public Law 96–87; 93 Stat. 665; 16 U.S.C. 1 note.
Department of Education Organization Act	Public Law 96–88; 93 Stat. 696; 20 U.S.C. 3401 note.
Emergency Energy Conservation Act of 1979	Public Law 96–102; 93 Stat. 757; 42 U.S.C. 8501 et seq.
Pipeline Safety Act of 1979	Public Law 96–129; 93 Stat. 1006; 49 U.S.C. 2004.
Justice System Improvement Act of 1979	Public Law 96–157; 93 Stat. 1167; 42 U.S.C. 3701 et seq.
Endangered Species Act of 1973, appropriation authorization.	Public Law 96–159; 93 Stat. 1225; 16 U.S.C. 1531 et seq.
Meat imports, quota modifications	Public Law 96–177; 93 Stat. 1291; 19 U.S.C. 1202 note.

federal register

Friday
May 2, 1980

Part IV

Equal Employment Opportunity Commission

Office of Personnel Management

Department of Justice

Department of the Treasury

Department of Labor

Office of Federal Contract Compliance Programs

Adoption of Additional Questions and Answers to Clarify and Provide a Common Interpretation of the Uniform Guidelines on Employee Selection Procedures

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1607

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 300

DEPARTMENT OF JUSTICE

28 CFR Part 50

DEPARTMENT OF THE TREASURY

31 CFR Part 51

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60-3

Adoption of Additional Questions and Answers to Clarify and Provide a Common Interpretation of the Uniform Guidelines on Employee Selection Procedures

AGENCIES: Equal Employment Opportunity Commission, Office of Personnel Management, Department of Justice, Department of Labor and Department of the Treasury.

ACTION: Adoption of additional questions and answers designed to clarify and provide a common interpretation of the Uniform Guidelines on Employee Selection Procedures.

SUMMARY: The agencies which issued the Uniform Guidelines on Employee Selection Procedures (43 FR 38290 et seq., August 25, 1978 and 43 FR 40223, Sept. 11, 1978, 29 CFR Part 1607, 41 CFR Part 60-3, 28 CFR 50.14, 5 CFR 300.103(c), and 31 CFR 51.53) have previously recognized the need for a common interpretation of the Uniform Guidelines, as well as the desirability of providing additional guidance to users, psychologists and enforcement personnel, by publishing Questions and Answer (44 FR 11996, March 2, 1979). These Additional Questions and Answers are intended to provide additional guidance in interpreting the Uniform Guidelines.

EFFECTIVE DATE: May 2, 1980

FOR FURTHER INFORMATION CONTACT:

Pamela Dillon, Chief, Branch of Special Analyses, Room N5718, Office of Federal Contract Compliance Programs, Department of Labor, Washington, D.C. 20210, 202-633-6924.

Frederick Dorsey, Director, Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506, 202-634-7060.

A. Diane Graham, Assistant Director, Affirmative Employment Programs, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, 202-632-4420.

James Hellings, Special Assistant to the Assistant Director, Intergovernmental Personnel Programs, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, 202-632-6248.

Arnold Intrater, Chief Counsel, Office of Revenue Sharing, Department of the Treasury, 2401 E Street, N.W., Washington, D.C. 20220, 202-634-5182.

Kenneth A. Millard, Chief, State and Local Branch, Personnel Research and Development Center, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20414, 202-632-6238.

David L. Rose, Chief, Federal Enforcement Section, Civil Rights Division, Department of Justice, 10th Street and Pennsylvania Avenue, N.W. Washington, D.C. 20530, 202-633-3831.

Donald J. Schwartz, Personnel Research Psychologist, Office of Systemic Programs, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506, 202-634-6960.

Introduction

Because of the number and importance of the issues addressed in the Uniform Guidelines on Employee Selection Procedures (43 FR 38290), and the dual needs of providing a common interpretation and providing guidance to employers and other users, psychologists and others who are called upon to conduct validity studies, and Federal personnel who have enforcement responsibilities, the five issuing Federal agencies adopted and issued Questions and Answers (44 FR 11996, Mar. 2, 1979) to clarify and interpret the Uniform Guidelines. The issuing agencies recognized that it might be appropriate to address additional questions at a later date.

By letter dated October 22, 1979, the American Psychological Association, acting through its Committee on Psychological Tests and Assessment, brought to the attention of the government concerns as to the consistency of the Uniform Guidelines with the "Standards for Educational and Psychological Tests," referred to in the guidelines as the "A.P.A. Standards". The Committee noted in its letter of October 22, 1979, that it had found a high degree of consistency between the proposed Uniform Guidelines and the A.P.A. Standards on February 17, 1978, and that an attempt to resolve remaining inconsistencies was made in the published Uniform Guidelines. Stressing the view that the real impact of the Guidelines can only be fully assessed after agency instructions have been issued and applied, and after court rulings, however the Committee raised areas of possible inconsistency between the Uniform Guidelines, as applied, and the A.P.A. Standards. In particular, the letter raises (among others) three specific concerns: (1) that the Guidelines might call for "a more rigid demand for a search for alternatives than we would deem consistent with acceptable professional practices"; (2) that, with respect to criteria for criterion related validity studies, the Guidelines failed adequately to recognize that "a total absence of bias can never be assured" and that the standards of the profession required only that "there has been a competent professional handling of this problem"; and (3) for criterion related validity studies "in some circumstances there may exist just one or two critical job duties, and that in such cases sole reliance on such a single selection procedure relevant to the critical duties would be entirely appropriate".

Staff of the Federal agencies responded, by letter of January 17, 1980, that "some of the problems discussed in your letter may be due to a lack of a clearly articulated position of the Federal agencies on these matters, rather than to actual differences between the Uniform Guidelines and professional standards." The letter of January 17, 1980, enclosed a draft of three additional Questions and Answers designed to clarify the agencies' interpretation of those three issues, and requested comments on the additional Questions and Answers, and on the consistency of the Uniform Guidelines so interpreted with professional standards. By letter of February 11, 1980, the American Psychological Association, acting through it Committee on Psychological Tests and Assessment, found each of the Questions and Answers to be helpful and has judged, "given the accuracy of our interpretation of these Q's and A's, that these guidelines have attained consistency with the Standards in those areas in which comparisons can now be meaningfully made."

The validation provisions of the Uniform Guidelines are intended to reflect the standards of the psychological profession (Section 5C,

Uniform Guidelines). The issuing agencies are of the view that the three additional Questions and Answers accurately reflect the proper interpretation of the Uniform Guidelines with respect to the three areas of concern raised by the A.P.A. Accordingly, the agencies hereby adopt the three Questions and Answers set forth below to clarify and provide a common interpretation of the Uniform Guidelines. These three additional Questions and Answers supplement the original Questions and Answers published on March 2, 1979. (44 FR 11996). As with the originals, these Questions and Answers use terms as they are defined in the Uniform Guidelines, and are intended to interpret and clarify, but not to modify, the provisions of the Uniform Guidelines.

Questions and Answers 91 and 92 are published exactly as written and attached to the letter of January 17, 1980. As the letter from the A.P.A. correctly noted, the Answer to Question 91 implies that the obligation of a user to study unpublished, professionally available research reports is dependent not only on the degree of adverse impact, but also upon the absolute number of persons who might be adversely affected. Where the number of persons affected is likely to be large, a thorough inquiry into unpublished sources is likely to be appropriate, but where the number is small, a cursory review may be sufficient.

The answer to Question 93 has been modified by the addition of an example, as suggested by the letter from A.P.A., and by clarifying language at the end of the last sentence.

The agencies recognize that additional questions may arise at a later date that warrant a formal, uniform response, and contemplate working together to provide additional guidance interpreting the Uniform Guidelines.

Supplemental Questions and Answers

91. Q. What constitutes a "reasonable investigation of alternatives" as that phrase is used in the Answer to Question 49?

A. The Uniform Guidelines call for a reasonable investigation of alternatives for a proposed selection procedure as a part of any validity study. See Section 3B and Questions 48 and 49. A reasonable investigation of alternatives would begin with a search of the published literature (test manuals and journal articles) to develop a list of currently available selection procedures that have in the past been found to be valid for the job in question or for similar jobs. A further review would then be required of all selection procedures at least as valid as the proposed procedure to determine if any offer the probability of lesser adverse impact. Where the information on the proposed selection procedure indicates a low degree of validity and high adverse impact, and where the published literature does not suggest a better alternative, investigation of other sources (for example, professionally-available, unpublished research studies) may also be necessary before continuing use of the proposed procedure can be justified. In any event, a survey of the enforcement agencies alone does not constitute a reasonable investigation of alternatives. Professional reporting of studies of validity and adverse impact is encouraged within the constraints of practicality.

92. Q. Do significant differences between races, sexes, or ethnic groups on criterion measures mean that the criterion measures are biased?

