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Thursday
May 21, 1981

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.**, see announcement in the **Reader Aids** section at the end of this issue.

27623 **Economic Support Fund Assistance for Liberia** Presidential determination.

27862 **Grant Programs—Reducing Energy Consumption** DOE amends rules concerning the administration of the grant programs providing schools, hospitals, units of local government and public care institutions with financial assistance for the purpose of reducing energy consumption. These amendments provide greater flexibility to States and institutions in their implementation of the program. (Part II of this issue)

27829 **Revenue Sharing** Treasury/RSO gives notice of dates and challenge procedures for the Data Improvement Program for Entitlement Period Thirteen of the General Revenue Sharing Program.

27636, 27723 **Income Tax—Conservation** Treasury/IRS issues temporary rules and proposes temporary rules concerning exclusion for certain conservation cost sharing payments.

CONTINUED INSIDE

Highlights

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There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

27635 **Income Tax—Withholding** Treasury/IRS adopts final rules relating to the withholding of tax on nonresident aliens and foreign corporations.

27642 **Income Tax—Gift Taxes** Treasury/IRS issues rules relating to the transfer of a life income interest by the possessor of that interest.

27655 **Federal Communications** FCC amends rules concerning Cellular Communications Systems.

27885, 27889, 27893, 27897 **Air Transportation** DOT/FAA withdraws proposed rules concerning certification procedures for type design approval of aircraft, aircraft engines and propellers; flight data recorder and cockpit voice recorder tapes; installation of tires and seating of flight attendants during taxi. (Parts III, IV, V, VI of this issue) (4 documents)

27759 **Privacy Act Documents** FDIC

27831 **Sunshine Act Meetings**

Separate Parts of This Issue

27862 **Part II, DOE**
27885 **Part III, DOT/FAA**
27889 **Part IV, DOT/FAA**
27893 **Part V, DOT/FAA**
27897 **Part VI, DOT/FAA**

Contents

Federal Register
Vol. 46, No. 98
Thursday, May 21, 1981

The President
ADMINISTRATIVE ORDERS
27623 Liberia; economic support fund assistance (Presidential Determination 81–6 of May13,1981)

Executive Agencies

Agency for International Development
NOTICES
Authority delegations:
27800 Latin America and Caribbean Bureau, Director, Office of Development Resources; loans, grants, and guaranty agreements
27801 Latin America and Caribbean Region missions and offices; to negotiate, execute, and implement loans, grants, and guaranty agreements, etc.

Agricultural Marketing Service
RULES
Milk marketing orders:
27626 Eastern Colorado
27625 Inland Empire
27625 Oranges (navel) grown in Ariz. and Calif.

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Forest Service.

Air Force Department
NOTICES
Meetings:
27747 Scientific Advisory Board

Animal and Plant Health Inspection Service
RULES
Livestock and poultry quarantine:
27627 Scabies in cattle

Army Department
See also Engineers Corps.
NOTICES
27747 Privacy Act; systems of records; correction

Civil Aeronautics Board
NOTICES
Hearings, etc.:
27737 England; proceeding to select city/carrier for nonstop service
27737 Lone Star Airways additional points, Subpart Q proceeding
27736 Scenic Airlines, Inc.; fitness determination
27736 Sundance Airways, Inc.; fitness determination
27736 Vee Neal Airlines fitness determination

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
27746 Michigan

Coast Guard
RULES
Boating safety:
27644 Recreational boats; ventilation safety stanards; editorial change
Inland waterways navigation regulations:
27644 San Juan Harbor, P.R.; seaplane restricted area
Manning requirements:
27654 Uninspected vessels of 200 gross tons or more; removal of affirmative minimum manning requirement
Navigation aids:
27642 South Carolina; designation of waters
Navigation requirements:
27643 COLREGS demarcation lines; repromulgation of existing regulations
PROPOSED RULES
Dangerous cargoes:
27724 Bulk hazardous solids cargo shipments; Inter-Governmental Maritime Consultative Organization (IMCO) review of safety requirements; request for comments

Commerce Department
See International Trade Administration; Minority Business Development Agency.

Conservation and Renewable Energy, Office of Assistant Secretary
RULES
Schools, hospitals, and buildings owned by local government, etc.:
27862 Grant programs; administration

Consumer Product Safety Commission
PROPOSED RULES
27721 Dual-purpose child resistant packaging; meeting

Defense Department
See also Air Force Department; Army Department; Engineers Corps; Navy Department.
NOTICES
Meetings:
27746, 27747 Science Board (2 documents)
27746, 27747 Science Force task forces (2 documents)

Education Department
NOTICES
Grant applications and proposals, closing dates:
27749 School construction program

Energy Department
See also Conservation and Renewable Energy, Office of Assistant Secretary; Federal Energy Regulatory Commission.
NOTICES
Conduct standards:
27751 Post-employment prohibition waivers (2 documents)
International atomic energy agreements; civil uses; subsequent arrangements:
27750 Australia
27750 Euopean Atomic Energy Community and Sweden

27750, 27751 European Atomic Energy Community and Switzerland (2 documents)
27751 Japan

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
27748 Kenosha, Wis.; recreational boat harbor
27748 Little Calumet River, Ind.; flood control, outdoor recreation, and recreation navigation project
27747 Michigan City, Ind.; Indiana shoreline protection

Federal Aviation Administration
RULES
Airworthiness directives:
27628 Avions Mudry & Cie
27629, 27630 Sikorsky (2 documents)
27631 Control zones
27633 Jet routes
27632 Restricted areas
27634 Standard instrument approach procedures; correction
27630, 27631 Transition areas (2 documents)
PROPOSED RULES
Air carriers certification and operations:
27893 Flight attendants; seating requirements during taxi; withdrawn
27897 Flight data recorder and cockpit voice recorder tapes; FAA access; supplemental notice; withdrawn
Air traffic operating and flight rules:
27889 Tires on turbo jet-powered transport category planes; withdrawn
Aircraft products and parts, certification:
27711 Canadair Ltd. Model CL-600-1A11 series airplanes; change in maximum certificated operating altitude and takeoff weight
27712 Israel Aircraft Industries Model 1124 Series airplanes; automatic takeoff thrust control system (ATTCS)
27885 Type certificates, type certificate amendments, and supplemental type certificates; design and procedural standards; withdrawn
Airworthiness directives:
27715 British Aerospace
27719 Federal airways, green
27710 Rulemaking petitions; summary and dispostion
27716, 27718 Transistion areas (3 documents)
27719, 27720 VOR Federal airways (2 documents)
NOTICES
Aircraft certification status, etc.:
27822 Gulfstream American Corp.; certification and availability of documents
27825 Exemption petitions; summary and disposition
27823 Manufacturers' service documents; proposed advisory circular; inquiry
Meetings:
27824 Aeronautics Radio Technical Commission
Organization and functions:
27825 Martha's Vineyard, Mass.; air traffic control tower; correction

Federal Communications Commission
RULES
Common carrier services:
27655 Public mobile radio services; cellular communications systems; use of frequency bands
Organization and functions:
27654 Private Radio Services; transfer of license records to Gettysburg, Pa.
Radio services, special:
27707 Land mobile services; use of digital voice modulation in power radio service
Radio stations; table of assignments:
27706 California
PROPOSED RULES
Radio services, special:
27729 Land mobile services; expanded use of digital voice modulation
Radio stations; table of assignments:
27727 Missouri
27728 Oklahoma
27725 Utah and Wyoming; extension of time
27726 Washington
NOTICES
27752-27753 AM broadcast applications accepted for filing and notification of cut-off date (3 documents)
27753 Emergency broadcast system; closed circuit test
27753 FM broadcast applications accepted for filing and notification of cut-off date
Hearings, etc.:
27756 KTVO, Inc.
27758 Lloyd Hearing Aid Corp. et al.
27752 Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies
27758 Television broadcast applications accepted for filing and notification of cutoff date

Federal Deposit Insurance Corporation
NOTICES
27759 Privacy Act; systems of records

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act of 1978:
27635 Ceiling prices; high cost natural gas produced from tight formations; supplement environmental assessment

Federal Highway Administration
PROPOSED RULES
Engineering and traffic operations:
27722 Highway design standards, geometric; materials incorporated by reference; notice of status and response to AASHTO publication
NOTICES
Environmental statements; availability, etc.:
27827 Arapahoe and Jefferson Counties, Colo.; intent to prepare
27828 Chatham County, Ga.; intent to prepare
27828 Santa Clara County, Calif.; intent to prepare

Federal Maritime Commission
NOTICES
27766 Agreements filed, etc.
27766 State-owned or controlled carriers in foreign commerce of U.S.; classification; list

Federal Mine Safety and Health Review Commission
NOTICES
27831 Meetings; Sunshine Act (2 documents)

Federal Reserve System
NOTICES
Applications, etc.:
27767 First Jefferson Corp.
27767 Kingman County Financial Corp.
27767 Olivia Bancorporation, Inc.
27767 United Texas Bancshares, Inc.
27831 Meetings; Sunshine Act

Federal Trade Commission
RULES
Procedures and practice rules:
27634 FTC Improvement Act of 1980, implementation; final rules; correction
Prohibited trade practices:
27634 Pillsbury Co. et al.
NOTICES
27768 Medical prepayment plans; case-by-case law enforcement program
Premerger notification waiting periods; early terminations:
27768 Guam Oil & Refining Co. Voting Trust
27768 Mann, George S.

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
27828 SAFECO Insurance Co. of Illinois

Forest Service
NOTICES
Environmental statements; availability, etc.:
27734 Shoshone National Forest, Washakie wilderness oil and gas leasing, Wyo.
27735 Wilderness oil and gas leasing, Mont.

General Services Administration
RULES
Procurement:
27645 Profit or fee prenegotiation objectives; facilities capital cost of money cost principle; uniform policies and treatment; temporary
NOTICES
Authority delegations:
27769 Defense Department Secretary

Geological Survey
NOTICES
Geothermal resources areas, operations, etc.:
27775 California
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
27774 Amoco Production Co.
27774 Chevron U.S.A. Inc.
27774 McMoRan Offshore Exploration Co.

Health and Human Services Department
See Public Health Service.

Interior Department
See Geological Survey; Land Management Bureau; National Park Service.

Internal Revenue Service
RULES
Estate and gift taxes:
27642 Life income interest, transfers
Income taxes:
27636 Conservation cost-sharing payments exclusion; temporary
27635 Withholding tax; Virgin Island inhabitants; exemption clarification
PROPOSED RULES
Income taxes:
27723 Conservation cost-sharing payments exclusion; cross reference

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Scientific articles; duty free entry:
27744 Kansas State University
27737, 27740 National Aeronautics and Space Administration (2 documents)
27744 Stanford University et al.

Interstate Commerce Commission
RULES
Railroad car service orders:
27709 Rerouting agents; appointment
PROPOSED RULES
Motor carriers:
27732 Classification of commodities, investigation; interim policy statement; request for comments
NOTICES
Committees; establishment, renewals, terminations, etc.:
27782 Education and Practice Employees Board et al.; membership
Motor carriers:
27776–27800 Permanent authority applications (6 documents)
27790 Permanent authority applications; restriction removals
27776 Permanent authority applications; restriction removals; correction
27776 Temporary authority applications; correction
Rail carriers:
27782 Disaster relief applications

Justice Department
See National Institute of Justice.

Land Management Bureau
RULES
Public land orders:
27651 Arizona
27651 Idaho
27652 Nevada
27653 Oregon
27653 Wyoming
NOTICES
Authority delegations:
27771 California, Redding District Manager; land uses
Classification of lands:
27773 New Mexico
Environmental statements; availability, etc.:
27771 Reno Planning Area, Nev.; grazing planning area

Meetings:
27771 Cedar City District Multiple Use Advisory Council
27770 Lakeview District Advisory Council
27773 Montrose District Advisory Council
27773 San Juan River Regional Coal Team
27774 Socorro District Advisory Council
Opening of public lands:
27770 California
Wilderness areas; characteristics, inventories, etc.:
27772 Oregon and Washington
Withdrawal and reservation of lands, proposed, etc.:
27770 California
27774 Oregon

Legal Services Corporation
NOTICES
27802, 27803 Grants and contracts; applications (2 documents)

Management and Budget Office
NOTICES
27805 Agency forms under review

Minority Business Development Agency
NOTICES
27745 Financial asssistance application announcements

National Institute of Justice
NOTICES
Grants solicitation, competitive research:
27802 Police effectiveness as a function of individual officer activity

National Commission on Libraries Science
NOTICE
27831 Meetings; Sunshine Act

National Park Service
PROPOSED RULES
Special regulations:
27723 Everglades National Park, Fla.; commercial fishing prohibition rulemaking petition
NOTICES
Environmental statements; availability, etc.:
27775 Mormon Pioneer National Historic Trail, Ill., Iowa, Nebr., Wyo., and Utah; draft comprehensive plan
Meetings:
27775 Mormon Pioneer National Historic Trail Advisory Council

National Transportation Safety Board
NOTICES
27803 Accident reports, safety recommendations and responses, etc.; availability

Navy Department
NOTICES
Environmental statements; availability, etc.:
27749 Feral Burro Management, Naval Weapons Center, China Lake, Calif.; hearing

Nuclear Regulatory Commission
NOTICES
Meetings:
27804 Reactor Safeguards Advisory Committee

Public Health Service
NOTICES
Health maintenance organizations:
27769 Noncompliance determinations

Railroad Retirement Board
NOTICES
27812 Supplemental annuity program; determination of quarterly rate of excise tax

Revenue Sharing Office
NOTICES
Entitlement period allocations:
27829 Data improvement program

Securities and Exchange Commission
NOTICES
Hearings, etc.:
27812 Cable America, Inc.
27814 Chancellor Tax-Exempt Daily Income Fund, Inc.
27815 Columbus & Southern Ohio Electric Co.
27816 Evans & Sutherland Computer Corp.
27820, 27821 Northeast Utilities et al. (2 documents)
27822 Southwestern Electric Power Co.
Self-regulatory organizations; proposed rule changes:
27817 Municipal Securities Rulemaking Board
Self-regulatory organizations; unlisted trading privileges:
27822 Philadelphia Stock Exchange, Inc.

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration.

Treasury Department
See Fiscal Service; Internal Revenue Service; Revenue Sharing Office.

Veterans Administration
NOTICES
Environmental statements; availability, etc.:
27830 Atlanta, Ga.; Medical Center, 120 bed nursing unit, ambulatory care addition, and warehouse engineering office

MEETING ANNOUNCED IN THIS ISSUE

CIVIL RIGHTS COMMISSION
27746 Michigan Advisory Committee, East Lansing, Mich. (open), 6-4-81

CONSUMER PRODUCT SAFETY COMMISSION
27721 Dual-purpose child resistant packaging, Washington, D.C. (open), 6-16-81

DEFENSE DEPARTMENT
Air Force Department—
27747 USAF Scientific Advisory Board, Woods Hole, Mass. (closed), 6-22 through 7-2-81
Office of the Secretary—
27746, 27747 Defense Science Board Review on MX Missile Basing, Washington, D.C. (closed), 6-11 through 6-13-81 and 6-25 through 6-27-81 (2 documents)

27747 Defense Science Board Task Force on Anti-Tactical Missiles, Arlington, Va. (closed), 6-18 and 6-19-81

INTERIOR DEPARTMENT
Bureau of Land Management—
27771 Cedar City District Multiple Use Advisory Council, Cedar City, Utah (open), 6-22-81
27770 Lakeview District Advisory Council, Lakeview, Oreg. (open), 6-23-81
27773 Montrose District Advisory Council, Cortez, Colo. (open), 6-23 and 6-24-81
27773 New Mexico & Colorado San Juan River Regional Coal Team, Farmington, N. Mex. (open), 6-29 and 6-30-81
27774 Socorro District Advisory Council, Socorro, N. Mex. (open), 6-24-81
National Park Service—
27775 Mormon Pioneer National Historic Trail Advisory Council, Lakewood, Colo. (open), 6-18 and 6-19-81

NUCLEAR REGULATORY COMMISSION
27804 Reactor Safeguards Advisory Committee, Washington, D.C. (partially open), 6-4 through 6-6-81

RESCHEDULED MEETING

DEFENSE DEPARTMENT
Office of the Secretary—
27746 Defense Science Board Task Force on Water in Southeast Asia, Arlington, Va. (closed), rescheduled from 5-20 and 5-21-81 to 5-27-81

HEARINGS

DEFENSE DEPARTMENT
Navy Department—
27749 Feral Burro Management at the Naval Weapons Center, China Lake, Calif., Kern County, Calif., 6-3-81

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Executive Orders:

5105 (Revoked by P.L.O. 5866)..... 27652

Administrative Orders:

Presidential Determinations:

No. 81-6 of May 13, 1981..... 27623

7 CFR

907..... 27625
1133..... 27625
1137..... 27626

9 CFR

73..... 27627

10 CFR

455..... 27862

14 CFR

39 (3 documents)..... 27628-27630
71 (4 documents)..... 27630-27632
73..... 27632
75..... 27633
97..... 27634

Proposed Rules:

Ch. I..... 27710
21 (3 documents)..... 27711, 27712, 27885
39 (2 documents)..... 27715, 27895
71 (6 documents)..... 27716-27720
91 (2 documents)..... 27885, 27889
121 (2 documents)..... 27893, 27897
135..... 27897

16 CFR

0..... 27634
1..... 27634
2..... 27634
4..... 27634
5..... 27634
13..... 27634

Proposed Rules:

Ch. II..... 27721

18 CFR

271..... 27635

23 CFR

Proposed Rules:

625..... 27722

26 CFR

1..... 27635
16A..... 27636
25..... 27642

Proposed Rules:

1..... 27723

33 CFR

66..... 27642
82..... 27643
162..... 27644
183..... 27644

36 CFR

Proposed Rules:

Ch. I..... 27723

41 CFR

Ch. I..... 27645

43 CFR

Public Land Orders:

1163 (Revoked by P.L.O. 5864)..... 27653
5862..... 27653
5863..... 27651
5864..... 27653
5865..... 27651
5866..... 27652

46 CFR

157..... 27654

Proposed Rules:

148..... 27724

47 CFR

0..... 27654
22..... 27655
73..... 27706
90..... 27707

Proposed Rules:

73 (4 documents)..... 27725-27728
90..... 27729

49 CFR

1034..... 27709

Proposed Rules:

1307..... 27732

Federal Register
Vol. 46, No. 98
Thursday, May 21, 1981

Presidential Documents

Title 3—

The President

Presidential Determination No. 81-6 of May 13, 1981

Economic Support Fund Assistance for Liberia

Memorandum for the Secretary of State

By virtue of the authority vested in me by section 614(a)(1) of the Foreign Assistance Act of 1961, as amended (the Act), I hereby:

(1) determine that the furnishing to Liberia of not to exceed $25,000,000 in assistance under chapter 4 of part II of the Act from amounts appropriated for assistance to Israel, Egypt, and Cyprus under that chapter in the fiscal year 1981, without regard to statutory allocations of assistance under that chapter to those countries, is important to the security interests of the United States; and

(2) authorize the furnishing of such assistance to Liberia.

You are requested to report this determination to the Congress immediately, and none of the assistance provided for herein shall be furnished until after such report has been made.

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

Ronald Reagan

THE WHITE HOUSE,
Washington, May 13, 1981.

[FR Doc. 81-15423
Filed 5-19-81; 4:43 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 46, No. 98
Thursday, May 21, 1981

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[(Navel Orange Regulation 523); (Navel Orange Regulation 522, Amendment 1)]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period May 22, 1981–May 28, 1981, and increases the quantity of such oranges that may be so shipped during the period May 15 through May 21, 1981. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective May 22, 1981, and the amendment is effective for the period May 15–21, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, (202) 447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been classified "not significant", and is not a major rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. 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 Navel Orange 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 1980–81. The marketing policy was recommended by the committee following discussion at a public meeting on October 14, 1980. A regulatory impact analysis on the marketing policy is available from William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on May 19, 1981 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

It is further found 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), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. 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 time.

Forms required for operation under this part are subject to clearance by the Office of Management and Budget and are in the process of review.

1. § 907.823 is added as follows:

§ 907.823 Navel Orange Regulation 523.

The quantities of navel oranges grown in Arizona and California which may be handled during the period May 22, 1981, through May 28, 1981, are established as follows:

(1) District 1: 1,300,000 cartons;
(2) District 2: unlimited cartons;
(3) District 3: unlimited cartons;
(4) District 4: unlimited cartons.

2. § 907.822 Navel Orange Regulation 522 (46 F.R. 22177), is hereby amended to read:

§ 907.822 Navel Orange Regulation 522.

* * * * *

(1) District 1: 1,650,000 cartons;
(2) District 2: unlimited cartons;
(3) District 3: unlimited cartons;
(4) District 4: unlimited cartons.

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

Dated: May 20, 1981

D. S. Kuryloski,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81–15505 Filed 5–20–81; 11:57 am]

BILLING CODE 3410–02–M

7 CFR Part 1133

Milk in the Inland Empire Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends certain order provisions relating to how much milk not needed for fluid (bottling) use may be moved directly from farms to manufacturing plants and still be priced under the order. The suspension removes the limit on such movements of milk for May 1981 through August 1981. The suspension was requested by a cooperative association to assure the efficient disposition of milk not needed for fluid use and still maintain producer status under the order for its dairy farmer members regularly associated with the market.

EFFECTIVE DATE: May 21, 1981.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Proposed Suspension: Issued April 20, 1981; published April 23, 1981 (46 FR 23061).

It has been determined that this action is not a major rule under the criteria set

forth in the Executive Order 12291. It also has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the issuance of the suspension on the timely basis necessary to include May 1981 in the suspension period.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

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

Notice of proposed rulemaking was published in the **Federal Register** (46 FR 23061) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

The proponent of the suspension and another cooperative association filed comments concerning the suspension. These comments supported the suspension.

After considering all relevant material, including the proposal in the notice, the comments received from the proponent and other available information, it is hereby found and determined that for the months of May through August 1981 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1133.13(c)(1) and (2), the words "and 80 percent in any of the months of March through August".

Statement of Consideration

This action removes the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants during the months of May 1981 through August 1981. The order now provides that a cooperative association may divert up to 70 percent of its total member milk received at all pool plants or diverted therefrom during the months of September through February and 80 percent during all other months. Similarly, the operator of a pool plant may divert up to 70 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) during the months of September through February and 80 percent during all other months.

The basis for the action is that the cooperative association that supplies the market with a substantial part of its fluid needs and handles much of the market's reserve milk supplies lost one of its customers served by its principal pool distributing plant. The loss of this customer involved a substantial volume of fluid milk sales. Additionally, milk production by its members is approximately 7 percent above last year. Moreover, in view of the impending flush period, the cooperative expects more of its reserve milk will have to be moved directly from farms to nonpool manufacturing plants for surplus disposal.

In view of this, it is expected that the cooperative's reserve milk supplies during May through August 1981 will exceed the quantity of producer milk that may be diverted from pool plants of other handlers to nonpool manufacturing plants under the order's present diversion limitations. Without the suspension, it is likely that the milk of some of its member producers who have regularly supplied the fluid market would have to be moved uneconomically first to pool plants and then to nonpool manufacturing plants, in order to continue producer status for such milk during May through August 1981. The suspension will permit these producers to continue sharing in the proceeds of the marketwide pool.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the most efficient method of handling reserve milk supplies is by direct movements from producers' farms to manufacturing outlets. This suspension allows such economical movement of milk while the dairy farmers involved retain producer status.

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

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

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**. It is therefore ordered, that the aforesaid provisions of the order are hereby suspended for May 1981 through August 1981.

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

Effective date: May 21, 1981.

Signed at Washington, D.C., on May 14, 1981.

John E. Ford,

Deputy Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 81-15200 Filed 5-20-81; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1137

Milk in the Eastern Colorado Marketing Area; Order Suspending a Certain Provision

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends an order provision affecting the regulatory status of a distributing plant. The suspension makes inoperative for May 1981 through August 1981 the requirement that a distributing plant must dispose of at least 50 percent of its milk receipts as fluid milk products on routes before the plant is eligible to have all of its milk pooled and priced under the order. This action was requested by a regulated handler that operates two fluid milk distributing plants in the market. Such action recognizes the current marketing situation of the handler and is in the interest of producers and other handlers associated with the market as well.

EFFECTIVE DATE: May 21, 1981.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Proposed Suspension: Issued April 24, 1981; published April 30, 1981 (46 FR 24188).

It has been determined that this action is not a major rule under the criteria set forth in Executive Order 12291. It also has been determined that the need for suspending a provision of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures

would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the Federal Register. However, this would not permit the issuance of the suspension on the timely basis necessary to include May 1981 in the suspension period.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

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

Notice of proposed rulemaking was published in the Federal Register (46 FR 24188) concerning a proposed suspension of a certain provision of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. A major cooperative association and a proprietary handler filed written comments supporting the suspension action.

After considering all relevant material, including the proposal in the notice, the comments received and other available information, it is hereby found and determined that for the months of May through August 1981 the following provision of the order does not tend to effectuate the declared policy of the Act:

In § 1137.7(a)(1) the words "an amount equal to 50 percent or more of the total receipts of".

Statement of Consideration

The suspension makes inoperative for May through August 1981 the provision that at least 50 percent of the receipts of milk at a pool distributing plant be disposed of as fluid milk products on routes. The suspension was requested by Meadow Gold Dairies, a proprietary handler who operates two pool distributing plants under the order.

The basis for the action is that the petitioner's Greeley, Colorado, distributing plant will not be able to meet the 50 percent route disposition requirement during this year's late spring and summer months. This is because of the loss of substantial Class I sales due to school closings in May and because the handler is processing much of the Class II product volume for both of its distributing plants at the Greeley plant. This pooling problem will continue until September 1981 when schools will reopen.

The handler states that without the suspension it might be able to meet the 50 percent route disposition requirement by moving considerable quantities of fluid milk products between its two distributing plants associated with the market. Meadow Gold Dairies stated, however, that this would involve excessive additional handling and energy costs and disrupt the production schedules of the two plants. It contends that this suspension will permit the orderly marketing of the milk supply from producers normally associated with the Greeley distributing plant.

In view of this, it is concluded that the 50 percent pooling standard should be suspended for four months to accommodate the handler's temporary pooling problem. This will permit the producers regularly supplying the Greeley plant to continue to share uniformly with other producers supplying the market in the proceeds from Class I sales in the market.

A major cooperative association in the market who regularly supplies all of the fluid needs of Meadow Gold Dairies' two plants and a proprietary handler who operates a distributing plant indicate support for the suspension. No views in opposition to the suspension were received.

It is hereby found and determined that the 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that without this action a number of dairy farmers who have been regularly supplying the fluid market could lose their producer status under the order and thus no longer share in the Class I sales of the market.

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

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective upon publication in the Federal Register. It is therefore ordered, that the aforesaid provision of the order is hereby suspended for May 1981 through August 1981.

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

Effective date: May 21, 1981.

Signed at Washington, D.C., on May 15, 1981.

John E. Ford,

Deputy Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 81-15201 Filed 5-20-81; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 73

Scabies in Cattle; Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to quarantine a portion of Renville County in Minnesota in order to prevent the dissemination of cattle scabies. The effect of this action will be to place certain restrictions on the interstate movement of cattle from the quarantined area.

EFFECTIVE DATE: May 18, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8322.

SUPPLEMENTARY INFORMATION: This final action has been reviewed in conformance with Executive Order 12291, and has been classified as not a "major rule."

The Department has determined that this rule will have an annual effect on the country of less than $100 million, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Dr. E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action. The amendment imposes certain further restrictions necessary to prevent the interstate

spread of cattle scabies from such area and must be made effective immediately to accomplish its purpose in the public interest.

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 inpracticable 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.**

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it affects only the premises of one entity.

This amendment quarantines a portion of Renville County in Minnesota because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas, contained in 9 CFR Part 73, as amended, apply to the quarantined area.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended in the following respect:

1. The authority citation for Part 73 reads as follows:

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141)

2. In § 73.1a, a new paragraph (c) relating to the State of Minnesota is added to read:

§ 73.1a Notice of Quarantine.

* * * * *

(c) Notice is hereby given that cattle in a certain portion of the State of Minnesota are inffected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following area in such State is hereby quarantined because of said disease:

(1) The premises of David Luech, Renville County, Minnesota, Flora Township, NW¼ of sec. 26.

Done at Washington, D.C., this 18th day of May 1981.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 81-15199 Filed 5-20-81; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 21741; Amdt. 39-4119]

Airworthiness Directives; Avions Mudry Et Cie Model CAP 10B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain Avions Mudry Et Cie Model CAP 10B series airplanes by individual telegrams. The AD requires a one time inspection of the main spar and lower center wing skin, and repair prior to further flight, if cracking is found. The AD is necessary to prevent possible failure of the wing main spar.

DATES: Effective May 21, 1981, as to all persons except those persons to whom it was made immediately effective by telegraphic AD T80–24–51, issued November 14, 1980, which contained this amendment.

Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from: Avions Mudry Et Cie, Aerodrome de Bernay, Bernay, France 27300.

A copy of each service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: C. Christie, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Chapman, Chief, Technical Standards Branch, AWS–110, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: 202–426–8374.

SUPPLEMENTARY INFORMATION: On August 14, 1980, telegraphic AD T80–17–51 was issued and made effective immediately as to all known U.S. owners and operators of certain Avions Mudry Et Cie Model CAP 10B series airplanes. The AD required a one time inspection of the main spar and lower center wing skin, and repair prior to further flight, if cracking was detected. AD action was necessary to prevent possible failure of the wing main spar due to cracks in the upper flange. After issuing the telegraphic AD, the FAA determined that the inspection of the spar was not necessary unless cracks were detected inthe wing skin during the inspection required by the telegraphic AD or cracks in the wing skin had previously been repaired, or the airplane had accumulated 1,000 flight hours time in service. Therefore, telegraphic AD T80–17–51 was superseded by telegraphic AD T80–24–51, issued November 14, 1980, which relieved operators of the spar inspection requirement.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately as to all known U.S. owners and operators of certain Avions Mudry Et Cie Model CAP 10B series airplanes by individual telegrams. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

AVIONS MUDRY ET CIE. Applies to Model CAP 10B series airplanes, serial numbers 1 through 97 inclusive, certificated in all categories.

Compliance required as indicated.

To prevent possible failure of wing main spar due to cracks, accomplish the following:

(a) Prior to further flight after the effective date of this AD, unless already accomplished, visually inspect for cracks in the lower skin of the center wing in accordance with the instructions specified in paragraph 1 of Avions Mudry Et Cie Service Bulletin No. 2, dated July 20, 1977, or an FAA-approved equivalent.

(b) Prior to the accumulation of 1,000 hours time in service, visually inspect for cracks in the upper flange of the main spar in the wing root areas, LH and RH sides, in accordance with the instructions specified in Avions Mudry Et Cie Service Bulletin No. 8, dated March 13, 1980, or an FAA-approved equivalent.

(c) If a crack or cracks are found as a result of the inspection required by paragraph (a) of this AD, or if crack or cracks were previously detected in the lower skin and repaired, prior to further

flight, inspect the upper flange of the main spar in accordance with paragraph (b) of this AD and repair cracks in accordance with data approved by the Chief of a Regional FAA Engineering Type Certification Office.

(d) If a crack or cracks are found as a result of the inspection required by paragraph (b) of this AD, prior to further flight, repair cracks in accordance with data approved by the Chief of a Regional FAA Engineering Type Certification Office.

(e) For purposes of this AD, "FAA-approved equivalent" means approved by the Chief of any Regional FAA Engineering Type Certification Office.

(f) Report defects found to the Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, within 30 days after the effective date of this AD. Reporting approved by the Office of Management and Budget under OMB No. 04-R0174.

This amendment becomes effective May 21, 1981, as to all persons except those persons to whom it was made immediately effective by telegraphic AD T80-24-51, issued November 14, 1980, which contained this amendment.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Avions Mudry Et Cie, Aerodrome de Bernay, Bernay, France 27300. These documents may be examined at FAA Headquarters, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule was previously issued in telegraphic form to known owners and operators to correct an unsafe condition in aircraft. The present action codifies the rule and makes it effective as to all persons. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 Fr 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Washington, D.C., on May 14, 1981.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 81-15121 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-NE-10, Amdt. 39-4088]

Sikorsky S-76A Helicopters Certificated in all Categories; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Revocation of airworthiness directive (AD).

SUMMARY: Amendment 39-3794 (45 FR 39833), AD 80-12-11, as amended by Amendment 39-3894 (45 FR 56334), as further amended by Amendment 39-3924 (45 FR 63485), requires replacement of the Sikorsky S-76A helicopter horizontal stabilizer support fitting with an improved fitting of increased structural reliability. Additionally, the AD requires reinforcement of selected aft fuselage structure.

A manufacturer's team has modified all certificated aircraft, and the improved stabilizer support fitting with the additional reinforcements are now installed on factory delivered aircraft. Applicable inspections have been added to the maintenance manual.

Therefore, AD 80-12-11 is being revoked, since it has been determined that it is no longer necessary.

EFFECTIVE DATE: April 13, 1981.

FOR FURTHER INFORMATION CONTACT: Martin Buckman, ANE-212, Engineering and Manufacturing Branch, Flight Standards Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington,

Massachusetts 01803; telephone: (617) 273-7336.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

There has been several reports of structural cracking in areas of the forward and aft spar assemblies of the vertical stabilizer, the horizontal stabilizer support structure, and the aft fuselage tail cone. AD 80-12-11 was issued requiring replacement of the Sikorsky S-76A horizontal stabilizer support fitting with an improved fitting of increased structural reliability. Reinforcement of the fuselage aft tail cone, the vertical stabilizer, and the horizontal stabilizer support fitting carry through structure was also required.

Sikorsky has provided documentation that all certificated aircraft, serial numbers 76005 through 76007 and 760001 through 760080, have been modified in accordance with AD 80-12-11. The improved stabilizer support fitting and the additional reinforcements are installed on factory delivered aircraft serial numbers 760081 and above. All drawings reflect only the improved structural configuration. Applicable inspections are included in the maintenance manual.

The FAA has determined that AD 80-12-11 is no longer necessary. Therefore, in accordance with the agency's policy to eliminate unnecessary regulations, AD 80-12-11 is being revoked.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by revoking Amendment 39-3794 (45 FR 39833), AD 80-12-11, as amended by Amendment 39-3894 (45 FR 56334), as further amended by Amendment 39-3924 (45 FR 63485). This revocation becomes effective April 13, 1981.

The undersigned certifies, pursuant to 5 U.S.C. 605(b), that this final rule will not, when promulgated, have a significant economic impact on a substantial number of small entities.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation only involves the revocation of an AD that is no longer necessary. It, therefore—(1) is not a "major rule" under Executive Order 12991; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Mass., on April 3, 1981.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 81-14903 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NE-1, Amdt. 39-4089]

Sikorsky S-76A Helicopters Certificated in all Categories; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Revocation of airworthiness directive (AD).

SUMMARY: Amendment 39-3669 (45 FR 3252), AD 80-02-10, as amended by Amendment 39-3717 (45 FR 17947), requires reinforcement of the Sikorsky S-76A helicopter engine air inlet cowl assembly. A manufacturer's team has modified all certificated aircraft required by the AD, and a new approved type design cowl is now installed on factory delivered aircraft.

Therefore, AD 80-02-10 is being revoked since it has been determined that it is no longer necessary.

EFFECTIVE DATE: April 13, 1981.

FOR FURTHER INFORMATION CONTACT: Martin Buckman, ANE-212 Engineering and Manufacturing Branch, Flight Standards Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7329.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

There were two reports of a left-hand engine air inlet cowl door separating from the S-76A helicopter during flight and damaging the main rotor blades. The FAA had determined that the two occurrences could have been caused by either structural failure of the door or in-flight opening of its attaching latch handles. AD 80-02-10 was issued requiring reinforcement of the doors and safety straps to be added over the latch handles.

Sikorsky has provided documentation that certificated aircraft, serial numbers 76005 through 76007 and 760001 through 760037, have been modified, in accordance with AD 80-02-10, by a select manufacturer's team. Factory delivered aircraft, serial numbers 760038 and above, have cowl doors installed of equivalent integrity. All drawings reflect only the improved cowl door design.

The FAA has determined that AD 80-02-10 is no longer necessary. Therefore, in accordance with the agency's policy to eliminate unnecessary regulations, when possible, AD 80-02-10 is being revoked.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by revoking Amendment 39-3669 (41 FR 3252), AD 80-02-10, as amended by Amendment 39-3717 (45 FR 17947). This revocation becomes effective April 13, 1981.

(Secs. 313(a); 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation only involves the revocation of an AD that is no longer necessary. It, therefore—(1) is not a "Major rule" under Executive Order 12991; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Mass., on April 3, 1981.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 81-14904 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-SO-12]

Alteration of Transition Area, Oneida, Tennessee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule corrects an air navigational facility's location and name, and redesignates an extension in the Oneida, Tennessee, transition area.

EFFECTIVE DATE: 0901 G.m.t., July 26, 1981.

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

SUPPLEMENTARY INFORMATION:

History

In the Oneida, Tennessee, transition area described in § 71.181 (46 FR 540), an extension was designated on the 055° bearing from the Scott RBN to provide controlled airspace for aircraft executing the NDB RWY 23 standard instrument approach procedure. The final approach course has changed as a result of relocation of the RBN to an off-airport location. The RBN relocation was associated with the establishment of a non-federal localizer (SDF) facility on the airport.

It is necessary to redesignate the extension and correct the RBN name and location in order to provide controlled airspace required to protect aircraft executing the new NDB RWY 23 and SDF RWY 23 instrument approach procedures.

In the interest of safety, it is found that notice and public procedure hereon are impracticable and contrary to the public interest.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Oneida, Tennessee, transition area by redesignating an extension and correcting the location and name of an air navigational facility.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181, Subpart G, of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (and amended) (46 FR 540) is further amended, effective 0901 G.m.t., July 26, 1981, as follows:

Oneida, Tennessee

The present description is deleted and ". . . That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Scott Municipal Airport (Lat. 36°27'23"N., Long. 84°35'10"W.); within 2 miles each side of the 230° bearing from Piney Grove RBN (Lat. 36°32'17"N., Long. 84°28'23"W.), extending from the 5.5-mile radius area to the RBN . . ." is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a major rule under Executive Order 12291; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This action involves only a small alteration of navigable airspace and air traffic control procedures over a limited area.

Issued in East Point, Ga., on May 11, 1981.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 81-14902 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-SO-28]

Alteration of Control Zone, North, South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the North, South Carolina, Control Zone. It is necessary to revoke a portion of the control zone since the need for airspace protection no longer exists.

EFFECTIVE DATE: 0901 GMT, August 6, 1981.

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

SUPPLEMENTARY INFORMATION:

History

In the North, South Carolina, Control Zone described in § 71.171 (46 FR 455), an extension was designated on the North AFAF TACAN 234° radial to provide controlled airspace for aircraft executing instrument approaches to North Air Force Auxiliary Field (AFAF). Since the TACAN has been decommissioned, it is necessary to revoke the extension.

This amendment reduces controlled airspace and the constraints imposed on the public. Therefore, notice and public procedure thereon are not necessary.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the North, South Carolina, Control Zone by revoking an extension.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171, Subpart F, of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (46 FR 455) is further amended, effective 0901 GMT, August 6, 1981, as follows:

North, S.C.

The present description is deleted and ". . . within a 5-mile radius of North AFAF (lat. 33°36'30"N., long. 81°0500"W.) This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory . . ." is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a major rule under Executive Order 12291; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This action involves only a small alteration of navigable airspace and air traffic control procedures over a limited area.

Issued in East Point, Georgia, on May 11, 1981.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 81-15120 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-NE-04]

Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points; Amend the Description of the Falmouth, Massachusetts, 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The present description of the Falmouth, Massachusetts, 700-foot Transition Area is described with reference to the Edgartown Non-Directional Radio Beacon (NDB) which has been decommissioned. Therefore, the description of the transition area is being revised to delete reference to the NDB.

EFFECTIVE DATE: May 21, 1981. Comments on the Rule must be received on or before July 21, 1981.

ADDRESS: Send comments to Operations Procedures and Airspace Branch, ANE-535, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Charles Taylor, Operations Procedures and Airspace Branch, ANE-535, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

SUPPLEMENTARY INFORMATION: As a result of the decommissioning of the Edgartown Non-Directional Radio Beacon, it is necessary to change the present description of the Falmouth, Massachusetts 700-foot transition area to delete all reference to the Edgartown Non-Directional Radio Beacon. This action does not alter the geographical airspace of the Falmouth, Massachusetts transition area.

Since this amendment is merely editorial in nature and imposes no additional burden on any person, notice and public procedure herein are unnecessary.

Request for Comments on the Rule

Although this action is in the form of a Final Rule, which was not preceded by notice and public procedure, comments are invited on the Rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the Rule that might suggest the need to modify the Rule.

The Rule

The FAA is amending subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending the description of the Falmouth, Massachusetts 700-foot Transition Area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR of Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting from the description of the Falmouth, Massachusetts 700-foot Transition Area the following:

"Within 2 miles each side of the 183° bearing from Edgartown RBN, extending from the 6-mile radius area to 8 miles S of the RBN;"

Sections 307(a) and 313(c) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348(a) and 1354(c); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.69)].

Note.—The FAA has determined that this document involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on May 11, 1981.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 81-15136 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 81-AAL-6]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points and Special Use Airspace; Amendment to Restricted Area R-2202 A and B, Big Delta, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action further subdivides restricted area R-2202 A and B in Big Delta, Alaska, within existing lateral and vertical dimensions. Subdivision permits activation of only that airspace actually required for a given time and results in increased availability of restricted airspace for public use.

DATES: Effective date: August 6, 1981. Comments must be received on or before June 22, 1981.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 81-AAL-6, 701 C Street, Box 14, Anchorage, Alaska 99513.

The official docket and comments may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule that was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule. Send comments on environmental aspects to: Commander, Special Troops, Fort Greely, Alaska, APO Seattle, Wash. 98733. Attn: AFZT-FE-GB (Mr. Ed Kiker).

The Rule

The purpose of these amendments to §§ 71.151 and 73.22 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) is to further subdivide R-2202 A and B, Big Delta, Alaska, into R-2202A, R-2202B, R-2202C, R-2202D, R-2202E R-2202F, and R-2202G. Sections 71.151 and 73.22 of Parts 71 and 73 of the Federal Aviation Regulations were republished in the **Federal Register** on January 2, 1981 (46 FR 446 and 783). The current structure of R-2202 A and B limits selective activation of the airspace actually required during a given period of time. Changing the structure of the area from 2 to 7 subdivisions will serve to increase the periodic availability of restricted airspace for use by nonparticipating

aircraft and result in a significant improvement in the efficient joint use of the restricted area. This action merely realigns subdivision boundaries within the confines of the existing restricted area and in effect decreases the burden on the public by increasing the opportunity for public use of the affected airspace. Under the circumstances presented, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §§ 71.151 and 73.22 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (46 FR 446 and 783) are amended, effective 0901 GMT, August 6, 1981, as follows:

1. Under § 71.151 by changing "R-2202A Big Delta, Alaska" to read "R-2202G, Big Delta, Alaska."

2. In § 73.22 by deleting the title and text of "R-2202A, Big Delta, Alaska" and "R-2202B Big Delta, Alaska" and adding the following:

R-2202A Big Delta, Alaska

Boundaries. Beginning at Lat. 64°00'48" N., Long. 146°02'19" W.; to Lat. 63°56'17" N., Long. 145°49'30" W.; to Lat. 63°54'20" N., Long. 145°50'20" W.; to Lat. 63°50'30" N., Long. 145°50'00" W.; to Lat. 63°43'00" N., Long. 145°54'01" W.; to Lat. 63°42'15" N., Long. 146°13'26" W.; to point of beginning.

Designated altitudes. Surface to but not including 5,000 feet MSL.

Time of designation. Mon.–Fri., 0700–1700. Other times by NOTAM.

Controlling agency. FAA, Anchorage ARTC Center.

Using agency. U.S. Army Cold Regions Test Center, Fort Greely, Alaska.

R-2202B Big Delta, Alaska

Boundaries. Beginning at Lat. 64°08'29" N., Long. 146°24'44" W.; to Lat. 64°00'48" N., Long. 146°02'19" W.; to Lat. 63°42'15" N., Long. 146°13'26" W.; to Lat. 63°44'00" N., Long. 146°30'00" W.; thence due north to Lat. 63°50'10" N., Long. 146°30'00" W.; thence along the west bank of Delta Creek to the point of beginning.

Designated altitudes. Surface to but not including 5,000 feet MSL.

Time of designation. Mon.–Fri., 0700–1700. Other times by NOTAM.

Controlling agency. FAA, Anchorage ARTC Center.

Using agency. U.S. Army Cold Regions Test Center, Fort Greely, Alaska.

R-2202C Big Delta, Alaska

Boundaries. Beginning at Lat. 64°14'45" N., Long. 146°43'15" W.; to Lat. 64°08'29" N., Long. 146°24'44" W.; thence along the west bank of Delta Creek to Lat. 63°50'10" N., Long. 146°30'00" W.; to Lat. 63°44'00" N., Long. 146°30'00" W.; to Lat. 63°50'50" N., Long. 146°47'30" W.; thence along the east bank of the East Fort and the Little Delta Rivers to the point of beginning.

Designated altitudes. Surface to but not including 5,000 feet MSL.

Time of designation. Mon.–Fri., 0700–1700. Other times by NOTAM.

Controlling agency. FAA, Anchorage ARTC Center.

Using agency. U.S. Army Cold Regions Test Center, Fort Greely, Alaska.

R-2202D Big Delta, Alaska

Boundaries. Beginning at Lat. 64°00'48" N., Long. 146°02'19" W.; to Lat. 63°56'17" N., Long. 145°49'30" W.; to Lat. 63°54'20" N., Long. 145°50'20" W.; to Lat. 63°50'30" N., Long. 145°50'00" W.; to Lat. 63°43'00" N., Long. 145°54'01" W.; to Lat. 63°42'15" N., Long. 146°13'26" W.; to point of beginning.

Designated altitudes. 5,000 to but not including 10,000 feet MSL.

Time of designation. Mon.–Fri., 0700–1700. Other times by NOTAM.

Controlling agency. FAA, Anchorage ARTC Center.

Using agency. U.S. Army Cold Regions Test Center, Fort Greely, Alaska.

R-2202E Big Delta, Alaska

Boundaries. Beginning at Lat. 64°08'29" N., Long. 146°24'44" W.; to Lat. 64°00'48" N., Long. 146°02'19" W.; to Lat. 63°42'15" N., Long. 146°13'26" W.; to Lat. 63°44'00" N., Long. 146°30'00" W.; thence due north to Lat. 63°50'10" N., Long. 146°30'00" W.; thence along the west bank of Delta Creek to the point of beginning.

Designated altitudes. 5,000 to but not including 10,000 feet MSL.

Time of designation. Mon.–Fri., 0700–1700. Other times by NOTAM.

Controlling agency. FAA, Anchorage ARTC Center.

Using agency. U.S. Army Cold Regions Test Center, Fort Greely, Alaska.

R-2202F Big Delta, Alaska

Boundaries. Beginning at Lat. 64°14'45" N., Long. 146°43'15" W.; to Lat. 64°08'29" N., Long. 146°24'44" W.; thence along the west bank of Delta Creek to Lat. 63°50'10" N., Long. 146°30'00" W.; to Lat. 63°44'00" N., Long. 146°30'00" W.; to Lat. 63°50'50" N., Long. 146°47'30" W.; thence along the east bank of the East Fork and the Little Delta Rivers to the point of beginning.

Designated altitudes. 5,000 to but not including 10,000 feet MSL.

Time of designation. Mon.–Fri., 0700–1700. Other times by NOTAM.

Controlling agency. FAA Anchorage ARTC Center.

Using agency. U.S. Army Cold Regions Test Center, Fort Greely, Alaska.

R-2202G Big Delta, Alaska

Boundaries. Beginning at Lat. 65°14'45" N., Long. 146°43'15" W.; to Lat. 63°56'17" N., Long. 145°49'30" W.; to Lat. 63°54'20" N., Long. 145°50'20" W.; to Lat. 63°50'30" N., Long. 145°50'00" W.; to Lat. 63°43'00" N., Long. 145°54'01" W.; to Lat. 63°42'15" N., Long. 146°13'26" W.; to Lat. 63°44'00" N., Long. 146°30'00" W.; to Lat. 63°50'50" N., Long. 146°47'30" W.; thence along the east bank of the East Fork and the Little Delta Rivers to the point of beginning.

Designated altitudes. 10,000 feet MSL to unlimited.

Time of designation. Intermittent by NOTAM.

Controlling agency. FAA Anchorage ARTC Center.

Using agency. U.S. Army Cold Regions Test Center, Fort Greely, Alaska.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

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

Issued in Washington, D.C., on May 13, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-15138 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

[Airspace Docket No. 80-ARM-12]

14 CFR Part 75

Extension of Jet Route No. 136

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment expands Jet Route No. 136 from its present terminal at Billings, Mont., to Medicine Bow, Wyo. This action designates an established route to handle the increased traffic flow in this area. This not only reduces controller workload and frequency congestion, but also provides more efficient air traffic service by reducing the need for radar vectoring.

EFFECTIVE DATE: August 6, 1981.

FOR FURTHER INFORMATION CONTACT: L. Jack Overman, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591; telephone: (202) 426-8783.

History

On October 23, 1980, the FAA proposed to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to extend J-136 from Billings, Mont., to Medicine Bow, Wyo. (45 FR 70281). Interested persons were invited to participate in this rulemaking

proceeding by submitting written comments on the proposal to the FAA. Of the comments received, none were objections. This amendment is the same as that proposed in the notice. Section 75.100 of Part 75 was republished in the Federal Register on Jenunary 2, 1981 (46 FR 834).

The Rule

This amendment to Part 75 of the Federal Aviation Regulations extends J-136 from Billings, Mont., VORTAC direct to Medicine Bow, Wyo., VORTAC. Designation of this extended route provides charted course radials and minimum altitudes where they are required. Flight planning and communication time is reduced by the use of a numbered jet route rather than radar vectoring that is presently required.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (46 FR 834) is amended, effective 0901 GMT, August 6, 1981, by amending Jet Route No. 136 by deleting the words "to Billings." and substituting for them the words "Billings, Mont.; to Medicine Bow, Wyo."

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

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

Issued in Washington, D.C., on May 13, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-15012 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 21719; Amdt. No. 1190]

Standard Instrument Approach Procedures; Miscellaneous Amendments

Correction

In FR Doc. 81-14477, published on page 26609, on Thursday, May 14, 1981, in the first column, in the heading, "Air Traffic and General Operating;" should be corrected to read "Standard Instrument Approach Procedures;".

BILLING CODE 1505-01-M

FEDERAL TRADE COMMISSION

16 CFR Parts 0, 1, 2, 4, and 5

Organization Changes in the Commission's Rulemaking and Investigatory Procedures

Correction

In FR Doc. 81-14228, published at page 26284, on Tuesday, May 12, 1981, make the following changes:

(1) On page 26285, in the first column, in the second paragraph, in the eleventh line, "1.18d(b)" should be corrected to read "1.18(b)".

(2) On page 26290, in the second column, in the first line, "provisions law" should be corrected to read "provisions of law".

(3) On page 26291, in the second column, in the last line "by" should be corrected to read "be".

BILLING CODE 1505-01-M

16 CFR Part 13

[Docket No. C-3065]

The Pillsbury Co., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, that a Minneapolis, Minnesota manufacturer of refrigerated bakery dough ("RBD") products and its major distributor, Kraft, Inc., cease from entering into or enforcing any agreement which bars either party from freely dealing with competitive firms. The order further requires that a prescribed amendment eliminating exclusive dealing requirements be incorporated into the companies' current distribution contract relating to RBD products.

DATE: Complaint and order issued April 28, 1981.[1]

FOR FURTHER INFORMATION CONTACT: FTC/C, E. Perry Johnson, Washington, D.C. 20580. (202) 523-3601.

SUPPLEMENTARY INFORMATION: On Wednesday, February 18, 1981, there was published in the Federal Register, 46 FR 12753, a proposed consent agreement with analysis In the Matter of The Pillsbury Company, a corporation, and Kraft, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements. § 13.533-60 Release of general, specific or contractual constrictions, requirements or restraints. § 13.533-65 Renegotiations and/or amendment of contracts. Subpart—Dealing on Exclusive and Tying Basis: § 13.670 Dealing on exclusive and tying basis. § 13.670-20 Federal Trade Commission Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc. 81-15238 Filed 5-20-81; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order filed with the original document.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76]

High-Cost Natural Gas Produced From Tight Formations; Availability of Supplemental Environmental Assessment

May 18, 1981.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Availability of supplemental environmental assessment.

SUMMARY: Notice is hereby given in Docket No. RM79-76 that on May 22, 1981, the Federal Energy Regulatory Commission (FERC) will make available to the public a supplemental environmental assessment (EA) concerning the Final Rule (Order No. 99) issued by the FERC in August 1980 (45 FR 56034). The supplemental EA addresses the potential for adverse impact to groundwater resulting from implementation of Order No. 99, which establishes an incentive price for natural gas produced from tight formations. It updates the broader analysis and conclusions presented in the FERC environmental staff's original EA released in January 1980 (45 FR 2344) and, together with the original EA, concludes all environmental documentation necessary to implement Order No. 99. The supplement reaffirms the conclusion that program implementation would not constitute a major Federal action significantly affecting the quality of the human environment and further concludes that continued final environmental determinations on individual formation designation recommendations are not necessary.

ADDRESS: This supplemental EA has been placed in the FERC's public files and is available for public inspection in the FERC's Office of Congressional and Public Affairs, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., 20426. Copies are available in limited quantities upon request.

FOR FURTHER INFORMATION CONTACT: Requests for further information about the supplemental EA should be addressed to Mr. Laurence J. Sauter, Jr., Room 7102, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, telephone (202) 357-8881.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-15267 Filed 5-20-81; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7777]

Income Tax; Taxable Years Beginning After December 31, 1953; Withholding of Tax on Nonresident Aliens and Foreign Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the withholding of tax on nonresident aliens and foreign corporations. These regulations provide withholding agents with the guidance needed to comply with the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1642).

EFFECTIVE DATE: The revocation of the regulation with respect to withholding is effective after June 22, 1981.

FOR FURTHER INFORMATION CONTACT: Catherine Kelly Banks of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On July 8, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1441 of the Internal Revenue Code of 1954 (45 FR 45924). A public hearing was held on November 7, 1980. After consideration of all comments regarding the proposed amendments, those amendments are adopted by this Treasury decision.

The document published in the **Federal Register** on July 8, 1980 consisted of notification of an intention to revoke paragraph (d) of section 1.1441-4. The purpose of this revocation is to eliminate any need to "mirror" this provision of the regulations, as required by a decision of the Third Circuit in *Vitco, Inc. v. Government of the Virgin Islands*, 560 F2d 180 (3rd Cir. 1977), *cert denied*, 98 S. Ct. 1630 (1978). That case held that the Virgin Islands is not entitled to withhold tax under sections 1441 and 1442 on payments from V.I. inhabitants to U.S. persons because the exemption from withholding on V.I. inhabitants contained in paragraph (d) of section 1.1441-4 had to be "mirrored".

Major Issues Involved

The commentators had two major arguments. The first argument was that the Revised Organic Act of the Virgin Islands (68 Stat. 508; 48 U.S.C. 1642) should be mirrored. The Revised Organic Act provides, *inter alia*, that Virgin Islands permanent residents satisfy their tax liability to the United States on United States source income by paying tax on their worldwide income to the Virgin Islands. Since Virgin Islands permanent residents have no tax liability to the United States if they comply with the Revised Organic Act, an exemption from withholding on payments of U.S. source income to Virgin Islands permanent residents is appropriate. The Naval Service Appropriation Act of 1922 (42 Stat. 123; 48 U.S.C. 1397), using the language "the income tax laws in force in the United States and those which may hereafter be enacted shall be held to be likewise in force in the Virgin Islands," established in the Virgin Islands what is termed a "mirrored Code". The "mirrored Code" essentially consists of the Internal Revenue Code with the words "Virgin Islands" substituted for the words "United States" where appropriate. The commentators argued that the Revised Organic Act was "an income tax law in force in the United States" under the language of the Naval Act and that the Revised Organic Act and the exemption from withholding contained in paragraph (d) of § 1.1441-4 based on that Act should also be mirrored.

The second major argument of the commentators was that the Naval Act by itself prohibits the imposition of a withholding tax on gross income by either jurisdiction on the taxpayers of the other jurisdiction. The commentators based their argument on the predecessor of section 932(b), section 260 of the Revenue Act of 1921. The first paragraph of that section (now section 932(a)) provided that citizens of possessions were nonresident aliens. The second paragraph (now section 932(b)) provided that nothing in the first paragraph was to be construed to alter or amend the provisions of the Naval Act. The commentators, citing Reg. 62, Art. 1121 promulgated under section 260, reasoned that the interpretation of the Naval Act contained in the second paragraph of section 260 was that Virgin Islands residents were *not* nonresident aliens and therefore were *not* subject to withholding. Thus, the commentators contended, even if paragraph (b) of § 1.1441-4 was revoked, the effect of the Naval Act, as embodied in section 932(b), was that there was to be no

withholding on Virghin Islands residents, and, conversely, no withholding on payments of V.I. source income to U.S. recipients.

With respect to whether the Revised Organic Act should be mirrored, there is no reciprocal U.S. law providing that U.S. persons satisfy their tax liability to the Virgin Islands on Virgin Islands source income by paying taxes on their worldwide income to the United States. The legislative history of the Revised Organic Act and later Congressional interpretation of that Act make clear that there was no Congressional intent in that Act to mirror it and thus deprive the Virgin Islands of taxes due from U.S. persons on their Virgin Islands source income. See H. Rep. No. 1603, 83rd Cong., 2nd Sess. 13 (1954) and H. Rep. No. 1131, 86th Cong., 1st Sess., pp. 3–4 (1959). The Third Circuit both in *Chicago Bridge and Iron Co. v. Wheatley*, 430 F2d 973 (3rd. Cir. 1970), at p. 974 and in footnote 1, and in *Great Cruz Bay Inc., St. John, Virgin Islands v. Wheatley*, 495 F2d 301 (3rd Cir. 1974), at p. 303, explicitly indicated that U.S. persons have tax liability to the Virgin Islands on their Virgin Islands source income, and by direct implication, that the Revised Organic Act is not mirrored to remove such liability.

The Third Circuit in *Vitco, supra*, is trying to judicially accomplish what it took Congressional action to accomplish after the case of *Sayre Co. v. Riddell*, 395 F.2d 407 (9th Cir. 1968). Ruling on the Guam mirror Code (almost identical to the Virgin Islands mirror Code language), the Ninth Circuit in *Sayre, supra*, at p. 409, held that a U.S. corporation was a foreign corporation and hence the section 881 tax (and therefore withholding of that tax) would be imposed. Congress, not disputing that the *Sayre* court correctly interpreted the effect of the Guam mirror Code, amended sections 881 and 1442 of the Code to provide that, for purposes of those sections, a Guamanian corporation was not a foreign corporation. Mirrored, this resulted in a U.S. corporation not being a foreign corporation for Guamanian tax purposes (and therefore would not be subject to the section 881 tax nor the withholding in section 1442 based on that tax). In contrast to the Congressional action after *Sayre* which expressly intended mirroring of its amendments to the Code, there is no evidence in the Revised Organic Act or its legislative history that mirroring of that Act was intended to occur. Thus a United States corporation is still foreign for purposes of Virgin Islands taxation and *vice versa* and therefore withholding of the section 881 tax by the Virgin Islands is still mandated.

As to the second argument of the commentators, that the Naval Act as interpreted in section 260 does not make Virgin Islands residents nonresident aliens subject to withholding, these commentators are interpreting the very provision which established the mirror Code in the Virgin Islands to argue that it meant that a Virgin Island resident was to be taxed as a domestic U.S. citizen would be taxed. The commentators read section 260 and the regulation promulgated under it as though the Naval Act extended the Code directly to the possessions. This reading would vitiate the long-established interpretation that the mirror Code made the Virgin Islands and the United States two separate, foreign-with-respect-to-each-other taxing jurisdictions, with the taxpayers of each nonresident aliens and foreign corporations with respect to taxation (and thus withholding) by the other jurisdiction. See I.T. 2946, XIV–2 C.B. 109 (1935); I.T. 3690, 1944 C.B. 164; Rev. Rul. 73–315, 1973–2 C.B. 225; Rev. Rul. 78–327, 1978–2 C.B. 196; *Dudley v. Commissioner*, 258 F.2d 182, at p. 185; *Chicago Bridge and Iron Co. v. Wheatley, supra*, at p. 974, *Great Cruz Bay, Inc., St. John, Virgin Islands v. Wheatley, supra*, at pp. 303–305. The Naval Act has been interpreted as establishing a separate statute identical to the Code: therefore (until the Revised Organic Act) there was authority under sections 1441 and 1442 for the United States to withhold tax on U.S. source passive income being paid to V.I. residents and for the Virgin Islands to withhold tax on Virgin Islands source income being paid to U.S. taxpayers. The Revised Organic Act removed the underlying tax liability of Virgin Islands residents to U.S., but it did not remove the liability of United States persons to the Virgin Islands. Therefore, the Naval Act provides no basis for an argument that it precluded withholding on Virgin Islands taxpayers. Moreover, section 932 and its predecessor section 260 by their terms applied only to individuals and cannot be the basis for any exemption from withholding on corporations.

The Internal Revenue Service is issuing Rev. Proc. 81–20, 1981–21 IRB, on May 26, 1981. The revenue procedure will set forth the obligations of U.S. withholding agents with regard to payments to V.I. residents to properly reflect the Revised Organic Act.

Drafting Information

The principal author of this revocation was Catherine Kelly Banks of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the revocation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the amendments to 26 CFR Part 1 is amended as follows:

Paragraph 1. Paragraph (d)(1) of § 1.1441–4 is amended to read as follows:

§ 1.1441–4 Exemptions from withholding.

* * * * *

(d) *Inhabitants of the Virgin Islands*—(1) *Allowance of exemption.* This paragraph shall not apply after June 18, 1981. No withholding is required under § 1.1441–1 upon any item of income paid to any person who at the time of payment reasonably expects to satisfy his income tax obligations with respect to that item under section 28(a) of the Revised Organic Act of the Virgin Islands. That section provides that all persons whose permanent residence is in the Virgin Islands "shall satisfy their income tax obligations under applicable taxing statutes of the United States by paying their tax on income derived from all sources both within and outside the Virgin Islands into the Treasury of the Virgin Islands." For the purpose of this paragraph, the term "person" shall include an individual, partnership, and corporation.

* * * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805)

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved:

John. E. Chapoton,
Assistant Secretary of the Treasury.

May 14, 1981.

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26 CFR Part 16A

[T.D. 7778]

Temporary Income Tax Regulations Relating to the Exclusion for Certain Conservation Cost Sharing Payments; Interim Rules for Determining Amounts Excluded Under Section 126 and Subject To Recapture Under Section 1255

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to certain cost-sharing payments. Amendments to the Internal Revenue Code were made by the Revenue Act of 1978 and the Technical Corrections Act of 1979. The regulations provide guidance needed to comply with those Acts to persons who receive payments under certain governmental programs for conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife. In addition, the text contained in the temporary regulations serves as a text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules Section of this issue of the **Federal Register.**

DATES: These temporary regulations apply to payments received or accrued after September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Phoebe A. Mix of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3297, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

These regulations provide Income Tax Regulations (26 CFR Part 16A) under sections 126 and 1255 of the Internal Revenue Code of 1954. These amendments are proposed under section 543 of the Revenue Act of 1978 (92 Stat. 2888) and section 105(a)(7) of the Technical Corrections Act of 1979 (94 Stat. 104). They are to be issued under the authority of sections 126 (c)(2) (as amended by the Technical Corrections Act of 1979), 1255(b) and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 126(c)(2), 1255(b) and 7805). All references to the Internal Revenue Code of 1954 are as amended by the Technical Corrections Act of 1979.

Purpose of Statutory Provisions

Congress enacted section 126 of the Code to alleviate what were perceived to be potentially adverse tax consequences of the receipt of improvements to property under certain conservation programs. In general, a taxpayer who receives a benefit from a government must include the value of the benefit in gross income under section 61, absent a specific statutory exclusion. The Internal Revenue Service had indicated that in certain circumstances it would consider the value to the taxpayer of certain conservation improvements as equal to the cost of the improvement. In the conservation cost-sharing programs listed in section 126, the cost of an improvement may substantially exceed any private benefit received by the taxpayer. Under section 126, when an improvement does not substantially increase the annual income derived from the property, the taxpayer may exclude from income the value of the improvement, provided certain conditions are met. These regulations provide the method for determining whether an increase in income is substantial. Taxpayers need not apply to the Internal Revenue Service for a ruling.

Section 1255 was enacted to recapture any amount previously excluded under section 126 when the improved property is sold at a gain within a certain period of time.

Amounts Excluded From Gross Income Under Section 126

Section 126 permits a taxpayer to exclude from income that portion (or all) of the value of the section 126 improvement which does not substantially increase the annual income derived from the property. Under these temporary regulations, an increase in annual income is not substantial unless it exceeds the greater of $2.50 an acre or 10 percent of the average annual income derived from the property prior to the improvement. Absent section 126, the amount a taxpayer must include in income as a result of the installation of a section 126 improvement is the value of the improvement.

Section 126 applies only to payments for improvements received under a program listed in section 126(a) which the Secretary of Agriculture has determined were made primarily for the purpose of conservation. These regulations take no position on the tax consequences of the receipt of payments for improvements which are not certified by the Secretary of Agriculture as being primarily for the purpose of conservation nor on the receipt of payments under programs not listed in section 126(a).

Rent and Compensation for Services

The section 126 exclusion applies only to the value of a benefit conferred on a taxpayer by the installation of a section 126 improvement. It does not apply to any payment in the nature of rent or compensation for services. For example, an amount paid to a farmer to compensate the farmer for agreeing not to produce crops is not a section 126 improvement. Similarly, if a government pays money to a landowner as compensation for the landowner's personal services performed in carrying out all or a part of a program listed in section 126(a), that payment does not qualify for the section 126 exclusion and is excluded from the cost of the section 126 improvement for purposes of this section.

Section 1255. Recapture of Amounts Excluded Under Section 126

Section 1255 provides that part or all of amounts excluded from gross income under section 126 will be included in ordinary income to the extent of the capital gains recognized at the time of a sale of property which includes a section 126 improvement, if such property is sold within 20 years of receipt of the last government payment for improvement. Sections 16A.1255-1 through 16A.1255-2 of the proposed regulations apply to this provision.

Drafting Information

The principal author of these temporary regulations is Phoebe A. Mix of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed amendments to the regulations

Accordingly, the following additions to the Income Tax Regulations (26 CFR Part 16A) are adopted:

§ 16A.126-0 Effective dates.

These temporary regulations shall apply to any payments received under a contract signed by the taxpayer and the appropriate agency after September 30, 1979.

§ 16A.126-1 Certain cost sharing payments—in general.

(a) *Introduction.* In general, section 126 provides that recipients of payments made after September 30, 1979 under certain conservation, reclamation and restoration programs may exclude all or a portion of those payments from income if the payments do not substantially increase the annual income derived by the taxpayer from the affected property. For purposes of this section, the term "payment" as used in section 126 means payment of the economic benefit, if any, conferred upon the taxpayer upon receipt of the improvement. An increase in annual income is substantial if it exceeds the greater of 10 percent of the average annual income derived from the affected

property prior to receipt of the improvement or an amount equal to $2.50 times the number of affected acres. The amount of gross income which a taxpayer realizes upon the receipt of a section 126 payment is the value of the section 126 improvement, reduced by the sum of the excludable portion and the taxpayer's share of the cost of the improvement (if any).

(b) *Definitions.* For purposes of this section, the term:

(1) "Cost of the improvement" means the sum of amounts paid by a government and the taxpayer, whether or not with borrowed funds, for the improvement.

(2) "Section 126 cost" means the cost of the improvement less the sum of

(i) Any government payments under a program which is not listed in section 126(a),

(ii) Any portion of a government payment under a program which is listed in section 126(a) which the Secretary of Agriculture has not certified is primarily for purposes of conservation,

(iii) Any government payment to the taxpayer which is in the nature of rent or compensation for services.

(3) "Value of the section 126 improvement" means the fair market value of the improvement multiplied by a fraction, the numerator of which is the section 126 cost and the denominator of which is the cost of the improvement.

(4) "Affected acreage" means the acres affected by the improvement.

(5) "Excludable portion" means the present fair market value of the right to receive annual income from the affected acreage of the greater of 10 percent of the prior average annual income from the affected acreage or $2.50 times the number of affected acres.

(6) "Prior average annual income" means the average of the gross receipts from the affected acreage for the last three taxable years preceding the taxable year in which installation of the improvement is commenced.

(7) "Section 126 improvement" means the portion of the improvement equal to the percentage which government payments made to the taxpayer, which the Secretary of Agriculture has certified were made primarily for the purpose of conservation, bear to the cost of the improvement.

(c) *Income realized upon receipt of a section 126 improvement*—(1) *Section 126 exclusion applied.* Unless a taxpayer elects not to have section 126 apply, the amount of gross income realized on receipt of the section 126 improvement is the value of the section 126 improvement less the sum of the taxpayer's share of the cost of the improvement and the excludable portion.

(2) *Section 126 exclusion not applied.* If a taxpayer elects under section 126(c) not to have section 126 apply in whole or in part, the amount realized on the receipt of the section 126 improvement is the value of the section 126 improvement less the sum of the taxpayer's share of the cost of the improvement and the excludable portion that applies, if any.

(d) *Payments under watershed programs*—(1) *Programs within section 126(a)(9).* Section 126(a)(9) covers certain programs affecting small watersheds.

These programs must be administered by the Secretary of Agriculture and be determined by the Commissioner to be substantially similar to the type of program described in section 126(a) (1) through (8). The Commissioner has determined that section 126 improvements made in connection with small watersheds are within the scope of section 126(a)(9) if they are made under one of the following programs:

(A) The Watershed Protection and Flood Prevention Act, Pub. L. 566, 68 Stat. 666, as amended (16 U.S.C. 1001, et seq.), as funded by the Act of November 9, 1979, Pub. L. 96–108, 93 Stat. 834.

(B) Flood Prevention Projects, Pub. L. 86–468, sec. 1, 74 Stat. 131, as amended (16 U.S.C. 1006a); Pub. L. 78–534, sec. 2, 58 Stat. 889 (33 U.S.C. 701a–1); Pub. L. 78–534, sec. 13, 58 Stat. 905;

(C) Emergency Watershed Protection, Pub. L. 81–516, sec. 216, 64 Stat. 184 (33 U.S.C. 701b–1), and

(D) Colorado River Basin Salinity Control Act, Pub. L. 93–320, 88 Stat. 266:

(*1*) Title 1—Programs downstream from Imperial Dam, and

(*2*) Title 2—Measures upstream from Imperial Dam.

(2) *Other programs.* The Commissioner may announce further determinations under section 126(a)(9) from time to time in the Internal Revenue Bulletin.

(3) *Small watershed defined.* A watershed is a "small watershed" under this paragraph and section 126(a)(9) if the watershed or subwatershed does not exceed 250,000 acres and does not include any single structure providing more than 12,500 acre-feet of floodwater detention capacity, nor more than 25,000 acre-feet of total capacity.

(e) *Basis of property not increased by reason of excludable amounts.* Notwithstanding any provision of section 1016 (relating to adjustments to basis) to the contrary, basis of any property does not include any amount which is excludable from gross income under section 126.

(f) *Cross reference.* For rules relating to the recapture as ordinary income of the gain from the disposition (within 20 years of the date of receipt) of property for which an exclusion is claimed for a section 126 improvement, see section 1255 and the regulations thereunder.

(g) *Examples.* The provisions of this section are illustrated by the following examples:

Example (1). In 1981, 100 acres of the taxpayer's land is reclaimed under a Rural Abandoned Mine Program contract with the Soil Conservation Service of the U.S. Department of Agriculture. The total cost of the improvement is $700,000. USDA pays $690,000, the taxpayer $10,000. The Secretary of Agriculture certifies that 95% of the USDA payment ($34,500) was primarily for the purpose of conservation. $150,000 of USDA's payment is compensation for the taxpayer's service in the reclamation project. The taxpayer can deduct $15,500 against the payment in 1981. Based on all the facts and circumstances, the value of the improvement is $21,000. The taxpayer elects not to have section 126 apply. The taxpayer computes the amount which he includes in gross income as a result of receipt of the improvement as follows:

(1)

Cost of improvement	$700,000
Nonsection 126 payment	(34,500)
Compensation for services	(165,500)
Section 126 cost	500,000

(2)

Value of improvement	$21,000
Section 126 cost ×	500,000
Cost of improvement	700,000
Value of section 126 improvement	15,000

(3) Amount included in gross income as a result of receipt of section 126 improvement:

Value of 126 improvement	$15,000
(Taxpayer's contribution)	(10,000)
Amount included in gross income	5,000

Example (2). The facts are the same as example (1) except that section 126 applies. Based on all the facts and circumstances, the present fair market value of the right to receive annual income from the property of 10 percent of the prior average annual income of the affected acreage prior to the receipt of the improvement is $1,380 and the present fair market value of the right to receive $250 ($2.50 × 100 acres) is $1,550. The excludable portion is, therefore, $1,550. The taxpayer computes the amount included in gross income as follows:

Value of section 126 improvement	$15,000
(Taxpayer's contribution)	(10,000)
(Excludable portion)	(1,550)
Amount included in income	3,450

Example (3). The facts are the same as example (2) except that the present value of 10 percent of the prior average annual income is $5,600. The taxpayer realizes no income as a result of receipt of the section 126 project.

(1)

Value of section 126 improvement	$15,000
(Taxpayer's contribution)	(10,000)
(Excludable portion)	(5,600)
Amount included in income	0

Example (4). In 1983, the taxpayer signs a contract under the water bank program under which he will maintain 20 acres of undisturbed wetlands as a wildfowl preserve. In return he will receive $90 an acre as rent from the government. Although the payment is made under a program listed in section 126(a) and the Secretary of Agriculture has certified that the entire amount of payment was made primarily for the purpose of conservation, there is no income eligible for section 126 exclusion because the full payment is rent. The rent is included in full in gross income.

Example (5). In 1980, the taxpayer reforests 200 acres of nonindustrial private forest land by planting tree seedlings. The taxpayer pays the full cost of the reforestation, $15,000. Under the cost-sharing provisions of the forestry incentives program, the taxpayer receives a reimbursement from USDA of $12,000. The Secretary of Agriculture certifies that 100% of the USDA payment is primarily for the purpose of conservation. Assume that the excludable portion is $3,500 and that based on all the facts and circumstances, the value of the improvement is $15,000. The amount which is includable in income is the value of the section 126 improvement, reduced by the excludable portion and the taxpayer's share of the cost of the improvement. Therefore the taxpayer includes $8,500 in gross income as a result of the USDA payment, computed as follows:

Value of the section 126 improvement	$15,000
(Excludable portion)	(3,500)
(Taxpayer's contribution)	(3,000)
Amount included in gross income	8,500

§ 16A.126-2 Section 126 elections.

(a) *Election for section 126 not to apply in whole or in part.* A taxpayer may elect under section 126(c) not to have section 126 apply to all or any part of an improvement described in section 126.

(b) *Application of the section 126 exclusion.* To the extent the section 126 exclusion applies, the taxpayer should so indicate on an attachment to the tax return (or amended return) for the taxable year in which the taxpayer received the last payment made by a government for the improvement. The attachment should state the dollar amount of the section 126 cost funded by a government payment, the value of the section 126 improvement, and the amount that the taxpayer is excluding under section 126.

Par. 2. Sections 16A.1255-1 and 16A.1255-2 are added in the appropriate place to read as follows:

§ 16A.1255-1 General rule for treatment of gain from disposition of section 126 property.

(a) *Ordinary income*—(1) *General rule.* Except as otherwise provided in this section and § 16A.1255-2, if section 126 property is disposed of after September 30, 1979, then under section 1255(a)(1) there shall be recognized as ordinary income the lesser of—

(i) The "excludable portion" under section 126, or

(ii) (A) The excess of the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of the section 126 property (in the case of any other disposition), over the adjusted basis of the property, less

(B) The amount recognized as ordinary income under the other provisions of chapter 1, subchapter P, part IV of the Code.

(2) *Application of section.* Any gain treated as ordinary income under section 1255(a)(1) shall be recognized as ordinary income notwithstanding any other provision of subtitle A of the Code except that section 1255 does not apply to the extent the gain is recognized as ordinary income under the other provisions of subchapter P, part IV of the Code. For special rules with respect to the application of section 1255, see § 16A.1255-2. For the relation of section 1255 to other provisions, see paragraph (c) of this section.

(3) *Meaning of terms.* For purposes of section 1255 and these regulations—

(i) The term "section 126 property" means any property acquired, improved, or otherwise modified as a result of a payment listed in section 126(a) which has been certified by the Secretary of Agriculture as primarily for the purpose of conservation;

(ii) The term "excludable portion" is defined in § 16A.126-1(b)(5);

(iii) The term "disposition" has the same meaning as in § 1.1245-1(a)(3);

(iv) The term "date of receipt of the section 126 payment" means the last date the government made a payment for the improvements.

(4) *Applicable percentage.* If section 126 property is disposed of less than 10 years after the date of receipt of the last payment which has been certified by the Secretary of Agriculture as primarily for the purpose of conservation, the "applicable percentage" is 100 percent; if section 126 property is disposed of more than 10 years after that date, the applicable percentage is 100 percent reduced (but not below zero) by 10 percent for each year or part thereof in excess of 10 years such property was held after the date of the section 126 payment.

(5) *Portion of parcel.* The amount of gain to be recognized as ordinary income under section 1255(a)(1) shall be determined separately for each parcel of section 126 property in a manner consistent with the principles of § 1245-1(a) (4) and (5) relating to gain from disposition of certain depreciable property. If (i) only a portion of a parcel of section 126 property is disposed of in a transaction, or if two or more portions of a single parcel are disposed of in one transaction, and (ii) the aggregate of "excludable portions" with respect to any such portion cannot be established to the satisfaction of the Commissioner, then the aggregate of the "excludable portions" in respect of the entire parcel shall be allocated to each portion in proportion to the fair market value of each at the time of the disposition.

(b) *Instances of nonapplication*—(1) *In general.* Section 1255 does not apply if a taxpayer disposes of section 126 property more than 20 years after receipt of the last section 126 payment with respect to the property.

(2) *Losses.* Section 1255(a)(1) does not apply to losses. Thus, section 1255(a)(1) does not apply if a loss is realized upon a sale, exchange, or involuntary conversion of property, all of which is section 126 property, nor does the section apply to a disposition of the property other than by way of sale, exchange, or involuntary conversion if at the time of the disposition the fair market value of the property is not greater than its adjusted basis.

(c) *Relation of section 1255 to other provisions*—(1) *General.* The provisions of section 1255 apply notwithstanding any other provisions of subtitle A of the Code except that they do not apply to the extent gain is recognized as ordinary income under the other provisions of subchapter P, part IV of the Code. Thus, unless an exception or limitation under § 16A.1255-2 applies, gain under section 1255(a)(1) is recognized notwithstanding any contrary nonrecognition provision or income characterizing provision. For example, since section 1255 overrides section 1231 (relating to property used in the trade or business), the gain recognized under section 1255 upon a disposition of section 126 property will be treated as ordinary income and only the remaining gain, if any, from the disposition may be considered as gain from the sale or exchange of property to which section 1231 applies. See example (1) of paragraph (d) of this section.

(2) *Nonrecognition sections overridden.* The nonrecognition of gain provisions of subtitle A of the Code which section 1255 overrides include, but are not limited to, sections 267(d), 311(a), 336, 337, and 512(b)(5). See § 16A.1255–2 for the extent to which section 1255(a)(1) overrides sections 332, 351, 361, 371(a), 374(a), 721, 731, 1031, and 1033.

(3) *Installment method.* Gain from a disposition to which section 1255(a)(1) applies may be reported under the installment method if such method is otherwise available under section 453 of the Code. In such a case, the portion of the installment payment that is gain is treated as follows: first as ordinary gain under other sections of chapter I subchapter P, part IV of the Code until all that gain has been reported; next as ordinary gain to which section 1255 applies until all that gain is reported; and finally as gain under other sections of chapter I, subchapter D, part IV of the Code. For treatment of amounts as interest on certain deferred payments, see section 483.

(4) *Exempt income.* With regard to exempt income, the principles of § 1.1245–6(e) shall be applicable.

(5) *Treatment of gain not recognized under section 1255(a)(1).* For treatment of gain not recognized under this section, the principles of § 1.1245–6(f) shall be applicable.

(d) *Example.* The provisions of this section may be illustrated by the following example:

Example (1). Individual A uses the calendar year as his taxable year. On April 10, 1995, A sells for $75,000 section 126 property with an adjusted basis of $52,500 for a realized gain of $22,500. The excludable portion under section 126 was $18,000. A received the section 126 payment on January 5, 1990. No gain is recognized as ordinary gain under sections 1231 through 1254. Because the applicable percentage, 100 percent, of the aggregate of the section 126 improvements ($18,000), $18,000, is lower than the gain realized, $22,500, the amount of gain recognized as ordinary income under section 1255(a)(1) is $18,000. The remaining $4,500 of the gain may be treated as gain from the sale or exchange of property described in section 1231.

§ 16A.1255–2 Special rules.

(a) *Exception for gifts—(1) General rule.* In general, no gain shall be recognized under section 1255(a)(1) upon a disposition of section 126 property by gift. For purposes of section 1255 and this paragraph, the term "gift" shall have the same meaning as in § 1.1245–4(a) and, with respect to the application of this paragraph, principles illustrated by the examples of § 1.1245–4(a)(2) shall apply.

(2) *Disposition in part a sale or exchange and in part a gift.* Where a disposition of section 126 property is in part a sale or exchange and in part a gift, the amount of gain which shall be recognized as ordinary income under section 1255(a)(1) shall be computed under § 16A.1255–1(a)(1), applied by treating the gain realized (for purposes of § 16A.1255–1(a)(1)(ii)), as the excess of the amount realized over the adjusted basis of the section 126 property.

(3) *Treatment of section 126 property in hands of transferee.* See paragraph (d) of this section for treatment of the transferee in the case of a disposition to which this paragraph applies.

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). On March 2, 1986, A makes a gift to B of a parcel of land having an adjusted basis of $40,000 and fair market value of $65,000. On the date of that gift, the aggregate of excludable portions under section 126 was $24,000. The section 126 payments were all received on January 15, 1981. Upon making the gift, A recognizes no gain under section 1255(a)(1). See paragraph (a)(1) of this section. For treatment of the property in the hands of B, see example (1) of paragraph (d)(3) of this section.

Example (2). (i) Assume the same facts as in example (1), except that A transfers the land to B for $50,000. Assume further that no gain is recognized as ordinary income under any other provision of chapter I, subchapter P, part IV of the Code. Thus, the gain realized is $10,000 (amount realized, $50,000, minus adjusted basis, $40,000), and A has made a gift of $15,000 (fair market value, $65,000, minus amount realized, $50,000).