A. Not necessarily. However, criterion instruments should be carefully constructed and data collection procedures should be carefully controlled to minimize the possibility of bias. See Section 14B(2). All steps taken to ensure that criterion measures are free from factors which would unfairly alter the scores of members of any group should be described in the validation report, as required by Section 15B(5) of the Guidelines

93. Q. Can the use of a selection procedure which has been shown to be significantly related to only one or two job duties be justified under the Guidelines?

A. Yes. For example, where one or two work behaviors are the only critical or important ones, the sole use of a selection procedure which is related only to these behaviors may be appropriate. For example, a truck driver has the major duty of driving; and in addition handles customer accounts. Use of a selection procedure related only to truck driving might be acceptable, even if it showed no relationship to the handling of customer accounts. However, one or two significant relationships may occur by chance when many relationships are examined. In addition, in most practical situations, there are many critical and/or important work behaviors or work outcomes. For these reasons, reliance upon one or two significant relationships will be subject to close review, particularly where they are not the only important or critical ones.

Eleanor Holmes Norton,
Chair, Equal Employment Opportunity Commission.
Alan K. Campbell,
Director, Office of Personnel Management.
Drew S. Days III,
Assistant Attorney General, Civil Rights Division, Department of Justice.
Weldon J. Rougeau,
Director, Office of Federal Contract Compliance Programs, Department of Labor.
Kent A. Peterson,
Acting Director, Office of Revenue Sharing.

[FR Doc. 80-13345 Filed 5-1-80; 8:45 am]
BILLING CODE 6570-06-M

federal register

Friday
May 2, 1980

Part V

Department of Health, Education, and Welfare

Health Care Financing Administration

Medicare and Medicaid; Utilization Review Procedures; Correction and Extension of Comment Period

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Parts 405, 440, 456, and 482

Medicare and Medicaid; Utilization Review; Correction and Extension of Comment Period

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Correction to Proposed Rule and extension of comment period.

SUMMARY: This notice corrects proposed rules on utilization review procedures for hospitals that participate in Medicare and Medicaid programs published on March 3, 1980 (45 FR 13940; FR Doc. 80-6426).

DATE: In light of these corrections, comments received by July 1, 1980 will be accepted for consideration.

FOR FURTHER INFORMATION CONTACT: Alan Reider, 301-594-3980.

SUPPLEMENTARY INFORMATION: FR Doc. 80-6426 is corrected as follows:

1. In the preamble, correct Major Issues, item 4(2) on page 13942, left column, as follows: "(2) there is no preadmission review authority; and".

2. On page 13948, middle column, in the table of contents for Part 482, add after 482.114 "482.115 Standard: Modification of review activities."

3. On page 13948, middle column, correct § 482.100(a) by adding after the first sentence: "Section 1865(a) provides that the Secretary may find that JCAH accredited hosptials meet this UR requirement."

4. On page 13948, right column, correct § 482.100(b) by adding "(3) Hospitals which are surveyed and accredited after January 1, 1980, by the Joint Commission on Accreditation of Hospitals are deemed to meet the requirements of this subpart, except that all hospitals must meet the requirements of §§ 482.119(d) and 482.120(b).".

5. On page 13949, right column, correct § 482.106 to add after paragraph (c): "(d) Procedures for identifying cases appropriate for automatic approval if a focused review plan has been approved as provided in § 482.115;".

6. Redesignate in § 482.106 paragraphs (d), (e), (f) and (g) to become paragraphs (e), (f), (g) and (h) to allow for insertion of paragraph (d).

7. On page 13950, left column, correct § 482.108(a) to delete "and" after paragraph (a)(4), and adding to (a): "(5) a list of the types of cases subject to automatic approval, along with supporting documentation; and".

8. Redesignate § 482.108(a)(5) as § 482.108(a)(6) to allow for insertion of (5).

9. Correct § 482.108(b)(1) as follows: "(1) The UR committee must keep confidential and disclose its records in accordance with applicable State law, subject, however, to the confidentiality restrictions for alcohol and drug abuse patient records as provided in 42 CFR Part 2.".

10. On page 13950, middle column, correct § 428.110(a) as follows: "(a) *Candidates for review.* Except as provided in § 482.115, the committee must perform admission and continued stay review and, . . .".

11. On page 13951, middle column, correct § 482.112(c)(2) as follows: "(2) For psychiatric hospitals, each continued length of stay may be no longer than 30 days until the 90th day after admission, and no longer than 90 days thereafter.".

12. On page 13951, middle column, correct § 482.113(b) as follows: "(b) *During hospitalization.* If an elective surgical or major elective diagnostic or therapeutic procedure, not a stated purpose of admission, . . .".

13. On page 13951, middle column, insert after § 482.114 the following section.

§ 482.115 Standard: Modification of review activities.

(a) *Bassic requirements.* A UR committee may submit a focused review plan to its respective fiscal agents for approval. The plan must include the data base used by the committee in making its focusing decisions. Following approval of the review plan, the UR committee may modify the review activities in §§ 482.111 through 482.114 as specified in the aproved review plan.

(b) *Automatic approval.* (1) The committee should use data and prior experience to identify cases appropriate for automatic approval of admission or an entire hospital stay, based on such criteria as:

(i) Diagnoses, problems, and conditions for which the criteria indicating the presence of the diagnoses, problems, or conditions are consistently met;

(ii) Elective surgical and other major elective diagnostic and therapeutic procedures that are consistently medically necessary, and are performed at a consistently appropriate level of care;

(iii) Major clinical areas in the hospital in which admissions are consistently medically necessary and at the appropriate level of care; or

(iv) Major clinical areas in the hospital in which both admissions and continued stays are consistently medically necessary and at the appropriate level of care; and

(v) Individual practitioners whose admissions, or both admissions and continued stays, are consistently at an appropriate level of care and medically necessary.

(2) The committee must perform a preliminary screen of all cases to identify those that meet the criteria for automatic approval.

(3) If an admission, but not the entire length of stay, is automatically aproved, a length of stay must be assigned in accordance with § 482.111 and continued stay review must be performed in accordance with § 482.112.

(c) *Continuing committee responsibility.* Where a modification or focusing plan has been approved, the committee must, through concurrent review and medical care evaluation studies, assure that admissions and hospital stays automatically approved under this section continue to represent consistently appropriate utilization of hospital care.

(Secs. 1102, 1861(k), 1871, 1902(a)(30), 1903(g)(1)(C) and 1903(i)(4) of the Social Security Act; 42 U.S.C 1302, 1395x(k), 1395(hh), 1396a(a)(30), 1396b(g)(1)(C) and 1396b(i)(4))

(Catalog of Federal Domestic Assistance Program No. 13.714 Medical Assistance Program; No. 13.773 Medicare—Hospital Insurance)

Dated: April 22, 1980.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: April 25, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-13453 Filed 5-1-80; 8:45 am]

BILLING CODE 4110-35-M

federal register

Friday
May 2, 1980

Part VI

Department of Housing and Urban Development

Office of the Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection

Mobile Home Construction and Safety Standards; Interpretative Bulletin; Substantial Brace Criteria Waiver

Part VI

Department of Housing and Urban Development

Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Neighborhoods, Voluntary Assocations and Consumer Protection

24 CFR Part 3280

[Docket No. R-80-789]

Mobile Home Construction and Safety Standards; Interpretative Bulletin—I-1-80, Substantial Brace Criteria Waiver

AGENCY: Office of the Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection, HUD.

ACTION: Notice of Interpretative Bulletin.

SUMMARY: This Interpretative Bulletin provides performance criteria for a "substantial brace," which is required for supporting an electrical outlet box. The performance criteria contained in this Bulletin may be used to meet the requirements of a substantial brace as an alternative to the specific requirements contained in the present standard by reference to the national Electrical Code (NFPA No. 70–1975). This Bulletin will permit the use of alternative systems to meet the requirement for a substantial brace by meeting the performance criteria as specified.

DATES: Comment due date: June 2, 1980.

Effective date: June 2, 1980.

ADDRESSES: Comments should be sent to the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Richard A. Mendlen, Director, Standards Division, Office of Mobile Home Standards, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410 (202) 755–6893.

SUPPLEMENTARY INFORMATION: The purpose of this Interpretative Bulletin is to provide a waiver with respect to the specific requirements which must be met in order to comply with the standard for a "substantial brace," as that term is used in 24 CFR 3280.808(n). The Department is issuing this waiver of the specific requirements of the referenced standard, Article 370–13 of the National Electrical Code (NFPA No. 70–1975), because of requests for clarification as to what constitutes an acceptable "substantial brace." The performance criteria which are to be met pursuant to this Bulletin will permit manufacturers to use an alternative bracing system that will adequately support an electrical outlet box even though it does not conform to the specific requirements for a "substantial brace" set forth in the National Electrical Code.

The definition of "substantial brace" in Article 370–13 of the National Electrical Code applies to the substantial brace required by 24 CFR 3280.808(n) of the Federal Mobile Home Construction and Safety Standards (Federal Standards). This definition in the National Electrical Code applies because of specific reference to this Code at 24 CFR 3280.808(a), which states:

> Except as specifically limited in this Part, the wiring methods and materials specified in the National Electrical Code (NFPA 70–1975) shall be used in mobile homes.