(ii) Upon the transfer of the land to B, A recognizes $10,000 as ordinary income under section 1255(a)(1), computed under paragraph (a)(2) of this section as follows:

(1) Aggregate of excludable portions under section 126	$24,000
(2) Multiply: Applicable percentage for land disposed if within sixth year after section 126 payments were received	100
(3) Amount in § 16A.1255–1(a)(1)(i)	$24,000
(4) Gain realized (see (i) of this example)	10,000
(5) Amount in § 16A.1255–1(a)(1)(ii) applied in accordance with paragraph (a)(2) of this section	10,000
(6) Lower of line (3) or line (5)	10,000

Thus, the entire gain realized on the transfer, $10,000, is recognized as ordinary income.

For treatment of the farm land in the hands of B, see example (2) of paragraph (d)(3) of this section.

(b) *Exception for transfer at death—(1) In general.* Except as provided in section 691 (relating to income in respect of a decedent), no gain shall be recognized under section 1255(a)(1) upon a transfer at death. For purposes of section 1255 and this paragraph, the term "transfer at death" shall have the same meaning as in § 1.1245–4(b) and, with respect to the application of this paragraph, principles illustrated by the examples of § 1.1245–4(b)(2) shall apply.

(2) *Treatment of section 126 property in hands of transferee.* If, as of the date a person acquires section 126 property from a decedent, the person's basis is determined by reason of the application of section 1014(a), solely by reference to the fair market value of the property on the date of the decedent's death, or on the applicable date provided in section 2032 (relating to alternative valuation date), then on that date the aggregate of excludable portions under section 126 in the hands of such transferee is zero.

(c) *Limitation for certain tax-free transactions—(1) Limitation on amount of gain.* Upon a transfer of section 126 property described in paragraph (c)(2) of this section, the amount of gain recognized as ordinary income under section 1255(a)(1) shall not exceed an amount equal to the excess (if any) of (i) the amount of gain recognized to the transferor on the transfer (determined without regard to section 1255) over (ii) the amount (if any) of gain recognized as ordinary income under the other provisions of chapter I, subchapter P, part IV of the Code. For purposes of paragraph (c)(1) of this section, the principles of § 1.1245–4(c)(1) shall apply. Thus, in the case of a transfer of section 126 property and other property in one transaction, the amount realized from the disposition of the section 126 property (as determined in a manner consistent with the principles of § 1.1245–1(a)(5)) shall consist of that portion of the fair market value of each property acquired which bears the same ratio to the fair market value of the acquired property as the amount realized from the disposition of the section 126 property bears to the total amount realized. The preceding sentence shall be applied solely for purposes of computing the portion of the total gain (determined without regard to section 1255) which is eligible to be recognized as ordinary income under section 1255(a)(1). The provisions of this paragraph do not apply to a disposition of property to an organization (other than a cooperative described in section 521) which is exempt from the tax imposed by chapter 1 of the Code.

(2) *Transfers covered.* The transfers referred to in paragraph (c)(1) of this section are transfers of section 126 property in which the basis of the property in the hands of the transferee is determined by reference to its basis in the hands of the transferor by reason of

the application of any of the following provisions:

(i) Section 332 (relating to distributions in complete liquidation of an 80-percent-or-more controlled subsidiary corporation). For application of paragraph (c)(1) of this section to such a complete liquidation, the principles of § 1.1245–4(c)(3) shall apply. Thus, for example, the provisions of paragraph (c)(1) of this section do not apply to a liquidating distribution of section 126 property by an 80-percent-or-more controlled subsidiary to its parent if the parent's basis for the property is determined, under section 334(b)(2), by reference to its basis for the stock of the subsidiary.

(ii) Section 351 (relating to transfer to a corporation controlled by the transferor).

(iii) Section 361 (relating to exchanges pursuant to certain corporate reorganizations).

(iv) Section 371(a) (relating to exchanges pursuant to certain receivership and bankruptcy proceedings).

(v) Section 374(a) (relating to exchanges pursuant to certain railroad reorganizations).

(vi) Section 721 (relating to transfers to a partnership in exchange for a partnership interest). See paragraph (e) of this section.

(vii) Section 731 (relating to distributions by a partnership to a partner). For special carryover of basis rule, see paragraph (e) of this section.

(viii) Section 1031 (relating to like kind exchanges).

(ix) Section 1034 (relating to rollover of gain on the sale of a principal residence).

(3) *Treatment of section 126 property in the hands of transferee.* See paragraph (d) of this section for treatment of the transferee in the case of a disposition to which this paragraph applies.

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). On January 4, 1986, A holds a parcel of property that is section 126 property having an adjusted basis of $15,000 and a fair market value of $40,000. On that date he transfers the parcel to corporation M in exchange for stock in the corporation worth $40,000 in a transaction qualifying under section 351. On the date of the transfer, the aggregate of excludable portions under section 126 with respect to the transferred property is $18,000 and all of such amount was received on March 25, 1981. With regard to section 1255, A would recognize no gain under section 351 upon the transfer and M's basis for the land would be determined under section 362(a) by reference to its basis in the hands of A. Thus, as a result of the disposition, no gain is recognized as ordinary income under section 1255 by A since the amount of gain recognized under that section is limited to the amount of gain which is recognized under section 351 (determined without regard to section 1255). See paragraph (c)(1) of this section. For treatment of the section 126 property in the hands of B, see paragraph (d)(1) of this section.

Example (2). Assume the same facts in example (1), except that A transferred the property to M for stock in the corporation worth $32,000 and $8,000 cash. The gain realized is $25,000 (amount realized, $40,000, minus adjusted basis, $15,000). Without regard to section 1255, A would recognize $8,000 of gain under section 351(b). Assume further that no gain is recognized as ordinary income under the other provisions of chapter 1, subchapter P, part IV of the Code. Therefore, since the applicable percentage, 100 percent of the aggregate excludable portions under section 126, $18,000, is lower than the gain realized, $25,000, the amount of gain to be recognized as ordinary income under section 1255(a)(1) would be $18,000 if the provisions of paragraph (c)(1) of this section do not apply. Since under section 351(b) gain in the amount of $8,000 would be recognized to the transferor without regard to section 1255, the limitation provided in paragraph (c)(1) of this section limits the gain taken into account by A under section 1255(a)(1) to $8,000.

Example (3). Assume the same facts as in example (2), except that $5,000 of gain is recognized as ordinary income under section 1251(c)(1). The amount of gain recognized as ordinary income under section 1255(a)(1) is $3,000 computed as follows:

(1) Amount of gain under section 1255(a)(1) (determined without regard to paragraph (c)(1) of this section):	
(a) Aggregate of excludable portions under section 126	$18,000
(b) Multiply: Applicable percentage for property disposed of within the fifth year after section 126 payments were received (percent)	100
(c) Amount in § 16A.1255-1(a)(1)(i)	$18,000
(d) Gain realized (amount realized $40,000 less adjusted basis, $15,000)	$25,000
(e) Lower of line (c) or line (d)	$18,000
(2) Limitation in paragraph (c)(1) of this section:	
(a) Gain recognized (determined without regard to section 1255)	$8,000
(b) Minus: Gain recognized as ordinary income under section 1251(c)(1)	$5,000
(c) Difference	$3,000
(3) Lower of line (1)(e) or line (2)(c)	$3,000

Thus, the entire gain recognized under section 351(b) (determined without regard to sections 1251 and 1255), $8,000, is recognized as ordinary income since that amount is equal to the sum of the gain recognized as ordinary income under section 1251(c)(1), $5,000, and under section 1255(a)(1), $3,000.

(d) *Treatment of section 126 property received by a transferee in a disposition by gift and certain tax-free transactions*—(1) *General rule.* If section 126 property is disposed of in a transaction which is either a gift to which paragraph (a)(1) of this section applies, or a completely tax-free transfer to which paragraph (c)(1) of this section applies, then for purposes of section 1255—

(i) The aggregate of the excludable portions under section 126 in respect of the land in the hands of the transferee immediately after the disposition shall be an amount equal to the amount of such aggregate in the hands of the transferor immediately before the disposition, and

(ii) For purposes of applying section 1255 upon a subsequent disposition by the transferee (including a computation of the applicable percentage), the dates of receipt of section 126 payments shall not be affected by the dispositions.

(2) *Certain partially tax-free transfers.* If section 126 property is disposed of in a transaction which either is in part a sale or exchange and in part a gift to which paragraph (a)(2) of this section applies, or is a partially tax-free transfer to which paragraph (c)(1) of this section applies, then for purposes of section 1255 the amount determined under paragraph (d)(1) of this section shall be reduced by the amount of gain taken into account under section 1255 by the transferor upon the disposition. Upon a subsequent disposition by the transferee, the dates of receipt of section 126 payments remain the same in the hands of the transferee as they were in the hands of the transferor. With respect to the 175 and 182 deductions taken by the transferee, the holding period shall not include the holding period of the transferor.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). Assume the same facts as in example (1) of paragraph (a)(4) of this section. Therefore, on the date B receives the land in the gift transaction, under paragraph (d)(1) of this section the aggregate of excludable portions under section 126 in respect of the land in the hands of B is the amount in the hands of A, $24,000, and for purposes of applying section 1255 upon a subsequent disposition by B (including a computation of the applicable percentage) the date the section 126 payments were received is the same as it was when the property was in A's hands (January 15, 1981).

Example (2). Assume the same facts as in example (2) of paragraph (a)(4) of this section. Under paragraph (d)(2) of this section, the aggregate of excludable portions under section 126 which pass over to B for purposes of section 1255 is $14,000 ($24,000 excluded under section 126 minus $10,000 gain recognized under section 1255(d)(1) in accordance with example (2) of paragraph (a)(4) of this section). The date the section 126 payments were received is the same as when the property was in B's hands (January 15, 1981).

(e) *Disposition of section 126 property not specifically covered.* If section 126 property is disposed of in a transaction not specifically covered under § 16A.1255–1, and this section, then the principles of section 1245 shall apply.

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it would be impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

William E. Williams,

Acting Commissioner of Internal Revenue.

Approved: May 4, 1981.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 81–15133 Filed 5–18–81; 11:12 am]

BILLING CODE 4830–01–M

26 CFR Part 25

[T.D. 7776]

Gift Taxes; Gifts Made After December 31, 1954; Transfer of Life Income Interest; Exercise of Nongeneral Power of Appointment

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the transfer of a life income interest by the possessor of that interest. The amendment clarifies existing law and provides guidance to the public for compliance with the law. It would affect certain persons who exercise nongeneral powers of appointment.

DATES: The amendment is effective for gifts made after December 31, 1954.

FOR FURTHER INFORMATION CONTACT: Robert H. Waltuch of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On October 22, 1980, the **Federal Register** published proposed amendments to the Gift Tax Regulations (26 CFR Part 25) under section 2514 of the Internal Revenue Code of 1954 (Code) (45 FR 69933). This amendment was proposed to emphasize that the inter vivos exercise of a nongeneral power of appointment by a life income beneficiary is not taxable under section 2514, but where a consequence of the exercise is the transfer of the powerholder's life income interest, a taxable transfer occurs under section 2511.

Summary of Comments and Final Regulations

Under the final regulation, the exercise of a nongeneral power of appointment by the income beneficiary over the corpus of a trust which results in the termination of the powerholder's income interest is a taxable transfer of the income interest under section 2511.

One comment was received regarding this proposed amendment. Although agreeing with the proposed amendment, the commentator suggested that the example should specifically state that the transfer is taxable under section 2511. After carefully considering this comment, the notice of proposed rulemaking is adopted without change because the suggested change was considered unnecessary.

Drafting Information

The principal author of this regulation is Robert H. Waltuch of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of amendments to the regulations

Accordingly, 26 CFR Part 25 is amended by adopting, without change, the regulations proposed as a notice of proposed rulemaking published in the **Federal Register** on October 22, 1980 (45 FR 69933).

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: May 11, 1981.

John E. Chapoton,

Assistant Secretary of the Treasury.

§ 25.2514–3 [Amended]

Section 25.2514–3(e) Example (3) is amended by adding a new sentence immediately after the last sentence in the example to read as follows:

"Although the exercise or release of the nongeneral power is not taxable under this section, see § 25.2514–1(b)(2) for the gift tax consequences of the transfer of the life income interest."

[FR Doc. 81–15149 Filed 5–20–81; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 66

[CGD 80–132]

Designation of Navigable Waters as State Waters for Private Aids to Navigation

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule revises 33 CFR 66.05–100(g–1), which lists the waters of South Carolina that are designated as State waters for private aids to navigation. The rule adds the waters of Lakes Marion, Moultrie, and Murray to this list, at the request of the South Carolina Wildlife and Marine Resources Department. Designation of these navigable waters of the United States as State waters for private aids to navigation enables the State government to regulate marine aids to navigation owned by state or local governments or private parties in such waters.

EFFECTIVE DATE: May 21, 1981.

FOR FURTHER INFORMATION CONTACT: Lt. Walter L. Johnson, Office of Navigation, Short Range Aids to Navigation Division (G–NSR/14), Room 1422, U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, D.C. 20593, (202) 426–1974, between 7 a.m. and 5 p.m. Monday through Thursday, except holidays.

SUPPLEMENTARY INFORMATION: In **Federal Register**, Vol. 45, No. 217, on November 6, 1980, the Coast Guard published a proposed revision to 33 CFR 66.05–100 (g–1). Public comment was invited for a 45 day period ending December 22, 1980. One written comment was received.

Drafting Information

The principal persons involved in drafting this proposal are Lt. Walter L. Johnson, Project Manager, Office of Navigation, and Lt. Kenneth E. Johnson, Project Attorney, Office of the Chief Counsel.

Discussion

On March 19, 1980 the South Carolina Wildlife and Marine Resources Department (SCWMRD) requested that

we designate the waters of Lakes Marion, Moultrie, and Murray as State waters for private aids to navigation. The marine traffic on these Lakes is primarily pleasure craft with little, if any, commercial traffic. The Coast Guard does not maintain any aids to navigation on these lakes. Designating these waters as State waters for private aids to navigation delegates the authority to regulate the establishment, operation, and maintenance of marine aids to navigation to the SCWMRD, who is most familiar with these inland waters and needs of the user. In addition, this gives the State greater control over its own affairs, while holding federal involvement to a minimum. For these reasons the Coast Guard has determined that it appears to be in the best interest of the public that these three lakes be designated as State waters for private aids to navigation. This rule amends the existing regulations accordingly.

The one comment received questioned the competency of the SCWMRD to determine proper placement of aids to navigation. The comment is apparently based on the writer's dissatisfaction with the placement of "no wake" buoys in the Eutaw Creek area. The comment contains no factual information related to the overall competence of the SCWMRD to administer an aids to navigation program.

This rule concerns the delegation of the administration of aids to navigation rather than the actual placement of particular aids to navigation. Since 1975, the SCWMRD has been administering this program on Lake Wylie in a satisfactory manner. The Coast Guard, therefore, believes the SCWMRD to be competent to administer an aids to navigation program in the waters affected by this rule.

The commentor requested a public hearing at which interested parties present oral testimony concerning this delegation of authority to the SCWMRD. The Coast Guard has reviewed the allegations contained in the comment and has determined that they either do not directly relate to this proposed rulemaking or are not substantiated. Due to the lack of other comments on the proposed rulemaking, there does not appear to be any genuine issues related to this rulemaking to be resolved at a hearing. Accordingly, no public hearing will be held.

Draft Evaluation

This regulation has been evaluated under the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis, and Review of Regulations," dated May 22, 1980, and has been determined to be nonsignificant. It does not place any new requirements or burdens on the public, but merely transfers the administration of private aids from the Coast Guard to the SCWMRD. Because the expected impact of the proposed regulation is so minimal, no evaluation has been prepared.

In consideration of the foregoing, 33 CFR 66.05–100(g–1) is revised to read as follows:

§ 66.05–100 Designation of navigable waters as State waters for private aids to navigation.

* * * * *

(g–1) *South Carolina.* (1) The portion of Lake Wylie within the State; (2) Lake Marion; (3) Lake Moultrie; and (4) Lake Murray.

* * * * *

(14 U.S.C. 81, 86, 92, 633, 33 U.S.C. 1655(b), 49 CFR 1.46(b))

Dated: April 13, 1981.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 81–15222 Filed 5–20–81; 8:45 am]

BILLING CODE 4910–14–M

[CGD 81–031]

33 CFR Part 82

COLREGS Demarcation Lines

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing a final rule repromulgating Part 82 to reflect passage of Pub. L. 96–324. On August 8, 1980 President Carter signed into law H.R. 1198 (Pub. L. 96–324) "to clarify the authority to establish lines of demarcation dividing the high seas and the inland waters." This law provides that the Secretary of Transportation shall establish lines of demarcation dividing the high seas and the inland waters for certain navigational and safety purposes. This rule does not affect or modify any existing demarcation lines.

EFFECTIVE DATE: June 22, 1981.

FOR FURTHER INFORMATION CONTACT: Ensign Edward G. LeBlanc, Office of Marine Environment and Systems (G–WWM–2), Room 1608, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426–4958, between 7:30 a.m. and 4:30 p.m. Monday through Thursday, except holidays.

SUPPLEMENTARY INFORMATION: Since this amendment repromulgates existing demarcation line regulations, without making any substantive changes in those regulations, good cause exists to exempt it from the notice of public procedure requirement in 5 U.S.C. 553(b). Since it is not substantive, it may be made effective in less than 30 days after publication in the **Federal Register** under 5 U.S.C. 553(d)(2).

Discussion of the Regulations

Rule 1(b) of the International Regulations for Preventing Collisions at sea, 1972 (72 COLREGS), to which the United States is a party, provides for the establishment by individual countries of special rules for roadsteads, harbors, rivers, lakes or inland waters connected with the high seas. In 1977, when the 72 COLREGS became effective, the Coast Guard promulgated revised lines of demarcation, under the authority of Rule 1, 72 COLREGS, and 33 U.S.C. 1607 (Pub. L. 95–75).

In establishing these lines of demarcation, the Coast Guard took the position that the Convention precluded it from applying special rules in any high seas areas. (42 FR 35782, July 11, 1977.) Due to an oversight, some high seas areas were included within the published COLREGS demarcation lines. In all but one of these areas the demarcation line has been corrected. (44 FR 22458, April 16, 1979.) In one area, Mississippi and Chandeleur Sounds, special rules continue to apply to some high seas pockets.

The Coast Guard's action created confusion within some factions as to the authority for these revisions. Consequently, Congress enacted Pub. L. 96–324 to clarify the authority of the Coast Guard. This law, which amends 33 U.S.C. 151, authorizes the Coast Guard to establish COLREGS demarcation lines and boundary lines delineating the application of several marine safety statutes (see 46 CFR Part 7).

In considering the enactment of Pub. L. 96–324, questions were raised regarding the Coast Guard's position that in no case could special rules apply to portions of the high seas. The State Department was particularly concerned that any line which is established in offshore waters is often used to justify positions for which the line was not intended. Consequently, the State Department reviewed the COLREGS Convention and concluded that there is flexibility within Rule 1 to provide that in certain situations special rules can be applicable in carefully defined areas of the high seas. The Coast Guard reviewed this matter and deferred to the State Department's interpretation of the Convention. Inconsistent text in the

preamble to the July 11, 1977 rulemaking (42 FR 35782) is considered superceded.

As a consequence of this review, Pub. L. 96–324 and its legislative history make two points very clear—there may be some limited portions of the high seas where it would not be inconsistent with the 72 COLREGS to apply special rules, and the COLREGS demarcation lines relate solely to delineating the application of the nautical rules of the road, and do not concern any other matters. This latter point has consistently been the position of the Coast Guard.

Because the legal authority for 33 CFR Part 82 is changed, by virtue of Pub. L. 96–324, the Coast Guard is repromulgating Part 82. No amendments to the existing regulations in this part are made.

Evaluation

The Coast Guard has reviewed this regulation in accordance with Executive Order 12291 and the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis, and Review of Regulations," dated May 22, 1980, and has determined that this regulation is not major and is not significant. This regulation is merely a non-substantive change which reflects the Coast Guard's clarified authority to establish demarcation lines. For these reasons, pursuant to section 605(b) of the Regulatory Flexibility Act [94 Stat. 1164, Pub. L. 96–354, September 19, 1980], it is certified that the proposed amendment will not have a significant economic impact on a substantial number of small entities.

In consideration of the above, Part 82 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 82 is revised to read as follows:

Authority: Pub. L. 96–324, 92 Stat. 1020; 33 U.S.C. 151, as amended; 49 CFR 1.46(b).

(Pub. L. 96–324, 94 Stat. 1020; 33 U.S.C. 151; 49 CFR 1.46(b))

Dated: April 27, 1981.

K. G. Wiman,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 81-15223 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 162

[CGD 80-095]

San Juan Harbor, Seaplane Restricted Area

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing navigational restrictions on all seaplane landing areas in San Juan Harbor. All seaplane landing activity by commercial enterprise in the area has ceased and resumption of any such activity is not contemplated in the future. The restricted areas are therefore no longer necessary.

EFFECTIVE DATE: These regulations are effective on June 22, 1981.

FOR FURTHER INFORMATION CONTACT: Ensign Edward G. LeBlanc, Office of Marine Environment and Systems (G-WWM-2), room 1608, Department of Transportation, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426–4958.

SUPPLEMENTARY INFORMATION: On December 11, 1980, the Coast Guard published a proposed rule (45 FR 81607) concerning this amendment. Interested persons were given until January 26, 1981 to submit comments. No comments were received. No public hearing was held.

Drafting Information

The principal persons involved in drafting this proposal are: Ensign Edward G. LeBlanc, Office of Marine Environment and Systems, and Lieutenant Walter J. Brudzinski, Project Counsel, Office of the Chief Counsel.

Discussion of the Comments

No comments were received.

Evaluation

This amendment has been evaluated under Executive Order 12291 and DOT Order 2100.5, "Policies and Procedures for Simplification, Analysis and Review of Regulations," and has been determined to be neither major nor significant. Since the seaplane landing area is not being used, the revocation will have no economic impact, and the Coast Guard has determined that an evaluation is not warranted. Further, this amendment is exempt from review under the Regulatory Flexibility Act of 1980 [94 Stat. 1164, P.L. 96–354, September 19, 1980] because notice wash published before passage of the Act. However, for the reasons stated above, this amendment will not have a significant impact on a substantial number of small entities.

In consideration of the foregoing, Part 162 of Title 33 of the Code of Federal Regulations is amended by removing and reserving § 162.265.

(33 U.S.C. 1231; 49 CFR 1.46(n)(4))

Dated: April 20, 1981.

W. E. Caldwell,

Chief, Office of Marine Environment and Systems.

[FR Doc. 81-15221 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 183

[CGD 76-082(a)]

Ventilation Safety Standards for Recreational Boats

April 27, 1981.

AGENCY: Coast Guard, DOT.

ACTION: Final rule (Editorial Change).

SUMMARY: This editorial change clarifies one provision in the ventilation safety standards for recreational boats that the Coast Guard has found to be ambiguous and unclear.

EFFECTIVE DATE: This regulation is effective June 22, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Lars E. Granholm, Office of Boating, Public, and Consumer Affairs (G-BBT), U.S. Coast Guard, Department of Transportation, Washington, D.C. 20593 ((202) 426–4027).

SUPPLEMENTARY INFORMATION: The Coast Guard published a final rule establishing ventilation safety standards for recreational boats on December 10, 1979 (44 FR 73205) which was codified in 33 CFR Part 183. Section 183.620, Paragraph (a)(5) has been found to contain language that is unclear and ambiguous. The section requires that certain compartments on recreational boats be provided with natural ventilation. Paragraph (a)(5) describes one of these compartments as containing "a non-metallic fuel tank with an aggregate permeability rate of more than the greater of 1.2 grams of fuel loss in 24 hours, or 1.2 grams of fuel loss in 24 hours per cubic foot of net compartment volume. Reference fuel 'C' at 40° C plus or minus 2° from ASTM standard D–471 is to be used in determining the permeability rate."

This amendment will express these requirements in tabular form to make them more comprehensible.

As this amendment is editorial in nature, and does not make a substantive change in the regulations, the Coast Guard finds it unnecessary to provide notice and an opportunity for public comment under 5 U.S.C. 553. Because a Notice of Proposed Rulemaking was not required, the Regulatory Flexibility Act (94 Stat. 1164) does not apply to this amendment. This amendment has no economic impact, and therefore does not

warrant preparation of a final evaluation under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (DOT Order 2100.5). For the same reason, it has been determined not to be a major rule under Executive Order 12291.

Drafting Information: The principal persons involved in drafting this rule are: Mr. Lars E. Granholm, Project Manager, Ensign Derek H. Rieksts, Office of Boating, Public, and Consumer Affairs and Mr. Coleman Sachs, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, Part 183 of Title 33, Code of Federal Regulations is amended by revising § 183.620 paragraph (a)(5) to read as follows:

§ 183.620 Natural ventilation system.

(a) * * *

(5) Contains a non-metallic fuel tank—

(i) with an aggregate permeability rate exceeding 1.2 grams of fuel loss in 24 hours per cubic foot of net compartment volume, or

(ii) if the net compartment volume is less than one cubic foot, having a permeability rate exceeding 1.2 grams of fuel loss in 24 hours.

Reference fuel "C" at 40 degrees Celsius plus or minus 2 degrees Celsius from ASTM standard D–471–1979 is to be used in determining the permeability rate.

(46 U.S.C. 1454, 1455, 49 CFR 146(n)(1))

Dated April 27, 1981.

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 81-15324 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-14-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 61]

Federal Procurement; Policies for Establishing Profit or Fee Prenegotiation Objectives

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation prescribes (1) uniform policies for establishing the profit or fee portion of Government prenegotiation objectives in acquisitions requiring cost analysis, (2) a facilities capital cost of money cost principle for contracts with commercial organizations, and (3) interim guidance for applying the facilities capital cost of money cost principle. the basis for the regulation is Office of Federal Procurement Policy Letter 80–7 dated December 9, 1980 (44 FR 82593, Dec. 15, 1980). The intended effect is to prescribe a uniform Government-wide profit policy and provide for uniform treatment of facilities capital cost of money.

DATES: Effective date: June 15, 1981. Expiration date: This regulation will continue in effect until September 30, 1983, unless earlier canceled or superseded.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703–557–8947).

SUPPLEMENTARY INFORMATION: FPR Temporary Regulation 40 (41 FR 44475, Oct. 8, 1976) is canceled and deleted from the appendix at the end of 41 CFR Chapter 1.

(Sec. 205(c), 63 Stat. 309; 40 U.S.C. 486(c))

In 41 CFR Chapter 1, the following temporary regulation 61 is added to the appendix at the end of the chapter to read as follows:

Federal Procurement Regulations Temporary Regulation 61

May 8, 1981.

To: Heads of Federal agencies

Subject: Policies for establishing profit or fee prenegotiation objectives

1. *Purpose.* This regulation implements Office of Federal Procurement Policy (OFPP) Policy Letter 80–7, dated December 9, 1980 (45 FR 82593, Dec. 15, 1980).

2. *Effective date.* This regulation is effective June 15, 1981.

3. *Expiration date.* This regulation will continue in effect until September 30, 1983, unless earlier canceled or superseded.

4. *Background.* OFPP Policy Letter 80–7 prescribes uniform policies for establishing the profit or fee portion of Government prenegotiation objectives in acquisitions requiring cost analysis; a facilities capital cost of money cost principle for contracts with commercial organizations; and interim guidance for applying the facilities capital cost of money cost principle. The following facts are pertinent to this matter:

a. The FPR originally prescribed an unstructured approach for determining profits or fees in situations where competition was lacking and where cost analysis was performed.

b. OFPP Policy Letter 80–7 requires agencies with large procurement programs to adopt a structured approach for determining profit and fee objectives. Specific profit analysis factors to be considered by agencies in developing their structured approaches and by contracting officers in analyzing profit when not using a structured approach are provided in lieu of those factors now discussed in § 1–3.808–2.

c. FPR Temporary Regulation 40, dated October 1, 1976, changed the FPR to permit civilian agencies a number of options regarding the applicability and allowability of facilities capital cost of money, an imputed cost that was introduced by Cost Accounting Standard (CAS) 414.

d. The Department of Defense and the National Aeronautics and Space Administration were the only agencies that made facilities capital cost of money allowable.

e. OFPP Policy Letter 80–7 requires uniform Government-wide recognition of facilities capital cost of money as an allowable cost and makes a particular point of requiring that contractors not be compensated for facilities capital cost of money both as a direct or indirect cost and in profits or fees. Previously, agency consideration of contractor investment in facilities was provided in profits or fees.

f. The facilities capital cost of money cost principle included as appendix B of OFPP Policy Letter 80–7 requires compliance with the provisions of CAS 414 as a condition for allowability.

g. Since CAS 414 deals primarily with incurred costs, interim guidance for dealing with forward pricing situations and administration is provided in attachment 1 to appendix B of the policy letter.

5. *Explanation of changes.*

a. *Profit Policy.*

(1) The policies and procedures relating to profit or fee set forth in §§ 1–3.808 through 1–3.808–3 are rescinded, and the sections are reserved.

(2) Revised policies and procedures for developing prenegotiation profit or fee objectives are set forth in appendix A of OFPP Policy Letter 80–7.

(3) Unless exempted or granted an extension, each agency is required to adopt, no later than January 1, 1982, a structured approach for determining the profit or fee portion of the Government prenegotiation objective in acquisitions requiring cost analysis.

b. *Facilities capital cost of money.*

(1) Facilities capital cost of money is now an allowable cost subject to the requirements of OFPP Policy Letter 80–7.

(2) The cost principle for facilities capital cost of money is set forth in appendix B of OFPP Policy Letter 80–7, attached hereto, and is identified as § 1–15.205–51 of the FPR.

(3) Attachment 1 to appendix B of OFPP Policy Letter 80–7 (Guidance Concerning Application of Facilities Capital Cost-of-Money Cost Principle) is provided for interim instructional purposes only and is not a part of the cost principle.

6. *Agency action.* Agencies shall comply with this temporary regulation which provides for the implementation of OFPP Policy Letter 80–7, December 9, 1980. The text of Policy Letter 80–7 appears as attachment A.

7. *Effect on other directives.* Temporary Regulation 40 is canceled.

Ray Kline,

Acting Administrator of General Services.

(Editorial note.—Attachment A will not appear in the Code of Federal Regulations.)

FPR Temp. Reg. 61, Attachment A

Executive Office of the President

Office of Management and Budget, Office of Federal Procurement Policy

Washington, D.C. 20503

OFPP Policy Letter 80-7.

To the heads of executive departments and establishments

Subject: Policies for Establishing the Profit or Fee Prenegotiation Objective

Government procurement policy should be uniform and consistent in application. This directive sets forth (1) uniform policies for establishing the profit or fee portion of the Government prenegotiation objective (Appendix A), (2) a facilities capital cost-of-money cost principle for contracts with commerical organizations (Appendix B), and (3) interim guidance (Attachment 1 to Appendix B) to assist civil agencies in applying Appendix B. GSA is requested to implement this directive within 120 days of its effective date by revisions to the FPR, for compliance by executive departments and establishments. Executing this task will involve, among other things, rescinding FPR Temporary Regulation No. 40. DOD and NASA are requested to amend the DAR and the NASA PR within the same period as necessary to implement these policies.

Unless exempt or granted an extension, each agency shall adopt, no later than January 1, 1982, a structured approach for determining the profit or fee portion of the Government prenegotiation objective in acquisitions requiring cost analysis. Each agency approach shall be (1) conceptually sound, (2) practicable to apply, (3) equitable to both the Government and its suppliers in the market environment from which the agency draws its sources of supplies and services, and (4) consistent with Appendix A.

Agencies may request from OFPP an extension of up to 12 months if it is considered necessary for testing and refining the structured approach. Agencies that awarded a total of less than $50 million in noncompetitive contracts over $100,000 during their most recently completed fiscal year are not required to adopt a structured approach for the succeeding fiscal year but may do so if they wish.

The structured approach an agency adopts shall allow the tailoring of profit or fee on an individual contract to fit the particular circumstances of that contract. The agency's implementation may include specific exemptions for situations in which mandatory use of its structured approach would be clearly inappropriate.

Agencies are encouraged to adopt a weighted-guidelines approach but may prescribe another structured approach if it incorporates a logic and rationale similar to that of the weighted-guidelines method, examples of which can be found in DAR 3-808 (see DAC #76-23, dated 26 February 1980), NASA PR 3.808, and DOE-PR 9-3.808-50.

Before (1) adopting procedures for determining profit or fee prenegotiation objectives or (2) making any substantive changes to such procedures, agencies shall make the proposed procedures or changes available to interested parties for comment. Agencies with established procedures adopted before the effective date of this policy letter that are consistent with, or require only minor refinements to be consistent with, Appendix A need not make them available for comment. Any modifications required to existing structured approaches shall be accomplished by January 1, 1982.

Instead of independently establishing its own structured approach, an agency may adopt another agency's approach if that approach is consistent with, or is appropriately modified to be consistent with, Appendix A. The agency shall publish for public comment notice of its intent to adopt another agency's procedures, specifying any changes to the adopted approach other than agency identification.

Each agency shall give OFPP a copy of (1) its regulations implementing this policy letter and (2) any future changes.

Effective date. This policy letter is effective January 9, 1981, and shall remain in effect until issuance of the FAR or until January 1, 1984, whichever occurs earlier.

Concurrence. This policy letter has the concurrence of the Director of the Office of Management and Budget.

Karen Hastie Williams,

Administrator.

Appendix A: Profit or Fee Prenegotiation Objective

Appendix B: Facilities Capital Cost-of-Money Cost Principle for Contracts with Commercial Organizations, with Attachment 1

Appendix A to Attachment A—Profit or Fee Prenegotiation Objective

1. Profit or fee.

(a) Fundamental to an understanding of profit policy is the fact that profit or fee prenegotiation objectives do not necessarily represent net income to contractors. Rather, they represent the potential remuneration contractors *may* receive for contract performance. This remuneration and the Government's estimate of allowable costs to be incurred in contract performance together equal the Government's total prenegotiation objective. Just as actual costs may vary from estimated costs, the contractor's actual profit may also vary from negotiated profit or fee, as a result of such factors as efficiency of performance, incurrence of costs the Government does not recognize as allowable, complexity of work, or contingencies.

(b) It is in the Government's interest to offer contractors opportunities for financial rewards sufficient to (1) stimulate efficient contract performance, (2) attract the best capabilities of qualified large and small business concerns to Government contracts, and (3) maintain a viable industrial base.

(c) Both the Government and contractors should be concerned with profit as a motivator of efficient and effective contract performance. Negotiations aimed merely at reducing prices by reducing profit, without proper recognition of the function of profit, are not in the Government's best interest. Negotiation of extremely low profits, use of historical averages, or automatic application of predetermined percentages to total estimated costs do not provide proper motivation for optimum contract performance. Therefore, agencies shall not (1) establish ceilings on profits or fees, (2) create administrative procedures that could be represented to contractors as de facto ceilings, or (3) otherwise unduly constrain the application of judgement in negotiating fair and reasonable prices (but see paragraph 2.(e)).

(d) Structured approaches for determining profit or fee prenegotiation objectives provide a discipline for ensuring that all relevant factors are considered. Each agency making noncompetitive contract awards over $100,000 totaling $50 million or more a year—

(1) Shall prescribe a structured approach for determining the profit or fee objective in those acquisitions that require cost analysis;

(2) May prescribe specific exemptions for situations in which mandatory use of a structured approach would be clearly inappropriate; and

(3) Shall exercise management oversight to ensure that the agency's approach is appropriately structured and applied.

(e) (1) Cost Accounting Standard (CAS) 414 (Cost of Money as an element of the Cost of Facilities Capital) provides a means of allocating to individual contracts an imputed cost of facilities capital employed, making it practical for the Government to differentiate among contracts with respect to the level of contractor-furnished facilities to be employed in contract performance. This imputed cost is an allowable cost under contracts subject to the cost principles for commercial organizations (see Appendix B).

(2) Agencies shall ensure that contractors are not compensated for facilities capital cost of money both as a direct or indirect cost and in profit or fee. Before the allowability of facilities capital cost of money, this cost was included in profits and fees. Therefore, profit and fee prenegotiation objectives shall be reduced if necessary to reflect this refinement in cost accounting practices. This reduction may be accomplished by means of offsets; that is, by (i) using a dollar-for-dollar offset in the Government's prenegotiation profit or fee objective or (ii) incorporating a common offset factor under an agency's structured approach. No offset is necessary when the profit rates applied to the profit analysis factors under an agency's structured approach already take into account the allowability of facilities capital cost of money.

(3) When a prospective contractor does not propose or identify facilities capital cost of money in a proposal for a contract under which this cost could be allowed, it is presumed that consideration for facilities capital to be employed in contract performance is included, but not identified, in the contractor's profit or fee objective. Accordingly, the contractor may not later claim this cost as allowable (see paragraph 2.(c) below).

2. Contracting officer responsibilities.

(a) When the price negotiation is not based on cost analysis, contracting officers are not required to analyze profit.

(b) When the price negotiation is based on cost analysis, contracting officers in agencies that have a structured approach shall analyze profit, using their agency's structured approach except as specifically exempted under the agency's procedures. When not using a structured approach (because the agency does not have one or because a specific exemption applies), contracting officers shall comply with paragraph 3.(a) below in developing profit or fee prenegotiation objectives.

(c) Contracting officers shall use the Government prenegotiation cost objective amounts as the basis for calculating the profit or fee prenegotiation objective. Before applying profit or fee factors, the contracting officer shall exclude any facilities capital cost of money included in the cost objective amounts. If the prospective contractor fails to identify or propose facilities capital cost of money in a proposal for a contract that will be subject to the cost principles for commercial organizations, the contracting officer shall include the following clause in the resulting contract:

Wavier of Facilities Capital Cost of Money (1980 Oct)

The Contractor is aware that facilities capital cost of money is an allowable cost but waives the right to claim it under this contract.

(End of clause)

(d) Contracting officers are not required to use an overall profit or fee objective higher than that proposed by the prospective contractor.

(e) (1) The contracting officer shall not negotiate a price or fee that exceeds the following statutory limitations, imposed by 10 U.S.C. 2306(d) and 41 U.S.C. 254(b):

(i) For experimental, developmental, or research work performed under a cost-plus-fixed-fee contract—the fee shall not exceed 15 percent of the contract's estimated cost, excluding fee.

(ii) For architect-engineering services for public works or utilities—the contract price or the estimated cost and fee for production and delivery of designs, plans, drawings, and specifications shall not exceed 6 percent of the estimated cost of the public work or utility, excluding fees.

(iii) For other cost-plus-fixed-fee contracts—the fee shall not exceed 10 percent of the contract's estimated cost, excluding fee.

(2) The limitations in subdivisions (i) and (iii) above shall apply also to the maximum fees on cost-plus-incentive-fee and cost-plus-award-fee contracts. The agency head or designee may waive the maximum-fee limitation for a specific cost-plus-incentive-fee or cost-plus-award-fee contract.

(f) The contracting officer shall not require any prospective contractor to submit details of its profit or fee objective but shall consider them if they are submitted voluntarily.

(g) If a change or modification (1) calls for essentially the same type and mix of work as the basic contract or (2) is of relatively small dollar value compared to the total contract value, the contracting officer may use the basic contract's profit or fee rate as the prenegotiation objective for that change or modification.

3. Profit-analysis factors.

(a) *Common factors.* Unless it is clearly inappropriate or not applicable, each factor outlined in subparagraphs (1) through (6) following shall be considered by agencies in developing their structured approaches and by contracting officers in analyzing profit when not using a structured approach.

(1) *Contractor effort.* This factor measures the complexity of the work and the resources required of the prospective contractor for contract performance. Greater profit opportunity should be provided under contracts requiring a high degree of professional and managerial skill and to prospective contractors whose skills, facilities, and technical assets can be expected to lead to efficient and economical contract performance. Subfactors (i) through (iv) following shall be considered in determining contractor effort, but they may be modified in specific situations to accommodate differences in the categories used by prospective contractors for listing costs:

(i) *Material acquisition.* This subfactor measures the managerial and technical effort needed to obtain the required purchased parts and material, subcontracted items, and special tooling. Considerations include (A) the complexity of the items required, (B) the number of purchase orders and subcontracts to be awarded and administered, (C) whether established sources are available or new or second sources must be developed, and (D) whether material will be obtained through routine purchase orders or through complex subcontracts requiring detailed specifications. Profit consideration should correspond to the managerial and technical effort involved.

(ii) *Conversion direct labor.* This subfactor measures the contribution of direct engineering, manufacturing, and other labor to converting the raw materials, data, and subcontracted items into the contract items. Considerations include the diversity of engineering, scientific, and manufacturing labor skills required and the amount and quality of supervision and coordination needed to perform the contract task.

(iii) *Conversion-related indirect costs.* This subfactor measures how much the indirect costs contribute to contract performance. The labor elements in the allocable indirect costs should be given the profit consideration they would receive if treated as direct labor. The other elements of indirect costs should be evaluated to determine whether they (A) merit only limited profit consideration because of their routine nature or (B) are elements that contribute significantly to the proposed contract.

(iv) *General management.* This subfactor measures the prospective contractor's other indirect costs and general and administrative (G&A) expense, their composition, and how much they contribute to contract performance. Considerations include (A) how labor in the overhead pools would be treated if it were direct labor, (B) whether elements within the pools are routine expenses or instead are elements that contribute significantly to the proposed contract, and (C) whether the elements require routine as opposed to unusual managerial effort and attention.

(2) *Contract cost risk.* (i) This factor measures the degree of cost responsibility and associated risk that the prospective contractor will assume (A) as a result of the contract type contemplated and (B) considering the reliability of the cost estimate in relation to the complexity and duration of the contract task. Determination of contract type should be closely related to the risks involved in timely, cost-effective, and efficient performance. This factor should compensate contractors proportionately for assuming greater cost risks.

(ii) The contractor assumes the greatest cost risk in a closely priced firm-fixed-price contract under which it agrees to perform a complex undertaking on time and at a predetermined price. Some firm-fixed-price contracts may entail substantially less cost risk than others because, for example, the contract task is less complex or many of the contractor's costs are known at the time of price agreement, in which case the risk factor should be reduced accordingly. The contractor assumes the least cost risk in a cost-plus-fixed-fee level-of-effort contract, under which it is reimbursed those costs determined to be allocable and allowable, plus the fixed fee.

(iii) In evaluating assumption of cost risk, contracting officers shall, except in unusual circumstances, treat time-and-materials, labor-hour, and fixed-price level-of-effort contracts as cost-plus-fixed-fee contracts.

(3) *Federal socioeconomic programs.* This factor measures the degree of support given by the prospective contractor to Federal socioeconomic programs, such as those involving small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, handicapped sheltered workshops, labor surplus areas, and energy conservation. Greater profit opportunity should be provided under contracts with contractors adhering to the spirit and intent of these programs.

(4) *Capital investments.* This factor takes into account the contribution of contractor investments to efficient and economical contract performance. The following subfactors shall be considered in the analysis:

(i) *Facilities.* This subfactor, which may be either a negative or a positive consideration, includes consideration of the equipment's and facilities' (A) age, (B) undepreciated value, (C) cost-effectiveness, (D) general or special purpose, and (E) remaining life compared with the length of the contemplated program. Also to be considered are any undue reliance on Government-owned facilities and equipment, any contractor failure to provide the kinds or quantities of facilities required for efficient contract performance, and any special contract provisions that will affect the contractor's facilities capital investment risk. When applicable, the prospective contractor's computation of facilities capital cost of money for pricing purposes under CAS 414 (see Appendix B) can help the

contracting officer identify the level of facilities investment to be employed in contract performance.

(ii) *Operating capital.* This subfactor includes consideration of the level of the contractor's operating capital investment required for effective contract performance. This level will vary, depending on such circumstances as (A) the nature of the work and duration of the contract, (B) contract type and dollar magnitude, (C) the reimbursement or progress payment rate, (D) the contractor's financial management practices, and (E) the frequency of and time lag between billings and Government payments. Such circumstances should be taken into account in determining what profit adjustment, if any, is appropriate under this subfactor.

(5) *Cost-control and other past accomplishments.* This factor allows additional profit opportunities to a prospective contractor that has previously demonstrated its ability to perform similar tasks effectively and economically. In addition, consideration should be given to (i) measures taken by the prospective contractor that result in productivity improvements and (ii) other cost-reduction accomplishments that will benefit the Government in follow-on contracts.

(6) *Independent development.* Under this factor, the contractor may be provided additional profit opportunities in recognition of independent development efforts relevant to the contract end item, including manufacturing or engineering processes, specialized or unique services, or other technologies. The contracting officer should consider the extent of the Government's contribution to the contractor's independent research and development program during the contractor fiscal years in which the applicable development was taking place.

(b) *Additional factors.* In order to foster achievement of program objectives, each agency may include additional factors in its structured approach or take them into account in the profit analysis of individual contract actions.

Appendix B to Attachment A—Facilities Capital Cost-of-Money Cost Principle for Contracts With Commercial Organizations

1. General.

(a) Facilities capital cost of money is an imputed cost determined by applying a cost-of-money rate to facilities capital employed in contract performance. A cost-of-money rate is uniformly imputed to all contractors (see paragraph (b) below). Capital employed is determined without regard to whether its source is equity or borrowed capital. The resulting cost of money is not a form of interest on borrowings.

(b) Cost Accounting Standard 414 (Cost of Money as an Element of the Cost of Facilities Capital) establishes criteria for measuring and allocating, as an element of contract cost, the cost of capital committed to facilities. Cost-of-money factors are developed on Form CASB–CMF, broken down by overhead pool at the business unit, using (1) business-unit facilities capital data, (2) overhead allocation base data, and (3) the cost-of-money rate, which is based on interest rates specified by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2).

2. Allowability.

(a) Whether or not the contract is otherwise subject to the cost accounting standards, and except as specified in paragraph (b) below, facilities capital cost of money is allowable if—

(1) The contractor's capital investment is measured and allocated in accordance with Cost Accounting Standard 414;

(2) The contractor maintains adequate records to demonstrate compliance with this standard; and

(3) The estimated facilities capital cost of money is specifically identified or proposed in cost proposals relating to the contract under which this cost is to be claimed.

(b) Facilities capital cost of money is not allowable in cost-sharing contracts (see DAR 3–405.3 or FPR 1–3.405–3) or in cost (no-fee) contracts (see DAR 3–405.2 or FPR 1–3.405–2).

3. Accounting.

The facilities capital cost of money need not be entered on the contractor's books of account. However, the contractor shall (a) make a memorandum entry of the cost and (b) maintain, in a manner that permits audit and verification, all relevant schedules, cost data, and other data necessary to support the entry fully.

4. Payment.

Facilities capital cost of money that is (a) allowable under Section 2 above and (b) calculated, allocated, and documented in accordance with this cost principle shall be an "incurred cost" for reimbursement purposes under applicable cost-reimbursement contracts and for progress payment purposes under fixed-price contracts.

Attachment 1 to Appendix B—Guidance Concerning Application of Facilities Capital Cost-of-Money Cost Principle

Set forth in this appendix are the NASA PR 3.1300, Cost of Money for Facilities Capital Employed, and DD Form 1861. Pending issuance of the Federal Acquisition Regulation civil agencies should find these documents useful as interim guidance concerning the application of the Facilities Capital Cost of Money cost principle.

Subpart 13—Cost of Money for Facilities Capital Employed

3.1300 Cost of Facilities Capital Employed.

3.1300–2 Definitions, Measurement and Allocation. Cost Accounting Standard (CAS) No. 414, "Cost of Money as an Element of the Cost of Facilities Capital," incorporated in Appendix O, establishes criteria for the measurement and allocation of the cost of capital committed to facilities, as an element of contract cost for historical cost determination purposes. Important features of the CAS are its definitions, techniques for application, and a prescribed Form CASB–CMF with instructions. This Subpart adopts the techniques of CAS 414 as the approved method of measurement and allocation of facilities cost of money to overhead pools at the business unit level, and adds only such supplementary procedures as are necessary to extend those techniques to contract forward pricing and administration purposes. Therefore, these procedures are intended to be completely compatible with, and an extension of, the definitions, criteria and techniques of CAS 414. Contractors who computerize their financial data are encouraged to meet the requirements of both CAS 414 and this Subpart from the same data bank and programs.

3.1300–3 Estimating Business Unit Facilities Capital and Cost of Money. The method of estimating the business unit facilities capital and cost of money utilizes the techniques of CAS 414. Cost of money factors (CMF) by overhead pools at the business unit are developed using Form CASB–CMF. Three elements are required to develop cost of money factors: business unit facilities capital data, overhead allocation base data, and the interest rate promulgated by the Secretary of the Treasury pursuant to Public Law 92–41. These elements are discussed below.

(a) *Business Unit Facilities Capital Data.* The net book value (acquisition cost less accumulated depreciation) is used for each cost accounting period. The net book value used is the total of (i) the net book value of facilities recorded on the accounting records of the business unit, (ii) the capitalized value of leases (see 15.205–34 and 15.205–48), and (iii) the net book value of facilities at the corporate or group level that support depreciation charges allocated to the business unit in accordance with the provisions of CAS 403. Projections of facilities capital will be supported by budget plans and/or similar type documentation and the estimated depreciation will be the same as used in projected overhead rates. Projections will accommodate changes in the level of facilities net book value, *e.g.*, facilities additions, deletions of facilities by sale, abandonment or other disposal, idle facilities (see 15.205–12).

(b) *Overhead Allocation Bases.* The base data used to compute the CMF must be the same as that used to compute the proposed overhead rates. CMF's should be submitted and evaluated as part of the proposal.

(c) *Interest Rate.* For purpose of projection, the cost recent interest rate promulgated by the Secretary of the Treasury will be used as the cost of money rate in Column 1 of Form CASB–CMF. Where actual costs are used in definitization actions, the actual treasury rate(s) applicable to the period(s) of the incurred costs will be recognized by development of a composite rate.

(d) *Determination of Final Cost of Money.* CMF's estimated in accordance with the above procedures are used to develop the facilities investment base used in forward pricing. Actual CMFs are required when it is necessary to determine final allowable costs for cost settlement and/or repricing in accordance with CAS 414 and 15.205–50.

3.1300–4 Contract Facilities Capital Estimates. (a) After the appropriate forms CASB–CMF have been analyzed and CMFs have been developed, the contracting officer is in a position to estimate the facilities capital cost of money.

(b) DD Form 1861 provides for listing overhead pools and direct-charging service centers (if used) in the same structure they appear on the contractor's cost proposal and

Forms CASB-CMF. The structure and allocation base units-of-measure must be compatible on all three displays. The base for each overhead pool must be broken down by year to match each separate Form CASB-CMF. Appropriate contract overhead allocation base data are extracted by year from the evaluated cost breakdown or pre-negotiation cost objective, and are listed against each separate Form CASB-CMF. Each allocation base is multiplied by its corresponding cost of money factor to get the Facilities Capital Cost of Money estimated to be incurred each year. The sum of these products represents the estimated Contract Facilities Capital Cost of Money for the year's effort. Total contract facilities cost of money is the sum of the yearly amounts.

3.1300-5 Pre-Award Facilities Capital Applications. Facilities Capital Cost of Money as determined above is applied in establishing cost and price objectives as follows.

(1) *Cost Objective.* This special, imputed cost of money shall be used, together with normal, booked costs, in establishing a cost objective or the target cost when structuring an incentive type contract. Target costs thus established at the outset, shall not be adjusted as actual cost of money rates become available for the periods during which contract performance takes place.

(2) *Profit Objective.* See 3.808-3.

3.1300-6 Post Award Facilities Capital Applications. (a) Interim Billings Based on Costs Incurred. Contract Facilities Capital Cost of Money may be included in cost reimbursement and progress payment invoices. The amount that qualifies as cost incurred for purposes of the "Cost Reimbursement, Fee and Payment" or "Progress Payment" clause of the contract is the result of multiplying the incurred portions of the overhead pool allocation bases by the latest available Cost of Money Factors. Like applied overhead at forecasted overhead rates, such computations are interim estimates subject to adjustment. As each year's data are finalized by computation of the actual Cost of Money Factors under CAS 414 and 15.205-50, the new factors should be used to calculate contract facilities cost of money for the next accounting period.

(b) *Final Settlement.* Contract facilities capital cost of money for final cost determination or repricing is based on each year's final Cost of Money Factors determined under CAS 414 and supported by separate forms CASB-CMF. Contract cost must be separately computed in a manner similar to yearly final overhead rates. Also like overhead costs, the final settlement will include an adjustment from interim to final contract cost of money. However, estimated or target cost will not be adjusted.

3.1300-7 Administrative Procedures. (a) Contractor submission of Forms CASB-CMF will normally be initiated under the same circumstances as Forward Pricing Rate Agreements (see 3.807-12(b)), and evaluated as complementary documents and procedures. Separate Forms are required for each prospective cost accounting period during which Government contract performance is anticipated. If the contractor does not annually negotiate FPRA's, submissions may nevertheless be made annually or with individual contract pricing proposals, as agreed to by the contractor and the cognizant contract administration office. The cognizant contract administration office shall, with the assistance of the cognizant auditor, evaluate the cost of money factors, and retain approved factors with other negotiated forward pricing data and rates.

(b) The contracting officer will complete a DD Form 1861 "Contract Facilities Capital and Cost of Money" after evaluating the contractor's cost proposal and determining his pre-negotiation cost objective, but before determining his pre-negotiation profit objective. At his option, a contracting officer may request the cognizant contract administration office to complete the DD Form 1861 in connection with normal field pricing support under 3.801-5, and include it in his field pricing support report with appropriate evaluation comments and recommendations.

(c) A final Form CASB-CMF must be submitted by the contractor under CAS 414 as soon after the end of each cost accounting period as possible, for the purpose of final cost determinations and/or repricing. The submission should accompany the contractor's proposal for actual overhead costs and rates, and be evaluated as complementary documents and procedures.

BILLING CODE 6820-61-M

DPC #76-12 28 OCT. 1977

F300-A

DEPARTMENT OF DEFENSE FORMS

F-200.1861 *DD Form 1861: Contract Facilities Capital and Cost of Money*

CONTRACT FACILITIES CAPITAL AND COST OF MONEY				
CONTRACTOR BUSINESS UNIT ADDRESS			RFP/CONTRACT PIIN NO. PERFORMANCE PERIOD	
1. OVERHEAD POOLS	2. COST ACCOUNTING PERIOD	3. CONTRACT OVERHEAD ALLOCATION BASE	FACILITIES CAPITAL COST OF MONEY	
			4. FACTORS	5. AMOUNT

Instructions for DD Form 1861 Contract Facilities Capital and Cost of Money

Purpose: The purpose of this form is to compute the estimated facilities capital to be employed for a specific contract proposal. An intermediate step is to compute the estimated facilities capital cost of money, using the Facilities Capital Cost of Money Factors developed on Form(s) CASB-CMF. This procedure is intended to be fully compatible with Cost Accounting Standard 414 "Cost of Money as an Element of the Cost of Facilities Capital," and extend those criteria and techniques to prospective periods for forward pricing purposes. ASPR 3-1300 should be referred to for applicability and further explanation.

Identification. Identify the contractor, business unit and address. Identify the specific RFP or contract to which the computation pertains, by PIIN number. Identify the estimated performance period of the contract.

Overhead pools (col. 1). List all business unit overhead pools and direct-charging service/support centers whose costs will be allocated to this contract. The structure must be compatible with the contractor's cost proposal and Form(s) CASB-CMF.

Cost accounting period (col. 2). This column is used only for the "projected" method of estimating contract facilities capital employed and cost of money. Each Overhead Pool listed must be further broken down by each Cost Accounting Period impacted by the Performance Period of the contract. The yearly breakdown must also corresponed to yearly overhead allocation bases in the contractor's cost proposal, and to separate Forms CASB-CMF for each year listed. If the "historical" method is used, the column should be ignored.

Contract overhead allocation base (col. 3). For each Overhead Pool and Cost Accounting Period listed, record the same Contract Overhead Allocation Base amounts used in the pricing report to derive the pre-negotiation cost objective. Such amounts should be the same as those used for burdening contract overhead or applying service/support center use charges. The base units-of-measure must agree with those used on the Form(s) CASB-CMF.

Facilities capital cost of money factors (col. 4). Carry forward the appropriate estimated Facilities Capital Cost of Money Factors from the Form(s) CASB-CMF. Business units, overhead pools and cost accounting periods must agree.

Facilities capital cost of money amount (col. 5). The product of each Contract Overhead Allocation Base (Col. 3) multiplied by its related Facilities Capital Cost of Money Factor (Col. 4).

Contract facilities capital cost of money (line 6). The sum of Col. 5. This represents the contract's allocable share of the business unit's estimated cost of money for the cost accounting period(s) impacted by the contract performance period. Therefore it represents a portion of the total(s) of Col. 5 of Form CASB-CMF.

Facilities capital cost of money rate (line 7). The same Cost of Money Rate used in Col. 1 of the Form(s) CASB-CMF. Only one rate will be used in the facilities capital estimating process regardless of the length of the contract performance period.

Contract facilities capital employed (line 8). The quotient of Line 6 divided by Line 7. This represents the contract's allocable share of the business unit's estimated facilities value for the cost accounting period(s) impacted by the contract. Therefore it represents a portion of the total(s) of Col. 4 of Form CASB-CMF.

[FR Doc. 81-15269 Filed 5-20-81; 8:45 am]
BILLING CODE 6820-61-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5863

[A-9735]

Arizona; Partial Revocation of Reclamation Withdrawal (Colorado Storage Project)

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a withdrawal affecting 764.28 acres of public land withdrawn for use by the Bureau of Reclamation (now the Water and Power Resources Service) in connection with the Colorado River Storage Project. The subject lands are also included in the Lake Mead National Recreation Area, and will remain closed to location, sale, settlement, or entry under the general land laws, including the mining laws, but not the mineral leasing laws. The lands will be administered by the National Park Service.

EFFECTIVE DATE: May 21, 1981.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602-261-4774.

By virtue of the authority vested in the Secretary of the Interior by 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. Secretarial Order of October 16, 1931, which withdrew lands for the Water and Power Resources Service in connection with the Colorado River Storage Project is hereby revoked insofar as it affects the following described lands:

Gila and Salt River Meridian

T. 21 N., R. 21 W.,
Sec. 4, lots 1 to 12, inclusive, and S½.

The area described contains 764.28 acres in Mohave County.

2. The lands lie within the Lake Mead National Recreation Area, established under the authority of the Act of October 8, 1964, 78 Stat. 1039, 16 U.S.C. 460n, and will remain closed to location, sale, settlement, or entry under the general land laws, including the mining laws. The lands will continue to be administered by the National Park Service is accordance with the provisions of the said Act.

The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

May 15, 1981.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

[FR Doc. 81-15271 Filed 5-20-81; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5865

[I-16921]

Idaho; Revocation of Stock Driveway Withdrawal Nos. 29, 48, and 237

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes three Secretarial Orders, which withdrew 39,231.37 acres of lands as Stock Driveway Withdrawal Nos. 29, 48, and 237. The lands will be opened to such forms of disposition as may by law be made of national forest lands.

EFFECTIVE DATE:

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208-334-1735.

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. The Secretarial Orders of July 17, 1918, December 9, 1918, and February 17, 1933, creating Stock Driveway Withdrawal Nos. 29, 48, and 237, are hereby revoked:

Boise Meridian

Boise National Forest

SD No. 29 (I-No. 2)

T. 1 S., R. 7 E.,
Sec. 2, Lots 1-3, S½NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, N½SE¼, SW¼SE¼;
Sec. 10, N½, N½S½;
Sec. 11, Lots 1-4, NW¼, N½S½;
Sec. 12, Lots 3-5, 7, N½SW¼, NW¼SE¼.

SD No. 29 (I-No. 2)

T. 1 S., R. 8 E.,
Sec. 7, Lots 1-4, N½SW¼, NW¼SE¼;

Sec. 17, SW¼SW¼;
Sec. 18, Lots 1–6, N½NE¼, NE¼NW¼, E½SW¼, SE¼;
Sec. 19, Lot 1, NE¼, E½NW¼;
Sec. 20, NW¼NE¼, S½NE¼, NW¼, NE¼SW¼, N½SE¼;
Sec. 21, S½N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 22, S½N½, S½;
Sec. 23, W½SW¼;
Sec. 25, W½W½, SE¼SW¼, NE¼SE¼, S½SE¼;
Sec. 26, All;
Sec. 35, N½.

SD No. 29 (I–No. 2)

T. 1 S., R. 9 E.,
Sec. 19, S½NE¼, SE¼SW¼, SE¼;
Sec. 20, SW¼SW¼, N½SE¼, S½N½, N½SW¼;
Sec. 21, SW¼NW¼, NW¼SW¼;
Sec. 22, SE¼SW¼, S½SE¼;
Sec. 23, N½SW¼, SW¼SW¼, SE¼;
Sec. 24, NE¼;
Sec. 26, NW¼NW¼;
Sec. 27, N½NE¼;
Sec. 29, W½NW¼;
Sec. 30, Lots 2–4, NE¼, E½NW¼, E½SW¼.

SD No. 48 (I–No. 3)

T. 1 S., R. 10 E.,
Sec. 1, Lots 1–4, S½N½, SW¼, N½SE¼;
Sec. 2, All;
Sec. 3, E½SE¼;
Sec. 10, NE¼, S½NW¼, S½;
Sec. 11, NW¼NW¼;
Sec. 15, NW¼NE¼, NW¼, N½SW¼, SW¼SW¼;
Sec. 17, S½SW¼, SE¼;
Sec. 19, Lot 1, NE¼NE¼, NE¼SE¼;
Sec. 20, N½, N½S½;
Sec. 21, W½NW¼, NW¼SW¼.

SD No. 48 (I–No. 3)

T. 1 S., R. 11 E.,
Sec. 4, Lots 1–4, S½N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 5, All;
Sec. 6, Lots 1–6, S½NE¼, SE¼NW¼, E½SW¼, SE¼.

SD No. 29 (I–No. 2)

T. 1 N., R. 6 E.,
Sec. 6, Lot 2, SW¼NE¼, W½SE¼;
Sec. 7, E½;
Sec. 8, SW¼NW¼, SW¼;
Sec. 17, W½NE¼, SE¼NE¼, NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 18, NE¼NE¼;
Sec. 21, W½;
Sec. 28, SE¼SW¼, S½SE¼;
Sec. 27, S½;
Sec. 28, N½, E½SW¼, SE¼;
Sec. 34, NE¼, N½NW¼;
Sec. 35, N½, E½SW¼, SE¼.

SD No. 29 (I–No. 2)

T. 1 N., R. 7 E.,
Sec. 24, Lot 1.

SD No. 29 (I–No. 2)

T. 1 N., R. 8 E.,
Sec. 7, S½SE¼;
Sec. 17, S½NW¼;
Sec. 18, Lots 3, 4, N½NE¼, SW¼NE¼, E½SW¼, E½SE¼;
Sec. 19, Lots 1–3, 5, S½NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 20, SW¼NE¼, S½NW¼, N½SW¼.

SD No. 48 (I–No. 3)

T. 1 N., R. 10 E.,
Sec. 24, N½.

SD No. 48 (I–No. 3)

T. 1 N., R. 11 E.,
Sec. 19, N½, SW¼, N½SE¼;
Sec. 33, S½, NE¼.

SD No. 29 (I–No. 2)

T. 2 N., R. 4 E.,
Sec. 1, Lot 4, SW¼NW¼;
Sec. 2, SE¼NE¼, E½SE¼;
Sec. 11, E½E½;
Sec. 12, S½SW¼, SW¼SE¼;
Sec. 13, N½NE¼.

SD No. 29 (I–No. 2)

T. 2 N., R. 5 E.,
Sec. 18, Lots 7–10, W½NW¼, That part of Lot 3 in SE¼NW¼;
Sec. 19, Lots 1–3, S½NW¼, S½;
Sec. 20, S½;
Sec. 21 W½SW¼;
Sec. 26, N½, N½SW¼, SE¼;
Sec. 27, N½, N½S½;
Sec. 28, SE¼NE¼, W½NW¼, S½;
Sec. 29, E½.

SD No. 29 (I–No. 2)

T. 2 N., R. 6 E.,
Sec. 31, Lot 4, SE¼SW¼;

SD No. 29 (I–No. 2)

T. 3 N., R. 4 E.,
Sec. 1, Lots 2, 3, SW¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼;
Sec. 12, SE¼NW¼, SE¼SE¼;
Sec. 13, Lots 2, 3, 8, NW¼SW¼, S½SW¼;
Sec. 24, W½NE¼, N½NW¼, SE¼SW¼, W½SE¼;
Sec. 25, NW¼, W½SW¼.

SD No. 29 (I–No. 2)

T. 3 N., R. 5 E.,
Sec. 3, Lots 3, 4;
Sec. 4, Lots 1–4;
Sec. 5, Lots 1–4, SW¼NW¼;
Sec. 6, Lots 1, 2, S½NE¼, E½SW¼, SE¼;
Sec. 7, Lots 1–4, NW¼NE¼, E½NW¼.

SD No. 29 (I–No. 2)

T. 4 N., R. 3 E.,
Sec. 3, All;
Sec. 4, S½S½;
Sec. 5, S½SE¼;
Sec. 8, NE¼, E½SW¼;
Sec. 9, N½;
Sec. 10, N½N½.

SD No. 29 (I–No. 2)

T. 4 N., R. 4 E.,
Sec. 1, Lots 1, 2, S½NE¼, N½SE¼, SE¼SE¼;
Sec. 12, SE¼;
Sec. 13, NE¼;
Sec. 25, SE¼.

SD No. 29 (I–No. 2)

T. 4 N., R. 5 E.,
Sec. 30, Lots 2, 3, SE¼NW¼, NE¼SW¼;
Sec. 32, SE¼SW¼, S½SE¼;
Sec. 33, S½S½.

SD No. 29 (I–No. 2)

T. 5 N., R. 3 E.,
Sec. 2, All;
Sec. 3, Lots 1, 2, S½NE¼, S½;
Sec. 10, All;
Sec. 11, NW¼;
Sec. 15, All;
Sec. 22, All;
Sec. 27, All;
Sec. 34, All;

SD No. 237 (I–No. 18)

T. 5 N., R. 4 E.,
Sec. 2, All;
Sec. 11, All;
Sec. 14, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 23, W½NE¼, W½;
Sec. 26, N½NW¼, SE¼NW¼, NE¼SW¼;
Sec. 27, Lots 5, 8, NE¼NW¼;
Sec. 28, S½SE¼;
Sec. 33, NE¼, NE¼NW¼;
Sec. 34, Lot 6, E½W½, SE¼.

SD No. 237 (I–No. 18)

T. 5 N., R. 5 E.,
Sec. 28, W½SW¼, SE¼SE¼;
Sec. 29, S½;
Sec. 31, Lot 1, NE¼, E½NW¼, S½SE¼;
Sec. 32, N½, W½SW¼, SE¼SW¼;
Sec. 33, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 34, SW¼NW¼, W½SW¼;
Sec. 35, All.

SD No. 29 (I–No. 2)

T. 6 N., R. 4 E.,
Sec. 4, Lots 2, 3, SE¼NW¼, W½SW¼;
Sec. 5, SE¼SE¼;
Sec. 18, Lots 2–4, SW¼NE¼, SE¼NW¼, E½SW¼, NW¼SE¼;
Sec. 19, Lots 1–4, E½NW¼, E½SW¼, W½SE¼;
Sec. 30, Lots 1, 2, W½NE¼, E½NW¼, NE¼SW¼; W½SE¼;
Sec. 31, Lot 2, W½NE¼, E½NW¼.

SD No. 29 (I–No. 2)

T. 7 N., R. 3 E.,
Sec. 24, S½SW¼;
Sec. 25, NE¼, N½NW¼, SW¼NW¼;
Sec. 26, N½;
Sec. 27, SW¼, S½NE¼, N½SE¼;
Sec. 34, NW¼NW¼.

The area described contains 39,231.37 acres in Ada, Boise, and Elmore Counties.

2. At 10 a.m. on June 20, 1981, the above described lands shall be open to such forms of disposal as may by law be made of national forest lands.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
May 15, 1981.

[FR Doc. 81-15239 Filed 5-20-81; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order No. 5866

[Nev-051741]

Nevada; Revocation of Executive Order No. 5105

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order affecting 73,328 acres of

land along the Colorado River in Nevada. Approximately 77,648 acres in the withdrawal are either patented or continue to be segregated under other withdrawals. This revocation restores 680 acres to the operation of the public land laws, including the mining laws.

EFFECTIVE DATE: June 20, 1981.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702–784–5703.

By virtue of the authority vested in the Secretary of the Interior by 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. Executive Order No. 5105 of May 3, 1929, is hereby revoked in its entirety:

Mount Diablo Meridian

T. 15 S., Rs. 66, 67, and 68 E.,
T. 16 S., Rs. 66, 67, and 68 E.,
T. 17 S., Rs. 66, 67, and 68 E.,

The area described aggregates 78,328 acres in Clark County.

The majority of the lands revoked by this order are either patented or covered by other withdrawals or reservations which continue to segregate the lands from all forms of appropriation under the public land laws.

2. At 10 a.m. on June 20, 1981, the following described lands shall be open to the operation of the public land laws generally, subject to valid existing rights, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 20, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Mount Diablo Meridian

T. 15 S., R. 66 E.,
Sec. 25, W½NE¼;
Sec. 36, E½NW¼.
T. 17 S., R. 67 E.,
Sec. 4, E½E½SW¼, SE¼;
Sec. 9, NE¼, E½E½NW¼, E½W½SE¼, E½SE¼.

The area described contains 680 acres in Clark County.

3. At 10 a.m. on June 20, 1981, the lands in paragraph 2 will be open to nonmetalliferous mineral location under the United States mining laws. The lands have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 12000, 300 Booth Street, Reno, Nevada 89520.

May 15, 1981.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 81-15240 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5864

[ORE 03095]

Oregon; Revocation of Public Land Order No. 1163

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order which withdrew 24.86 acres of land for use by the U.S. Air Force. The land is excess property and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

EFFECTIVE DATE: May 21, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Pubic Land Order 1163 of June 13, 1955, which withdrew the following described land for use by the U.S. Air Force is hereby revoked:

Willamette Meridian

Burns Air Force Station

T. 23 S., R. 30 E.,
Sec. 20, portions of SW¼SW¼NE¼, E½NW¼, NE¼SW¼, W½NW¼SE¼, more particularly described as follows:

Tract A

A strip 100 feet wide, 50 feet on each side of a centerline, described as beginning in the north line of Sec. 20 at a point 2,275.31 feet east of the northwest corner thereof; thence S. 28°23'12"W., 46.41 feet on a 5 degree curve to the left 407.94 feet; S. 7°59'23"W., 625.19 feet, on an 8 degree curve to the left 520.25 feet; S. 34°37'48"E., 251.48 feet, on an 11 degree curve to the right 428.98 feet; S. 13°33'28"W., 7.59 feet to the terminus of said strip.

Tract B

Beginning at the terminus of the centerline of the above strip, S. 76°26'32"E., 325 feet; S. 13°33'28"W., 900 feet; S. 76°26'32"E., 410 feet; S. 13°33'28"W., 400 feet; N.76°26'32"W., 970 feet; N. 17°01'35"E., 1,303.1 feet; S. 76°26'32"E., 160 feet, to the point of beginning.

The areas described aggregate 24.86 acres in Harney County, Oregon.

2. The land described above has been reported to the General Services Administration for disposition as excess property and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 15, 1981.

[FR Doc. 81-15272 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 5862

[W-31191]

Wyoming; Partial Revocation of Stock Driveway Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a Secretarial Order which withdrew lands for use as a stock driveway. This action will restore the lands to operation of the public land laws generally.

EFFECTIVE DATE: June 20, 1981.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307–778–2336.

By virtue of the authority vested in the Secretary of the Interior by 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. The Secretarial Order of May 24, 1918, creating Stock Driveway Withdrawal No. 21 (Wyoming No. 5), is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian, Wyoming

T. 30 N., R. 95 W.,
Sec. 27, N½NE¼NE¼SE¼, SW¼NE¼NE¼SE¼, and NW¼NE¼SE¼.

The area described contains 17.5 acres in Fremont County.

2. At 10 a.m. on June 20, 1981, the lands shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of the existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to

10 a.m. on June 20, 1981, shall be considered as simultaneously filed at that time. Those recieved thereafter shall be considered in the order of filing.

The lands have been and continue to be open to applications and offers under the mineral leasing laws, and to location under the United States mining laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P. O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

May 15 1981.

[FR Doc. 81-15273 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 157

[CGD 78-027]

Manning of Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends Coast Guard regulations pertaining to the manning requirements for uninspected vessels of 200 gross tons or over navigating on the high seas. This action removes from the regulations an existing affirmative requirement for the minimum manning of uninspected vessels that is not authorized by statute.

EFFECTIVE DATE: June 22, 1981.

FOR FURTHER INFORMATION CONTACT: Commander Scott D. McCowen, Office of Merchant Marine Safety, Vessel Manning Branch (G-MVP-5/14), Room 1400G, Department of Transportation, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593 (202-462-2240).

SUPPLEMENTARY INFORMATION: The Coast Guard has evaluated this proposal under Executive Order 12291 and the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (DOT Order 2100.5 dated 22 May 1980), and has determined that it is neither a major nor a significant rulemaking. Further, this proposed rule will have no adverse impact on small entities and will remove a regulatory requirement on those small entities as they are defined by the Regulatory Flexibility Act, P.L. 96-354, 19 September 1980 (5 U.S.C. 603).

DISCUSSION: On October 27, 1980, the Coast Guard published a proposed amendment to 46 CFR 157.30-10 pertaining to the manning requirements of uninspected vessels of 200 gross tons or over navigating upon the high seas (45 FR 70920). Public comment on the proposal was invited for 45 days ending December 11, 1980. Two written comments were received concerning the proposed amendment. The commentators, both vessel operators, support the regulator action as written. The deletion effected by this action does not alter or amend the law concerned but brings Coast Guard regulations and policy into line with that law. In effect, this action brings to a halt the past Coast Guard practices of:

(1) Requiring the establishment of a specific watch system for the licensed officers on uninspected vessels of 200 gross tons or over, navigating upon the high seas; and,

(2) Specifying as an operational requirement, the number of licensed deck and engineering officers to be carried upon such vessels, regardless of the nature or duration of the intended voyage.

46 U.S.C. 224a, the statute providing the authority for the regulation concerned provides only that "No person shall be engaged to perform, or shall perform on board any vessel to which this section applies, the duties of master, mate, chief engineer, or assistant engineer unless he holds a license to perform such duties . . ." Given this authority, the Coast Guard's rule is relegated to an enforcement status only and can therefore not place any specific manning requirements upon an uninspected vessel of 200 gross tons or over prior to the operation of such a vessel upon the high seas. Once such a vessel is operating upon the high seas 46 U.S.C. 224a becomes operable and the responsibility of the Coast Guard to enforce the law's provisions is manifested. The activities of the Coast Guard in this area are therefore remedial only and the wording of paragraph (c) of 46 CFR 157.30-10 unwarranted.

§ 157.30-10 [Amended]

In consideration of the foregoing, Chapter I of Title 46 Code of Federal Regulations is amended by removing paragraph (c) of § 157.30-10.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

May 5, 1981.

[FR Doc. 81-15288 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATONS COMMISSION

47 CFR Part 0

Editorial Amendment of the Commission's Rules To Amend Information Pertaining to Private Radio Reference Rooms

Preamble

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has completed the transfer of license and application files for the Private Radio Services to its Gettysburg, PA office. This amendment changes the rules to reflect the new location of these files. This action was taken to insure efficiency in operations by eliminating problems with space limitations.

EFFECTIVE DATE: May 26, 1981.

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

FOR FURTHER INFORMATION CONTACT: Donald Stevens, Private Radio Bureau, (202) 632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: May 8, 1981.

Released: May 12, 1981.

Before the Federal Communications Commission, Washington, D.C. 20554. In the matter of Editorial amendment of Part 0 of the Commission's Rules to amend information pertaining to Private Radio Reference Rooms.

1. The Commission has virtually completed the transfer of the Private Radio Services license records to its Gettysburg office. (334 York Street, Gettysburg, Pa. 17325). As a result of this transfer, it is necessary to amend the Commission's rules to indicate the proper location of the Private Radio Bureau's Public Reference Materials.

2. Accordingly, Sections 0.453 and 0.455 of the Rules are being amended to reflect the transfer of the license files of Gettysburg. The amendment adopted herein is editorial and pertains to agency practice and procedure. The prior notice procedure and effective date provisions of Section 4 of the Administrative Procedure Act, 5 U.S.C. 553, are therefore inapplicable. Authority for the amendment adopted herein is contained in Section 5(d) of the Communications Act of 1934, as amended, 47 U.S.C. 155(d) and Section 0.231(d) of the Commission's Rules and Regulations, 47 C.F.R.

3. It should be noted that the Commission's Gettysburg offices, now located at 334 York Street, are expected

to be moved to the "Old Shoe Factory," Route 116, Gettysburg, Pa. in the near future. A Public Notice will be issued at the time of the move to give further details concerning the new location.

4. In view of the foregoing, it is ordered, effective May 26, 1981 that Part 0 of the Rules and Regulations is amended as set forth in the Appendix hereto.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317)

R. D. Lichtwardt,

Executive Director.

Part 0 of Chapter 1 of Title 47 of the Code of Federal Regulations is hereby amended as indicated below.

1. Section 0.453 is amended by removing paragraph (b).

2. Section 0.455 is amended by revising the introductory paragraph, paragraph (d), and by removing subparagraphs (h) (1) and (2) to read as follows:

§ 0.455 Other locations at which records may be inspected.

Except as provided in §§ 0.453, 0.457 and 0.459, records are routinely available for inspection in the offices of the Bureau or Office which exercises responsibility over the matters to which those records pertain (see § 0.5), or will be made available for inspection at those offices upon request. Upon inquiry to the appropriate Bureau or Office, persons desiring to inspect such records will be directed to the specific location at which the particular records may be inspected. A list of Bureaus and Office and examples of the records available at each is set out below.

* * * * *

(b) [Removed]

* * * * *

(d) Private Radio Services. All authorizations in the Private Radio Services and files relating thereto. These materials are all available at the Commission's offices in Gettysburg, Pennsylvania.

* * * * *

(h) * * *

(1) Removed.

(2) Removed.

* * * * *

[FR Doc. 81-15171 Filed 5-20-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 22

[CC Docket No. 79-318; FCC 81-161]

Inquiry Into the Use of Certain Frequency Bands for Cellular Communications Systems; and Amendment of Rules Relative to Cellular Communications Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The FCC hereby amends Part 22 of the Commission's Rules on domestic public mobile radio service to permit the use of the bands 825–845 MHz and 870–890 MHz for cellular communications systems. The order adopting the Rules provides a framework for the provision of cellular communications services for the foreseeable future with a minimum of regulation. The Rules will serve the public interest by greatly increasing the number of channels available for two-way mobile communications.

EFFECTIVE DATE: June 22, 1981.

FOR FURTHER INFORMATION CONTACT: Sheldon M. Guttmann, Chief, Mobile Services Division, Common Carrier Bureau (202) 632-6450.

SUPPLEMENTARY INFORMATION:

In the matter of an inquiry into the use of the Bands 825–845 MHz and 870–890 MHz for Cellular Communications Systems; and Amendment of Parts 2 and 22 of the Commission's rules relative to Cellular Communications Systems, CC Docket No. 79–318.

Report and Order—Proceeding Terminated

Adopted: April 9, 1981.

Released: May 4, 1981.

By the Commission: Chairman Ferris not participating; Commissioner Fogarty concurring in part and issuing a statement in which Commissioner Quello joins; Commissioner Jones dissenting in part and issuing a statement.

Table of Contents

	Paragraph
I. INTRODUCTION	1
II. BACKGROUND	2
III. DISCUSSION	11
A. Spectrum Allocation and Competitive Systems Within a Market	11
B. The Role of Wireline Carriers	27
1. Eligibility and Market Definition	31
2. Separate Five Years Frequency Allocation for Wireline Carriers	38
3. Separate Subsidiary	48
4. Interconnection	53
5. Equipment	58
C. General Policies & Standards	62
1. Evaluation of Applications	62
2. Federal/State Jurisdiction	79
3. Technical Standards	84
4. Regulatory Structure	96
5. Resale	103
6. Services	108
D. Conclusion	112
APPENDIX A—SUMMARY OF COMMENTS.	
APPENDIX B—SUMMARY OF REPLY COMMENTS.	
APPENDIX C—AMENDMENT OF RULES.	
APPENDIX D—COMPATIBILITY SPECIFICATIONS.	

I. Introduction

1. On January 18, 1980, the Commission released its *Notice of Inquiry and Notice of Proposed Rulemaking (Notice)* in CC Docket No. 79–318, *Cellular Communications Systems*, 78 FCC 2d 984, 45 FR 2859 (1980). The *Notice* was framed broadly and solicited comments from all parties on central policy questions that needed to be resolved before cellular service could be instituted on a broad scale.[1] We have considered the views of 48 formal participants as well as thousands of informal commenters in the present proceeding. Before instituting this rulemaking, the Commission allowed for the construction of developmental systems to test cellular technology, and we have examined the results of these tests. The Commission has reviewed the proposed technical standards developed by the Electronic Industries Association (EIA). We find that we now have a sufficient record to amend our Rules to provide for the authorization of cellular communication systems on a commerical basis.

II. Background

2. The Commission is required by Section 303 of the Communications Act, as amended, 47 U.S.C. 303, to, among other things, "classify radio stations,"

[1] Cellular mobile systems are generally described as mobile radio systems with a high capacity to serve subscriber units due to the coordinated reuse of a group of radio channels. In such systems, each radio channel can be used many times in separate zones or cells within an area. Mobile units communicate with an array of cell control locations distributed throughout the system; these cell sites are linked to control and switching facilities and thereby interconnected with the telephone network. The frequencies used in the cells are carefully coordinated in such a way as to permit frequency reuse in geographically separated cells without mutual interference. A fully developed cellular system would have the ability to locate a subscriber unit, establish a connection through an appropriate cell site, and transfer ("hand off") that connection to other cell control locations as the subscriber unit moves through the grid of cell locations. The number of cell sites in a system is dependent on the degree of channel reuse, the amount of spectrum available, and the density of traffic on the system. *See generally Land Mobile Radio Service*, Docket No. 18262, *Second Report and Order*, 46 FCC 2d 752, 753 (1974).

prescribe the nature of the service to be rendered by each class of licensed stations, and to "assign bands of frequencies to the various classes of stations." In keeping with this statutory obligation, the Commission, prior to 1949, made available to wireline carriers and independent entrepreneurs separate developmental assignments to experiment with mobile radio services and techniques. In 1949, the Commission in the *General Mobile Radio* allocation proceeding,[2] allocated frequencies by service classification, making provision for services for common carriers and for specialized classes of users, which we now classify in the Private Radio Services. In allocating spectrum for common carriers, the Commission emphasized its intention to develop a competitive environment:

> [w]e have taken particular care to provide a family of frequencies within which the development of common carrier mobile radio systems by enterprises other than existing telephone companies may take place. These dispositions have been effected advisedly, and with the purpose, among others, of fostering the development of competing systems, techniques, and equipment.

13 FCC at 1218. Since 1949, nearly all common carrier mobile allocations have been separated into discrete bands for wireline common carriers (WCCs) and non-wireline common carriers (commonly known as radio common carriers or RCCs). *See, e.g., Adjustment of Band Edges (Guard Band Rulemaking)*, 12 FCC 2d 841, *recon. denied*, 14 FCC 2d 269 (1968), *aff'd sub nom. Radio Relay Corp.* v. *FCC*, 409 F.2d 322 (2d Cir. 1969).