Since there is no definition of substantial brace in Subpart I of the Federal Standards, the National Electrical Code definition is applicable pursuant to this section. The criteria for a substantial brace in Article 370–13 are the following:

> If of wood, the brace shall not be less than one inch nominal thickness. If of metal, it shall be corrosion-resistant and shall not be less than No. 24 MSG.

The Department, in assessing the past performance of bracing systems other than those specified in Article 370–13 of the National Electrical Code, has concluded that alternative designs are acceptable if they can be shown to meet a certain load resistance capability. A force level of fifty (50) pounds is currently required by Underwriters Laboratories' Standard No. 514/ANSI c 33.81 to evaluate the load resistance capability of electrical outlet boxes with attached mounting brackets. Therefore, the department has determined that alternative designs which meet this performance level can be used to meet the requirements for a substantial brace at 24 CFR 3280.808(n). The fifty (50) pound load test must be applied to the brace and its fastening mechanism in a direction perpendicular to the mounting surface. The ultimate load test procedure required by 24 CFR 3280.401(b) applies if this performance level is verified by a load test. Substantiating calculations or test data to demonstrate that the performance criteria for this waiver are being met shall be included in the DAPIA-approved design package.

The Department invites comments from interested persons on this Interpretative Bulletin and will consider all comments received by June 2, 1980. This Interpretative Bulletin will become effective on June 2, 1980, as set forth below unless the Department, on the basis of comments received, publishes a revised final bulletin prior to that date.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, 451 7th Street, SW., Washington, D.C. 20410. This interpretative bulletin is not listed on the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

(Sec. 625, National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5424; sec. 7(d), Department of HUD Act, (42 U.S.C. 3535(d)); 24 CFR 3280.1 (b) and (c) and 3282.113)

Accordingly, Article 370–13 of the National Electrical Code (NFPA No. 70–1975) as referenced by 24 CFR 3280.808(a) is interpreted as follows:

Interpretative Bulletin I–1–80

Substantial Brace Criteria—Waiver—3280.808(a) referencing Article 370–13 of the National Electrical Code (NFPA No. 70–1975)

Waiver

The Secretary hereby waives the specific requirements of the National Electrical Code (NFPA No. 70–1975), Article 370–13 that a substantial brace if of wood, shall not be less than nominal one inch thickness and if of metal it shall not be less than No. 24 MSG. under certain conditions. This waiver only applies if the "substantial brace" assembly, which includes the brace and the fastening mechanisms to attach the brace to the mobile home structure, shall withstand a force of 50 pounds applied perpendicularly to the surface in which the box is installed at the point(s) where the box is attached to the brace. The performance of the "substantial brace" may be verified either by calculation or load test. If verified by load test, the Ultimate Load Test specified in 24 CFR 3280.401(b) shall be utilized. The requirement that if the brace is metal it shall be corrosion-resistant is still applicable for this waiver.

Issued at Washington, D.C., March 24, 1980.

Richard C. D. Fleming,

General Deputy Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 80-13487 Filed 5-1-80; 8:45 am]

BILLING CODE 4210-01-M

federal register

Friday
May 2, 1980

Part VII

Department of the Interior

Fish and Wildlife Service

Draft National Fish and Wildlife Policy

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft National Fish and Wildlife Policy

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service is preparing a National Fish and Wildlife Policy to clarify and reaffirm the Nation's commitment to the conservation of natural resources. This notice provides a draft of the initial portion of that policy which adresses State-Federal Relationships. The public is encouraged to review and comment on the draft.

DATES: The period for public comment will be 60 days from the date of publication in the **Federal Register**. (July 1, 1980.)

ADDRESSES: Comments to Director, Fish and Wildlife Service, Division of Program Plans, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Lynn A. Greenwalt, Director, Fish and Wildlife Service, Washington, D.C. 20240 (202-343-4717).

SUPPLEMENTARY INFORMATION:

Preface

The following document announces the initiation of a process for the development of a National policy on fish and wildlife, and invites public reveiw and comment on the results of the first step in that process. The development of such a policy is particularly appropriate at a time when increasingly serious problems threaten the continued well-being of fish and wildlife resources in the United States. A strong but succinct statement will answer the need to focus National attention on specific policies that will provide the greatest potential for assuring the continued usefulness and viability of fish, wildlife and related resources.

Given the complex array of statutes, regulations and court decisions that exist today, there is a crucial need to clarify and reaffirm the Nation's commitment to the conservation of natural resources. The overall goal in the development of a National Fish and Wildlife Policy is to formulate a consistent and coherent statement of principles and objectives for the effective conservation of our Nation's fish and wildlife resources and their habitats.

Development of a National Fish and Wildlife Policy is a formidable undertaking, and its success will depend upon a cooperative effort by all interested parties. The policy development process should be regarded as a long-term effort. This will permit the orderly development and consideration of a number of policy issues, allow for full public review and comment, and provide a framework for progressive, continuous implementation. The latter point is important because much National wildlife policy is embodied in statute, and needed changes which are identified in the review process might well require revised or new legislation.

As it evolves, a National Fish and Wildlife Policy should address a wide range of topics, including, but not necessarily limited to the following:

1. Ecological, economic, esthetic and other fish and wildlife values;
2. Human activities, such as land use practices and environmental pollution;
3. Human attitudes toward fish and wildlife resources and their management;
4. Education, extension, research and public information programs;
5. Subsistence uses and Native claims;
6. Habitats: ecosystems, communities, and individual habitat types;
7. Federal Land Systems;
8. Management strategies for the maintenance of ecosystems, populations, biological diversity and yield;
9. Enforcement of fish and wildlife laws and regulations;
10. International programs;
11. Endangered species of fauna and flora;
12. Exotic species; and,
13. Animal damage management.

The Assistant Secretary of the Interior for Fish and Wildlife and Parks, who has been assigned the lead in this effort on behalf of the Administration, is seeking an expression of views from the public concerning the content of a National Fish and Wildlife Policy and, most importantly, the priority in which the various elements should be addressed. As a result of these comments, an array of topics will be developed for further consideration. Some of these subjects will be pursued simultaneously, and others in a logical sequence. Ultimately, a National policy will be promulgated for each topic and a mechanism established as quickly as possible to effectively implement that policy. Again, however, keep in mind that the foregoing list is representative of topics to be considered, but it is by no means exhaustive. Comments on these and other topics are welcomed together with any details concerning the nature of the policy that might be addressed in connection with any of them.

As a point of departure, and as a centerpiece on which to build a National Fish and Wildlife Policy, the clarification of fish and wildlife jurisdictional issues between State, Commonwealth, Territorial and Federal governments is essential. It is at these levels of government that primary management authorities and responsibilities are vested. In general, this section does not consitute the formulation of new policy but, rather, an articulation of principles already expressed in a number of existing statutues, executive orders, regulations and departmental guidelines.

Development of dynamic, flexible and enlightened conservation programs to meet present and future demands on resources must be conducted in a manner that involves the public and recognizes the fact that responsibilities for fish and wildlife are shared with State and Territorial organizations. A proper distribution of responsibilities between Federal and State organizations can assure a far greater degree of success in the long term. The following section, which is intended to be the focal point for public comment represents an attempt to clarify the roles played by each level of government in the process of sharing responsibilities for fish and wildlife resources.

Clearly, this is a complex subject, evolving over time as the result of legislation, litigation and the development of policies at various levels. It should be noted that the word "State" as used here includes Territories and Commonwealths within the jurisdiction of the United States, and constituent units of government upon which States, Territories and Commonwealths may have conferred authorities related to the subjects of the draft policy.

In summary, comments are requested on two matters: 1) the content and the priorities which should be attached to various components of a National Fish and Wildlife Policy, and 2) the section on State-Federal Relationships—the initial and fundamental dimension of a National Fish and Wildlife Policy.

The authors of the draft policy are Dr. Jay D. Hair, Associate Professor, Department of Zoology, North Carolina State University, and Mr. Lynn A. Greenwalt, Director, U.S. Fish and Wildlife Service.

National Fish and Wildlife Policy

State-Federal Relationships

I. Introduction

1. The United States of America recognizes that fish and wildlife are held in public trust and are essential components of the environment and that their commercial, cultural, educational, esthetic, recreational, scientific, and social values must be recognized, maintained, and integrated with the goals of society.

2. Because fish and wildlife populations are fundamentally dependent upon habitats involving both private and public lands, the state and federal governments must work in a cooperative partnership for the mutual objective of conserving these important renewable natural resources and their associated values.

3. The overall goal of this section of the National Fish and Wildlife Policy is to identify the respective missions and responsibilities of the state and federal agencies responsible for fish and wildlife resources and to describe cooperative relationships which advance scientifically based resource management programs.