3. In 1968, pursuant to a report of the Land Mobile Frequency Relief Committee, we instituted Docket No. 18262 to set aside sufficient spectrum to meet the demand for land mobile communications for the foreseeable future.[3] Recognizing that frequency congestion was present in the public and private bands, we proposed allocations to meet the needs of users in the several services. From 1968 until 1974 we sought and considered proposals regarding the advantageous utilization of the newly allocated spectrum.[4]

4. In our *Second Report and Order* in Docket No. 18262, 46 FCC 2d 752 (1974),[5] carrier cellular communications systems and 30 MHz for use in the private services. 46 FCC 2d at 756. We also adopted a one system per market policy for cellular service because we believed that technical complexity and expense would make competing systems in a market unviable. To deter anticompetitive practices by wireline carriers operating cellular systems, these entities were required to establish separate subsidiaries to provide cellular service; to file all contracts between parent and subsidiary; to report all dealings between them; to refrain from manufacturing mobile equipment; and to offer interconnection to the public on the same basis as was made available to the cellular subsidiary. In addition, we precluded systems from providing fleet-call dispatch services because of anticipated spectrum efficiency losses. We decided initially to license only developmental systems so as to enable optimal development of technical capability. Final policies and technical requirements were left for later resolution.

5. Our *Second Report and Order*, as initially released, restricted cellular licenses to wireline carriers. However, on reconsideration, we lifted that restriction, reasoning that, if only these carriers were technically and financially capable of amassing the resources necessary to develop and implement cellular service, it was unnecessary for us to mandate this eventuality by rule.[6] We decided that, if non-wireline parties could demonstrate their ability to implement cellular service at the licensing phase, their applications should be considered along with those of the wireline carriers.

6. The National Association of Radiotelephone Systems (NARS) and other radio common carrier parties appealed the portion of the decision relating to cellular systems.[7] The D.C. Circuit affirmed the Commission's action as a reasonable exercise of administrative discretion. *NARUC* v. *FCC*, 525 F.2d 630 (D.C. Cir. 1976), *cert. denied*, 425 U.S. 992 (1976). One of the main arguments raised in that proceeding was whether the Commission's 40 MHz allocation plan, which at that time involved only one licensee per market, would become, in effect a grant of monoply power to AT&T. Examining that plan, the Court found a "significant plausibility" in assertions "that AT&T will operate most, if not all, of the cellular systems eventually put in operation". *Id.* at 636. Based on this assumption, the Court expected significant increases in AT&T's market power in the markets for common carrier two-way mobile communications and dispatch services. It also was concerned that the restrictions imposed upon wireline carriers designed to minimize anticompetitive conduct were likely to prove "largely cosmetic" because they would do little to curtail the projected power of AT&T. *Id.* at 637. Nevertheless, the Court affirmed our decision on the basis of the Commission's broad authority under Section 303(g) of the Communications Act, 47 U.S.C. § 303(g), to experiment and encourage new uses of radio, and on the basis of the developmental nature of the service which created a lack of urgency in regard to the projected anticompetitive effects. In this regard, the Court observed that the anticipated anticompetitive effects were contingent upon a variety of factors surrounding the development and implementation of cellular service, and it noted that for the time being the Commission intended to authorize AT&T only one developmental system. This system would be located in Chicago and would utilize only 12.5 MHz of the 40 MHz allocation.

7. Pursuant to Docket No. 18262, the Commission eventually authorized two developmental systems.[8] A license for a system covering the Chicago metropolitan area was granted to Illinois Bell Telephone Company (IBT).[9] In addition, American Radio Telephone Service, Inc. (ARTS) was authorized to operate a cellular system in the Washington, D.C.—Baltimore area.[10] At this time, we have received a number of developmental reports from both developmental systems. These reports have enabled the Commission to assess the technical capability and market viability of cellular service.

8. The present proceeding began with the release of our *Notice* in January 1980. A significant period of time had

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[2] 13 FCC 1190 (1949).

[3] *Notice of Inquiry and Notice of Proposed Rulemaking*, 14 FCC 2d 311 (1969).

[4] *First Report and Order, Second Notice of Inquiry*, 19 RR 2d 1663 (1970), *recon. denied*, FCC 70-1001 (1970), *recon. granted in part*, 31 FCC 2d 50 (1971).

[5] *Recon. granted in part*, 51 FCC 2d 945, *clarified*, 55 FCC 2d 771 (1975), *aff'd. sub nom. NARUC* v. *FCC*, 525 F. 2d 630 (D.C. Cir. 1976), *cert. denied*, 425 U.S. 992 (1976).

[6] 51 FCC 2d 945 (1975).

[7] In addition, the National Association of Regulatory Utility Commissioners (NARUC) appealed the decision on grounds relating to the Commission's policies on private Specialized Mobile Radio Systems. These policies, also adopted in Docket 18262, are unrelated to cellular systems.

[8] We have also received the following three developmental applications: Kidd's Communications, Inc., File No. 22345-CD-P-12-79, RCC of Virginia, Inc., File No. 21644-CD-P-80, Millicom Inc., File No. 17122-CD-P-14-80. The Common Carrier Bureau staff is currently processing these applications.

[9] *Illinois Bell Telephone Co.*, 63 F.C.C. 2d 655 (1977), *aff'd sub nom. Rogers Radio Communications Services, Inc.*, v. *FCC*, 593 F.2d 1225 (2nd Cir. 1978). *See also Telocator Network of America* v. *Illinois Bell Telephone Co.*, 70 FCC 2d 713 (1979).

[10] *American Radio Telephone Service, Inc.*, 66 FCC 2d 481 (1971).

elapsed since we had last considered the policy issues involved in commercial implementation of cellular services. During this period, reports from the developmental systems mentioned above had provided additional information on the extent of the market for cellular service and on alternative technical schemes. Accordingly, we decided to ask for public comment on several issues—some were new issues, some others had been addressed earlier in Docket No. 18262. We did make clear, however, that we intended to maintain our commitment to the goal of implementing a nationwide compatible cellular communications service.

9. We sought comment in nine specific subject areas, although we also made clear that parties were free to address any matter which they deemed germane. The areas we identified were: market definition, competitive systems within a market, eligibility, equipment and service, resale of cellular services, federal-state jurisdiction, treatment of competing applications, technical standards, and spectrum allocation.

10. In response to our *Notice*, 48 formal participants filed 46 comments and 25 reply comments. These filings are summarized in Appendices A and B, and the parties will be referred to in the text by the designations indicated in the appendices. We also received several proposals offered as alternatives to AT&T's cellular plan in response to our request in footnote 17 of the *Notice*, 78 FCC 2d at 991 n.17. In addition, thousands of individual consumers and businesses filed informal comments, generally supporting the rapid establishment of cellular service. The text of this *Report & Order* will address the issues raised but will not discuss all the comments in detail. All comments, whether or not specifically discussed in the text, have been evaluated in arriving at our conclusions.

III. Discussion

A. Spectrum Allocation and Competitive Systems Within a Market

11. In the 1974 *Second Report and Order* in Docket 18262, the Commission determined that cellular systems should be allocated 40 MHz of spectrum, with one cellular system to be licensed per market. This 40 MHz allocation was a reduction from an initial proposal of 75 MHz based on the Commission's conclusion that the anticipated demand for cellular services did not support an allocation of that magnitude. Because we recognized that there was considerable uncertainty in predicting the cellular market, however, we strategically placed spectrum reserves totalling 20 MHz in proximity to the cellular allocation. The Commission's one system per market approach was based on its conclusion at that time that, because a cellular system is technically complex, expensive and requires a large amount of spectrum to make it economically viable, competing systems within a 40 MHz allocation would not be feasible. 46 FCC 2d at 760.

12. In its 1980 *Notice*, the Commission undertook to rethink its one per market approach. Because regulatory policies and technology had changed dramatically in the intervening years, making possible the introduction of competition into markets formerly closed at competition, the Commission determined that it was appropriate to reconsider its previous decision to license only one cellular operator per area. The Commission recognized, as it had in Docket 18262, that cellular technology requires a relatively large allocation to enable a system to realize the cost savings that make cellular systems attractive. The Commission believed, however, that most of the economies could be realized at allocations significantly less than the full 40 MHz. Balancing the benefits of economics of scale against the benefits of competition, the Commission proposed that, within the existing 40 MHz allocation, up to two carriers be licensed in each service area. It was the Commission's view that such an approach, while not providing the most competitive market structure, would provide some conpetitive advantages, including the fostering of different technological approaches, diversity of service options and some degree of price competition which otherwise would not be present. 78 FCC 2d at 991. Acknowledging that there may be other possible approches to accommodate potential entrants into this market, the Commission also sought comment on an "unlimited entry" alternative and a proposal by AT&T to have two systems of 30 MHz each, and it invited other parties to sumit their proposals for consideration. *Id.* at 991–92. In addition, the Commission asked whether the overall market for cellular service might have changed since 1974 and whether, as a result of any such changes, a larger allocation than contemplated in 1974 might be appropriate. In this regard, the Commission sought comment on whether it would be in the public interest to release the 20 MHz block of reserve spectrum. *Id.* at 1005–6.

13. The comments presented a broad range of options. They generally supported the licensing of two 20 MHz systems as the most appropriate means of achieving the Commission's goals of balancing the benefits of competition with the spectrum requirements of efficient cellular operation. Telocator and NTIA each supported 20 MHz as an adequate allocation for a mature cellular system. AT&T's proposal and comments also supported the Commission's suggestion that up to two carriers be licensed to provide cellular service in a cellular market area. Although agreeing that 20 MHz per system would be sufficient initially, AT&T proposed that each system ultimately have a 30 MHz frequency assignment and that the 20 MHz of reserve spectrum be allocated to cellular for that purpose. AT&T offered a number of analyses tending to show that a mature cellular system would be less expensive if it used the larger allocation of spectrum. It said a 30 MHz system would increase the cost of service to the public over that of a 40 MHz system by 17 percent, and a 20 MHz system would increase the costs over 40 MHz by 50 percent, or 28 percent over 30 MHz.[11] AT&T indicated that this occurs because the costs per subscriber decrease as channels are added, until the saturation point (the point when cell-splitting is needed) is reached. After that point, costs level off as cell sites are added. With a smaller allocation, cell-splitting must begin earlier, and the costs per subscriber level off at a higher point. In addition, with a smaller allocation, cell splitting involves additional costs and delays due to the need to obtain sites. AT&T estimated a total immediate demand in major markets for 1.5 million units.[12] AT&T believes that the point at which cell-splitting must occur in a 20 MHz system in cities like New York will be reached in the first year, with 8,500 subscribers. An additional 10 MHz would delay cell-splitting until there were 14,000 subscribers. Thus, two 30 MHz systems could accommodate 28,000 subscribers before cell-splitting. In New York, AT&T believes this could occur within two years.

14. A few parties urged unlimited entry or one system to a market. Motorola, for instance, proposed one 20 MHz system per market. The

[11] These figures do not include the cost of leasing a mobile unit. When mobile units are included, the increase would be 10 percent, 30 percent and 18 percent, respectively. This reduction in relative cost reflects the assumption that mobile units for such systems would be equipped to use only the number of channels allocated to the individual system; the fewer the number of channels the less expensive the mobile unit. AT&T Comments at pp. 106–109.

[12] AT&T Comments at 104. This is based on data from the Chicago developmental system showing that 11 percent of businesses surveyed would subscribe. *See* Illinois Bell Cellular Developmental Report No. 10, p. A III–2 (August 27, 1979).

Department of Justice urged a flexible entry policy, suggesting that a 5 or 10 MHz system allocation might be appropriate in test markets. In making this proposal, however, Justice did not address the spectrum requirements of cellular design. Millicom contended that its system design would require a full 40 MHz that could be shared among multiple system operators. LIN Broadcasting Corporation also proposed a single 40 MHz system per market to be operated jointly by two carriers.

15. After considering each of these options, we have concluded that the licensing of two 20 MHz systems would best serve the public interest, convenience and necessity.[13] In our view, this approach affords the public the benefits of some facilities-based competition in cellular service, while also taking into account the convincing record evidence before the Commission that, from a technical standpoint, cellular systems should be allocated no less than 20 MHz each. Each commenter who addresses the spectrum requirements of cellular design agreed that a cellular system based on either the AT&T or the Motorola design could not be efficiently operated in a mature cellular configuration in a major market with any allocation substantially less than 20 MHz.[14] This minimum spectrum requirement is based on the fact that a mature cellular system in a high density market requires multiple frequencies at each cell site to achieve the efficiencies of trunking necessary to accommodate the demand for service. In addition, since the number of frequencies available at each site is limited, several sets of frequencies are required to provide adequate co-channel separation for frequency reuse. A 20 MHz allocation is therefore necessary to provide sufficient voice channels as well as the required dedicated group of set-up or control channels. Specifically, as set forth in Telocator's Comments, each mature cellular system requires either 309 or 273 channels to have the necessary 21 set-up channels and either 24 or 21 sets of 12 trunked voice channels, using the Motorola and AT&T configurations respectively. Dividing the existing 40 MHz allocation into two blocks of 333 channels would meet these channel demands; dividing the 40 MHz allocation into three blocks of 222 channels, for instance, would not. Given this substantial technical evidence that cellular systems as currently developed require approximately 20 MHz of spectrum to achieve minimum trunking efficiency gains, we have concluded that, within a 40 MHz total allocation, efforts to increase the number of competitive systems beyond two would not be warranted.

16. In reaching this conclusion, we are mindful of the Department of Justice's proposal of "flexible entry." In offering this proposal, Justice did not attempt to address the technical evidence submitted by the other commenters. Rather, in apparent reliance on its observation that opinions have varied in the past regarding the appropriate allocation of spectrum per cellular system, Justice suggested that the optimal allocation per system and, thus, the optimal number of entrants which can be accommodated, remains uncertain. In Justice's view, it would be premature to determine at this time that each market should be restricted to two competitors. Justice maintains that a flexible licensing scheme based on market tests involving perhaps 5 or 10 MHz system allocations would therefore be appropriate. We disagree. Although an unlimited entry scheme such as that adopted for specialized carriers [15] and domestic satellite carriers [16] is attractive from a purely competitive point of view, our public interest standard comprises more than only the "encouragement of competition."[17] Weighing all considerations, we find that the public interest would not be served by adopting Justice's proposal. In particular, the record evidence that cellular design limits the number of facilities-based competitors is compelling. While it is conceivable that with perfect knowledge we might choose to divide the 40 MHz allocation among three or four, rather than two, licensees, it is clear that technical considerations would not allow any substantial increase in the number of entrants which could build their own facilities. Because Justice has not provided us with any analysis to persuade us that the potential for a small increase in the number of facilities-based entrants is realistic, we find no justification for further delay in the commercial implementation of cellular service, even in a limited number of markets. We believe that the public interest would be better served by going forward with the licensing of two facilities-based competitors in each market with the potential for further competition in cellular services through resale. Accordingly, we reject Justice's flexible entry and market test proposal.

17. The Commission has similarly considered and rejected Millicom's proposal for required frequency sharing. Like the Justice proposal, Millicom's proposal to share a single 40 MHz allocation among several users theoretically holds out the promise of greater competitive entry than the two-per-market approach. Millicom's proposal, however, also fails to consider adequately the technical requirements of cellular design. Millicom's proposal troubles us in the first instance because, even if the voice channels in a cellular system could be shared with another system, each system would still require a separate set of control channels.[18] With multiple entrants, this need would either reduce the number of available voice channels below that sufficient for minimum trunking efficiencies or, if the number of voice channels were to remain constant, would require the use of much more spectrum than the Commission is now prepared to allocate. More importantly, the proposal troubles us because Millicom has failed to explain adequately how its frequency sharing proposal, which is based on design concepts different from those explored to date, would actually work. There has been no explanation of how Millicom's moment-to-moment voice channel reassignment process would work if several systems with different cell patterns are to share the same channels and frequency reuse is still to be achieved. In short, we are unable to conclude that the Millicom scheme would permit the efficient use of spectrum without the need for further development. In our view, to delay the offering of commercial cellular service to the public in order to await such developed is unwarranted.

18. The Commission also has rejected several proposals which advocated only one system per market. E.F. Johnson and

[13] Given the appropriate showing, however, waivers of this policy will be considered. *See* footnote 41, below.

[14] Broad Com's "SYNAPZ" design may ultimately be able to form a basis for a high capacity mobile system operating in less than 20 MHz, but the concepts involved have not been adequately developed or practically tested in a working environment.

[15] *Specialized Common Carrier Services*, 29 F.C.C. 2d 870 (1971), *recon. denied*, 31 F.C.C. 2d 1106 (1971), *aff'd sub nom. Washington Utilities and Transportation Commission* v. *F.C.C.*, 512 F. 2d 1142 (9th Cir.), *cert. denied*, 423 U.S. 836 (1975).

[16] *Domestic Communications Satellite Facilities*, 35 F.C.C. 2d 844, *recon. granted in part*, 38 F.C.C. 2d 665 (1972).

[17] *FCC* v. *RCA Communications, Inc.*, 346 U.S. 86, 93 (1953).

[18] The need for separate sets of controls arises because cellular systems, as developed to date, must continuously transmit data on control channels to all cell sites, both for system overhead purposes and to determine when control of a mobile unit should be transferred between calls. Absent a common cell lay-out, which would eliminate the facility based competition the Commission envisioned in proposing more than one cellular system per market, these control channels cannot be shared.

ARTS, for instance, supported the licensing of one 40 MHz licensee per market to maximize spectrum efficiency. Lin proposed one 40 MHz system per market to be constructed and operated as a joint venture by two licensees unless the Commission should later decide that the market could support two systems. Such mandated joint ventures, Lin maintained, would give applicants the necessary incentives to encourage their entry into a relatively risky enterprise. Motorola proposed a single system of only 20 MHz, claiming that this allocation would be ample to meet the spectrum needs of cellular systems in the largest metropolitan areas through the end of this century.

19. As the Commission has stated previously, it is our view that even the introduction of a marginal amount of facilities-based competition into the cellular market will foster important public benefits of diversity of technology, service and price, which should not be sacrificed absent some compelling reason. The Commission is unpersuaded that these benefits would be outweighed by the benefits associated with the increased efficiency of a 40 MHz system over that of two 20 MHz systems or the alleged increased incentives to entry, as urged by LIN, particularly when there is no evidence that, absent a plan of mandated joint ventures, there would not be willing and qualified cellular applicants. The Commission has likewise rejected Motorola's proposal, which not only would eliminate the opportunity for facilities-based competition, but is unsupported by any convincing evidence that one 20 MHz system could reasonably meet the demands for cellular service. We previously gave serious consideration to the many arguments raised as to the minimum overall allocation of spectrum necessary for cellular systems. In Docket 18262, we concluded that 40 MHz was the amount of spectrum necessary to handle the predicted demand for cellular service in the near future. 46 FCC 2d at 756.[19] That allocation was upheld by the Court of Appeals as being neither unreasonably large nor small.[20] Motorola has offered no sufficient reason to cause us to alter our decision on this matter.[21]

20. As a final matter, we have considered whether to allocate additional spectrum for cellular systems from the 20 MHz of reserve spectrum set aside for land mobile services in Docket 18262. AT&T was the major proponent of such an allocation in order to permit licensing of two mature systems of 30 MHz each. AT&T argued that a mature cellular system would be less expensive if it used a larger allocation of spectrum. It said that using a 20 MHz system would increase the costs of service to the public by 28 percent over a 30 MHz system.[22] AT&T also maintained that 30 MHz would be the minimum system allocation ultimately required for viability, although 20 MHz would be sufficient initially.

21. As we observed in our *Second Report and Order* in Docket 18262, allocation of frequency spectrum in the 806–947 MHz band involves dealing with innumerable unknowns, ranging from new system technologies to innovative service offerings and future market projections for these services. Because of these inherent uncertainties, we emphasized that any allocation plan which we adopted should be flexible enough to accommodate new and often unforeseen technological and economic forces. It was our view that the allocation plan we adopted in that order provided that flexibility, while satisfying presently defined needs. 46 FCC 2d 752. Based on our understanding of cellular technology and the potential market for cellular systems, the Commission concluded that 40 MHz for cellular service would be sufficient and would provide for adequate growth and reasonable costs over the foreseeable future.

22. After reviewing the comments here, we conclude that our goals for cellular service can be accomplished with a present allocation of 40 MHz of spectrum, without allocating additional spectrum from the reserve at this time. Even accepting AT&T's contention that two 20 MHz systems will result in more costly service to the public than two 30 MHz systems, we do not find the cost penalty substantial enough to commit more spectrum to cellular services. We also are not persuaded by AT&T's suggestion that two 20 MHz systems will not be sufficient for short-term cellular needs. The spectrum requirements of mature cellular systems are difficult to predict at this time, largely because no such mature systems exist. Present indications are that 20 MHz appears to be a reasonable amount of spectrum to support a single cellular system and that a 40 MHz total allocation can adequately meet public demand for cellular service over the immediate term. Because of the speculative nature of any attempt to predict the cellular market size, the Commission believes it should be cautious in making final allocations for cellular systems. Recognizing, in addition, that only a limited number of paired reserve frequencies usable for two-way communications remain in the 800 MHz band, that there are many competing demands for that spectrum for common carrier as well as private radio users, and that new advances in radio communications technology could possibly be precluded due to lack of available spectrum in which to develop, we will not allocate additional spectrum to cellular now, with a land mobile reserve, we will retain our flexibility to respond to a variety of future demands. If, in a future allocation proceeding, we determine, based on actual experience with operational commercial cellular systems, that additional spectrum is required for efficient operation in certain markets, we can make spectrum available from the reserve as appropriate.

23. *Mobile-Satellite System.* Another spectrum reserve related issue which several parties addressed involves the desirability of establishing a satellite communications system capable of providing service to mobile units nationwide. NASA and GE were the primary proponents of a mobile-satellite system. They said the Commission should consider not only urban but also rural mobile communications needs, and a satellite system could augment terrestrial cellular systems by providing a compatible service to areas not served by terrestrial systems. The Commission was urged to permit the development of a satellite-mobile system in the reserve bands. To that end, NASA and GE said that the reserve bands should be consolidated into two 10 MHz bands, rather than the present segmented allocation. To do this, a portion of the spectrum currently allocated to cellular would become reserve spectrum, while an equal portion of the current reserve band would be allocated to cellular.

[19] In Docket 18262 Motorola filed a Petition for Reconsideration directed to the amount of radio spectrum the Commission allocated for use by cellular systems. The petition, which was primarily directed to the methods the Commission should use in making the 40 MHz available for use in cellular systems, was rejected by the Commission, and the allocation of 40 MHz was affirmed. 51 FCC 2d at 948.

[20] *NARUC v. FCC*, 525 F.2d at 636. In its opinion, the Court noted that Motorola had argued at length before the Commission that an allocation of 19 MHz would be sufficient. *Id.* at n. 21.

[21] Motorola forecasts a demand for cellular service in New York of 104,940 subscribers, which Motorola believes could be accommodated on a single 20 MHz system. AT&T's forecasts, in contrast, place the demand for cellular service at 233,096 subscribers in the New York area, which would require at least an additional 20 MHz allocation. Moreover, in order to serve even the lower demand estimated by Motorola, Motorola assumes a reuse factor of 13X, an extremely high degree of channel reuse involving the use of a large number of very small cells.

[22] AT&T Comments, p. 110.

24. We have decided not to consolidate the reserve bands as requested by NASA. First, we do not believe the need for satellite augmentation of terrestrial cellular systems has been established. The supplemental comments of NASA, which included estimates of the market potential to be served by satellites, have not persuaded us otherwise. In our view, the cellular design concepts we are adopting are sufficiently flexible to permit the establishment of terrestrial systems even in relatively thinly populated areas. Therefore, it is speculative whether satellite augmentation is either needed or cost-justified. Second, it is not certain that a satellite system, with the spot beam capability envisioned by NASA, would require an exclusive frequency allocation. This raises the possibility of sharing spectrum between terrestrial and space systems. Moreover, even accepting NASA's contention that two 10 MHz bands would be desirable for a satellite system, even NASA has not claimed that satellite system could not be developed using the present segmented reserve band. Finally, a consolidation of the reserve band and a shifting of the cellular allocation at this date would raise international considerations requiring time-consuming renegotiation of pending international agreements. [23] This would seriously delay the implementation of cellular service.

25. On balance, therefore, we find that the uncertain benefit of adjusting the present allocation of the 800 MHz frequencies to promote satellite augmentation of terrestrial systems does not outweigh the cost of further delaying the implementation of commercial cellular service. If a satellite system is to be compatible with terrestrial systems and is intended to augment terrestrial systems, then our emphasis should be on providing an environment favorable to the growth of terrestrial systems. Compatible satellite systems can then be engineered to provide support and augmentation to the terrestrial systems. [24] By leaving the reserve bands intact, we are not precluding the possible future development and implementation of a mobile satellite system.

26. To summarize, we have concluded that a 40 MHz allocation for cellular systems will be available immediately for two competing systems per area, with 20 MHz to be available to each carrier. To accomplish this frequency use plan, the frequencies will be assigned in 20 MHz groups identified as Block A and Block B. A licensee will be authorized frequencies from only one Block within a given geographic area. Block A will consist of frequencies within the bands 825–835 MHz (mobile) and 870–880 MHz (base). Block B will consist of frequencies within the bands 835–845 MHz (mobile) and 880–890 MHz (base). We have also identified 21 frequencies per system for set-up and control purposes. These frequencies are adjacent to each other in Block A and Block B. With respect to mobile stations, all units must be capable of operating at least over the entire 40 MHz of spectrum (*i.e.*, 666 channels). This is necessary in order to insure full coverage in all markets and compatibility on a nationwide basis.

B. The Role of Wireline Carriers

27. In the preceding section we concluded that the overall public interest would be served best if there were two cellular systems competing in the same community. To make that possible, we decided to divide the 40 MHz of spectrum committed for cellular development into two blocks of 20 MHz each instead of following our original plan of licensing only one 40 MHz system per market.

28. Our next task is to decide whether we should place any restrictions on who is eligible to become a cellular licensee. This is a matter which we have wrestled with for some time. As mentioned earlier, we originally concluded that *only* wireline carriers should be licensed to operate cellular systems. [25] We then decided about a year later to drop that restriction and permit any qualified entity to apply. [26] Then, in the *Notice* initiating the proceeding now under consideration, we raised some concerns about whether wireline carriers should be permitted to operate cellular systems at all and asked parties for their comments. To focus the parties' attention on this issue, our *Notice* contained a discussion of the possible relevant markets/services with which two-way cellular operations might compete and the possible concerns posed by wireline participation in that competition. [27]

29. In the discussion that follows, we set forth our reasons for again concluding that it is very much in the public interest to seek participation from wireline carriers, and, in particular, AT&T which has demonstrated that it possesses the resources and the expertise necessary to establish expeditiously cellular systems with nationwide capability. These are factors, we should emphasize, that we are obligated to consider in reaching a public interest determination. *See* Section 1 of the Communications Act. [28] We further conclude not only that wireline participation is necessary but also that, in order to achieve objectives that will serve the public interest, we should reserve one block of spectrum exclusively for the use of wireline carriers, as we have done in the past.

30. Our decision in this regard is not insensitive to the potential dangers of wireline participation. It is our firm belief, however, that with the safeguards we have imposed on wireline entry, our approach best accommodates the competing interests reflected in this record and best serves the public interest, convenience and necessity.

1. Wireline Eligibility To Operate Cellular Systems and Market Definition

31. In Docket No. 18262, we observed that cellular communications systems

[23] The Commission has received a letter dated March 30, 1981, from the Canadian Government expressing its position on general frequency coordination of the 800 MHz region and specifically regarding the possibilities of a mobile satellite allocation. The Canadian Government would like to leave open its options to implement a mobile satellite service somewhere between 806 and 890 MHz. Canada also indicated that due to its existing fixed operations, it was concerned about the Commission implementing a mobile service above 890 MHz. The rearrangement proposed by NASA and discussed above would place part of the cellular mobile allocation about 890 MHz and would therefore conflict with the Canadian position. Additionally, as Canada points out, the U.S. and Canada are almost ready to formally concluded an arrangement on the sharing of this frequency range near our common borders. We will continue our discussions with Canada on all these issues of common concern.

[24] This is consistent with our *Report and Order* in Docket 20271, in preparation for the 1979 World Administrative Radio Conference. Our policy was stated clearly in that document:

> (A mobile-satellite) requirement is seen as a possible adjunct to, and not a replacement for, the services to be provided by the land mobile service in the 806–890 MHz band. Implementation within the United States, should such a system be proposed in the normal course of rulemaking, must maintain the integrity of our terrestrial land mobile services in this band and accommodate the expected growth of short range terrestrial mobile communication systems.

World Administrative Radio Conference, 70 FCC 2d 1193, 1232 (1978).

[25] *Second Report and Order* (Docket 18262), 46 FCC 2d at 760.

[26] *Memorandum Opinion and Order* (Reconsideration of Docket 18262), 51 FCC 2d at 953.

[27] 78 FCC 2d at 989–90, 993–94. Our concern focused on the possibility of the wireline carriers extending their dominance in one market into another and the possibility that such entities might have an incentive to inhibit rather than advance cellular development. *Id.* at 993–94.

[28] 47 U.S.C. 151 states, in part, that the Federal Communications Commission is created "so as to make available, so far as possible, to all the people of the United States, a rapid, efficient, Nationwide * * * communication service * * *."

would serve the needs of users of common carrier mobile systems and, to some extent, the needs of dispatch service users. In our *Notice* in this docket, we asked whether cellular systems might serve a somewhat broader market, perhaps filling a portion of the need for conventional telephone exchange service for some users. We asked whether, if cellular service was substitutable in some degree for conventional telephone service, the Commission should limit the role of wireline carriers in the provision of cellular service. To evaluate these concerns, we urged the parties to give us their views on the relevant markets—existing or potential—which might be appropriate for us to consider in deciding whether to permit wireline participation. The comments in response to our *Notice* suggested three relevant markets: (a) Conventional wireline telephone service; (b) common carrier mobile telephone service; and (c) non-interconnected private dispatch service. In addition, one party, Telocator, discussed the possibility of another identifiable market, the long distance transmission service market for calls which originate or terminate on mobile telephones.

32. Our primary reason for questioning wireline operation of cellular systems at this late date was our concern that cellular technology might have developed the potential to be competitive with local exchange service, thereby creating a disincentive on the part of wireline carriers to fully develop cellular service in the areas where they also offer local exchange service. From our review of the record, however, there appears to be a consensus that our concern was unfounded. Most commenters believe that cellular systems will initially only be competitive in the traditional 2-way mobile market. Our own evaluation is in agreement with this position. The key to local exchange substitutability in any practical sense is the availability of an inexpensive handheld portable unit that is light in weight.[29] Until such an inexpensive unit is available, cellular service cannot realistically serve as a meaningful replacement for local wireline exchange service.[30] We do not foresee the widespread availability of such inexpensive units for some time. Furthermore, the size of the spectrum allocation will limit the number of users of a cellular system, while a landline system can expand indefinitely. Because of the likely unavailability in the near term of portable units that are truly substitutable for landline telephones and the inherent spectrum limitations on cellular systems,[31] we cannot conclude that wireline telephone service is within the relevant market in this proceeding. Therefore, we conclude that there is no reason to rule wireline carriers ineligible out of concern that they will have a disincentive to advance the development of the cellular system because of its short term potential replacement of their local landline service.[32]

33. In our *Notice*, we also asked whether cellular systems might substitute for existing conventional two-way mobile service and, if so, whether we should restrict wireline participation to prevent them from extending their dominance in one market into another. Again, we think a restriction would be unwise. We agree with the analysis of most commenters that cellular service will be an effective substitute—both in price and service—for present common carrier mobile service and will meet the demand for this service over the foreseeable future. Nevertheless, it is still premature to predict whether cellular will *replace* conventional mobile systems, especially in the smaller geographic markets. There, demand is likely to be lower and growth a little slower. It is even possible that conventional mobile system operators, in response to cellular competition, will lower their rates[33] and offer a different, otherwise unavailable package with greater operational simplicity to remain competitive alongside the more sophisticated system. In any event, we see no reason to prohibit cellular operation by wireline companies because this new technology might drive existing conventional mobile system operators out of business. If that occurs, we agree with NTIA that it will be because of the nature and capacity of the cellular system and not because of the identity of its operator. Insofar as the concern here is that the demise of conventional two-way systems will come about because of AT&T's ability to engage in anticompetitive practies, we address that matter below.

34. The comments in response to our *Notice* also suggested that we should consider the impact wireline-operated cellular systems will have on the non-interconnected dispatch market.[34] Although dispatch services are currently available on some common carrier systems, more than ninety percent are provided through private systems. We would expect, however, that cellular systems could meet the perceived needs of many dispatch users if dispatch communications were permitted. Although it is again speculative at this time whether cellular systems will be cost competitive with private systems, especially for large users, it is likely that for some users a cellular system might provide dispatch services at comparable quality and price. A cellular system would also be able to provide dispatch users with interconnected service over the public telephone network. In any event, we again find no justification to prohibit dispatch service on wireline cellular systems simply because these systems will lure customers away from existing dispatch operations; our obligation is not to protect existing radio common carriers from competition nor to maintain the present position of private dispatch systems.[35] Motorola,

[29] Obviously, a telephone that is confined to a vehicle willnot significantly substitute for a home or office telephone. A hand-held or pocket-size telephone could conceivably replace a fixed telephone for some users, however.

[30] A subscriber unit for a landline system is a relatively simple, inexpensive device, while a mobile or portable unit is inherently more complex and expensive because it includes, among other things, a radio transmitter and receiver, battery, amplifiers, and microprocessor.

[31] Millicom, a primary proponent of the view that cellular systems can be cost competitive with landline service, admits that such competition will not likely develop in major urban areas; it also bases its projection on the availability of a low-cost portable unit, a portable which Millicom believes can be developed and produced at a cost under $1000. Millicom has offered no support for its cost estimate of under $1000, however, and we are not convinced that such a unit, even if available at that cost, would make cellular service truly competitive with landline service. The Department of Justice also contended that "[c]ellular systems may have the potential to provide services that are substitutes for local wireline carriers, at least in some locations." Department of Justice Reply Comments at 9. Justice did not contend, however, that this "potential substitutability" would occur in the near term, nor did it address the factors which would affect such substitutability.

[32] Telocator believes that an identifiable market in mobile telephone long distance originated and terminated calls may develop, and that this market is relevant for purposes of our analysis. Apparently Telocator believes that wireline operation of cellular systems would foreclose specialized common carriers from participating in this long distance market. Telocator's argument, however, is insufficiently developed to allow us to consider this issue at this time.

[33] Because the present two-way market is generally so congested, and demand therefore exceeds supply, it may be that existing customers are paying rates above competitive levels in some markets.

[34] Dispatch service is a type of service commonly used by businesses such as taxi, delivery and repair services. Dispatch service is characterized by the exchange of brief messages, normally one minute or less in duration, between a land based dispatcher and a mobile station, without using the public switched telephone network.

[35] There is an additional reason why a prohibition against dispatch service by a wireline cellular operator would not be in the public interest. The offering of dispatch service by wireline cellular systems could well serve to deconcentrate the

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however, urges that we prohibit dispatch by wireline carriers for a different reason. It maintains that private dispatch operators would be endangered by wireline carrier cross-subsidization of cellular dispatch operation with monopoly revenues.

35. That wireline operated cellular systems might come to dominate other markets—conventional or dispatch—is, of course, a matter of concern to us. Regulatory agencies, including this Commission, are required to consider pertinent competitive policies in making public interest findings.[36] Promotion of competition alone, however, is not synonymous with the public interest.[37] Thus, while we must consider potential anticompetitive effects attributable to the entry of wireline carriers, we must also consider the benefits of wireline entry, both in terms of services and competition, and whether continuing regulatory supervision can prevent anticompetitive behavior.[38] In addition, we recognize that a potential effect on competition may well call for a different regulatory response than an immediate effect on competition would. This is particularly true when anticompetitive effects cannot be predicted with accuracy in advance but will become apparent, if at all, only upon implementation.[39]

36. Based on the record before us and on our conclusions with respect to the relevant market for cellular systems, we conclude that an across-the-board prohibition on the entry of wirelines into the cellular market is not warranted. We recognize that cellular service will be substitutable to a great degree for present common carrier mobile service and private or common carrier dispatch service. Nevertheless, as we discuss in the sections that follow, we find that there are compelling public interest reasons to support wireline ownership of cellular systems, particularly when we have at our disposal measures that we are confident can minimize the risk of any potential anticompetitive behavior.[40]

existing dispatch market by lessening the power of the equipment vendor over service availability.

[36] *NARUC v. FCC*, 525 F2d 630, 636 & n. 25 (D.C. Cir. 1976), *cert. denied*, 425 U.S. 992 (1976).

[37] *FCC v. RCA Communications, Inc.*, 346 U.S. 86, 93 (1953); *Hawaiian Telephone Co. v. FCC*, 498 F. 2d 771 (D.C. Cir. 1974).

[38] *United States v. FCC*, 47 RR 2d 1, 31–34 (D.C. Cir. 1980)(*en banc*); *NARUC v. FCC*, 525 F.2d at 638.

[39] *NARUC v. FCC*, 525 F.2d at 638.

[40] We should at this juncture address the concerns raised by the Court of Appeals in the *NARUC* case. The *Order* under court review, the *Second Report and Order* in Docket 18262, as modified on reconsideration, proposed an allocation of 40 MHz to only one system operator per market (a wireline or non-wireline entity could apply).

37. *Number of Licenses Nationwide.* Although some parties argued for restrictions on the number of licenses issued to the same entity, we have concluded that the public interest would not be served by imposing restrictions on the number of markets any given entity—wireline or non-wireline—may enter. Our main objective in suggesting in our *Notice* that such a limitation might be appropriate was to encourage maximum diversity of technological development. 78 FCC 2d at 994. We are not convinced on the record before us that technological diversity would necessarily be enhanced by such a limit. It may well be that entities which might otherwise invest heavily in technological development would hesitate to do so if required to operate in only a limited number of markets. At the same time such a policy could diminish the number of potential entrants into some geographic markets or limit the areas in which service is offered.

required that a separate subsidiary be established if the successful applicant was a wireline company, and did not make clear whether wireline telephone companies had to provide interconnection to radio common carriers. Because our allocation scheme has significantly changed since the Court of Appeals reviewed our final decision in Docket 18262, many of the court's concerns no longer seem present. First, our allocation scheme now contemplates two, rather than one, system operator per market, thus reducing the fear the court expressed that AT&T, by virtue of our one-to-a-market policy, might operate most, if not all, of the cellular systems put in operation and thus significantly increase its opportunity to dominate the radio telephone market. We expect now to have entities with considerable resources to operate cellular systems in competition with the wireline carriers. Second, the radio common carrier industry over the last several years has successfully negotiated interconnection agreements with the local telephone operating companies. *See e.g. Memorandum Opinion and Order* (Interconnection between wireline telephone carriers and radio common carriers), FCC 80-520, Mimeo 28035 (released October 9, 1980). In this proceeding, we are imposing an interconnection requirement for non-wireline cellular systems. Third, although AT&T's offering of dispatch service on a cellular system may affect the competition that now exists in that market, both the safeguards we will impose and the competition by another cellular system in the same market should diminish the likelihood that the existing competition in the dispatch market will be weakened other than simply by the superiority of cellular technology, a matter which we believe should not be artificially inhibited by government regulation. Fourth, since the time Docket No. 18262 was before the court, the Commission has adopted policies permitting those who do not own basic communications facilities to purchase and resell communications services. Although there is no guarantee that a resale cellular market will develop, we are hopeful that removal of previous restrictions against resale will stimulate the growth of such a market and thereby add to the number of cellular competitors in a community. Finally, in addition to all of the above measures, we are requiring all wireline licensees to operate cellular systems through a separate subsidiary, a step that, in addition to the above safeguards, we consider to be very beneficial.

2. Separate Five Year Frequency Allocation for Wireline Carriers

38. The discussion on wireline eligibility focused principally on whether wireline carriers should be allowed to operate cellular systems because of the potential threat to existing competitors offering two-way mobile service. In this section, we address the question of whether we should reserve a separate frequency allocation for the wireline telephone companies. AT&T, the independent telephone companies, and the National Telecommunications Information Agency (NTIA) recommend that we establish a separate wireline allocation; Telocator and the Department of Justice oppose such an allocation. Our analysis of all the arguments for and against a separate allocation convinces us that a separate allocation for an initial five year period (after which both 20 MHz allocations would be available to any qualified party) is the most practical way to make cellular service available to the public in a substantial number of the most populated and congested cities across the country within the next three to five years.[41] We base this decision on several important considerations discussed below.[42]

39. *AT&T's Technical Expertise.* Much of the successful research and development in the mobile field over the years has come from wireline carriers.[43]

[41] We will entertain requests for waivers of the separate allocation during the five year period that it applies. An applicant may request a waiver to apply for the block of frequencies for which it would not be eligible under our Rules if it can demonstrate that there will be no eligible applicants applying for these frequencies during the five year period. (*e.g.*, the local wireline company does not intend to apply for its reserved block). We will also entertain requests for a waiver to permit the entire 40 MHz to be assigned as one block of frequencies. Such a waiver request must, of course, not only meet the showing discussed above (*i.e.*, that the frequencies for which the applicant is not eligible will not otherwise be applied for), but must also contain a convincing showing that the public interest will be better served by assignment of the entire 40 MHz, rather than by the potential for facility-based competition that might develop after the separate allocation expires.

[42] We note that over the years we have explored virtually every option in this area. In our *First Report and Order* in Docket No. 18262 we allocated spectrum for only the wireline carriers, rejecting a request by the RCCs for a separate, equal allocation. 19 RR2d 1603, 1675 (1970). On reconsideration, we decided to eliminate the limitation on eligibility, but we did not establish a separate allocation. 31 FCC 2d 50, 52 (1971). In our *Second Report and Order*, we once again limited eligibility to wireline carriers, 46 FCC 2d 752, 760 (1974), but on reconsideration we decided that the limitation was unnecessary. 51 FCC 2d 945, 953 (1975).

[43] *E.g., Bell Telephone Co. of Pa.*, 22 FCC 1244 (1957) (selective signaling); Bell Labs, *High Capacity Mobile Telephone System Technical Report*,

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It is not surprising, therefore, that the primary proponent and developer of cellular technology in this country has been AT&T. In fact, since 1940, AT&T has urged the Commission to allocate sufficient spectrum for a broad-band high capacity mobile system,[44] a step the commission did not initiate until 1968.[45] Several years later AT&T was afforded the opportunity to test its theory.

40. On March 3, 1977, the Commission granted the application of Illinois Bell Telephone Co. (IBT) to construct a developmental cellular system in the Chicago, Illinois, area.[46] In an order released January 4, 1979, we made it clear that the Commission had authorized IBT to make a limited commercial offering of its cellular service to the public.[47] To date, developmental technical reports as well as hundreds of letters sent to the Commission from users of the IBT system all reflect AT&T's extensive technical expertise in the cellular field. In addition to this technical proficiency, AT&T has extensive expertise in traffic engineering and in the design and operation of high-capacity local switching networks, all of which are highly relevant to the rapid and efficient development of cellular systems. Given AT&T's distinctive technical capabilities, and its operation in most major markets, we are left with little doubt that only AT&T is in a position today to place cellular systems in operation around the country in the immediate future.[48]

41. *Need.* If there were not a pressing need to relieve the serious congestion that exists on conventional two-way mobile systems around the country, we might be less inclined to make a separate wireline allocation.[49] That is not the case, however. AT&T, in its "Notes on Cellular Service" attached to our *Notice*, estimates that there are 25,000 customers on its waiting lists around the country for conventional mobile service. *Notice, supra*, 78 FCC 2d at 1009. That the demand for service has long outstripped the supply is also documented by other evidence confirming long waiting lists for mobile telephone service in most cities.[50] And there is potentially a much greater unsatisfied demand than is suggested even by the waiting lists.[51] Moreover, many potential users have been discouraged from using presently available mobile service because of the congestion on the limited number of available channels,[52] and presumably many of these people would be willing to obtain relief from a higher quality service, such as offered by a cellular system, if it were available.[53] This pressing need for improved service compels us to seek a solution that will bring relief to the greatest number of people in the shortest possible time. Our separate wireline allocation is intended to do just that.

42. *Separate Allocation Minimizes Delay from Comparative Hearings.* In circumstances where the Commission has two or more applicants applying in the same general area for the same frequency and only one can be granted, it is generally considered necessary to hold a comparative proceeding.[54] This process, however, often results in substantial delays in providing service to the public.[55] A separate wireline allocation will help to minimize this problem and thus assist in achieving our objective of providing cellular service to the public in the shortest possible time. This is because generally only one wireline carrier per market will be eligible to apply for the wireline frequencies, thus avoiding the need for a comparative proceeding.[56] By the same token, we suspect that if there is only one applicant for the wireline block of frequencies and competing applicants for the other, there will be a powerful incentive for competitive applicants to settle their differences. We encourage such settlements.[57]

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submitted in Docket 16262 (1971); Young, *Comparison of Mobile Radio Telephone Transmission at 150, 450, 900, and 3700 Megacycles*, 31 Bell Sys. Tech. J. 1068 (1952); *Advanced Mobile Phone Service*, 58 Bell Sys. Tech. J. No. 1 (1979).

[44] *See General Mobile Radio Service*, 13 FCC at 1212; *UHF Allocation, Fourth Report & Order*, 41 FCC 131–138 (1951); *Frequency Allocation 25–890 Mc*, 39 FCC 587, 580 (1964), *recon. denied*, 39 FCC, 606, 610 (1964).

[45] *Land Mobile Use of 806–960 MHz Band* (Notice of Inquiry and Notice of Proposed Rulemaking, Docket No. 18262), 14 FCC 2d 311, 313–15, (1968).

[46] *Illinois Bell Telephone Co.*, 63 FCC 2d 655 (1977). A few months later the Commission granted a second developmental cellular authorization to a radio common carrier, *American Radio Telephone Service, Inc.*, 66 FCC 2d 481 (1977) (ARTS). The ARTS system has never requested permission to go into commercial operation and test market its service to the public. We would expect, however, that eventually the experience gained by Motorola in assisting the development of the ARTS system will provide non-wireline carriers the expertise necessary to build cellular systems.

[47] *Telocator Network of America v. Illinois Bell Telephone Co.*, 70 FCC 2d 713 (1979).

[48] Of course, the expertise of the independent telephone companies in traffic engineering and establishment of high-capacity local switching networks will also be important to the rapid establishment of cellular communications systems.

[49] Because two-way mobile service has been traditionally offered by wireline carriers as a logical extension of local exchange service, and because AT&T has the expertise and resources to build cellular systems that have been proven workable and efficient, a separate allocation scheme could be justified even without the pressing need for immediate relief.

[50] Many letters were placed in the public file in this proceeding describing the size of the waiting lists for mobile service and the delay in obtaining service. *E.g.*, David K. Welch, dated March 19, 1980 (Denver, Colorado waiting list of over 2,000 people; over 2 years' wait); L. B. Peace, of Terry Cook & Associates, dated March 19, 1980 (Seattle, Washington waiting list over 2½ years long); John T. Loos, dated March 27, 1980 (Ft. Lauderdale, Florida, waiting list about 3½ to 4 years long); Eugene Albert, dated March 14, 1980 (White Plains, New York, wait over 9 years); Joe Martinez, dated March 14, 1980 (New York-New Jersey area, wait over 5 years); Paul D. Speer, dated February 22, 1980 (Chicago, Illinois wait of 12 to 15 years).

[51] The developmental tests indicate that 11 percent of the businesses surveyed will subscribe to cellular mobile service. See Illinois Bell Cellular Developmental Report No. 10, AIII–2 (August 27, 1979).

[52] The Common Carrier Bureau staff has recently analyzed a sample of applications for additional channels. The grade of service during the busy-hour on the mobile systems in this study averaged 0.593; this means that 59.3 percent of all attempted calls were not completed due to the system congestion. *See* Summary of Traffic Loading Data filed in the public record of this proceeding on March 13, 1981.

[53] Many of the letters filed in this proceeding referred to the poor quality of conventional service. *E.g.*, Neil E. Bahr, dated March 24, 1980 (Miami, Florida); John R. O'Brien, dated March 26, 1980 (Hanover, Massachusetts); Frank W. Ambler, dated March 28, 1980 (Dallas, Texas).

[54] *Ashbacker Radio Corp. v. FCC*, 326 U.S. 327 (1945).

[55] In the Common Carrier Mobile Services, it has been our experience that comparative hearings take six months to one year, from designation to initial decision. If exceptions are filed from the initial decision, then another six months or more is added, and there are further delays if the Review Board's decision is appealed to the full Commission. Because there would be more at stake in a comparative hearing for a major market cellular system than for a conventional mobile system, it is likely that even more time would be consumed. We note, however, that we are adopting an expedited hearing procedure that we hope will minimize the delays in the adjudicatory process. *See* paragraphs 62–66, below.

[56] In the past, we have permitted wireline companies to apply for wireline frequencies in any market, without regard to where they are doing business as a wireline. *Bonduel Telephone Co.*, 68 FCC 2d 497 (1978). In order to achieve our objective of rapid implementation of service during the separate five year allocation period, we will not adopt the *Bonduel* approach to wireline cellular applicants, but will consider a wireline applicant to be eligible to apply only in those general areas in which it or an affiliate company is certified as a wireline carrier. This will eliminate comparative hearings for wireline frequencies except in those rare circumstances where a particular metropolitan area is served by more than one wireline and each wishes to serve the entire metropolitan area.

[57] Because a wireline carrier is unlikely to be encumbered by a competing applicant for the same facility, a problem may arise as a result of the wireline company's ability to get an early start in constructing and operating in its market. In our view, because of the great unsatisfied existing and potential demand for cellular service, it is unlikely that many markets will be unable to support two cellular systems. We also consider it unlikely that the advantage from an early entry into the market would be sufficiently significant to outweigh the need to grant immediate relief in markets, particularly in light of the requirement that no restrictions be placed on resale and shared use of cellular services. *See* paragraphs 103–107. If,

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43. *Safeguards against anticompetitive effects.* In the preceding section, we concluded that there are several public benefits to be achieved by a separate wireline allocation. Our conclusion in this regard rests in part on our confidence that we can impose adequate safeguards to substantially minimize the potential anticompetitive concerns. We emphasize that the separate allocation policy is narrowly tailored to achieve our goal of early implementation of cellular technology. The separate allocation has an automatic "sunset" provision: Five years after the Commission authorizes the first cellular system (wireline or non-wireline) in the nation, the two blocks of frequencies will no longer be earmarked for specific classes of carriers. If at that time no wireline carrier has applied for its block of frequencies in a given market, both blocks would be available to RCC's and to wireline carriers on the same terms. Furthermore, after the initial five-year period, licenses will be subject to renewal challenge; if a particular licensee has not served the public interest, there is a possibility that another entity could obtain its license. We have also adopted other safeguards, which are mentioned briefly here and discussed in more detail elsewhere.

a. First, unlike our decision in Docket No. 18262, we have now divided the spectrum allocation into two 20 MHz blocks, one of which is for non-wireline entities. Given the expense and complexity of a cellular system, we would expect that the successful non-wireline carrier will have considerable resources to be a viable competitor against the wireline carriers. Thus, with two licensees per market, it will be more difficult for a single entity to dominate the cellular market nationwide. Moreover, as we discuss later, there will be no restrictions on the resale of cellular service. Thus, there may develop a substantial secondary market in cellular service enhancing the competition between the two cellular licensees.

b. We also intend to continue the limitation adopted in Docket No. 18262 that a wireline carrier can only provide cellular service through a separate subsidiary in order to minimize the opportunity for cross-subsidization of the competitive cellular service from monopoly telephone revenues. The separate subsidiary requirement should also make equitable interconnection arrangements more obtainable, a further safeguard that we will impose and which is discussed in detail below.

c. Finally, as discussed in footnote 57 *supra*, where it can be demonstrated in a particular case that harm to the public will result from allowing the wireline carrier an early entry into the market involved, we have, and will exercise, our authority to defer action on the particular wireline application.

44. *Legal Authority.* The Commission's mandate, as expressed in Section 1 of the Communications Act, as amended, 47 U.S.C. 151, is "to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide * * * radio communications service with adequate facilities at reasonable charges." To further that objective the Commission in the past has routinely established separate wireline and non-wireline frequency allocations. In 1949, our purpose in making a separate allocation was to foster the growth of radio common carrier enterprises that would compete with telephone companies offering mobile communications. See *General Mobile Radio Service,* 13 FCC 1190, 1218, *recon. denied,* 13 FCC 1242 (1949). The Commission reviewed this policy in 1963 and found that it had served the public interest well. *ITT Mobile Telephone, Inc.,* 1 RR 2d 957 (1963).[58]

45. In 1968, the Commission again established a separate wireline, non-wireline allocation of frequencies to be used for one-way paging services. This time, however, the reasons for doing so were not to maintain or enhance the competitive position of radio common carriers vis-a-vis wireline companies. Instead in response to objections that the separate allocation would grant AT&T the opportunity to monopolize the one-way paging market, the Commission stated that it based its "conclusions on a composite of the situation nationwide, taking into consideration the overall need for an immediate avenue of relief for a growing and expanding service."[59] The Commission also rejected the claim that AT&T, with its exclusive frequency, would necessarily have an unfair headstart over the non-wireline carrier that might have to undergo a lengthy comparative proceeding. If an appropriate showing pursuant to Section 309(d)(1) of the Communications Act were made in a particular market the Commission stated its intention to bar the wireline carrier from starting earlier. *Allocation of Frequencies, supra,* 12 FCC 2d at 851.

46. The Court of Appeals affirmed the Commission's decision. *Radio Relay Corp. v. FCC,* 409 F.2d 322 (2d Cir. 1969). The Court fully agreed that competition was only one of many important criteria the Commission must consider in reaching a public interest determination. Another important factor the Commission had considered, the Court observed, was the immediate public need for the expansion of one-way paging services. *Id.* at 328. The Court also thought reasonable the measures taken by the Commission to reduce any anticompetitive practices by the wireline carriers. As for the potential early entry problem, the Court agreed that a competitor must be allowed to show that a wireline carrier's early entry would be competitively harmful, although the Court also recognized that that advantage might have to give way to a finding of immediate public need for the service. *Id.* at 329. *Accord. Pocket Phone Broadcast Service, Inc. v. FCC,* 538 F.2d 447 (D.C. Cir. 1976).

47. In summary, we believe that we have a firm legal foundation for establishing a separate wireline allocation in a situation where, as here, (1) there is an immediate need for service to the public, (2) this need can be addressed quickly by a wireline company's expertise, (3) the separate allocation licensing scheme is a reasonable means of avoiding long delays in the availability of any cellular service attributable to comparative hearings, and (4) we have taken reasonable steps to guard against anticompetitive practices. This decision is based on our full consideration of the countervailing considerations raised in the comments and represents our determination of how best to balance the competing public interest factors. See *FCC v. National Citizens Committee for Broadcasting,* 436 U.S. 775, 809, 810 (1978).

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however, a non-wireline applicant can demonstrate that permitting an early entry into the market would not be in the public interest, we would consider a request for a brief moratorium on wireline cellular service. We should emphasize, however, that general unsupported allegations of harm will not be sufficient to delay service to the public. *See Radio Relay Corp. v. FCC,* 409 F.2d 322, 328–29 (2d Cir. 1969); *WLVA, Inc., v. FCC,* 459 F.2d 1286 (D.C. Cir. 1972); *Carroll Broadcasting Co. v. FCC,* 258 F. 2d 440 (D.C. Cir. 1958).

[58] In two recently initiated rulemaking proceedings proposing to make channels available for one-way paging, we tentatively concluded that a separate allocation scheme for wireline and radio common carriers may no longer be necessary in order to stimulate the development of the radio common carrier industry. *See* CC Docket No. 80–189, 45 FR 32025 (May 15, 1980), and General Docket No. 80–183, 45 FR 32013 (May 15, 1980). Our action today is not inconsistent with these proceedings because our separate allocation here is not based on any need to stimulate the growth of the radio common carrier industry.

[59] *Allocation of Frequencies (Guardband),* 12 FCC 2d 841, *recon. denied,* 14 FCC 2d 269, 270–271 (1968). In response to Radio Relay's claims that because of AT&T's allegedly unfair pricing practices and its control of interconnection facilities, the non-wireline companies would be at a severe competitive disadvantage, the Commission found that Radio Relay's fears were overstated. The Commission did, however, decide to attach conditions requiring wirelines to interconnect to non-wireline companies whenever it awarded wireline licenses. *Allocation of Frequencies (Guardband), supra,* 12 FCC 2d at 846, 848–52, 14 FCC 2d at 270–271.

3. Separate Subsidiary Requirement

48. The introduction of cellular radio technology as a basis for an expanded mobile telephone service raises an important regulatory question: how can the introduction of an expanded local telephone service using new technology but provided by wireline carriers be reconciled with a fear expressed by the Commission and others that local exchange telephone companies will have the potential to forestall other competitors by using predatory pricing tactics or misallocating the shared costs of cellular and conventional wireline service? As we have discussed earlier, this concern must be considered alongside other public interest considerations favoring wireline participation. One step we believe we can take to abate this fear is to require wireline carriers to establish a separate subsidiary to offer cellular service. This should make the detection of anticompetitive conduct somewhat easier for regulatory authorities.[60]

49. This structural separation, like any form of regulation, entails both costs and benefits. A cost of this separation is the preclusion of some of the possible economies in jointly providing both traditional wireline and cellular service on an integrated basis. Because these services are not now jointly provided, however, the cost savings of foregone joint production may not be large, *i.e.*, stand-alone provision of these services is already technologically feasible and existing wireline plant has not been engineered with the joint supply of cellular service in mind.

50. On the other hand, the benefits of such separation may be substantial. First, structural separation may encourage competitive entry by reducing the possibility that wireline carriers will behave anticompetitively. Certainly as the Department of Justice has contended,[61] the imposition of a separate subsidiary requirement will not alter the opportunity of wireline carriers to pursue anticompetitive strategies. Nevertheless, we reject Justice's suggestion that a separate subsidiary requirement must therefore be virtually a nullity. Complete corporate separation between wireline and cellular entities can frustrate the achievement of anticompetitive strategies because it may, at the margin, imply just enough risk of regulatory exposure to deter such behavior. Second, a separate cellular entity greatly simplifies the opportunity of other cellular operators to gain interconnection rights to the landline network on the same basis as the telephone subsidiary offering the underlying basic cellular transmission facilities. Requiring a wireline carrier to offer cellular service only through a separate entity with facilties separate from the wireline service reduces the opportunity that "technical complexity" or similar reasons could be invoked by wireline carriers as a basis for denying interconnection.

51. The question also arises whether, as we had contemplated at the conclusion of Docket No. 18262, we should impose these separate subsidiary requirements on all wireline carriers or only on selected wireline carriers. After careful consideration of this matter, we have decided to require a separate subsidiary for all wireline carriers. We recognize that this may impose a relatively larger burden on independent telephone companies than on AT&T; however, independent companies also have the opportunity to engage both in predatory practices by using their monopoly revenues from local exchange service and to deny a competing cellular operator interconnection rights. Weighing these competing interests we believe that imposing this requirement on all wireline carriers is necessary to adequately safeguard against potentially anticompetitive practices and to assure equitable interconnection arrangements. In addition, we will entertain requests for waivers of our separate subsidiary requirement where carriers demonstrate that imposition of that provision will be unduly burdensome and that the potential abuses discussed above can be guarded against by less burdensome means.

52. The details of the subsidiary requirement are set forth in our Rules. Briefly, a separate corporate entity must maintain its own books of account, separate officers, separate operating personnel, and separate computing and switching facilities.[62]

4. Interconnection

53. The particular terms and conditions for interconnection of cellular systems with the public switched telephone network have not previously been examined by the Commission. In Docket 18262 we stated our intention that cellular systems be fully interconnected, *see* 51 FCC 2d at 954–55, but the degree to which cellular systems should be incorporated into the network and the hierarchical level at which the cellular systems will interface with the network have not yet been addressed.

54. We believe cellular communications systems will be an important adjunct to, and extension of, the public switched network. That belief, at least in part, underlies our decision to encourage the participation of wireline carriers in the provision of cellular service through the allocation of a separate block of frequencies. We hope that cellular systems of both the wireline carriers and the non-wireline carriers can be incorporated into the network through the interconnection arrangements most favorable to the end user. Some commenters, notably Jan David Jubon, a consulting engineer, urged the Commission to adopt a policy of requiring the interconnection of a cellular system to the telephone network as a class 5 office (also known as an end office or local office) on the same basis as an independent telephone company, instead of connecting to a telephone company central office in the manner of a subscriber telephone or PBX. AT&T proposed that the local telephone company make available a standard interface between the cellular system and the wireline network. The interconnection would be at "one or more local serving wire centers," a serving wire center being a "local telephone company location through which all customers within the geographical area served by that wire center gain access to all of that company's services."

55. In some cases, interconnection of a cellular system as a class 5 office, rather than at a lower hierarchical level, may well be the most appropriate policy.[63] In this regard, we note that no reason has been advanced why the interconnection of a cellular system with the network as a class 5 office is technologically or

[60] In recent years AT&T, because of its dominance in the telecommunications industry, has been required to establish separate corporate entities, *i.e.*, separate subsidiaries, for offering certain types of communications services. The imposition of this form of structural regulation on established carriers is a direct result of policies of the last decade encouraging entry of new firms into various telecommunications markets. *See e.g., Specialized Common Carrier Services*, 29 FCC 2d 870 (1971), *Aff'd sub nom., Washington Utilities and Transportation Commission v. FCC*, 513 F. 2d 1142 (9th Cir.), *cert. denied*, 423 & U.S. 836 (1975).

[61] Department of Justice Reply Comments at 17.

[62] In addition, consistent with our regulatory philosophy expressed in our *Second Computer Inquiry*, AT&T's cellular subsidiary is precluded from selling terminal equipment. *Second Computer Inquiry, Final Decision*, 77 FCC 2d 384 (1980), *Memorandum Opinion and Order*, 84 FCC 2d 50 (1980), *under review sub. nom. Computer and Communications Industry Association v FCC*, D.C. Cir. No. 80-1471 and consolidated cases.

[63] According to Jubon, this would eliminate the need for duplication of central office switching functions and concomitant revenue concentration to the wireline telephone carrier. It would allow non-wireline cellular carriers to perform exchange-level switching functions for their subscribers on an equitable basis—connecting to the network on the same basis as any other exchange-level switch, or class 5 office.

economically inadvisable in general. To the extent that a cellular system will perform the functions of a class 5 office we believe it should be eligible to occupy the hierarchical position of one, and should not be arbitrarily placed below that level. This type of interconnection may not necessarily be the best engineering or cost effective approach in every case, however, as Telocator notes in its reply comments. For this reason we would be hesitant to mandate interconnection of cellular systems to the network as class 5 offices in all cases.[64] The particular point of interconnection of a given cellular system will be dependent upon the design of the system and other factors which may vary from case to case, however.

56. A cellular system operator is a common carrier and not merely a customer; interconnection arrangements should therefore be reasonably designed so as to minimize unnecessary duplication of switching facilities and the associated costs to the ultimate consumer. The particular arrangements involved in interconnection of a given cellular system should be negotiated among the carriers involved and be made the subject of an intercarrier agreement. We do not have a record at this time to determine precisely what such agreements must include.

57. For these reasons, we are not at this time requiring any single type of interconnection for all cellular systems. We shall expect all telephone companies to furnish appropriate interconnection to cellular systems upon reasonable demand, however, and upon terms no less favorable than those offered to the cellular systems of affiliated entities or independent telephone companies. *See Adjustment of Band Edges (Guard Band)* 12 FCC 2d 841, 846, 852, *recon. denied*, 14 FCC 2d 269 (1968), *aff'd sub nom. Radio Relay Corp.* v. *FCC*, 409 F.2d 322 (2d Cir. 1969).

5. Equipment

58. Docket No. 18262 prohibited wireline cellular system operators from manufacturing mobile station equipment, but not base station equipment. *Memorandum Opinion & Order* (Docket No. 18262 on reconsideration) 51 FCC 2d at 952. We allowed wireline licensees to supply and maintain mobile equipment because we believed to do otherwise might limit the availability of equipment over the short term. In the *Notice*, we requested comments on whether these policies were still appropriate. We additionally inquired whether mobile units should be provided on a tariffed or non-tariffed basis, and whether we should require wireline licensees which design, develop or manufacture cellular system components to sell their technology at reasonable fees.

59. With regard to subscriber equipment offerings, we note that the Commission has adopted a general deregulatory policy in the area of terminal equipment since Docket No. 18262 was decided. Since then the terminal equipment market has become increasingly competitive, and there is no reason to believe that consumers will have difficulty in obtaining mobile units. For example, the Illinois Bell developmental system uses mobile units manufactured by E. F. Johnson, Motorola, and OKI. These and several other manufacturers also have tested prototype mobile and portable units on the system. Nevertheless, in view of the competitive nature of the equipment market, we will continue to permit wireline subsidiary licensees to supply and maintain equipment, consistent with our policy of permitting market entry unless there is a compelling showing that it should be restricted. With respect to the questions of tariffing the provision of mobile units, we see no reason why mobile units used in conjunction with cellular systems should be treated differently than other customer premises equipment. Under our *Second Computer Inquiry*, new terminal equipment is to be deregulated (*i.e.*, unbundled and detariffed) after March 1, 1982. Because cellular service is a new service for which its mobile equipment has never been tariffed, we will require that it be unbundled and detariffed from the start. Further, consistent with the *Second Computer Inquiry*, AT&T may only offer this deregulated terminal equipment through a subsidiary separate from the subsidiary offering basic cellular transmission service.[65]

60. We have also determined that wireline licensees should be permitted to manufacture mobile as well as base station equipment. Banning licensee manufacture of equipment would provide unwarranted protection for non-licensee manufacturers and deprive the public of the potential benefits of competition. Most of the comments that supported such a rule focused on fears of either anticompetitive procurement policies by carrier/manufacturers or the ability of Western Electric to dominate the market. At this time we have no reason to believe such fears are justified. In view of the fact that numerous manufacturers have developed prototype cellular units, we expect a competitive environment to flourish. Therefore, we see no need to impose any restrictions on licensees or affiliates on the manufacture of cellular equipment, including the mobile units. If anticompetitive acts by cellular carriers take place in the equipment manufacturing area that have an effect on our regulatory responsibilities, we can take appropriate action at that time.

61. Finally, we have also determined that we will not impose a special requirement upon wireline cellular licensees to share technology. We are not persuaded, as Telocator urges, that such a requirement is necessary. Although we are cognizant of the argument that license contract revenues have financed cellular development, and that as a result cellular technology should be shared, we believe that it is more appropriate to examine technology sharing in the context of the *License Contract* proceeding. *See* CC Docket 80-742, 84 FCC 2d 259 (1981).

C. General Policies and Standards

1. Evaluation of Applications

62. We anticipate that competing non-wireline applications for particular markets will be filed for the Block A frequencies set aside for that group in a number greater than the available licenses. In this section, we discuss the procedures to be used for choosing among mutually exclusive qualified applicants. We also set forth the basic and comparative criteria to be used in evaluating cellular applications.

63. *Procedures.* In the *Notice* we expressed concern that the procedures for consideration of competing applications might cause significant delays in the implementation of cellular service. Such long delays could impose substantial burdens on the applicants, inconvenience the public and frustrate our goal of having cellular service available as rapidly as is practically

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[64] In our recent *MTS WATS Market Structure Report and Third Supplemental Notice*, we said, in a similar context,

"The suggestion that all of the access problems can be resolved by requiring identical access at identical charges is probably too simplistic * * *. We are concerned that any effort to establish a single charge for all access to the local exchange might create a regular straight-jacket that would tend to inhibit * * * innovation service diversity" * * *

48 RR 2d, 67, 90 (1980).

[65] *See* 77 FCC 2d at 435-57, 461-68, 80 FCC 2d at 71-75. Note that the exclusion of mobile telephone equipment from the scope of the *Second Computer Inquiry* was to preserve our options in this proceeding. *See id.* at 447 n. 57. We have found no compelling reason to treat cellular mobile equipment differently from landline customer premises equipment, and we therefore have decided to include cellular mobile equipment within the general policies adopted in that proceeding.

possible. Therefore, we suggested consideration of, and requested comments on, all available procedures that may shorten the time required to select from among competing applicants.

64. Among the procedures we discussed in the *Notice* were the adoption of more streamlined procedures to be used in association with conventional comparative hearings and the use of lotteries or auctions. We also expressed our tentative belief that a hybrid approach could be developed which would minimize the delay associated with the present comparative process while retaining the benefits of comparing proposals that differ substantially on matters that may affect service to the public. In general, the commenters were opposed to the use of lotteries and auctions to select from competing applications. Instead, most commenters urged us to streamline existing comparative procedures. Those commenting favorably with regard to lotteries generally supported an approach similar to the hybrid plan outlined in our *Notice*.

65. Because we believe there may be significant differences among competing applications, we will not adopt, at this time, a straight lottery or auction procedure.[66] Nor will we adopt a hybrid procedure, as outlined in the *Notice*. Future events may, however, dictate a reexamination of appropriateness of using a lottery, auction or hybrid approach for cellular licensing decisions. Consistent with our discussion in the *Notice*, however, we reject the argument that a traditional oral evidentiary hearing—and all its attendant delays—is necessary except in unusual situations. Thus, we find that a procedure involving only "paper" hearing and evidence, decided by an Administrative Law Judge, will best serve the public interest while protecting the procedural interests of the competing private parties. While this approach will not eliminate the delay associated with comparative hearings, it should serve to reduce it somewhat.

66. After applications are received by the Commission and reviewed in accordance with the basic qualifications requirements set forth in this order, competing applications will be designated for comparative considerations. The parties will be permitted to utilize normal discovery processes and submit briefs and appended evidence (under oath) to demonstrate superiority. An Administrative Law Judge will then review the pleadings and, based on the comparative criteria established by the Commission, determine what disposition of the competing applications will best serve the public interest, convenience and necessity. We do not envision that substantial issues of fact requiring oral testimony will arise, except in unusual situations. We will, however, delegate to the presiding Administrative Law Judge authority to receive oral testimony, to provide for cross examination of witnesses and to adopt other procedures not inconsistent with the Commission's rules or the Act upon a substantial showing that a party will be prejudiced by the submission of all the evidence in written form. *See* 5 U.S.C. 556(d). We will also delegate to the Common Carrier Bureau authority to determine, at the time of designation for hearing, that exceptions to a decision by an Administrative Law Judge shall be made directly to the Commission. *See* § 0.365 of our rules.

67. *Legal Authority.* The Commission has broad discretion to use differing procedures in differing contexts as required for the proper dispatch of business, and the types of hearing required must be analyzed in terms of the nature of the proceeding and the pertinent statutory provisions. *Bell Telephone Co. of Pennsylvania* v. *FCC*, 503 F. 2d 1250 (3rd Cir.), *cert. denied*, 422 U.S. 1026 (1974). Our paper hearing procedures satisfy the general statutory provisions relevant to hearing procedures to be employed in adjudicative administrative proceedings as set forth in Sections 554 and 556 of the Administrative Procedure Act (APA) and Section 409 of the Communications Act. Althouth 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,"[67] it is effective in cases of adjudication only when made so by Section 554. Section 554 applies only to adjudications "required by statute to be determined on the record * * *."[68] 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 license proceedings, requires that such hearings be "on the record." 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."[69] Thus, our paper proceeding satisfies the general hearing requirements set forth in the APA and the Communications Act. Indeed, the APA provision which is designed to establish procedural hearing rights appears specifically to condone paper proceedings for initial license awards.

68. Aside from our statutory authority to conduct paper proceedings, our proposal also meets the hearing requirements set forth in *Ashbacker Radio Corp* v. *FCC*, 326 U.S. 327 (1945), and other court decisions considering the adequacy of Commission hearing procedures. *Ashbacker* is most often cited as requiring a comparative hearing for consideration of competing applications. However, it says nothing about a full oral trial-type hearing. Instead, the basic requirements of *Ashbacker* are twofold: an equitable and meaningful hearing for all applicants and a determination, based on an exercise of judgment, on where the public interest lies. Our "paper" procedure meets both the equity and public interest requirements of *Ashbacker*.

69. The fact that comparative hearings have been traditionally conducted in a full oral adjudicatory proceeding does not limit our discretion to explore other alternatives for, as the U.S. Court of Appeals for the Third Circuit has said:

> 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.

Bell of Pa., supra, 503 F. 2d at 1265. Our paper procedures are particularly appropriate for hearings on cellular applications. A significant objective in this proceeding has been to expedite service to the public. These procedures will further that objective by accelerating the selection of the best applicant without sacrificing an applicant's right to be heard.

70. In cellular systems licensing proceedings we do not believe that oral testimony will, except in unusual

[66] These procedures are being examined in another rulemaking proceeding. *Use of Alternative Procedures in Choosing Applicants for Radio Authorizations in the Multipoint Distribution Service*, CC Docket No. 80-116, 45 FR 29335 (May 2, 1980).

[67] 5 U.S.C. 556(d).

[68] 5 U.S.C. 554(a) Cf. *United States* v. *Florida East Coast Ry. Co.*, 410 U.S. 224 (1973); *United States v. Allegheny & Ludlum Steel Corp.*, 406 U.S. 742 (1972).

[69] 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 (76), 87th Cong., 1st Sess. 1 (1961).

situations, enhance our ability to make public interest findings. We have noted in our *Notice of Proposed Rule Making* regarding the Multipoint Distribution Service (MDS NPRM) [70] that "paper" evidence and argument should suffice, both in terms of the private right to be heard on disputed factual issues and the public interest in awarding licenses:

> 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 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.

45 FR at 29344. We believe the discussion in the *MDS NPRM* is equally relevant in the present proceeding.

71. *Basic Criteria.* Cellular applicants will be required to comply with all the basic qualifications requirements which apply to applicants in the Public Mobile Radio Services, except as provided for in the new Subpart K of our Rules, adopted today. Section 22.913 of our Rules sets forth the particular showings required of cellular applicants, including the application forms to be used and the exhibits to be provided.

72. Cellular applicants must demonstrate that they are financially qualified to construct their proposed facility and to operate it for a reasonable period of time. Such a demonstration is necessary because of the large capital investment required to finance the highly sophisticated technology associated with cellular operations, and because cellular service is in an early stage of development and must be viewed as a relatively high-cost business venture.[71] Moreover, because our Rules provide that only two cellular systems can operate in the same geographic area, the inability of any cellular licensee to provide service could significantly inconvenience the public and would cause a huge amount of spectrum to be unused.

73. Cellular applicants need not, however, demonstrate a public need for service in order to comply with our basic cellular qualifications. We have eliminated this requirement as a basic qualification because of our desire to establish cellular service nationwide and because of the information provided in this proceeding indicating a need for service generally. *See* paragraph 41, *supra*. Therefore, even in the unlikely event that an applicant could not show local need, the presence of a cellular system would further our overall objective. However, our comparative criteria, discussed below, include a consideration of the public need each applicant is likely to serve.

74. *Comparative criteria.* In the *Notice* we asked for comment on the criteria to be used in evaluating competing applications on a comparative basis, as well as basic qualifying criteria for cellular applications. We listed criteria traditionally used in the Domestic Public Land Mobile Radio Service, as well as several other factors that may be relevant, and we asked commenters to suggest other criteria. There was some support in the comments for using the traditional DPLMRS criteria. Telocator suggested that existing, certificated RCCs should be preferred and that wireline carriers and applicants with a history of anticompetitive activity should receive demerits. AT&T suggested that an applicant's technical skills with regard to cellular engineering should be a significant criterion.

75. In establishing policies for cellular service we have intended to serve the public interest by implementing a nationwide high-capacity mobile communications service capable of providing both local and roaming mobile telephone users the ability to place and receive calls. The criteria used in selecting licensees should therefore be related to these goals.

76. Because nationwide availability of service is a primary goal, a major basis of comparison will be the geographic area that an applicant proposes to serve. In comparing proposed service areas, other significant factors to be considered will be the presence of densely populated regions, highways, and areas likely to have high mobile usage characteristics, as well as indications of a substantial public need for the services proposed, including the results of public need surveys.

77. The second major comparative factor is the applicant's ability to expand its system capacity in a coordinated manner within the proposed service area in order to serve an increasing number of local subscribers and roamers as demand warrants. Expansion can take place through the addition of transmitters beyond those originally planned or through the addition of cell locations and the use of smaller cells. In making a comparison, preference will be given to designs entailing efficient frequency use. Efficient frequency use entails not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system is and will be capable of, as well as the ability to coordinate the use of channels with adjacent or nearby cellular systems.

78. There will be other areas in which applicants can be compared in ways that are relevant to the public interest goals of the cellular service, but they will generally be less significant than these two criteria. The adequacy of base station and switching facilities and related maintenance proposals may be an issue in comparative proceedings in some cases, but we do not expect this to be a significant issue in general. Personnel and practices will be significant to the extent that they affect an applicant's ability to implement its proposal. The rates, charges, classifications, and regulations of applicants will also be considered a basis for comparison as well as the public need indicated by subscriber surveys. In view of the competitive nature of the mobile equipment market, and the fact that this area is to be deregulated, however, we will not compare cellular proposals on the basis of subscriber equipment or its maintenance.

2. Federal-State Jurisdiction

79. Throughout the cellular proceeding an essential objective has been for cellular service to be designed to achieve nationwide compatibility. In this regard, we expressly stated that a cellular subscriber traveling outside of his or her local service area should be able to communicate over a cellular system in another city. Nationwide compatibility is also likely to increase the number of manufacturers providing the cellular equipment. This price and product competition should benefit the consumer through lower equipment costs and greater equipment selection. Because state and local regulation might conflict with and thereby frustrate our federal policy of introducing cellular service in a competitive environment without significant delay, the *Notice* asked whether there may be a need to assert federal primacy over the regulation of cellular services.

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[70] *See* note 66, *supra*.

[71] Our position on this matter is not inconsistent with our action in an earlier rulemaking where we eliminated the requirement that DPLMRS applicants demonstrate financial qualifications. There we noted that the DPLMR Service is a low-cost, low-risk industry. *Elimination of Financial Qualifications*, 82 FCC 2d 152 (1980).

80. Federal courts even before passage of the Communications Act in 1934 had held that the Federal government already fully and exclusively occupied the field of radio licensing and regulation.[72] However, Congress, in the Communications Act of 1934, as amended, explicitly granted to this Commission sole authority to license radio facilities. Specifically, Section 301 of the Act provides that "[n]o person shall use or operate any apparatus for the transmission of energy or communications or signals by radio * * * except under and in accordance with this Act and with a license on that behalf granted under the provisions of the Act." 47 U.S.C. 301. In enacting such legislation Congress has determined that overall management of the radio spectrum and the licensing of radio facilities are areas within the exclusive jurisdiction of the Federal government. *NARUC* v. *FCC*, 525 F.2d 630 (D.C. Cir. 1976), *cert. denied*, 425 U.S. 992 (1976).

81. The Communications Act also provides, in Title II, a framework for the economic regulation of common carriers. Sections 2(b) and 221(b) reserve to the states jurisdiction with respect to charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate or local exchange communications service by wire or radio 47 U.S.C. Section 152(b) and 221(b).[73] However, both of these sections are expressly subject to our authority under Section 301, which gives this Commission sole jurisdiction over radio licensing. In Docket No. 18262, in comparing the scope of Sections 2(b) and 221(b) with that of Section 301, we concluded that the "licensing" or "franchising" functions are not among those reserved to the states even with respect to common carriers subject to Sections 2(b) and 221(b). 51 FCC 2d 945, 974. By virtue of the Communications Act the FCC may fully exercise its authority to license or certify how many and which carriers will operate cellular systems.[74]

82. In accordance with our authority discussed above, we are asserting federal primacy over the areas of technical standards and competitive market structure for cellular service. Our licensing scheme requires assurance that the 40 MHz of radio spectrum allocated for cellular service is used effectively and efficiently. The technical standards set forth in this *Report and Order* are the minimum standards necessary to achieve the desired goals and any state licensing requirements adding to or conflicting with them could frustrate federal policy. Similarly, any state franchising regulations requiring demonstration of a general public need for cellular service could adversely affect our frequency allocation scheme or delay the rapid implementation of cellular service, both of which are central elements of the federal design for cellular operations.

83. At this time, however, we are not exercising all of the authority we have to assert federal primacy. The states can continue their complementary role regarding certification of carriers to provide mobile or cellular service. A dynamic state certification program should provide considerable assistance in achieving the objectives of this cellular proceeding. Specifically, such state action could help assure that the most qualified applicants become cellular licensees if it is made expeditiously so that it can be reflected in the FCC's radio licensing proceeding. However, applicants will not be required to secure prior state certification before filing an application for a construction permit with the FCC. *See Regulatory Policies and Procedures* (Docket 20870), 69 FCC 2d 398 (1978), *recon. denied*, 80 FCC 2d 294. It is conceivable that a state could delay implementation of cellular service or frustrate the competitive market structure established in this proceeding by refusing to find more than one cellular applicant in any geographic area qualified to provide service. We do not expect this to be the case. However, in individual cases, the Commission has demonstrated that it can act expeditiously to avoid frustration of federal policy. See *e.g., Heritage Village Church*, FCC 81-184, 46 FR 19319 (March 30, 1981).

3. Technical Standards

84. In our *Notice* we identified three purposes to be served by technical standards for cellular systems: (1) Definition of cellular mobile radio for purposes of qualifying for cellular mobile radio operating licenses; (2) assurance of compatible operation of equipment on both local and national levels; and (3) maintenance of signal quality and other quality aspects of system performance. We intended to adopt only the minimum standards necessary to accomplish these purposes. We listed a number of cellular system design concepts based on those underlying the developmental program established in Docket No. 18262 and we requested comment on whether changes to these design concepts were necessary.[75] While we recognized that 40 kHz bandwidth would be consistent with our present requirement, we concluded that cellular operations

[72] See *e.g., The Federal Radio Commission in Federal Court*, XIV Journal of Broadcasting 343 (Fall 1970), especially authorities discussed at 397-398.

[73] Sections 2(b) and 221(b) were amended in 1954 to clarify this Commission's jurisdiction over telephone and telegraph companies engaged primarily in intrastate and local regulation rather than federal regulation. The amendments added intrastate and local exchange radio service to the area reserved to the states. The purpose of the amendments was to insure that the use of radio, as opposed to wireline, in the communication service offered by telephone and telegraph companies engaged primarily in intrastate activities would not subject such companies to the jurisdiction of this Commission. However, these amendments were not intended to withdraw from this Commission its exclusive authority over the licensing of radio facilities. *See* 1954 U.S. Code Congressional and Administrative News, p. 2133 et seq.