II. Governmental Jurisdictions

1. Each state, except as noted below, has the authority to manage, control and regulate resident fish and wildlife, including their capturing, taking, possession and other uses within their respective boundaries.

2. The Congress of the United States has authorized and directed to federal agencies certain responsibilities for the conservation and development of fish and wildlife resources and their habitats.

3. International treaties and conventions provide the means for addressing multi-national fish and wildlife resources management problems. Under powers specifed in the constitution (Article II, Section 2), the authority for entering into such formal agreements is reserved exclusively to the President by and with the advice and consent of the Senate. Before the United States of America becomes a party to any agreements involving fish and wildlife resources, or amendments to existing agreements, the federal agencies with the primary responsibility for implementation of such agreements, provide the opportunity for substantive consultation with appropriate state or territorial agencies.

III. Responsbility for Habitat Management on Federal Lands

1. The responsibility for the management of fish and wildlife habitat on federal lands is related directly to land administration responsibility. The maintenance and development of habitats on federal lands are among the major responsiblities of each federal land-administering agency. Within its statutory authority, each agency establishes fish and wildlife habitat objectives in multiple use land and resource management plans. These are completed in consultation with the state fish and wildlife agencies. Where applicable, habitat improvement programs to accomplish these objectives are achieved according to comprehensive habitat improvement plans completed jointly by the appropriate state and federal agencies. The goal of the habitat objectives and the improvement plans is to achieve desired fish and wildlife population levels and distributions that are in accordance with provisions of applicable federal statutes.

IV. Public Activities on Federal Lands

1. In accordance with statutory provisions and national security requirements, scientific research and public fishing, hunting, trapping, nature study, viewing and other appropriate recreational activities are permitted on federal lands in a manner consistent with scientific resource management principles and practices, providing such activities are compatible with the primary purposes for which the lands are administered.

2. All authorized recreational activities and possession and disposition of fish and wildlife are conducted within the framework of applicable statutes and regulations, including requirements for possession of appropriate state licenses or permits.

3. The federal Land Managers concerned may, after consultation with the affected states, designate areas of federal lands where, and establish periods when, specified human activities affecting fish and wildlife resources will not be permitted for reasons of administration, national security or public safety in accordance with the authority of applicable laws.

4. Nothing contained herein shall be construed as permitting public fishing, hunting, or trapping on federal lands in units of the National Park System, except where Congress or the President of the United States has otherwise declared that public fishing, hunting or trapping is permissible. Where permitted, such activities shall conform to the provisions of this policy.

V. Interagency Agreements

1. Within specified statutory authority, federal agencies participate in joint planning efforts and develop written agreements with appropriate state and territorial agencies including, but not limited to, plans, terms and conditions on federal lands for:

(a) Research or other field study programs involving the capturing, taking, or possession of fish and wildlife;

(b) Fish and wildlife resource inventories and collection of standardized data base;

(c) Conservation of fish and wildlife resources subject to federal jurisdication;

(d) Management and development of fish and wildlife habitats on federal lands;

(e) Introduction of fish and wildlife into any ecosystem on federal lands;

(f) Requirements for permits;

(g) Law enforcement;

(h) Educational programs;

(i) Toxicity/mortality investigations and monitoring;

(j) Emergency procedures for removal of wildlife deemed to be harmful;

(k) Animal damage management; and

(l) Disposition of fish and wildlife taken under the appropriate subparagraphs of this paragraph.

2. The cooperating parties will develop and implement procedures for periodic review of agreements and when appropriate, such agreements are adjusted to reflect changed conditions.

3. While interagency agreements are under development or review, responsibility or statutory authority of the appropriate federal agencies to conserve fish and wildlife resources on the respective federal land remains unaltered. In such situations state fish and wildlife agencies consult with the appropriate federal agencies and comply with relevant federal statutes, regulations and policies, prior to engaging in any of the above activities on federal lands.

4. Nothing contained herein shall be construed as restricting the responsibility and authority of state fish and wildlife agencies to establish annual harvest regulations for fish and resident wildlife for those federal lands where such activities arew authorized.

VI. General Provisions

1. This policy shall be implemented in compliance with all federal and state statutes Executive Orders, and federal treaties, including those respecting the rights of Native peoples for fishing, hunting or trapping.

2. Except in emergencies, the responsible federal agencies shall consult with, and provide timely notification to, all state agencies affected by substantial actions taken in the develop or execution of this policy.

3. Nothing herein limits the responsibility of federal, state or territorial agencies to comply with applicable statutes and regulations requiring public participation in the develop or policies, plans, agreements and programs for the conservation of fish and wildlife resources and their habitats.

Dated: April 28, 1980.

Robert L. Herbst,

Assistant Secretary of the Interior Fish and Wildlife and Parks.

[FR Doc. 80-13496 Filed 5-1-80; 8:45 am]

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May 2, 1980

Part VIII

Department of Energy

Economic Regulatory Administration

Resellers' and Reseller-Retailers' Price Rules for Gasoline

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-79-32E]

Resellers' and Reseller-Retailers' Price Rules for Gasoline

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final Rule and Notice of Continued Rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts final rules regarding the pricing of gasoline by resellers and reseller-retailers.

The rules adopted today, which are effective May 1, 1980, provide the following:

(1) Resellers' and reseller-retailers' maximum lawful selling price for resales of gasoline is the acquisition cost, plus 7.7 cents per gallon, plus tax costs. The fixed margin will be adjusted semi-annually based on changes in the GNP deflator.

(2) Acquisition cost for small resellers (gasoline sales of five million gallons or less in calendar year 1979) is the most recent purchase price and for large resellers (greater than five million gallons of gasoline sales in calendar year 1979) is the cost of gasoline in inventory calculated pursuant to the reseller's historic accounting practices consistently applied.

(3) The carry forward of unrecouped costs and existing "banks" are eliminated.

(4) Restrictions on the amount of increased commissions paid to consignee agents by refiners are eliminated.

(5) Reseller-retailers' maximum lawful selling price in retail sales is the reseller-retailers' most recent dealer tank wagon (DTW) price charged to the nearest independent retailer, plus 16.1 cents per gallon, plus tax costs. If no sales are made to an independent retailer, the reseller-retailers' acquisition cost, plus 23.8 cents per gallon, plus tax costs is the maximum lawful selling price. The cents per gallon amounts will be adjusted semi-annually based on changes in the GNP deflator.

(6) In the alternative, resellers and reseller-retailers may elect to compute maximum lawful selling prices under the rules in effect on April 30, 1980 rather than under the amendments adopted today.

This rulemaking is continued with respect to the proposed "layering" provisions.

DATES: Effective date of final rule: May 1, 1980. Written comments on continued rulemaking: July 1, 1980.

ADDRESS: All comments to Public Hearing Management: Docket No. ERA-79-32-E, Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2214, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3757

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room 110-B, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-4055

Chuck Boehl or Ed Mampe (Regulations and Emergency Planning), Economic Regulatory Administration, Room 7204, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3199

William Funk or William Mayo Lee (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6736 or 252-6754

SUPPLEMENTARY INFORMATION:

I. Background
II. Comments
III. Amendments
IV. Continued Rulemaking
V. Procedural Requirements

I. Background

On July 15, 1979 the DOE issued final rules regarding the price regulations for retailers of motor gasoline (44 FR 42541, July 19, 1979). The new simplified method of computing retailers' maximum lawful selling prices for gasoline is based on the acquisition cost of the gasoline plus a fixed cents per gallon markup and applicable tax costs.

During the rulemaking proceeding DOE received comments regarding the price rules for resales of gasoline by resellers and reseller-retailers. DOE only adopted new price rules for independent retailers, however, and used the comments received concerning other types of sales to formulate several alternative pricing schemes for sales by resellers and reseller-retailers.

On November 28, 1979, DOE issued a notice of proposed rulemaking entitled *Resellers' and Reseller-Retailers' Price Rules for Gasoline* (44 FR 69602, December 3, 1979). The Notice set forth several alternative amendments to the existing price rules for resellers and reseller-retailers. Generally, two major alternative conceptual approaches and several major changes to the existing rules were proposed. In addition, an interim rule was proposed to grant resellers and reseller-retailers limited relief by increasing the amount of increased non-product cost that could be passed through in delivered reseller sales and increased the allowable pass through of increased commissions paid to consignee agents by refiners. The interim rule was adopted effective January 1, 1980 (44 FR 77118, December 28, 1979).

The major amendments proposed in the Notice were as follows:

1. Increase the cents per gallon limitation currently imposed on resellers' and reseller-retailers' pass through of non-product cost increases in gasoline resales by 2.6 cents per gallon for deliveries of less than 20,000 gallons and one cent per gallon for deliveries of more than 20,000 gallons, reflecting increased non-product cost and inflation as measured by the GNP deflator since the first quarter 1974.

2. In the alternative, adopt a new pricing scheme permitting a 7.7 fixed cents per gallon markup, plus acquisition cost and tax cost from resellers' and reseller-retailers' delivered resales of less than 20,000 gallons and 3 cents per gallon for delivered resales of 20,000 gallons or more, also reflecting increased non-product cost and inflation since 1974.