[74] In addition, the federal scheme for the provision of cellular service set forth in this order, and principally the goal of introducing nationwide compatible cellular service without undue delay, also provides an independent basis for this Commission having sole jurisdiction over licensing of cellular facilities. Legal authority supporting such federal primacy is clear. As noted earlier, cellular systems can provide both intrastate and interstate communication. Federal primacy where necessary to preserve a federal scheme for the provision of interstate communications has previously been upheld, even when not based upon the FCC's exclusive radio licensing authority. *See Telerent Leasing Corp.*, 45 F.C.C. 2d 204 (1971), *aff'd sub nom. North Carolina Utilities Commission* v. *FCC*, 537 F. 2d 787 (4th Cir.), *cert. denied.*, 429 U.S. 1027 (1976); *North Carolina Utilities Commission* v. *FCC*, 552 F. 2d 1036, (4th Cir.), *cert. denied*, 434 U.S. 874 (1977). See also *California* v. *FCC*, 567 F. 2d 84 (D.C. Cir.), *cert. denied* 434, U.S. 1010 (1978). (FCC authorization of physically intrastate foreign exchange service overrode state restriction on use of facilities prohibiting such service).

[75] The design concepts, as modified in the *Notice*, are:

(a) A bona fide cellular configuration of base station transmitters and receivers to cover the proposed service area;

(b) Base station transmitters radiating no more radio frequency power than required to adequately cover each cell;

(c) A radio system fully interconnected with the public landline telephone network and capable of providing a grade of service comparable to that of the landline system;

(d) Narrow band frequency modulation for all voice channels in the radio system, with 30 kHz channel spacing;

(e) Radio frequency channels employed within each cell trunked for greater spectrum efficiency;

(f) For systems in metropolitan areas, the potential for orderly evolution into a highly efficient small-cell configuration capable of handling a large number of subscribers within the allocated 40 MHz of spectrum; and

(g) Compatibility with other cellular systems.

78 FCC 2d 1003-4. These guidelines were previously set forth by the Commission, with two differences, 51 FCC 2d at 954-55, 1009. Originally, there was a requirement that base stations be connected together through a common switching and control point using wirelines. We deleted that requirement because we saw no reason to categorically exclude microwave or optical links. Second, we modified radio channel definition (item (d) in the list above) to change from a 40 kHz authorized bandwidth definition to a 30 kHz spacing definition.

would be accommodated within 30 kHz channel spacing by careful geographic distribution of channel assignments, the result of which would be greater spectrum efficiency. 78 FCC 2d at 1004.

85. The commenters generally support our position in the *Notice* that we adopt the minimum technical standards necessary to accomplish our goals for cellular service. However, they express varying views regarding basic technical standards for cellular systems. For example, ARTS, Motorola, the Electronic Industries Association, Jubon, NECA,[76] and E.F. Johnson are proponents of the systems that utilize 30 kHz channels, while Millicom, Peters,[77] and SIRSA prefer 25 kHz channel spacing. Similarly, different signaling formats are preferred by various commenters.

86. *Analysis.* We have carefully reviewed the comments and have determined that minimum standards must be established to insure that our objectives, including system compatibility, are achieved. Therefore, we are amending Part 22 of our rules to incorporate certain basic technical requirements for cellular systems and are establishing a new Subpart K containing specific rules and standards for cellular systems. Significant technical standards and modifications to our Rules are discussed below.

87. *Cellular design concept.* We are adopting a cellular system definition that affords system designers a great deal of flexibility. Under our definition, a cellular system is—

> A high capacity land mobile system in which spectrum assigned is divided into discrete channels which are assigned in groups to small geographic cells covering a defined service area. The discrete channels are capable of being reused in different cells within the service area.

This definition does not mean that a cellular system must have multiple cells at the time of initial implementation; in some areas a single cell may initially be all that is called for. Once a multiple cell system is established, however, there must be provision for transferring control of a mobile from cell to cell as it travels through the system. Reuse of channels within a service area is an inherent capability of a cellular system as it grows in capacity over time, but it will not necessarily be an existing feature of all systems. What we have done in defining a cellular system in a flexible manner is to incorporate the basic concepts of cellular design. Thus, any application for a cellular system must include adequate documentation of its compatibility with those concepts, even if features such as reuse are not immediately implemented.

88. *Frequencies.* Frequency assignments for cellular systems will be made from Block A or Block B. These Blocks each contain 333 channel pairs, including 21 channel pairs to be for set-up and control purposes. Channel spacing is 30 kHz. We are not selecting 25 kHz channel spacing for several reasons. First, there has been no developmental or experimental test data submitted in this proceeding indicating the feasibility of cellular operations using 25 kHz spacing in conjunction with the signaling and frequency reuse criteria used by AT&T and Motorola. Even the use of 30 kHz spacing in these systems requires careful placement of adjacent channel transmitting sites, due to the fact that the bandwidth of the signals exceeds 30 kHz under certain signaling conditions. Secondly, the experience in the private radio services with 25 kHz channeling in the 800 MHz band is not particularly instructive. These systems do not have the capability to reuse channels at relatively close distances and do not utilize high-speed digital signaling; the channel usage characteristics will therefore be significantly different than for cellular systems. Thus, if 25 kHz channel spacing were adopted, a lengthy period of further development would be needed before adoption of standards.

89. *Height and power limitations.* The effective radiated power of base stations is limited to 100 watts. The height-power limitation for base stations is 100 watts effective radiated power at 500 feet above average terrain. Those limits were chosen in order to provide a signal level of approximately 39 dbu at a distance of 15 miles, based on the propagation model currently used for 450 MHz in the Domestic Public Land Mobile Radio Services. These are somewhat lower than the limits proposed by AT&T in the draft rules it submitted. Our reason in adopting these limits (and thereby reducing maximum cell size) is to reduce the likelihood of intersystem interference and thus facilitate the coordinated use of frequencies.

90. For the purpose of establishing the limits of reliable service and performing interference studies, we adopt an interim policy. It is anticipated that the Commission will develop propagation models specifically for the 800 MHz frequency band at a future date. For the present, procedures used for 450 MHz facilities will be used until 800 MHz propagation models are developed. For now, applicants must use, except as otherwise noted in our rules, procedures consistent with § 22.504 and F.C.C. Report No. R-6406, "Technical Factors Affecting the Assignment of Facilities In the Domestic Public Land Mobile Radio Service," by Roger B. Carey.

91. The effective radiated power of mobile units is limited to 7 watts. All mobile units must be initially capable of communicating on the 666 channels of Blocks A & B specified in the Rules.

92. *Compatibility standards.* In response to our *Notice*, in which we expressed the intent to leave the development of detailed specifications to industry groups or voluntary organizations, we received a draft of compatibility specifications from the Ad Hoc Engineering Committee and the Land Mobile Communications Section of the Electronic Industry Association's (EIA) Communications Division. The EIA working paper is based on the developmental systems of Illinois Bell and American Radio Telephone Service.

93. Although the EIA draft was only intended as a working paper, we have examined the mobile station and base station compatibility standards embodied in it and we find that they are an appropriate means of reaching compatible intersystem operation. Accordingly, we are adopting the EIA working paper [78] as a compatibility specifications standard with certain modifications.[79] We shall require all mobile, portable, and base stations, at this time, to conform to the compatibility specifications adopted in this proceeding.[80]

94. *Other technical matters.* We shall continue to require that cellular systems be interconnected to the telephone network. As we have discussed above, we do not at this time prescribe a particular type of interconnection.

95. We do not intend to establish standards for grade of service. A quality "comparable to landline" has been demonstrated as possible over the course of this proceeding. It does not appear necessary or desirable, however,

[76] NECA is a subsidiary of NEC, manufacturer of the Japanese cellular system, which utilizes 25 kHz channels. NECA's comments, however, support 30 kHz channels, and propose a system design using 30 kHz channels.

[77] Arthur K. Peters is the engineering consultant who prepared NECA's system design proposal using 30 kHz channels. He also filed reply comments on his own behalf advocating the use of 25 kHz channels because, he stated, other countries have adopted a 25 kHz standard.

[78] See § 22.915 of the rules.

[79] See §§ 22.906 and 22.907 of the rules.

[80] Conformity to the compatibility specifications adopted by the Commission shall be required for type acceptance of a mobile or portable unit for use in the 800 MHz band under Part 22. Conformity to the compatibility specifications for base station equipment shall be required of all applicants for regular authorization.

for us to take the next step and impose a particular grade of service on cellular service consumers regardless of their willingness to pay for it. Setting quality standards could also have the detrimental effect of denying service to economically marginal markets. We favor allowing the interplay of market forces to determine the grade of service delivered. Some carriers may experiment with tariffs and service algorithms that give consumers a choice of quality levels at different charges.

4. Regulatory Structure

96. We are establishing a regulatory structure under which a cellular system operator, once authorized, will have considerable freedom to adapt its system to growing or changing demand. Flexibility to adapt to change is inherent in the cellular concept and an approach requiring any more paperwork or prior approval than is absolutely essential might destroy that flexibility. Accordingly, once a cellular service area has been established, the system operator will be able to modify its system without substantial oversight, as long as it serves the same area. Thus, the key to our regulatory structure is the geographic service area of a cellular system.

97. *Cellular geographic service area.* The cellular geographic service area (CGSA) is the area defined by the applicant as the area it intends to serve. A licensee must, from initial operation onward, serve at least 75% of the CGSA. At the time of initial application, the applicant's proposed reliable service contours, as defined in the rules, must cover at least 75% of its proposed CGSA. Any change in a licensee's facilities must continue to have 75% coverage within its CGSA. An application proposing to change the boundaries of a CGSA in any way will be considered a "major application."

98. *Change of facilities within CGSA.* A permittee or licensee may wish at some point to modify transmitter locations or add more transmitter locations. If the proposed change in the operator's facilities does not result in the extension of reliable service contours beyond the existing CGSA, the change will be deemed a "minor application" not subject to public notice or petitions to deny. We believe that such charges need not be considered major as contemplated by the Communications Act. It is important, however, that changes such as these receive prior authorization from the Commission because they involve the construction of facilities at locations not previously authorized. Requiring prior authorization will ensure that any new antenna structure is recorded in our records and cleared with the Federal Aviation Administration if necessary.

99. *Permissive changes.* A licensee will be authorized the use of a full Block (A or B) of frequencies throughout its CGSA. Thus, no prior authorization or modification of license will be required for a change in the use of channels included in that Block at any or all of the licensee's locations. Licensees must, however, coordinate any frequency changes with other cellular systems, so as to avoid interference. In addition, a licensee must file a written notification of any permissive change with the Commission to ensure the continued accuracy of our records.

100. *Mutual exclusivity.* A grant authorizing a cellular system to operate in a given frequency Block within a specified CGSA will be exclusive. Therefore, two or more applications using the same frequency Block and proposing CGSAs that will overlap with each other will be considered mutually exclusive. Thus, if more than two applicants apply in the same central city, their applications will be designated for comparative evaluation if their applications are filed within the cutoff period specified in the Commission's rules. After five years, when the separate allocation expires, if two applicants file for overlapping areas they will not be considered mutually exclusive if one applicant can be assigned Block A and the other one Block B; but if either Block is already assigned, with only one Block available, the applications will be considered mutually exclusive.

101. *Procedural dates.* The public notice and cutoff periods for major applications (new stations and changes in CGSA) will be those generally applicable under Part 22.

102. *Applications.* All applications for new stations, changes in facilities of existing stations, and changes in cellular geographic service area shall be filed on FCC Form 401. Certain exhibits will be required in conjunction with these application forms in connection with cellular applications. These mandatory exhibits are described in the Rules.

5. Resale of Cellular Services

103. In our *Notice* we inquired as to the structure and arrangement under which the reselling of cellular service might develop. We also inquired as to whether resale is economically feasible, whether resale is a competitive alternative to other non-cellular services and whether we should impose any restrictions or requirements regarding resale.

104. In our view, the most important issue involving cellular resale is whether cellular system tariffs will restrict resale. In our *Resale and Shared Use* decision,[81] we held to be unlawful provisions in carrier tariffs which had the effect of precluding resale of private line services. We took this action because we recognized that resale was an effective deterrent to price discrimination among cross-elastic services and, in any event, these tariff discriminations were unable to meet the "just and reasonable" standard of the Act.[82] Using an analogous rationale, we recently ordered that similar tariff provisions be eliminated from interstate WATS and MTS tariffs.[83]

105. We are not certain that true resale of cellular service will develop. We continue to believe, however, that restriction of cellular resale is contrary to the public interest for reasons similar to those set forth in *Resale and Shared Use of Common Carrier Public Switched Network Services*. Therefore, pursuant to our licensing authority set forth in Section 309 of the Communications Act [84] we will condition radio licenses awarded to system operators such that no restrictions on resale and shared use of cellular services will be permitted.[85]

106. As mentioned earlier, a variation of true resale of service is being developed by AT&T. Under this plan, an AT&T cellular system would operate as a wholesale carrier, making system capacity available to retail distribution entities, including its own distribution arm, for sale to the ultimate users of cellular service. Separate books of account would be maintained between the licensee and retail functions.[86]

107. This wholesaler-retailer arrangement may result in the evolution of a highly competitive secondary market for distribution of cellular service, while only two carriers compete in the provision of cellular facilities. It is not clear at this time that such an arrangement is truly resale, or is instead an intercarrier service offering or an agency arrangement. Nevertheless, we do not want to frustrate the development of innovative methods of service distribution and we encourage

[81] 60 FCC 2d 261 (1976), *recon. granted in part*, 62 FCC 2d 588 (1977), *aff'd sub nom. AT&T v. FCC*, 572 F.2d 17 (2d Cir.), *cert. denied*, 439 U.S. 875 (1978).

[82] See 47 U.S.C. Sections 201(), 202(), 205(a).

[83] *Regulatory Policies Concerning Resale and Shared Use of Common Carrier Domestic Public Switched Network Services*, CC Docket No. 80-44, 83 FCC 2d 167 (1980).

[84] 47 U.S.C. Section 309.

[85] The mobile units of the customers of a reseller will be considered to operate under the "blanket" mobile license of the underlying carrier.

[86] *See* AT&T Comments, pp 58-66.

the evolution of truly competitive markets. Of course, until the workings of this arrangement are clear, we cannot say with any certainty that it is likely to lead to a greater diversity of service offerings or lower prices. However, we shall require that AT&T and its underlying cellular affiliate provide system capacity to non-affiliated retailers or resellers on a non-discriminatory basis and on the same terms and conditions as its own distribution arm.

6. Services

108. The final decision in Docket No. 18262 imposed no restrictions on cellular system provision of dispatch services, except for fleet-call dispatch. We concluded that if cellular systems could, through natural economies, provide lower-priced dispatch services, the public should not be denied that benefit. *Second Report and Order, supra,* 46 FCC 2d at 761. As we discussed earlier, the record in this proceeding supports our reaffirming our prior conclusion as far as general dispatch services are concerned. *See* paragraphs, 33–36, *supra.* [87] And as discussed above, we cannot agree that a dispatch service restriction on wireline carriers is called for. The ability to resell common carrier services coupled with the other conditions we have imposed on wireline participation gives us confidence that the ability of wireline carriers to cross-subsidize will be greatly minimized.

109. In Docket No. 18262 we prohibited cellular systems from offering fleet call dispatch service [88] because of technical evidence indicating that the widespread use of such service would substantially reduce the efficiency of the cellular system. *Id.* We reaffirmed this decision on reconsideration. *Memorandum Opinion and Order, supra,* 51 FCC 2d at 952, n. 16.

110. In our *Notice,* we sought comment on whether there have been technological developments which would tend to lesson the degree of spectrum inefficiency that might result if licensees were allowed to provide fleet-call dispatch service. 78 F.C.C. 2d at 996. In response to our *Notice,* arguments have been raised again in this proceeding against fleet-call dispatch service, generally in the name of spectrum efficiency. Fleet calls are said to be less efficient on cellular systems than on conventional mobile systems because (1) the mobile units cannot be signaled simultaneously over the control channels, necessitating a time-consuming serial signaling technique, while a conventional mobile system would use a common calling technique, and (2) because the mobile units would each require a separate voice channel, while a conventional system could operate over a single channel. On the other hand, NTIA, in an appendix to its comments, questions whether cellular systems will be as inefficient as it has been alleged in providing fleet-call service, and notes that there may be means of diminishing the degree of spectrum inefficiency. NTIA also contends that even if inefficient, fleet-call should not be prohibited, but rather the market should determine whether it is a viable offering.

111. Since the time we terminated Docket No. 18262 we have added considerably to our understanding of cellular technology, as well as rapid signalling techniques. This knowledge has not, however, adequately prepared us to decide today whether we should extend our prohibition on fleet calling. To the contrary, it has caused the staff to become sharply divided on this issue. Specifically, there is disagreement over the extent, if any, to which cellular fleet calling is spectrally inefficient, and whether there are other considerations which warrant us freeing cellular operators of any fleet-call service restrictions notwithstanding any spectrum inefficiencies. The record in this proceeding is not adequate to permit us to resolve this conflict. As a result, we believe that it is appropriate to issue a *Further Notice of Proposed Rulemaking* regarding our treatment of fleet-call offerings by cellular operators. In our view, this approach is necessary in order to obtain additional information required to make an informed decision on this matter. We are therefore instructing the staff to prepare a *Notice* addressing the questions of fleet-call dispatch. [89] We will continue our prohibition against cellular systems offering fleet-call dispatch service pending resolution of that rulemaking.

D. Conclusion

112. We believe we have in this *Report and Order* established a framework within which the needs of the public for mobile communications can be met for the foreseeable future with a minimum of regulation. Cellular systems should be capable of adapting to changing customer demands and advancing technology. Licensees in this service will have the responsibility to adapt to the changing market environment.

113. Accordingly, it is ordered, pursuant to 47 U.S.C. 154(i) and 303(r), that Title 47 of the Code of Federal Regulations is amended as described in Appendix C below. These amendments shall become effective on or before June 22, 1981. We will begin accepting applications filed under the new Subpart K of Part 22 five months after the effective date of these amendments. The reporting requirements included herein are adopted subject to clearance by the Office of Management and Budget.

114. It is further ordered, that the Bureau has the authority, when designating applications for hearing, to specify that any exceptions to a decision made by an Administrative Law Judge be made directly to the Commission.

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

(Secs. 4, 303, 307, 48 Stat., as amended, 1082, 1083; (47 U.S.C. 154, 303, 307, 1066))

Federal Communications Commission.

William J. Tricarico,

Secretary.

Note.—Because of the effort to minimize publishing costs, Appendices A and B, "Summary of Comments" and "Summary of Reply Comments", are not printed herein. However, these Appendices are available for inspection in the FCC Dockets Branch, Rm. 239 and also filed with the original document at the Office of the Federal Register.

Appendix C

Title 47, Part 22 of the Code of Federal Regulations is amended as follows:

§ 22.2 [Amended]

1. By revising § 22.2 to add the following definitions in alphabetical order:

* * * * *

Cell. The area reliably served by a transmitter location in a cellular system.

Cellular System. A high capacity land mobile system in which assigned spectrum is divided into discrete channels which are assigned in groups to geograhic cells covering a cellular geographic service area. The discrete channels are capable of being reused in different cells within the service area.

[87] The only technical arguments against non-fleet call dispatch are that it may increase system loading and require a complex service algorithm. These do not justify a prohibition. We do not intend to prescribe system loading or the software by which the cellular switch operates either for mobile telephone or for dispatch. These matters are left to the carriers to resolve in the context of the particular demands in their service areas.

[88] Fleet-call dispatch service is a variety of dispatch service in which a dispatcher is able to establish simultaneous communications with multiple mobile units.

[89] We note that our decision to seek further comment, rather than to resolve this issue today, should not result in any serious delay in the development of cellular plans by prospective cellular applicants. With a relatively brief pleading cycle, we would expect to be able to resolve the fleet-call question and to terminate our further rulemaking proceeding before many cellular applications are processed.

Cellular Geographic Service Area. The geographic area served by a cellular system within which the licensee is required to provide reliable service.

Control Channel. The channel used for transmission of digital control information from the base station to the mobile station or from the mobile station to the base station.

* * * * *

Roamer. A mobile station which communicates with a land station other than one with which it is normally associated.

* * * * *

2. In § 22.9, the heading is revised to read as follows:

§ 22.9 Standard application forms for Domestic Public Land Mobile Radio, Rural Radio, Domestic Public Cellular Radio Telecommunications and Offshore Telecommunications Services.

* * * * *

3. Section 22.15 is amended by revising paragraph (c) and by adding new paragraph (m) to read as follows:

§ 22.15 Technical content of applications.

* * * * *

(c) Each application involving a new or modified antenna supporting structure or passive facility, the addition or removal of an antenna, or the repositioning of an authorized antenna for a station or receive-only facility must be accompanied by a vertical profile sketch of the total structure depicting its structural nature and clearly indicating the ground elevation (above mean sea level) at the structure site, the overall height of the structure above ground (including obstruction lights when required, lighting rods, etc.) and if mounted on a building, its overall height above the building. All antennas on the struture must be clearly identified and their heights above-ground (measured to the center of radiation) clearly indicated. In addition, the height to the upper tip of the antenna shall be indicated for those operating in the Domestic Public Land Mobile Radio Service, Rural Radio Service, and the Domestic Public Cellular Radio Telecommunications Service.

* * * * *

(m) In the Domestic Public Cellular Radio Telecommunications Service each application shall contain the information described in § 22.913.

4. In § 22.23, paragraph (c)(1) is added to read as follows:

§ 22.23 Amendment of applications.

* * * * *

(c) * * *

(1) If in the Domestic Public Cellular Radio Telecommunications Service, the amendment results in any change in the Cellular Geographic Service Area.

* * * * *

5. In § 22.31, paragraph (a)(1) is added to read as follows:

§ 22.31 Mutually exclusive applications.

(a) * * *

(1) In the Domestic Public Cellular Radio Telecommunications Service, applications shall be considered mutually exclusive if their Cellular Geographic Service Areas overlap in such a way that a grant of one would preclude the grant of one or more of the other applications.

* * * * *

6. In § 22.32, paragraph (e)(5) is added to read as follows:

§ 22.32 Consideration of applications.

* * * * *

(e) * * *

(5) In the Domestic Public Cellular Radio Telecommunications Service the application is entitled to comparative consideration (under § 22.31) with another application (or applications); in such cases the hearing shall conform to the comparative evaluation procedure described in § 22.916.

* * * * *

7. Section 22.43 (c) is added to read as follows:

§ 22.43 Period of construction.

* * * * *

(c) Base stations, which will provide coverage over 75% of the cellular geographic area, as defined in § 22.905 of these rules, shall be completed and the station ready for operation within 36 months from the original date of the construction permit.

8. In § 22.101, paragraph (a), is revised to read as follows:

§ 22.101 Frequency tolerance.

(a) The carrier frequency of each transmitter authorized in these services shall be maintained within the following percentage of the reference frequency except as otherwise provided in paragraph (b) of this section (unless otherwise specified in the instrument of station authorization the reference frequency shall be deemed to be the assigned frequency):

Frequency range Mhz	Frequency tolerance (percent)		
	All fixed and base stations	Mobile stations over 3 W	Mobile stations under 3 W [1]
25 to 50	0.002	0.002	0.005
50 to 450	.0005	.0005	.005
450 to 512	.00025	.00025	.0005
512 to 821	.0005	.0005	.005
821 to 896 [2]	.00015	.00025	.00025
896 to 1000 [2]	.0005	.0005	.005
2110 to 2220	.001		
2200 to 12200 [3]	.005	.005	.005
12200 to 40000	.03	.03	.03

[1] Below 512 MHz transmitter plate power input to the final frequency stage, as specified in the Commission's Radio Equipment List. Above 512 MHz transmitter power output, as specified in the Commission's Radio Equipment List.

[2] Beginning Aug. 9, 1975, this tolerance will govern the marketing of equipment pursuant to §§ 2.803 and 2.805 of this chapter and the issuance of all authorizations for new radio equipment. Until that date new equipment may be authorized with a frequency tolerance of .03 percent in the frequency range 2,200 to 10,500 MHz and .05 percent in the range 10,500 MHz to 12,000 MHz, and equipment so authorized may continue to be used for its life provided that it does not cause interference to the operation of any other licensee.

[3] Equipment authorized to be operated on frequencies between 890 and 940 MHz as of Oct. 15, 1958, shall be required to maintain a frequency tolerance within 0.03 percent subject to the condition that no harmful interference is caused to any other radio station.

* * * * *

9. In § 22.107, paragraph (b), is revised to read as follows:

§ 22.107 Transmitter power.

* * * * *

(b) The rated power of a transmitter employed in these radio services shall not exceed the values shown in the following tabulation:

Frequency range (MHz)	Rated power output (watts)
Below 30	50
30 to 50	350
50 to 76	50
76 to 512	[1] 250
512 to 821	20
821 to 851	10
866 to 896	[2] 250
896 to 10,000	[3] 20
Above 10,000	[3] 10

[1] Transmitter rated power output is limited to a maximum of 25 watts on frequencies in the bands 454.6625–455.000 MHz and 459.6625–460.000 MHz.

[2] In the bands 5.925–6.425 MHz and 27.500–29.500 MHz the maximum effective isotrocally radiated power of the transmitter and associated antenna of a station in the fixed service shall not exceed—55dBW. This limitation is necessary to minimize the probability of harmful interference to reception in this band by space stations in the fixed-satellite service. In the band 2.150–2.162 MHz up to 100 watts may be authorized pursuant to § 21.904.

* * * * *

10. In § 22.110, paragraph (a) is revised to read as follows:

§ 22.110 Antenna polarization.

(a) Stations operating in the 72–76 MHz band, each base, mobile dispatch and auxiliary test station operating in the Domestic Public Land Mobile Radio Service and in the Domestic Public Cellular Radio Telecommunication Service and all classes of stations in the Offshore Radio Telecommunications Service shall employ an antenna which radiates a signal, the electrical

component of which is vertically polarized.

* * * * *

11. Section 22.118, paragraph (c) is revised to read as follows:

§ 22.118 Transmitter construction and installation.

* * * * *

(c) Each transmitter, other than a hand-carried or pack-carried transmitter, employed in these services shall be equipped with an appropriately labeled pilot lamp or meter which will provide continuous visual indication at the transmitter when its control circuits have been placed in a condition to activate the transmitter. In addition, facilities shall be provided at each transmitter to permit the transmitter to be turned on and off independently of any remote control circuits associated therewith. This paragraph shall not be applicable in the Domestic Public Cellular Radio Telecommunication Service.

* * * * *

12. Section 22.120(e) is added to read as follows:

§ 22.120 Type acceptance of transmitters.

* * * * *

(e) In addition to the normal type acceptance procedures contained in Part 2 of this Chapter and to the technical standards contained in this Part, transmitters designed for operation under Subpart K of this Part shall comply with requirements contained in the Commission's cellular system compatibility specification. (See § 22.915.)

13. Section 22.208, paragraph (g)(2) is revised to read as follows:

§ 22.208 Station records.

* * * * *

(g) * * *

(1) * * *

(2) The time and duration of each transmission and the identity of the station or point to which the transmission was directed: Provided, That in lieu thereof, a chronological record of such essential information in the form of traffic tickets, or on a separate sheet, is permissible. When such records are kept in lieu of entries in the operating log book, the minimum retention period shall be as prescribed in paragraph (d) of this section, provision for shorter retention periods in other parts of the Commission's rules notwithstanding. Stations authorized under Subpart K are exempt from the requirements of this paragraph.

* * * * *

14. By adding a new Subpart K to read as follows:

Subpart K—Domestic Public Cellular Radio Telecommunications Service

Sec.

22.900 Scope.
22.901 Eligibility.
22.902 Frequencies.
22.903 Cellular system service areas.
22.904 Power limitations.
22.905 Antenna height-power for base stations.
22.906 Types of emissions and modulation requirements.
22.907 Emission requirements.
22.908 Transmitter construction and installation.
22.909 Control point.
22.910 Station identification.
22.911 Permissible communications.
22.912 Responsibility for operational control and maintenance of mobile stations.
22.913 Content of applications.
22.914 Provision of service to subscribers.
22.915 Cellular system capability specification.
22.916 Evaluation of cellular applications.
22.917 Demonstration of financial qualifications.

Authority: Sec. 4, c. 652, Title I, 48 Stat. 1066, as amended (47 U.S.C. 154(i); sec. 303, c. 652, Title III, 48 Stat. 1082, as amended (47 U.S.C. 303(r)).

Subpart K—Domestic Public Cellular Radio Telecommunications Service

§ 22.900 Scope.

This subpart sets out the regulations governing the licensing and operations of cellular systems authorized in the 825–845 MHz and 870–890 MHz bands. It includes eligibility requirements, application procedures, and operational and technical standards for stations licensed in these bands. The rules in this subpart are to be read in conjunction with the applicable requirements contained elsewhere in this part; however, in case of conflict, the provisions of this subpart shall govern.

§ 22.901 Eligibility.

(a) Authorizations for Cellular Systems to be operated in the Domestic Public Cellular Radio Telecommunications Service will be issued to existing and proposed communication common carriers. Applications will be granted only in cases where it is shown that the applicant is legally, financially, technically and otherwise qualified to render the proposed service, there are frequencies available to enable the applicant to render a satisfactory service, and the public interest, convenience and necessity would be served by a grant thereof. Communication common carriers engaged, either directly or through an affiliated entity, in the business of affording public landline message telephone service within the continental United States may not provide cellular service except as provided for in paragraph (b) of this section, or as otherwise authorized by the Commission.

(b) A carrier subject to the restriction in paragraph (a) of this section may, subject to other provisions of law, have a controlling or lesser interest in, or be under common control with a separate corporate entity that furnishes cellular service provided the following conditions are met:

(1) Each such separate corporation shall obtain access to landline exchange and transmission facilities necessary for the provision of cellular service on the same basis as those facilities are available to other entities, and may not own any facilities for the provision of landline telephone service.

(2) Each such separate corporation shall operate independently in the furnishing of cellular service. It shall maintain its own books of account, have separate officers, utilize separate operating, marketing, installation, and maintenance personnel, and utilize separate computer and transmission facilities in the provision of cellular services. Each such separate corporation which provides cellular services shall deal with any affiliated manufacturing entity only on an arms length basis. Any research or development performed on a joint or separate basis for the subsidiary must be done on a compensatory basis.

(3) All transactions between the separate corporation and the carrier or its affiliates which involve the transfer, either direct or by accounting or other record entries, of money, personnel, resources, other assets or anything of value, shall be reduced to writing. A copy of any contract, agreement or other arrangement entered into between such entities shall be filed with the Commission within 30 days after the contract, agreement, or other arrangement is made. The provision shall not apply to any transaction governed by the provision of an effective state or federal tariff.

(c) A carrier subject to the restriction in paragraph (a) of this section:

(1) Shall not engage in the sale or promotion of cellular services on behalf of the separate corporation or sell, lease or otherwise make available to the separate corporation any transmission facilities which are used in any way for the provision of its landline telephone services, except on a compensatory, arms-length basis; this section shall not prohibit joint advertising or promotional efforts by the landline carrier and its cellular affiliate;

(2) May not provide to any such separate corporation any customer proprietary information unless such information is available to any member of the public on the same terms and conditions; and

(3) Must obtain Commission approval as to the manner in which the separate corporation is to be capitalized, prior to obtaining any interest in the separate corporation or transferring any assets, and must obtain Commission approval of any modification to a Commission-approved Capitalization plan.

§ 22.902 Frequencies.

(a) The frequencies available in the Domestic Public Cellular Radio Telecommunications Service are listed below in accordance with Frequency Allocations of § 2.106. Each frequency Block available for use by cellular systems in this service shall be assigned to a single applicant in any cellular system service area. A cellular licensee may use any frequency from its Block at any of its authorized locations, subject to prior coordination as described in paragraph (d) of this section. Only two cellular systems may be authorized in each such area. In the event harmful interference occurs or appears likely to occur between two or more radio systems and such interference cannot be resolved between the licensees thereof, the Commission may require the licensees to make such changes in operating techniques or equipment as it may deem necessary to avoid such interference.

(b) For cellular systems the assignment of frequencies will be divided into two Blocks. Assignments will be made from the frequencies listed for Cellular Systems A and B. Until five years have passed from the authorization of the first cellular system under these rules, systems for common carriers not also engaged in the business of affording public landline message telephone service will be assigned frequencies from Cellular System A, and systems for common carriers also engaged directly or indirectly, in the business of affording public landline message telephone service will be assigned frequencies from Cellular System B in those general areas in which it provides such landline service.

(1) Cellular System A:333 frequency pairs with 30 kHz channel spacing. The first mobile frequency will be 825.030 MHz, followed by 825.060 MHz and proceed to 834.990 MHz. Base station frequencies will begin with 870.030 MHz, followed by 870.060 MHz and proceed to 879.990 MHz.

(2) Second Cellular System B:333 frequency pairs with 30 kHz channel spacing. The first mobile frequency will be 835.020 MHz followed by 835.050 MHz and proceed to 844.980 MHz. Base station frequencies will begin with 880.020 MHz followed by 880.050 MHz and proceed to 889.980 MHz.

(c) 21 control channel pairs will be assigned in each cellular system.

(1) For systems operating on the frequencies specified for Cellular System A, the 21 channel pairs are: 834.390 MHz through 834.990 MHz and 879.390 MHz through 879.990 MHz.

(2) For systems operating on the frequencies specified for Cellular System B, the 21 channel pairs are: 835.020 MHz through 835.620 MHz and 880.020 MHz through 880.620 MHz.

(d) All applicants for regular authorization in the Domestic Public Cellular Radio Telecommunications Service, before filing an application or major amendment to a pending application, or when permissive changes (i.e., changes in frequency assignment not requiring prior Commission approval) are made within an authorized Cellular Geographic Service Area, shall coordinate proposed frequency usage with existing users in Cellular Geographic Areas within 75 miles of all base stations affected, and with other applicants with previously filed applications whose facilities could affect or be affected by the new proposal in terms of intersystem frequency interference or restricted ultimate system capacity. In engineering a system or modification thereto, the applicant shall by appropriate studies and analyses select sites, transmitters, antennas, and frequencies that will avoid intersystem interference. All applicants, permittees, and licensees shall cooperate fully and make reasonable efforts to resolve technical problems and conflicts that may inhibit the most effective and efficient use of the radio spectrum; however, the party being coordinated with is not obligated to suggest changes or reengineer a proposal in cases involving conflicts. Applicants shall make every reasonable effort to avoid blocking the growth of other systems that are likely to need additional capacity in the foreseeable future. The applicant shall identify in the application all entities with which the technical proposal was coordinated. In the event that technical problems are not resolved or if the existing licensee, permittee, or applicant does not respond to coordination efforts within 60 days after notification, an explanation shall be submitted with the application. Where technical problems are resolved by an agreement or operating arrangement between the parties that would require special procedures to be taken to reduce the likelihood of intersystem interference or would result in a reduction of quality or capacity of either system, the details thereof shall be contained in the application. Upon making a permissive change a licensee shall notify the Commission of its frequency usage and report and coordination.

(e) All mobile units must initially be capable of communicating on the 666 channels specified in paragraphs (b) (1) and (2) of this rule section.

§ 22.903 Cellular system service areas.

(a) The Cellular Geographic Service Area of a cellular system shall be defined by the applicant as the area intended to be served. The CGSA must be drawn on one or more U.S. Geological survey 7½ minute map(s). Within the CGSA the applicant must depict each base station site and its respective 39 dbu contour as determined by the methods described in paragraph (c) below. An applicant must demonstrate that the 39 dbu contours of all base stations will initially cover at least 75% of the total CGSA.

(b) The service area boundary described in paragraph (a) of this section shall be regarded as determining the limits of the cellular system service area for the purposes of providing protection to such systems, and of defining the area within which we will recognize adverse effects for determining standing.

(c) For the purpose of establishing the reliable service area of a station and performing interference studies, an applicant must use procedures consistent with § 22.504 and F.C.C. Report No. R-6406, "Technical Factors Affecting The Assignment of Facilities In the Domestic Public Land Mobile Radio Service," by Roger B. Carey. Standards and procedures presently applied to stations in the 450–460 MHz band should be used. Any other interference studies utilizing other procedures, which the applicant believes the Commission should consider, in addition to the above required study, may also be submitted and will be considered in accordance with Public Notice, May 2, 1980, Mimeo 30893, 45 FR 30202 (47 RR 2d 666 (1980)). All supporting data and calculations must be included with the results of the studies.

(d) An applicant whose proposal would extend any 39 dbu contour outside its presently authorized CGSA will be deemed to be applying for a change in its CGSA.

§ 22.904 Power limitations.

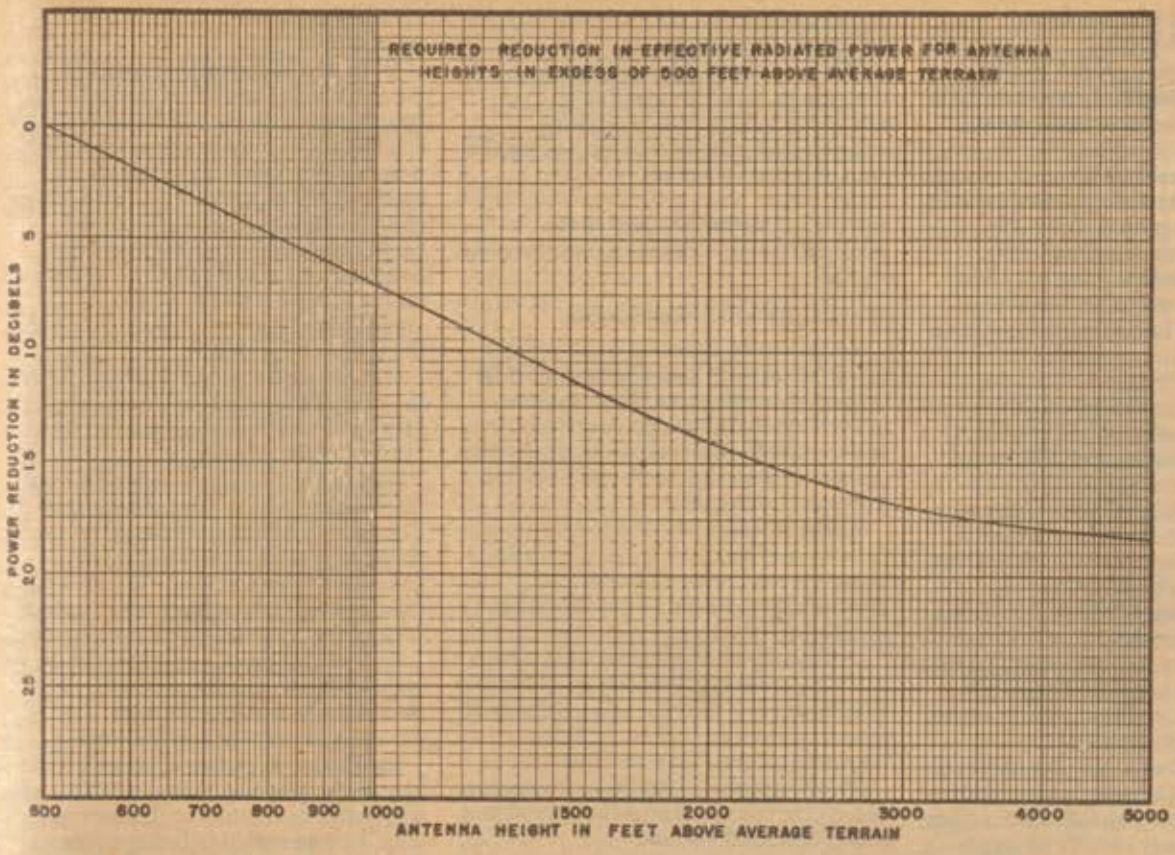
Stations in this service shall not be permitted to exceed the effective radiated power indicated below.

	Watts (ERP)
Base stations	100
Mobile stations	7
Auxiliary test stations	7

§ 22.905 Antenna height-power for base stations.

In view of the fact that the predominant characteristic of cellular systems is frequency reuse within a given service area, the effective radiated power of base stations with transmitting antennas in excess of 500 feet above average terrain (AAT) must be reduced below 100 watts by not less than the amount shown in the chart below.

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BILLING CODE 6712-01-C

§ 22.906 Types of emissions and modulation requirements.

(a) Stations in this service shall normally be authorized to use only type F3 emissions for voice transmissions (radiotelephony).

(1) F3 emissions shall be used only on the non-control frequencies designated in § 22.902 of this part.

(2) The instantaneous frequency deviation shall be limited to ±12 kHz.

(3) The maximum audio frequency required for satisfactory radiotelephone intelligibility in this service is considered to be 3 kHz.

(4) Preceding the deviation limiter required under paragraph (d) of this section, a compressor circuit followed by a preemphasis stage shall be required for F3 radiotelephony signal processing. These two circuits shall have the characteristics specified in the cellular system compatibility specifications. (See § 22.915).

(5) Authorization also permits the use of other frequency modulated emissions, such as data transmissions, provided those emissions conform to the technical requirements applicable for F3 operation, including those requirements contained in the Commission's cellular system compatibility specifications (See § 22.915). The power density of these emissions shall not exceed the power density normally encountered under F3 operation.

(b) For the purpose of selective signaling and control, stations in this service shall normally be authorized to use F9 emissions, as detailed in the Compatibility Specifications. (see § 22.915).

(1) The instantaneous frequency deviation due to the supervisory audio tones shall be limited to ±2 kHz.

(2) The instantaneous frequency deviation due to the signaling tone shall be limited to ±8 kHz.

(c) For the purposes of wideband data transmissions, as detailed in § 22.915, stations in this service shall normally be authorized to use type F9Y emissions. This data input shall not cause the carrier to exceed an instantaneous frequency deviation of ±8 kHz.

(d) Each transmitter shall be equipped with a device that will automatically prevent modulation levels in excess of the limits specified in this section.

(e) Other types of emissions may be authorized upon an adequate showing of need. An application requesting such authorization shall fully describe the modulation characteristics (for FM include maximum modulating frequency and maximum frequency deviation), emission and bandwidth desired, shall specify the bandwidth to be occupied, and shall state the reasons why such an emission is required.