3. Allow reseller-retailers a 16.1 cents per gallon fixed markup for retail sales consistent with the retailer price rules adopted July 15, 1979.

4. Eliminate current "banks" and the carry forward of unrecouped costs for resellers and reseller-retailers.

5. Add a "layering" provision to prevent the unnecessary resale of gasoline.

6. Permit refiners to pass through in price increases without limitations all increased costs of commissions paid to consignee-agents or, alternatively, restrict the amount of increased costs of commissions which may be passed through in price increases.

II. Comments

The DOE held public hearings in Washington, D.C. (December 12 and 13, 1979 and January 22 and 23, 1980), San Francisco, California (January 8, 1980), and Atlanta, Georgia (January 15, 1980) regarding the Notice of Proposed Rulemaking. Approximately 72 persons testified at these hearings. Over 146 written comments were received from interested parties, including resellers, reseller-retailers, refiners, State and National trade associations, consumer groups, the Federal Trade Commission (FTC), the Small Business Administration (SBA), and the Council on Wage and Price Stability (COWPS). A copy of the comments submitted and

a more detailed summary of those comments is available at DOE's Freedom of Information Office, Room GA–145, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m.

A summary of the comments on the major proposed amendments is as follows:

(a) There was wide support for the concept of increasing markups at the reseller level for resellers and reseller-retailers. Small jobbers, particularly those in sparsely populated regions, stated that the current legal margins were not sufficient to cover their increased non-product costs. A study sponsored by the SBA with the cooperation of the NOJC provided evidence that the average small resellers' non-product costs have increased substantially since the last increase in the limitation on the pass through of increased non-product costs permitted by DOE in early 1974.

There were widespread comments about the diversity and complexity of the functions performed by gasoline resellers. For example, resellers' business operations range from small-scale farm suppliers to large national and international traders of shiploads of petroleum products. Some resellers own salary-operated retail operations with many small sales to consumers and some are single-office brokerage firms with only large sales to a few customers.

Distinctions between the primary proposal (an additional 2.6 cents or one cent per gallon increase in the limitation on non-product cost increase passthroughs) and the alternative proposal (a 7.7 cents or 3 cents per gallon fixed cents markup over acquisition cost) were important chiefly to small jobbers in rural areas, where long distances or rough terrain resulted in unusually high operational costs. Some suggested the proposed 7.7 cents per gallon fixed markup for delivered product was not sufficient to permit them to recover all their increased non-product costs. However, most of the jobbers submitting comments preferred the 7.7 or 3 cents per gallon fixed markup alternative proposal to the 2.6 or one cent per gallon proposal. The reasons most often cited were the fixed cents per gallon markup eliminated the need for elaborate recordkeeping, was easier to understand, and allowed a substantial increase over current legal markups.

Many terminal operators, traders, and jobbers objected to the proposal that gasoline be delivered by the reseller to qualify for the proposed increased markup. University economists and research firms analyzed the market functions of terminal operators and other large scale traders and presented their findings to DOE. In essence, these remarks pointed out that large quantities of gasoline were regularly traded among terminal operators, importers, jobbers, and refiners, often without physical delivery. They stated that these transactions increase the degree of competition in the gasoline market by providing flexibility in the distribution system, and thus keep prices lower than they would otherwise be. Furthermore, they stated that the proposal that gasoline be delivered to qualify for the margin increase could lead to unnecessary cross-hauling and thus would be wasteful of national resources, could result in supply dislocations and could result in increased prices to the ultimate consumer.

The 20,000 gallon delivery threshold was acceptable to most jobbers except those who delivered by pipeline or barge. Terminal operators and large petroleum traders found the 20,000 gallon threshold too small. However, their primary concern was whether delivery had to be made at all, in order to qualify for an increased margin. One association of terminal operators recommended that large resellers be given the option of continuing to calculate maximum allowable prices for sales greater than 20,000 gallons under the current regulations, while being subject to a fixed markup for all smaller sales. They stated that it would be inequitable to eliminate "banks" and restrict allowable margins, since in many cases their current allowable margins are greater than the 5.1 cents per gallon national average allowable gross margin calculated for all resellers. Moreover, they stated that any fixed markup would restrict their ability to recover losses incurred on some sales in subsequent sales.

The GNP deflator was widely regarded as a suitable index on which to base adjustments to future cost increase passthroughs. Some commenters stated, however, that the GNP deflator embraced many costs that were unrelated to the petroleum reseller industry and that there were several indexes published by the U.S. Department of Commerce that would be more relevant. Some jobbers claimed that their non-product cost increases exceeded the rate suggested by the GNP deflator. Almost every respondent, however, agreed that tying cost allowances to the GNP deflator and adjusting it every six months would be preferable to discretionary changes by DOE which could only be made through the rulemaking process.

Various criteria for exceptions to the proposed amendments were offered in many of the comments received, but there was no consensus on what these should be. There was, however, some support for exemptions based on actual costs in cases where distance, terrain, or sparse population significantly increased non-product costs, or when quantities sold were very small or very large.

We have determined to adopt rules that will greatly simplify the price rules by providing a uniform markup for resellers. This approach was generally supported by the commenters.

(b) Almost all the respondents supported the proposed 16.1 cents per gallon fixed markup for retail sales by reseller-retailers. Most of the comments concerned the markup for reseller-retailers which make no DTW sales to independent retailers.

Reseller-retailers' comments supported overwhelmingly the proposal that reseller-retailers with no DTW sales to independent retailers be permitted a markup to reflect both the jobber function and the retailer function the firm performed. Several refiners, retailers, and retailer associations pointed out that many resellers which do not sell at DTW would be required to undersell independent retailers in their retail sales unless they were permitted both a resale and retail markup.

Therefore, DOE decided to treat all retail sales consistently in the price rules as was suggested by most of the commenters.

(c) Comments regarding the elimination of the carry forward of unrecouped increased costs were generally divided into two categories. Small firms expressed a willingness to abandon the system of allowing the carry forward of unrecouped costs or "banks." They stated that the bookkeeping expense of complying with the rule was prohibitive. Large metropolitan jobbers, terminal operators, and traders preferred to keep the policy of identifying unrecouped costs for potential recovery at a later date, and were willing to do the bookkeeping required to comply with the rule. They argued that price fluctuations often resulted in losses on some sales that could only be recovered on subsequent sales that were more profitable than average.

DOE decided that to the extent that sellers use the new fixed margin, which is not required to be cost justified, providing for "banks" was unnecessary and contrary to the purposes of the amendment. Recognizing the potential

hardship for certain individual firms, however, DOE has provided that sellers may opt to remain under the old pricing rules, including the "banking" provisions, if they so desire. This is more fully described below.

(d) The proposed "layering" amendment was opposed by most commenters, including the FTC. Terminal operators objected strongly to the proposal citing the frequent trades and exchanges made among terminal operators, between refiners and terminal operators, and among jobbers. They argued that these trades increased efficiency, reduced costs, and lowered prices to the public. Many commenters claimed it would be extremely difficult to enforce and would result in resellers making physical delivery of every sale, thus leading to inefficiencies, supply dislocations, and increased prices to ultimate consumers. Accordingly, DOE is continuing this portion of the rulemaking.

(e) Consignee agents and other distributors of gasoline, which do not take title to the products they sell, favored the proposed amendment that would allow refiners to pass through increased commissions paid to them without limitations. Consignee-agents noted that refiners were not required to increase commission rates. Refiners cited possible violations of the Robinson-Patman Act or of other regulations in explaining their reluctance to raise commissions, but did not oppose the primary proposal. Refiners, commission agents, and numerous other respondents mentioned a trend in the industry toward conversion of distributorships to jobberships. Therefore, DOE decided to adopt the proposed elimination of the restrictions on refiners' passthrough of increased commissions.

III. Amendments

A. *Reseller Sales*

The final rules adopted today establish a new method of computing the maximum lawful selling price for gasoline in reseller sales. In effect, the new rules adopt a method of computing the maximum lawful selling price in resales of gasoline similar to the independent retailer rule adopted in July 1979. The new rules greatly simplify the method of calculation of maximum lawful selling prices and ERA enforcement of the rules. They would permit resellers a fixed margin, which would result in increased competition at the reseller level of distribution by allowing greater pricing flexibility.

The maximum lawful selling price in resales shall be the acquisition cost, plus 7.7 cents per gallon markup, plus applicable tax costs. The 7.7 cents markup is calculated by adjusting the 1974 national average allowable gross margin in reseller sales of approximately 5.1 cents per gallon to reflect inflation of approximately 50% since 1974. Beginning June 15, 1980, this figure will be adjusted semi-annually based on the GNP deflator so that increases will occur simulataneously with increases in the independent retailers' margins provided for in current DOE regulations.

The acquisition cost shall be either the last purchase price or the cost of product in inventory computed pursuant to the reseller's historical accounting practices consistently applied. To the extent that sellers have historically under our price rules calculated inventory cost on a separate inventory basis rather than on the generally required firm-wide basis, they may calculate "acquisition cost" on the same basis. Small resellers and reseller-retailers, defined as those with total firm-wide gasoline sales at all levels of distribution of less than 5 million gallons in calendar year 1979, shall use the most recent purchase price as the acquisition cost. Large resellers and reseller-retailers, defined as sellers with more than 5 million gallons of gasoline sales at all levels of distribution in calender year 1979, shall use the cost of the gasoline in inventory to calculate the average cents per gallon acquisition cost.

Large sellers are required to use their historical accounting procedures consistently applied to determine the cost of gasoline in inventory. DOE will disallow cost calculations made pursuant to accounting procedures other than those the seller has historically and consistently used and will not permit sellers to adopt new accounting procedures for the purpose of increasing the cost of gasoline in inventory.

DOE may disapprove any purchase which appears to be made for the purpose of inflating a seller's acquisition cost and thereby frustrating the purposes of the DOE regulations. All purchases shall be documented by written evidence of purchase. Acquisition cost may include the transportation cost incurred by the seller in bringing the product into inventory.

B. *Retail Sales*

The maximum lawful selling price a reseller-retailer may charge in retail sales is the dealer tank wagon (DTW) price to the nearest independent retailer, plus 16.1 cents per gallon, plus tax costs. For example, assume a reseller-retailer sells gasoline from its own retail outlet and to farm accounts. The reseller-retailer would use the DTW price it charged to the independent retail outlet nearest to its own outlet to determine its maximum lawful selling price at its own retail outlets and the DTW price charged the independent retail outlet nearest to its farm sales to determine its maximum lawful selling price for its farm accounts.

In the event a reseller-retailer has no DTW sales to independent retailers, the maximum lawful selling price is the reseller-retailer's acquisition cost, plus 23.8 cents per gallon, plus tax costs. The 23.8 fixed cents per gallon markup reflects the independent retailers' retail margin (16.1 cents) and the resellers' margin (7.7 cents). Beginning June 15, 1980, both the 16.1 and the 23.8 cents figures will be adjusted semi-annually based on the GNP deflator, consistent with independent retailer margin increases.

C. *Consignee-Agents*

The new rules remove all limitations on the amount of increased commissions paid to consignee agents by refiners that may be passed through by refiners as increased non-product costs. Refiners shall allocate the increased cost of commissions to the total pool of increased non-product cost and recoup the cost of increased commissions in all gasoline sales. It should be noted that other government regulations may limit the amount refiners may increase commissions. However, the DOE rules do not restrict refiners from increasing commissions paid to consignee-agents.

D. *Other Amendments*

The carry forward of unrecouped increased costs and existing "banks" are eliminated for all resellers and reseller-retailers. DOE believes the fixed cents per gallon markups adopted today adequately compensate resellers and reseller-retailers for their existing "banks" and are sufficient to provide sellers with adequate pricing flexibility in the future. Furthermore, DOE believes the elimination of the "banking" provisions will enhance the current regulatory policy of simplifying government regulations, will relieve an administrative burden on sellers of gasoline, and will simplify DOE's enforcement effort at the reseller and reseller-retailer level of distribution.

As with independent retailers, the rationale for adopting the fixed cents per gallon method of computing maximum lawful selling prices eliminates the practical usefulness of the equal application rule. Thus, the continuation of the rule would tend to

frustrate the objectives of the rules adopted today. Accordingly, the equal application rule is deleted for resellers and reseller-retailers, which choose to establish maximum lawful selling prices under the new fixed markup rules adopted today.

E. *Alternative Rules*

Resellers and reseller-retailers may elect to continue to compute maximum lawful selling prices pursuant to the price rules in effect on April 30, 1980. A seller which continues to establish maximum lawful prices under these "old" rules must notify the DOE in writing of its election to continue under these "old" rules on or before July 1, 1980. The seller's notice of election must be sent to the Assistant Administrator for Enforcement, Economic Regulatory Administration, 2000 "M" Street NW., Washington, D.C. 20461. A seller which does not notify DOE of its election to continue under the "old" rules shall be subject to the "new" price rules adopted today.

A seller which elects to continue to be subject to the "old" rules may not choose to be subject to the "new" rules after July 1, 1980. Furthermore, a seller, which at any time establishes its maximum lawful selling prices under the "new" rules, may never elect to be subject to the "old" rules.

Accordingly, sellers which elect to continue under the "old" rules must never establish maximum lawful selling prices under the "new" rules and must notify DOE by July 1, 1980. Otherwise the seller will be deemed to be subject to the "new" rules adopted today.

The election shall be made on the basis of the entire firm and is applicable to all sales of gasoline. Moreover, a particular division or part of the firm may not elect to be subject to the "new" rules while another part of the firm continues under the "old" rules.

IV. Continued Rulemaking

DOE is not adopting a "layering" provision in this final rule. However, DOE believes that some firms may attempt to take advantage of the current regulations and engage in unnecessary resales of gasoline. The DOE wishes to emphasize that such unnecessary resales are currently prohibited by 10 CFR 205.202 and 10 CFR 210.62(c), if the reselling firm does not perform any service or other function traditionally and historically associated with the resale of the motor gasoline. Moreover, if a seller is attempting to artificially increase its acquisition cost, and thus its selling price of motor gasoline, such practices would not only be in violation of the new acquisition rule at § 212.92, but also would constitute a circumvention or contravention of the regulations in violation of 10 CFR 205.202. Any new rule adopted by the DOE would therefore be in addition to these current regulatory provisions and would explicitly prevent these unnecessary resales or "daisy chaining" while not disturbing the historical operations of the market. In particular, DOE requests comments on a practical way to distinguish legitimate resales from those made merely for the purpose of increasing markups.

DOE will actively enforce the disallowance provisions found in the definition of "Acquisition cost" to prevent unnecessary resales of gasoline. Any sale which appears to be for the purpose of frustrating the DOE price rules will not be included in a seller's computation of its acquisition cost.

DOE will receive comments on this issue until July 1, 1980. At that time DOE will consider adopting final rules regarding this issue.

V. Procedural Requirements

A. *Section 404 of the DOE Act*

Pursuant to the requirements of Section 404(a) of the Department of Energy Act, we have referred these amendments to the Federal Energy Regulatory Commission (FERC) for a determination whether they would significantly affect any matter within the Commission's jurisdiction. Following an opportunity to review these amendments, the FERC has declined to determine that they may significantly affect any of its functions.

B. *National Environmental Policy Act*

It has been determined that these amendments do not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*), and therefore an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA.

C. *Section 553 of the Administrative Procedures Act*

Subsection (d)(1) of Section 553 provides that the required publication of a rule be made at least 30 days before the effective date of the rule, except when the rule relieves a regulatory constraint, is a non-substantive amendment, or the agency finds good cause for not publishing the rule. We have determined that the 30 day requirement does not apply because the final rules adopted today relieve a regulatory restriction and do not impose additional burdens on the firms concerned.

D. *Summary of the Regulatory Analysis*

In accordance with Executive Order No. 12044, on Improving Government Regulation (43 FR 12661, March 24, 1978), DOE order 2030.1, Procedures for the Development and Analysis of Regulations, Standards and Guidelines (44 FR 1032), January 3, 1979, and based on the comments and testimony received in conjunction with this proposal, we have prepared a final regulatory analysis which examines the estimated impact of the regulations adopted. Copies of this final regulatory analysis may be obtained from ERA's Office of Public Information, Room B-210, 2000 M Street, N.W., Washington, D.C.

These new rules will increase competition within the reseller segment of the industry by allowing them to reflect cost increases in their selling prices and by treating allowable markups on all sales on a consistent basis, rather than using widely varying maximum allowable margins calculated based on prices which existed 7 years ago. There is no assurance, however, that any marketer will prosper or even remain fiscally viable because of the regulations. Regulations are only structured to allow marketers to enter the competition in a relatively equal position.

The amendments adopted in the final rule specify a maximum legal markup for resellers and reseller-retailers of 7.7 cents for wholesale sales and 16.1 cents for retail sales. These new adjusted margins compare to existing average margins estimated to be 6.1 cents for most wholesale sales and 10.5 cents for retail sales, resulting in maximum potential increases to consumers of 1.6 and 5.6 cents, respectively, for the two levels of distribution. Jobbers who do not sell at DTW will be able to charge in retail sales both the increased wholesale and the retail margins (23.8 cents per gallon) resulting in a maximum potential increase to any single retail customer of 7.2 cents per gallon (1.6 cents plus 5.6 cents). This fixed markup eliminates the need for elaborate recordkeeping, is much easier for resellers to understand, and simplifies compliance with the regulations.

These new maximum markups reflect approximately a 50 percent increase in nonproduct costs (including the interim relief granted in January 1980) since the first quarter 1974 as measured by the GNP deflator. This represents an average increase in allowable margins

for resales of 2.6 cents per gallon. The use of the GNP deflator is supported by (1) ERA's analysis of increased trucking cost of Liquid Petroleum Carriers as reported to the Interstate Commerce Commission, (2) a Small Business Administration study that concluded that a 2 cents per gallon increase was required to allow most jobbers to obtain the same level of profits as they had in 1978, and (3) ERA's analysis of comments received pursuant to the rulemaking process that indicated nonproduct costs of jobbers increased an average of 2.5 cents per gallon during the period 1974–1978; other commentors submitting data showing an average 69.5 percent increase in such costs.

The new rules make no distinction for markups on the basis of size of sale or whether gasoline was actually delivered. After analyzing the public comments, we concluded that the volume of sales alone was not a significant criteria in determining maximum markups. The cost of a large volume delivery could be more expensive than the cost of a small delivery made a short distance away. In fact, data submitted, in the public comments which was subsequently verified from ERA's audit records, showed that many large resellers had margins equal to or exceeding the average margin of small retailers. In this regard, fixed costs represent a substantial portion of the total operating costs of large resellers. Given large increases in storage, insurance, and interest costs, we believe that firms making large sales have increased costs comparable to those of smaller firms.

The rules adopted do not make a distinction between delivered vs. nondelivered sales. Many commentors suggested that a delivery requirement on sales would unnecessarily complicate product distribution. The larger margin that could be obtained from physically delivering the product would encourage sellers to undertake delivery despite their previous practices. This could lead to distribution problems, would result in additional transportation costs and could require buyers to maintain uneconomical standby transportation facilities. We believe that buyers and sellers have historically made the most economically efficient transportation arrangements and that the regulations should not result in any disruption of normal distribution patterns. This was a concern of the Federal Trade Commission.

The amendments adopted allow resellers and reseller-retailers to make a one-time binding election to use a maximum markup on all gasoline sales or to continue using the present pricing system, which would allow future use of unrecovered "banked" costs. This election accommodates those commentors that supported the standard margin concept, which we believe will be used by most small resellers, as well as those who stated that their type of business requires banking of costs for future recovery, generally large resellers. It addresses the concerns of those resellers who take greater risks on future price changes by buying large volumes of gasoline for which they have no immediate purchaser.

In addition to allowing gasoline resellers an increase in allowable markups to reflect increased costs, the rules also enhance competition by eliminating one of the reasons for wide pump differentials. Under the previous rules, resellers who also sell through their own retail outlets were required to undersell their independent competition by an average of 5.6 cents a gallon. Elimination of this regulation-induced differential will increase the competitive viability of both the independent retailer and reseller-retailer segments of the market.

The maximum potential "worst case" impact resulting from this rule could be approximately $2.8 billion per annum which could result in higher gasoline prices of approximately 2.7 cents per gallon over an entire year. This would occur only if reseller-retailers were able to fully utilize their increased margins. There are several major reasons to believe that this economic effect will not in fact occur and that the potential impact would more likely be in the range of 1–2 cents per gallon. At present, gasoline supplies are at record levels and, with conservation reducing demand, competitive forces rather than regulations should continue to determine actual prices for most marketers and retailers.

Inventories of motor gasoline are at an all time high of 280 million barrels as of April 11, 1980. At the same time, recent consumption of motor gasoline has declined by approximately 7 percent from levels at the same time last year. Competition for this reduced market has resulted in significant reductions in retail gasoline margins below those which existed when supplies were tight in 1979. According to the Platts/Lundberg survey, margins at retail have decreased from levels of a year ago.

This competition exists at the wholesale as well as the retail level. To the extent that competition reduces the possibility of a reseller obtaining the new maximum markup, as we believe it will, it will automatically limit potential increases in his retail price. However, resellers buying from lower cost crude refiners (those that have access to ANS or lower cost imported crudes) would be in a better position to utilize the new margins than those who buy from higher cost refiners. Recent amendments to the Equal Application Rule, and further changes to both the Equal Application Rule and the treatment of ANS crude under the Entitlements Program which we intend to propose, would address some of the remaining competing imbalances and, if adopted, would further reduce the potential economic impact under these rules.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, we amend Part 212 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below, effective May 1, 1980.

Issued in Washington, D.C., April 28, 1980.

Hazel Rollins,

Administrator, Economic Regulatory Administration.

§ 212.83 [Amended]

1. In § 212.83(c)(2)(iii)(E), under "the N Factor," in the fifth unnumbered paragraph of the definition of "F_t'", the seventh numbered subdivision is revised to read as follows:

* * * * *

(c) *Allocation of increased costs.*

* * * * *

(2) *Formulae—*

* * * * *

(iii) *Definitions.*

* * * * *

(E) *The "N" factor.*

"F_t'"=* * *

(*7*) In addition to the increases permitted in subparagraphs (*2*) and (*3*) of this paragraph, reflect the total dollar amount of non-product costs attributable to includable amounts of commissions incurred during the period "t" beginning with January 1, 1976 with respect to sales through consignee-agents of the covered product or products of the type "i". The includable amount of commissions incurred with respect to each item sold through each consignee-agent is the dollar amount per unit of volume by which the commission

in the period "t" exceeds the commission in effect on May 15, 1973.

2. Section 212.92 is amended by revising the definition of "Acquisition Cost" to read as follows.

§ 212.92 Definitions.

For purposes of this Subpart—

"Acquisition cost" means:

(a) (1) For retailers which make three consecutive purchases from the same supplier, the actual purchase price paid for the most recent purchase of a product; or,

(2) For all other retailers, the weighted average purchase price paid for the three most recent purchases computed on a cents per gallon basis.

(3) Notwithstanding the provisions in paragraphs (a) (1) and (2) of this section , for any retailer which historically makes more than three purchases in a twenty-four (24) hour period, the acquisition cost is the weighted average purchase price paid in the immediately preceding three day period.

(b) For resellers and reseller-retailers.

(1) Which sold five million gallons or less of a product during calendar year 1979, the actual purchase price paid for the most recent purchase of that product; or,

(2) Which sold more than five million gallons of a product in calendar year 1979, the cost of that product in inventory computed pursuant to the sellers' historical accounting practices consistently applied.

(c) The purchase price shall:

(1) Be computed on a cents per gallon basis:

(2) Be substantiated by written evidence of purchase; and

(3) Include transportation cost of bringing the product into inventory.

(d) DOE may disallow any purchases which have the effect of frustrating the purpose of the price regulations.

* * * * *

(3) Sections 212.93(a) (1) and (2) are revised to read as follows:

§ 212.93 Price rule.

(a)(1) Except for sales of gasoline, unless as provided in paragraph (a)(5) of this section, a seller may not charge a price for an item subject to this subpart which exceeds the weighted average price at which the item was lawfully priced by the seller in transactions with the class of purchaser concerned on May 15, 1973, plus an amount which reflects, on a dollar-for-dollar basis, the increased product costs concerned. Each seller shall maintain records sufficient to justify prices charged which reflect increased product costs, including, if applicable, records which demonstrate that the seller qualifies to determine increased product costs according to separate inventories. With respect to an item which is blended by the seller, and which was not sold by the seller on or before May 15, 1973, the "weighted average price at which the item was lawfully priced by the seller in transactions with the class of purchaser concerned on May 15, 1973" shall be imputed to be the lawful price charged by the seller for the predominant covered product in the blend in transactions with the class of purchaser concerned on May 15, 1973.

(2)(i) With respect to retail sales of gasoline by retailers, a retailer may not charge a price in a sale of any type or grade of gasoline which exceeds the most recent acquisition cost, plus 16.1 cents per gallon, plus tax cost attributable to sales of that type or grade of gasoline. Beginning December 15, 1979, DOE shall adjust semi-annually the fixed cents per gallon amount to reflect the GNP deflator.

(ii) Except as provided in paragraph (a)(5) of this section, a reseller-retailer may not charge a price in a retail sale of any type or grade of gasoline which exceeds its most recent dealer tank wagon price charged to the nearest independent retailer in the most recently preceding 30-day period, plus 16.1 cents per gallon, plus tax costs attributable to sales of that type or grade of gasoline. If the reseller-retailer has no dealer tank wagon sales to an independent retailer in the most recently preceding 30-day period, the price may not exceed the reseller-retailer's acquisition cost, plus 23.8 cents per gallon, plus tax costs attributable to sales of that type or grade of gasoline. Beginning June 15, 1980 the DOE shall adjust semi-annually the fixed cents per gallon amount to reflect the GNP deflator.

* * * * *

4. Section 212.93(a) is amended to delete subparagraph (4) and to add two new subparagraphs (4) and (5):

§ 212.93 Price rule.

* * * * *

(a) * * *

(4) Except as provided in paragraph (a)(5) of this section, with respect to reseller sales of gasoline by resellers and reseller-retailers, a seller may not charge a price in a sale for any type or grade of gasoline which exceeds the most recent acquisition cost, plus 7.7 cents per gallon, plus tax costs attributable to sales of that type or grade of gasoline. Beginning June 15, 1980, the DOE shall adjust semi-annually the fixed cents per gallon amount to reflect the GNP deflator.

(5) Notwithstanding any other provision of this paragraph, a reseller or reseller-retailer may elect to compute the maximum lawful selling price for all gasoline sales pursuant to paragraph (a)(1) of this section provided the reseller or reseller-retailer:

(i) Before July 1, 1980 notifies the Assistant Administrator of Enforcement in writing of its election; and

(ii) Consistently applies the provisions in this section in effect on April 30, 1980 and does not apply the provisions in paragraphs (a) (2) and (4) of this section. Any firm which does not elect to compute maximum lawful selling prices pursuant to this subparagraph will be deemed to have applied the provisions in paragraph (a) (2) and (4) of this section beginning May 1, 1980.

* * * * *

5. Section 212.93(b) is amended by revising the introductory text of paragraph (b) to read as follows:

§ 212.93 Price rule.

* * * * *

(b) With respect to sales of covered products other than gasoline, unless gasoline is priced pursuant to paragraph (a)(5) of this section, then notwithstanding paragraph (a)(1) of this section:

* * * * *

6. Section 212.93(b)(1) is amended to add a new subparagraph (v) to read as follows:

§ 212.93 Price rule.

* * * * *

(b) * * *

(1) * * *

(v) With respect to retail sales of gasoline by reseller-retailers which sell gasoline to independent retailers at dealer tank wagon prices, a reseller-retailer may not charge a price in retail sales of gasoline at a retail outlet which exceeds the most recent dealer tank wagon price the reseller-retailer charged to the nearest independent retailer to that retail outlet, plus 16.1 cents per gallon, plus tax costs. Beginning December 15, 1979, DOE shall adjust semi-annually the fixed cents per gallon amount to reflect the GNP deflator.

* * * * *

7. In § 212.93(e), the introductory text and paragraph (e)(1) is revised to read as follows:

§ 212.93 Price rule.

* * * * *

(e) Notwithstanding the provisions of paragraph (a)(1) of this section:

(1) Except in sales of gasoline unless the gasoline is priced pursuant to paragraph (a)(5) of this section:

(i) If a seller charges prices for a particular product that result in the recoupment of less total revenues than

the total amount of increased product costs of that product incurred during the month, the amount of increased product costs not recouped by a price adjustment in the subsequent month pursuant to paragraph (a) of this section may also be added to the May 15, 1973, selling prices of that product in a subsequent month at the time the selling prices are computed pursuant to paragraph (a). A seller shall calculate its amount of increased product cost of a particular product not recouped, since the most recent price increase after November 1, 1973, to include the following: (A) any "increased product costs" not added to the May 15, 1973, selling price at the time of the most recent price increase implemented after November 1, 1973, multiplied by the volume sold since that price increase, plus (B) increases in the weighted average unit cost above the weighted average unit cost which was used to calculate the most recent price increase implemented after November 1, 1973, multiplied by the volume of product purchased at each such increased product cost, less, (C) any decrease in the weighted average unit cost from the weighted average unit cost which was used to calculate the most recent price increase implemented after November 1, 1973, multiplied by the volume of product purchased at each such lesser cost.

(ii) With respect to each covered product, when a seller calculates its amount of increased product costs not recouped under this paragraph, it shall calculate its revenues as though the greatest amount of increased product costs actually added to the May 15, 1973 selling price of that covered product and included in the price charged to any class of purchaser had been added in the same amount to the May 15, 1973 selling price of such covered product and included in the price charged to each class of purchaser; except that, (A) where an equal amount of increased product cost is not included in the price charged to a purchaser because of either a price term of a written contract covering the sale of such product which was entered into on or before September 1, 1974, or the provisions in paragraph (b)(1)(iv), such portion of the increased product costs not included in the price charged to such a purchaser need not be included in the calculation of revenues, and, (B) the greatest amount of increased costs actually added to the May 15, 1973 selling price of gasoline and included in the price charged to any class of purchaser that purchases gasoline at retail from a reseller-retailer at any service station operated by employees of the reseller-retailer shall be added, in the same amount (less any actual differential or eight and six tenths (8.6) cents per gallon, whichever is less) to the May 15, 1973 selling price of gasoline and included in the price charged to all other classes of purchaser. Beginning June 15, 1980, the cents per gallon differential shall be adjusted every six (6) months to reflect the GNP deflator.

* * * * *

8. Section 212.93(e)(3) is revised to read as follows:

§ 212.93 Price rule.

* * * * *

(e) * * *

(3) With respect to retail sales of gasoline by retailers, increased costs not recouped on or before July 16, 1979 shall not be carried forward pursuant to paragraph (e)(1) of this section to be recouped after July 16, 1979. Except when gasoline is priced pursuant to paragraph (a)(5) of this section, with respect to all other sales of gasoline, increased costs not recouped on or before May 1, 1980 shall not be carried forward pursuant to paragraph (e)(1) of this section to be recouped after May 1, 1980.

* * * * *

[FR Doc. 80-13741 Filed 5-1-80; 9:54 am]
BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-79-32E]

Resellers' and Reseller-Retailers' Price Rules for Gasoline

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Continued Rulemaking.

SUMMARY: Today DOE is issuing final rules regarding the reseller and reseller-retailer price rules for gasoline. In addition, DOE is continuing its rulemaking with respect to the proposed "layering" provisions. A discussion of the proposed "layering" provision may be found in the Notice of Proposed Rulemaking (44 FR 69602, December 3, 1979) and the final rules issued today.

DATES: Comments on the Notice of Continued Rulemaking will be accepted until July 1, 1980.

ADDRESSES: Comments should be sent to Public Hearing Management, Docket No. ERA-79-32-E, Department of Energy, Room 2313, 2000 "M" Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2214, 2000 M Street NW., Washington, D.C. 20461, (202) 653-3757.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room 110-B, 2000 M Street NW., Washington, D.C. 20461, (202) 653-4055.

Chuck Boehl or Ed Mampe (Regulations and Emergency Planning), Economic Regulatory Administration, Room 7204, 2000 M Street NW., Washington, D.C. 20461, (202) 653-3199.

William Funk or William Mayo Lee (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6736 or 252-6754.

Issued in Washington, D.C. on April 28, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 80-13742 Filed 5-1-80; 9:54 am]

BILLING CODE 6450-01-M

Reader Aids

Federal Register

Vol. 45, No. 87

Friday, May 2, 1980

INFORMATION AND ASSISTANCE

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

INTERIOR DEPARTMENT

Fish and Wildlife Service—

21828 4–2–80 / Plymouth red-bellied turtle in Massachusetts; Listing as endangered with critical habitat

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing April 29, 1980

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 2½ 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 Federal Register and the 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, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: May 30; June 13 and 27; July 11 and 25; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235. Gwendolyn Henderson, Assistant Coordinator, 202–523–5234.

NEW ORLEANS, LA.

WHEN: May 8 and 9; at 9 a.m. (identical sessions.)

WHERE: Room 125, Hale Boggs Federal Bldg. (identical sessions.) 500 Camp Street, New Orleans, La.

RESERVATIONS: Call Mary Malouse, 504–589–6601.

SALT LAKE CITY, UTAH

WHEN: May 19 and 20; at 9 a.m. (identical sessions.)

WHERE: Room 3421, Federal Bldg., 125 S. State St., Salt Lake City, Utah.

RESERVATIONS: Call Helen Ferderber, Salt Lake City, Federal Information Center, 801–524–5353.

SEATTLE, WASH.

WHEN: May 23; 9 a.m.

WHERE: North Auditorium, Federal Bldg., 915 2nd Avenue, Seattle, Wash.

RESERVATIONS: Call the Seattle Federal Information Center, 206–442–0570.

CHICAGO, ILL.

WHEN: May 28 and 29; at 9 a.m. (identical sessions.)

WHERE: Room 204A, Dirksen Federal Bldg., Chicago, Ill.

RESERVATIONS: Call Ardean Merrifield, 312–353–0339.

ST. LOUIS, MO.

WHEN: June 24 and 25; at 9:00 a.m. (identical sessions.)
WHERE: Room 3720, Federal Office Bldg. 1520 Market Street, St. Louis, Mo.
RESERVATIONS: Call Evelyn Wiebusch, Federal Information Center, 314–425–4106.

PITTSBURGH, PA.

WHEN: June 4 at 1:30 p.m. and June 5 at 9 a.m. (identical sessions.)
WHERE: Rooms 2212 and 2214 (both days), Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa.
RESERVATIONS: Call Mary Silipo, Pittsburgh Federal Information Center, 412–644–3456.

Advance Orders are now Being Accepted for Delivery in About 6 Weeks

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(Revised as of January 1, 1980)

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_____	Title 7—Agriculture (Part 2853 to End)	6.00	_____
_____	Title 12—Banks and Banking (Part 300 to End)	11.00	_____
		Total Order	$_____

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