(f) The authorization to employ any of the various types of modulated emissions in this service shall be construed to include authority to employ unmodulated emissions only for temporary or short periods necessary for equipment testing incident to the construction or maintenance of the radio station.

§ 22.907 Emission requirements.

(a) Except as provided in paragraph (c) of this section, some means must be employed to attenuate those signals under F3 radiotelephony operation that are applied to the modulated stage from the modulation limiter, required under § 22.906 of this part.

(1) For F3 radiotelephony emissions from mobile stations, these signals shall be attenuated, relative to the attenuation at 1 kHz, in the following manner:

(i) The signals in the frequency range of 3 kHz to 5.9 kHz and from 6.1 kHz to 15 kHz shall be attenuated by at least 40 $\log_{10}$ (f/3) decibels where (f) is the frequency of the signal in kHz;

(ii) The signals in the frequency range of 5.9 kHz to 6.1 kHz shall be attenuated at least 35 decibels; and

(iii) The signals in the frequency range above 15 kHz shall be attenuated at least 28 decibels.

(2) For F3 radiotelephony emissions from land stations, these signals shall be attenuated, relative to the attenuation at 1 kHz, in the following manner:

(i) The signals in the frequency range of 3 kHz to 15 kHz shall be attenuated by at least 40 $\log_{10}$ (f/3) decibels where (f) is the frequency of the signal in kHz; and

(ii) The signals in the frequency range above 15 kHz shall be attenuated by at least 28 decibels.

(3) No filtering is required of the F9 supervisory audio tones, the F9 signaling tones or the F9Y wideband data signals.

(b) Except as provided in paragraph (c) of this section, the mean power of emissions from transmitters operated in the F3 radiotelephony mode in this service shall be attenuated below the mean power of the unmodulated carrier in accordance with the following schedule:

(1) On any frequency removed from the carrier frequency by greater than 20 kHz up to an including 45 kHz: at least 26 decibels; and

(2) On any frequency removed from the carrier frequency by greater than 45 kHz up to the first multiple of the carrier frequency: At least 60 decibels or 43+10 $\log_{10}$ (mean output power in watts) decibels, whichever is the lesser attenuation.

(c) In lieu of the requirements of paragraphs (a) and (b) of this section, compliance with the following emission specifications may be demonstrated for transmitters operating in the F3 radiotelephony mode. The mean power of any emission removed from the carrier frequency by a displacement frequency (f_d in kHz) shall be attenuated below the mean power of the unmodulated carrier in accordance with the following schedule:

(1) On any frequency removed from the carrier frequency by greater than 12 kHz up to and including 20 kHz: At least 117 $\log_{10}$ (f_d/12) decibels;

(2) On any frequency removed from the carrier frequency by greater than 20 kHz up to the first multiple of the carrier frequency: At least 100 $\log_{10}$ (f_d/11) decibels or 60 decibels or 43+10 $\log_{10}$ (mean output power in watts) decibels, whichever is the lesser attenuation; and

(3) Mobile stations operating in the F3 radiotelephony mode must still demonstrate compliance with paragraphs (a)(1) (ii) of this section.

(d) The mean power of emissions from transmitters operated in the F9Y wideband data mode in this service shall be attenuated below the mean power of the unmodulated carrier in accordance with the following schedule:

(1) On the frequency removed from the carrier frequency by more than 20 kHz up to and including 45 kHz: At least 26 decibels;

(2) On any frequency removed from the carrier frequency by more than 45 kHz up to and including 90 kHz: At least 45 decibels; and

(3) On any frequency removed from the carrier frequency by more than 90 kHz up to the first multiple of the carrier frequency: At least 60 decibels or 43+10 $\log_{10}$ (mean output power in watts) decibels, whichever is the lesser attenuation.

(e) The mean power of emissions from transmitters operated in this service shall be attenuated below the mean power of the unmodulated carrier on any frequency twice or greater than twice the fundamental frequency by at least 43+10 $\log_{10}$ (mean output power in watts) decibels.

(f) The mean power of any emissions appearing in the base station frequency range from mobile transmitters operated in this service shall be attenuated to a level not to exceed −80 dBm at the transmit antenna connector.

(g) The mean power of emissions from transmitters operated in this service in the F9 supervisory audio tone mode shall be attenuated below the mean

power of the unmodulated carrier in accordance with paragraphs (b), (c), (e) and (f) of this section, exclusive of paragraphs (c)(3).

(h) The mean power of emissions from transmitters operated in this service in the F9 signaling tone mode shall be attenuated below the mean power of the unmodulated carrier in accordance with paragraphs (d), (e) and (f) of this section.

(i) When any emission from a transmitter operating in this service results in harmful interference to users of another radio service, the Commission may require a greater attenuation of that emission than specified in this section.

(j) Pending the adoption of specific measurement procedures to determine the level of attenuation of spurious emissions, the following spectrum analyzer bandwidth setting should be used:

(1) When operating in the F3 radiotelephony mode or the F9 supervisory audio tone mode:

(i) For any emission less than or equal to 45 kHz removed from the carrier frequency: 300 Hz; and

(ii) For any emission greater than 45 kHz removed from the carrier frequency: 30 kHz

(2) When operating in the F9Y wideband data mode or the F9 signaling tone mode:

(i) For any emission less than or equal to 60 kHz removed from the carrier frequency: 300 Hz; and

(ii) For any emission greater than 60 kHz removed from the carrier frequency: 30 kHz.

§ 22.908 Transmitter construction and installation.

The equipment at the operating and transmitting positions shall be so installed and protected that it is not accessible to, or capable of being operated by, persons other than those duly authorized by the licensee. In general, each transmitter used in the Domestic Public Cellular Radio Telecommunications Service shall be so constructed or installed that all controls thereon which may cause off-frequency operation or result in any unauthorized emission shall be protected from access by other than duly authorized holders of first or second class radio operator licenses.

§ 22.909 Control point.

(a) Each cellular system is required to have:

(1) At least one control point.

(2) A person on duty at the control point who is in charge of system operation during the normal rendition of service. The location of the control point may not be moved beyond the boundary of the authorized service area without prior Commission approval.

(b) At each control point, facilities which will permit the operator to turn off base station transmitters shall be installed.

§ 22.910 Station identification.

Cellular land, mobile, or auxiliary test stations in this service shall not be required to transmit identifying call signs.

§ 22.911 Permissible communications.

(a) Mobile Stations in this service are authorized to communicate with and through base stations only. Such communications between base and mobile stations shall be upon frequencies which are paired in the manner set forth in § 22.902.

(b) Base stations in this service are authorized to communicate with associated subscribers; base stations must also render service to properly licensed roamers. Service may be rendered to mobile stations on board vessels.

(c) Auxiliary test stations in this service may operate on either base or mobile station frequencies for the purpose of determining the performance of base or mobile station equipment.

(d) General and dispatch communications are permitted on cellular systems. Pending further investigation by the Commission, "fleet-call" dispatching, in which a dispatcher simultaneously communicates with multiple mobile units, will not be permitted except on a developmental basis.

§ 22.912 Responsibility for operational control and maintenance of mobile stations.

(a) The licensee of a base station in this service shall be responsible for exercising effective operational control over all mobile stations with which it communicates. The proper installation, maintenance and repair of such mobile stations shall normally be the responsibility of the cellular system licensee except that customer provided equipment shall be the responsibility of the customer.

(b) A mobile station normally associated with, and licensed to, a specified cellular system will be deemed, when communicating with a different system pursuant to legally effective tariff provisions, to be temporarily associated with and licensed to such different system and the licensee of such different system shall, for such temporary period, assume the same licensee responsibility for such mobile stations if such stations were regularly licensed to it.

§ 22.913 Content of applications.

(a) Applications for new stations or for modified facilities increasing the Cellular Geographic Service Area of existing stations shall be filed on FCC Form 401. The following exhibits shall be attached to any such application:

(1) An exhibit indicating whether a grant of the application will be a major action under § 1.1305 of the Commission's Rules.

(2) An exhibit including a map or maps of the cellular system's existing Cellular Geographic Service Area, if any, and the Cellular Geographic Service Area proposed in the application. This exhibit shall contain all the information specified in § 22.903(a).

(3) An exhibit containing the engineering data and calculations used to derive the service contours shown. See § 22.903(c).

(4) An exhibit stating how the proposal complies with the Commission's cellular design concepts, and indicating the applicant's projected method for coordinated expansion of the system in response to changing service demands.

(5) An exhibit indicating the basis which the applicant will use to determine whether sufficient congestion exists to warrant cell-splitting.

(6) An exhibit indicating the frequency plan to be used if the application is granted.

(7) An exhibit indicating the applicant's service proposals for local subscribers and roamers, including its method of handling complaints. If no change is made in service proposals previously authorized, this exhibit may be omitted.

(8) An exhibit including full particulars regarding the cost of construction of the proposed facilities and demonstrating how the applicant intends to finance construction. See § 22.917.

(9) An exhibit indicating how the proposal would serve the public interest. If an application for a new or modified CGSA, the applicant shall provide population and demographic information on the proposed CGSA, including public need survey information, as well as other information relevant to whether the public interest, convenience and necessity would be served by a grant.

(b) Applications proposing modifications to existing stations which do not involve new facilities, a change in height or power of existing facilities,

or a change in CGSA, may be filed on FCC Form 403.

§ 22.914 Provision of service to subscribers.

Subscriptions to mobile service shall be afforded to the public within the licensee's Cellular Geographic Service Area in chronological order of filing of request for service, except under emergency conditions. Prospective subscribers shall be informed of the area in which reliable service can be expected. If a licensee turns away a request for service due to lack of capacity it shall report that fact to the Commission and indicate how it plans to remedy its lack of capacity.

§ 22.915 Cellular system compatibility specification.

(a) The technical specifications for compatibility of mobile and base stations in the Domestic Public Cellular Radio Telecommunications Service are contained in the "Cellular System Mobile Station-Land Station Compatibility Specification" (April 1981 Ed.), Office of Science and Technology Bulletin No. 53. This bulletin is contained in Appendix D to the Report and Order in CC Docket No. 79-318, and is printed in the **Federal Register**, of May 21, 1981.

(b) Copies of the current edition of the compatibility specification are available for inspection at the following locations:

Office of the Common Carrier Bureau, Federal Communications Commission, 1919 M Street, NW., Washington, D.C.
Office of Science and Technology, Federal Communications Commission, 2025 M Street, NW., Washington, D.C.

(c) Copies of the compatibility specifications may be ordered from the Commission's copying contractor.

§ 22.916 Evaluation of cellular applications.

(a) In order to expedite action on mutually exclusive cellular applications, comparison on all such applications shall be undertaken in accordance with the following procedures:

(1) All mutually exclusive applications that are acceptable for filing and meet our basic qualifying criteria shall be designated for a comparative hearing. Applications involving basic qualifying issues shall additionally be designated for hearing on those issues on an expedited basis as described in paragraph (b) of this section.

(2) The comparative hearing shall be conducted by an Administrative Law Judge named in the designation order or in a subsequent order.

(3) Within 60 days of the date of designation of an Administrative Law Judge, all parties whose applications have been designated for further consideration shall submit briefs and written evidence in an attempt to present a showing that they are superior to all other competing applicants. Responsive pleadings may be filed within 15 days.

(4) Upon evaluation of the applications, the information submitted, and such other matters as may be officially noticed, the Administrative Law Judge will issue a decision granting the proposal that best serves the public interest, convenience and necessity and denying all other application(s). The decision will state briefly and concisely the reasons for the Judge's selection.

(b) Expedited hearing procedures. In any hearing to which this Section applies, the Administrative Law Judge shall establish a strict timetable for discovery, prehearing procedures, and reception of evidence. All testimony shall be in written form except upon order of the Administrative Law Judge. Such an order will be issued only upon a substantial showing that a party will be prejudiced by the submission of all evidence in a written form. The Administrative Law Judge shall utilize such procedures as shall result in the expeditious resolution of all factual issues and otherwise serve the ends of justice.

§ 22.917 Demonstration of financial qualifications.

(a) Applications for new stations or modified facilities shall demonstrate the applicant's financial ability to meet the realistic and prudent:

(1) Estimated costs of proposed construction and other initial expenses; and

(2) Estimated operating expenses for a reasonable period of time, depending upon the nature of service proposed and the degree of business uncertainty or risk.

(b) Except as provided in paragraph (c) of this section, each application shall demonstrate an applicant's financial ability under paragaph (a) of this section by submitting the following financial information, the information required by paragraph (d) of this section, and whatever other information or details the Commission may require:

(1) A balance sheet current within ninety (90) days of the date of the application and copies of any financial commitments (such as, for example, loan agreements and service contracts) in support of the proposed facilities; and

(2) Whenever the submissions of paragraph (b)(1) of this section do not satisfy paragraph (a) of this section, the applicant shall submit additional information (e.g. a current income statement, and, for the period of proposed construction plus an initial year of operation, a statement of projected revenues and expenses, a statement of projected sources and application of funds, etc.) as is necessary to demonstrate financial ability.

(c) Each application for an assignment of a license (or permit), or for the transfer of control of a corporation holding a license (or permit), shall demonstrate the financial ability of the proposed assignee or transferee to acquire and operate the facilities by submitting adequate financial information under the guidelines specified in this section, as appropriate.

(d) The following additional information shall be submitted on any form of intended credit arrangement or equity placement:

(1) The details of any loan or other form of credit arrangement intended to be utilized to finance the proposed construction, acquisition, or operation of the requested facilities including such information as the identity of the creditor (or creditors), letters of commitment, terms of the transaction, and a statement that paragraph (e) of this section is complied with; and

(2) The details of any sale or placement of any equity or other form of ownership interest.

(e) In addition to the disclosures required by paragraph (c) of this section, any loan or other credit arrangement providing for a chattel mortgage or secured interest in any proposed radio station facility must include a provision for a minimum of ten (10) days prior written notification to the licensee or permittee, and to the Commission, before any such equipment may be repossessed under default provision of the agreement.

Note.—The following appendix will not appear in the Code of Federal Regulations.

Appendix D—Cellular System Mobile Station-Land Station Compatibility Specification

Preface

These technical requirements form a compatibility (see Note 1) standard for cellular mobile telecommunications systems. Their purpose is to ensure that a mobile station can obtain service in any cellular system. These requirements do not address the quality or reliability of that service, nor do they cover equipment performance or measurement procedures.

To ensure compatibility, it is essential that both radio-system parameters and call-processing procedures be specified.

The speech-filtering, modulation, and RF-emission parameters commonly encountered in two-way radio systems have been updated and expanded to reflect the unique radio plan upon which cellular systems are based. The sequence of call processing steps that the mobile and land stations execute to establish calls has been specified along with the digital control messages and analog signals that are exchanged between the two stations.

The land station is subject to fewer compatibility requirements than the mobile station. Radiated power levels, both desired and undesired, are fully specified for mobile stations to control the RF interference that one mobile station can cause another. Land stations are fixed in location and their interference in controlled by proper layout and operation of the system in which the station operates. Detailed call-processing procedures are specified for mobile stations to ensure a uniform response to all land stations. Land station call procedures, like power levels, are not specified in detail because they are a part of the overall design of the individual land system. This approach to writing the compatibility specification provides the land system designer with sufficient flexibility to respond to local service needs and to account for local topography and propagation conditions.

The basic radio-system parameters and call-processing procedures embodied in the compatibility specification have been derived from the Chicago and Baltimore–Washington developmental cellular systems. The cellular plan has been successfully demonstrated in a working system and can now be applied in commercial systems. As commercial systems are built and operated, additional capabilities, primarily in the area of call-processing procedures, will evolve. It is important to plan for the evolution that will take place in the early growth years of commercial operation by providing flexible procedures by which these specifications can be administered and updated.

Mobile Station-Land Station Compatibility Specification

1. Definitions

Access Channel. A control channel used by a mobile station to access a system to obtain service.

Analog Color Code. An analog signal (see SAT) transmitted by a land station on a voice channel and used to detect capture of a mobile station by an interfering land station and/or the capture of a land station by an interfering mobile station.

BCH Code. Bose-Chaudhuri-Hocquenghem Code.

Busy-Idle Bits. The portion of the data stream transmitted by a land station on a forward control channel that is used to indicate the current busy-idle status of the corresponding reverse control channel.

Control Channel. A channel used for the transmission of digital control information from a land station to a mobile station or from a mobile station to a land station.

Digital Color Code (DCC). A digital signal transmitted by a land station on a forward control channel that is used to detect capture of a land station by an interfering mobile station.

Flash Request. A message sent on a voice channel from a mobile station to a land station indicating that a user desires to invoke special processing.

Forward Control Channel (FOCC). A control channel used from a land station to a mobile station.

Forward Voice Channel (FVC). A voice channel used from a land station to a mobile station.

Group Identification. A subset of the most significant bits of the system identification (SID) that is used to identify a group of cellular systems.

Handoff. The act of transferring a mobile station from one voice channel to another.

Home Mobile Station. A mobile station which operates in the cellular system from which service is subscribed.

Land Station. A station in the Domestic Public Cellular Radio Telecommunications Service, other than a mobile station, used for radio communications with mobile stations.

Mobile Identification Number (MIN). The 34-bit number which is a digital representation of the 10-digit directory telephone number assigned to a mobile station.

Mobile Station. A station in the Domestic Public Cellular Radio Telecommunications Service intended to be used while in motion or during halts at unspecified points. It is assumed that mobile stations include portable units (e.g., hand-held 'personal' units) as well as units installed in vehicles.

Mobile Station Class. The following mobile station classes are defined for this section:

—Class I. High power station.
—Class II. Mid-range power station.
—Class III. Low power station.

Numeric Information. Numeric information is used to describe the operation of the mobile station. The following subscripts are used to clarify the use of the numeric information:

"s" to indicate a value stored in a mobile station's temporary memory,
"sv" to indicate a stored value that varies as a mobile station processes various tasks,
"sl" to indicate the stored limits on values that vary,
"r" to indicate a value received by a mobile station over a forward control channel,
"p" to indicate a value set in a mobile station's permanent security and identification memory, and
"s-p" to indicate a value stored in a mobile station's semi-permanent security and identification memory.

The numeric indicators are:

—$ACCOLC_p$. A four-bit number used to identify which overload class field controls access attempts.

—BIS_s. Identifies whether a mobile station must check for an idle-to-busy transition on a reverse control channel when accessing a system.

—$CCLIST_s$. The list of control channels to be scanned by a mobile station processing the Directed-Retry Task (see Section 2.6.3.14).

—$CMAX_s$. The maximum number of channels to be scanned by a mobile station when accessing a system.

—CPA_s. Identifies whether the access functions are combined with the paging functions on the same set of control channels.

—DTX_s. Identifies whether the mobile station is permitted to use the discontinuous transmission mode on the voice channel.

—E_s. The stored value of the E field sent on the forward control channel. E_s identifies whether a home mobile station must send only $MIN1_p$ or both $MIN1_p$ and $MIN2_p$ when accessing the system.

—EX_p. Identifies whether home mobile stations must send $MIN1_p$ or both $MIN1_p$ and $MIN2_p$ when accessing the system. EX_p differs from E_s in that the information is stored in the mobile station's security and identification memory.

—$FIRSTCHA_s$. The number of the first control channel used for accessing a system.

—$FIRSTCHP_s$. The number of the first control channel used for paging mobile stations.

—$LASTCHA_s$. The number of the last control channel used for accessing a system.

—$LASTCHP_s$. The number of the last control channel used for paging mobile stations.

—LT_s. Identifies whether the next access attempt is required to be the last try.

—$MIN1_p$. The 24-bit number which corresponds to the 7-digit directory telephone number assigned to a mobile station.

—$MIN2_p$. The 10-bit number which corresponds to the 3-digit area code assigned to a mobile station.

—$MAXBUSY_{st}$. The maximum number of busy occurrences allowed on a reverse control channel.

—$MAXSZIR_{st}$. The maximum number of seizure attempts allowed on a reverse control channel.

—N_s. The number of paging channels that a mobile station must scan.

—$NBUSY_{sv}$. The number of times a mobile station attempts to seize a reverse control channel and finds the reverse control channel busy.

—$NSZTR_{sv}$. The number of times a mobile station attempts to seize a reverse control channel and fails.

—$NXTREG_{s,p}$. Identifies when a mobile station must make its next registration to a system.

—PL_s. The mobile station RF power level.

—R_s. Indicates whether registration is enabled or not.

—RCF_s. Identifies whether the mobile station must read a control-filler message before accessing a system on a reverse control channel.

—$REGID_s$. The stored value of the last registration number ($REGID_r$) received on a forward control channel.

—$REGINCR_s$. Identifies increments between registrations by a mobile station.

—S_s. Identifies whether the mobile station must send its serial number when accessing a system.

—SCC_s. A digital number which is stored and used to identify which SAT frequency a mobile station should be receiving.

—SID_p. The home system identification stored in the mobile station's permanent security and identification memory.

—$SID_{s,p}$. One of a number of system identifications stored in the mobile station's semi-permanent security and identification memory.

—SID_r. The system identification received on a forward control channel.

—SID_s. The stored system identification.

—$WFOM_s$. Identifies whether a mobile station must wait for an overhead message train before accessing a system on a reverse control channel.

Orders. The following orders can be sent to a mobile station from a land station:

—Alert. The alert order is used to inform the user that a call is being received.

—Audit. The audit order is used by a land station to determine whether the mobile station is active in the system.

—Change Power. The change power order is used by a land station to change the RF power level of a mobile station.

—Intercept. The intercept order is used to inform the user of a procedural error made in placing the call.

—Maintenance. The maintenance order is used by a land station to check the operation of a mobile station. All functions are similar to alert but the alerting device is not activated.

—Release. The release order is used to disconnect a call that is being established or is already established.

—Reorder. The reorder order is used to inform the user that all facilities are in use and the call should be placed again.

—Send Called-Address. The send called-address order is used to inform the mobile station that it must send a message to the land station with dialed-digit information.

—Stop Alert. The stop alert order is used to inform a mobile station that it must discontinue alerting the user.

Paging. The act of seeking a mobile station when an incoming call has been placed to it.

Paging Channel. A forward control channel which is used to page mobile stations and send orders.

Registration. The steps by which a mobile station identifies itself to a land station as being active in the system at the time the message is sent to the land station.

Release Request. A message sent from a mobile station to a land station indicating that the user desires to disconnect the call.

Reverse Control Channel (RECC). The control channel used from a mobile station to a land station.

Reverse Voice Channel (RVC). The voice channel used from a mobile station to a land station.

Roamer. A mobile station which operates in a cellular system other than the one from which service is subscribed.

Scan of Channels. The procedure by which a mobile station examines the signal strength of each forward control channel.

Seizure Precursor. The initial digital sequence transmitted by a mobile station to a land station on a reverse control channel.

Signaling Tone. A 10-kilohertz tone transmitted by a mobile station on a voice channel to: (1) Confirm orders, (2) signal flash requests, and (3) signal release requests.

Status Information. The following status information is used in this section to describe mobile station operation:

—Serving-System Status. Indicates whether a mobile station is tuned to channels associated with System A or System B.

—First Registration ID Status. Indicates whether a mobile station has received a registration ID message since initialization.

—Local Control Status. Indicates whether a mobile station must respond to local control messages or not.

—Roam Status. Indicates whether a mobile station is in its home system or not.

—Termination Status. Indicates whether a mobile station must terminate the call when it is on a voice channel.

Supervisory Audio Tone (SAT). One of three tones in the 6-kilohertz region that are transmitted by a land station and transponded by a mobile station.

System Identification (SID). A digital identification associated with a cellular system; each system is assigned a unique number.

Voice Channel. A channel on which a voice conversation occurs and on which brief digital messages may be sent from a land station to a mobile station or from a mobile station to a land station.

2. Mobile Station.

2.1 Transmitter.

2.1.1 Frequency Parameters.

2.1.1.1 Channel Spacing and Designation.

The mobile station transmit channel at 825.030 MHz (and the corresponding land station transmit channel 870.030 MHz) shall be termed channel number 1. See Section 22.902 of the Commission's Rules.

2.1.1.2 Frequency Tolerance.

See Section 22.101(a) of the Commission's Rules.

2.1.2 Power Output Characteristics.

2.1.2.1 Carrier on/off Conditions.

The carrier-off condition is defined as a power output at the transmitting antenna connector not exceeding −60 dBm. When commanded to the carrier-on condition on a reverse control channel, a mobile station transmitter must come to within 3 dB of the specified output power (see Section 2.1.2.2) and to within the required stability (see Section 2.1.1.2) within 2 ms. Conversely, when commanded to the carrier-off condition, the transmit

power must fall to a level not exceeding −60 dBm within 2 ms.

Whenever a transmitter is more than 1 kHz from its initial or final value during channel switching, the transmitter carrier must be inhibited to a power output level not greater than −60 dBm.

2.1.2.2 Power Output and Power Control.

The maximum effective radiated power with respect to a half-wave dipole (ERP) for any class mobile station transmitter is 8 dBW (6.3 Watts). An inoperative antenna assembly must not degrade the spurious emission levels as defined in Section 2.1.4.2. See §§22.107(b) and 22.904 of the Commission's Rules.

The nominal ERP for each class of mobile station transmitter is:

Class I 6 dBW (4.0 Watts)
Class II 2 dBW (1.6 Watts)
Class III −2 dBW (0.6 Watts)

A mobile station transmitter must be capable of reducing power in steps of 4 dB on command from a land station (see Sections 2.6.3.3, 2.6.3.5, 3.7.1.1., 3.7.1.2.4, and 3.7.2). The nominal levels are given in Table 2.1.2–1. Each power level must be maintained within the range of +2 dB and −4 dB of its nominal level over the ambient temperature range of −30 degrees Celsius to +60 degrees Celsius, and over the supply voltage range of ±10 percent from the nominal value, accumulative.

Table 2.1.2–1.—Mobile Station Nominal Power Levels

Mobile station power level (PL)	Mobile attenuation code (MAC)	Nominal ERP (dBW)		
		Mobile station power class		
		I	II	III
0	000	6	2	−2
1	001	2	2	−2
2	010	−2	−2	−2
3	011	−6	−6	−6
4	100	−10	−10	−10
5	101	−14	−14	−14
6	110	−18	−18	−18
7	111	−22	−22	−22

2.1.3 Modulation Characteristics.

2.1.3.1 Voice Signals.

The (FM) modulator is preceded by the following four voice-processing stages (in the order listed):

- Compressor
- Pre-Emphasis
- Deviation Limiter
- Post Deviation-Limiter Filter (see § 22.907(a) of the Commission's Rules)

2.1.3.1.1. Compressor.

This stage must include the compressor portion of a 2:1 syllabic compandor. For every 2 dB change in input level to a 2:1 compressor within its operating range, the change in output level is a nominal 1 dB. The compressor must have a nominal attack time of 3 ms and a nominal recovery time of 13.5 ms as defined by the CCITT. (Reference: Recommendation G162, CCITT Plenary Assembly, Geneva, May–June 1964, Blue Book, Vol. 111, P. 52.)

The nominal reference input level to the compressor is that corresponding to a 1000 Hz acoustic tone at the expected nominal speech volume level. This level must produce a nominal ±2.9 kHz peak frequency deviation of the transmitted carrier.

2.1.3.1.2 Pre-emphasis.

The pre-emphasis characteristic must have a nominal +6 dB/octave response between 300 and 3000 Hz.

2.1.3.1.3 Deviation Limiter.

For audio (voice) inputs applied to the transmitter voice-signal processing stages, a mobile station must limit the instantaneous frequency deviation to ±12 kHz. This requirement excludes supervision signals (see Section 2.4) and wideband data signals (see Section 2.1.3.2). See § 22.906 of the Commission's Rules.

2.1.3.1.4 Post Deviation-Limiter Filter.

See § 22.907(a)(1) of the Commission's Rules.

2.1.3.2 Wideband Data Signals.

2.1.3.2.1 Encoding.

The reverse control channel (RECC) and reverse voice channel (RVC) wideband data streams (see Section 2.7) must be further encoded such that each nonreturn-to-zero binary one is transformed to a zero-to-one transition, and each nonreturn-to-zero binary zero is transformed to a one-to-zero transition.

2.1.3.2.2 Modulation and Polarity.

The filtered wideband data stream must then be used to modulate the transmitter carrier using direct binary frequency shift keying. A one (i.e., high state) into the modulator must correspond to a nominal peak frequency deviation 8 kHz above the carrier frequency, and a zero into the modulator must correspond to a nominal peak frequency deviation 8 kHz below the carrier frequency. See § 22.906 of the Commission's Rules.

2.1.4 Limitations on Emissions.

See § 22.907 of the Commission's Rules.

2.2 Receiver.

2.2.1 Frequency Parameters.

2.2.1.1 Channel Spacing and Designation.

The mobile station receive channel at 870.030 MHz (and the corresponding land station receive channel at 825.030 MHz) shall be termed channel number 1. See § 22.902 of the Commission's Rules.

2.2.2 Demodulation Characteristics.

2.2.2.1 Voice Signals.

The demodulator is followed by the following two voice-signal processing stages:

- De-emphasis.
- Expandor.

2.2.2.1.1 De-emphasis.

The de-emphasis characteristic must have a nominal −6 dB per octave response between 300 and 3000 Hz.

2.2.2.1.2 Expandor.

This stage must include the expandor portion of a 2:1 syllabic compandor. For every 1 dB change in input level to a 1:2 expandor, the change in output level is a nominal 2 dB. The signal expansion must follow all other demodulation signal processing (including the 6 dB/octave de-emphasis and filtering). The expandor must have a nominal attack time of 3 ms and a nominal recovery time of 13.5 ms as defined by the CCITT. (Reference: Recommendation G162, CCITT Plenary Assembly, Geneva, May-June 1964, Blue Book, Vol. 111, P. 52.)

The nominal reference input level to the expandor is that corresponding to a 1000 Hz tone from a carrier with a ±2.9 kHz peak frequency deviation.

2.2.3 Limitations on Emissions.

2.2.3.1 Conducted Spurious Emissions.

2.2.3.1.1 Suppression Inside Cellular Band.

Any RF signals emitted by the receiver and falling within the mobile station receive band must not exceed −80 dBm, as measured at the antenna connector. Additionally, signals falling within the mobile station transmit band must not exceed −60 dBm, as measured at the antenna connector.

2.2.3.1.2 Suppression Outside Cellular Band.

See Subpart C, Part 15 of the Commission's Rules.

2.2.3.2 Radiated Spurious Emissions.

See Subpart C, Part 15 of the Commission's Rules.

2.2.4 Other Receiver Parameters.

System performance is predicated upon receivers meeting EIA minimum performance standard PN 1376 (Recommended Standards for 800 MHz Cellular Subscriber Units).

2.3 Security and Identification.

2.3.1 Mobile Identification Number.

A 34-bit binary mobile identification number (MIN) is derived from the mobile station's 10-digit directory telephone number by the following procedure (see also Section 2.7.1).

(1) The first three digits are mapped into 10 bits (corresponding to $MIN2_p$) by the following coding algorithm:

(a) Represent the 3-digit field as $D_1D_2D_3$ with the digit 0 having the value 10.

(b) Compute $100D_1+10D_2+D_3-111$.

(c) Convert the result in step (b) to binary by a standard decimal-to-binary conversion (see table below).

(2) The second three digits are mapped into the 10 most significant bits of $MIN1_p$ by the coding algorithm described in (1).

(3) The last four digits are mapped into the 14 least significant bits of $MIN1_p$ as follows:

(a) The thousands digit should be mapped into four bits by a Binary-Coded-Decimal (BCD) conversion, as specified in the table below.

(b) The last three digits are mapped into 10 bits by the coding algorithm described in (1).

Decimal-to-Binary Conversion

Decimal No.	Binary No.
1	0000000001
2	0000000010
3	0000000011
4	0000000100
.	.
.	.
.	.
998	1111100110
999	1111100111

Thousands-Digit BCD Mapping Procedure

Thousands digit	Binary sequence
1	0001
2	0010
3	0011
4	0100
5	0101
6	0110
7	0111
8	1000
9	1001
0	1010

In the following example the 10-digit directory telephone number 321 456–7890 is encoded into MIN2 and MIN1 using the procedure described above:

• MIN2. The 10-bit MIN2 is derived from the first three digits of the telephone number (i.e., 321):

i. $D_1=3$; $D_2=2$; $D_3=1$.

ii. $100\ D_1+10D_2+D_3-1$
$11=100(3)+10(2)+(1)-111=210$.

iii. 210 in binary is '00 1101 0010'.

Therefore MIN2 is '00 1101 0010'.

• MIN1. The 10 most significant bits of MIN1 are derived from the second three digits of the telephone number (i.e., 456):

i. $D_1=4$; $D_2=5$; $D_3=6$.

ii. $100\ D_1+10D_2+D_3-1$
$11=100(4)+10(5)+(6)-111=345$.

iii. 345 in binary is '0101 0110 01'.

The next four most significant bits of MIN1 are derived from the thousands digit of the telephone number (i.e., 7) by BCD conversion: 7 in BCD is '01 11'.

The 10 least significant bits of MIN1 are derived from the last three digits of the telephone number (i.e., 890):

i. $D_1=8$; $D_2=9$; $D_3=10$.

ii $100\ D_1+10D_2+D_3-1$
$11=100(8)+10(9)+(10)-111=789$.

iii. 789 in binary is '11 0001 0101'.

Therefore MIN1 is '0101 0110 0101 1111 0001 0101'.

2.3.2 Serial Number.

The serial number is a 32-bit binary number that uniquely identifies a mobile station to any cellular system. It must be factory-set and not readily alterable in the field. The circuitry that provides the serial number must be isolated from fraudulent contact and tampering. Attempts to change the serial number circuitry should render the mobile station inoperative.

2.3.3 Station Class Mark.

Class-of-station information referred to as the station class mark (SCM_p) must be stored in a mobile station. The digital representation of this class mark is specified in the table below.

Station Class Marks

	SCM_p
Power Class (See Section 2.1.2.2):	
Class I	XX00.
Class II	XX01.
Class III	XX10.
Reserved	XX11.
Station Types:	
Continuous transmission[1]	00XX.
Discontinuous transmission[1]	01XX
Reserved	10XX.
Reserved	11XX.

[1] When DTX, is set to '1', the mobile station may use the discontinuous transmission mode on the voice channel. Otherwise, the mobile station must use the continuous transmission mode.

2.3.4 Registration Memory.

If the mobile station is equipped for autonomous registration, then a minimum of four 21-bit (20 data bits plus an overflow bit) next registration ($NXTREG_{s-p}$) and corresponding 15-bit system identification (SID_{s-p}) pairs must be retained when the mobile station power is turned off. The data retention time under power-off condition must be longer than 48 hours. If the integrity of the stored data can not be guaranteed after the mobile station is disconnected from the vehicle battery, then the memory must be set to zero when power is re-applied to the mobile station.

2.3.5 Access Overload Class.

A four-bit number ($ACCOLC_p$) must be stored in the mobile station and used to identify which overload class field controls access attempts by the mobile station (see Section 2.6.3.4).

2.3.6 Access Method.

A one-bit access method (EX_p) must be stored in the mobile station and used to determine if the extended address word must be included in all access attempts (see Section 2.6.3.7).

2.3.7 First Paging Channel.

An eleven-bit first paging channel ($FIRSTCHP_p$) must be stored in the mobile station and used to identify the channel number of the first paging channel when the mobile station is "home" (see Section 2.6.1.1.2).

2.3.8 Home System Identification.

A 15-bit system identification (SID_p) must be stored in the mobile station and used to identify the mobile station's home system (see Section 2.6.1.1.2).

2.3.9 Local Control Option.

A means must be equipped within the mobile station to enable or disable the local control option (see Sections 2.6.2.1 and 2.6.2.5).

2.3.10 Preferred-System Selection.

A means must be provided within the mobile station to identify the preferred system as either System A or System B.

2.4 Supervision.

2.4.1 Supervisory Audio Tone.

The supervisory audio tone (SAT), will be one of the three frequencies, 5970, 6000, or 6030 Hz. The SAT is added to the voice transmission by a land station (see Section 3.4.1). A mobile station must detect, filter, and modulate the transmitted voice channel carrier with this tone. Transmission of the SAT by a mobile station must be suspended during transmission of wideband data on the reverse voice channel (see Section 2.7.2), but must *not* be suspended when signaling tone is sent (see Section 2.4.2).

While a valid SAT is detected and the measured SAT determination does not agree with the SAT color code (SCC_r) received in the mobile station control message (see Sections 3.7.1.1 and 3.7.2), the receiver audio must be muted. See § 22.906(b) of the Commission's Rules.

2.4.1.1 SAT Detection.

A mobile station must make the following decisions to determine which SAT, or none, is present:

Measured frequency of incoming signal	Measured SAT determination	where
$f<f_1$	No valid SAT	
$f_1<f<f_2$	SAT=5970	$f_1=5935\pm5$ Hz.
$f_2<f<f_3$	SAT=6000	$f_2=5985\pm5$ Hz.
$f_3<f<f_4$	SAT=6030	$f_3=6015\pm5$ Hz.
$f>f_4$	No valid SAT	$f_4=6045\pm5$ Hz.
No SAT Received	No valid SAT	

The determination of SAT is not required to be made continuously, but should be performed at least every 250 ms.

2.4.1.2 SAT Transmission.

The transmission requirements for the SAT signal, including time delays in the transmitter, receiver and any equilization circuits, are summarized as follows:

- Steady-state phase error at 5970, 6000 or 6030 Hz, 0±20 degrees.
- Phase Step Response, Settle to within 10 percent of final steady-phase error in< 250 ms.
- Tone Modulation Index, ⅓ radian ±10 percent (Δf ~ ±2kHz).

2.4.1.3 Fade Timing Status.

When an SAT determination is made a mobile station must perform the following:

- If no valid SAT is detected or the measured SAT determination does not agree with the SAT color code (SCC_r) received in the mobile station control message (see Sections 3.7.1.1 and 3.7.2), the fade timing status must be enabled (see Section 2.6.4.1).
- Otherwise, the fade timing status must be disabled (see Section 2.6.4.1).

2.4.2 Signaling Tone.

Signaling tone must be 10 kHz ±1 Hz and produce a nominal frequency deviation of ±8 kHz. See § 22.906(b) of the Commission's Ruler.

2.5 Malfunction Detection.

2.5.1 Malfunction Timer.

A timer separate from and independent of all other functions must be running continuously whenever power is applied to the transmitter of a mobile station.

If the mobile station is software-controlled, sufficient reset commands must be interspersed throughout the mobile station logic program to ensure that the timer never expires as long as the proper sequence of operations is taking place; similar means must be provided, as appropriate, in hardware-controlled designs.

If the timer expires, a malfunction must be assumed and the mobile station must be inhibited from transmitting. The maximum time allowed for expiration of the timer is 60 seconds.

This supersedes the requirement for a transmitter carrier-on indicator.

2.5.2 False Transmission.

A protection circuit must be provided to minimize the possibility of false transmitter operation caused by component failure within the mobile station.

2.6 Call Processing.

The following sections describe mobile station operation as controlled by a land station. Frequent references are made to the corresponding sections in the land station section and to the messages that flow between a land station and a mobile station. It is helpful to read sections 2.6 and 3.6 in parallel and examine the message formats in sections 2.7 and 3.7 at the same time.

When power is applied to a mobile station, it should enter the Retrieve System Parameters Task (see Section 2.6.1.1). Each task from section 2.6.1.1 to 2.6.4.5 contains information describing which tasks must be entered when a given task is completed.

2.6.1 Initialization.

2.6.1.1 Retrieve System Parameters.

If the preferred system (see Section 2.3.10) is System A, set the serving-system status to enabled; if the preferred system is System B, set the serving-system status to disabled.

The mobile station must then enter the Scan Dedicated Control Channels Task (see Section 2.6.1.1.1).

2.6.1.1.1 Scan Dedicated Control Channels.

If the serving-system status is enabled, a mobile station must examine the signal strength on each of the dedicated control channels assigned nationwide to System A. If the serving-system status is disabled, a mobile station must examine the signal strength on each of the dedicated control channels assigned nationwide to System B.

The mobile station must then enter the Update Overhead Information Task (see Section 2.6.1.1.2).

2.6.1.1.2 Update Overhead Information.

Overhead messages are sent in a group called an overhead message train (see Section 3.7.1.2). The mobile station must use the value given in the NAWC field of the system parameter overhead message in the train to determine that all messages of the train have been received. The END field must be used as a cross-check. For NAWC-counting purposes, inserted control-filler messages (see Section 3.7.1) must not be counted as part of the overhead message train.

If the mobile station receives a BCH-code-correct but unrecognizable overhead message in the train, the mobile station must count that message as part of the train for NAWC-counting purposes, but must not attempt to execute the message.

The mobile station must tune to the strongest dedicated control channel and, within 3 seconds, receive a system parameter message (see Section 3.7.1.2) and update the following numeric information:

- System identification (SID_s). Set the 14 most significant bits of SID_s to the value of the SID1 field. Set the least significant bit of SID_s to '1' if the serving-system status is enabled; otherwise, set the bit to '0'.
- Number of paging channels (N_s). Set N_s to 1 plus the value of the N−1 field.
- First paging channel ($FIRSTCHP_s$). Set $FIRSTCHP_s$ according to the following algorithm:

i. If $SID_s=SID_p$, $FIRSTCHP_s=FIRSTCHP_p$ (see Section 2.3.7).

ii. If $SID_s=SID_p$ and the serving-system status is enabled, set $FIRSTCHP_s$ to the first dedicated control channel for System A.

iii. If $SID_s=SID_p$ and the serving-system status is disabled, set $FIRSTCHP_s$ to the first dedicated control channel for System B.

- Last paging channel ($LASTCHP_s$). Set $LASTCHP_s$ to the value of $FIRSTCHP_s+N_s-1$.

If the mobile station is equipped for autonomous registration, the mobile station must:

- Set registration increment ($REGINCR_s$) to its default value of 450.
- Set the first registration ID status to enabled.

The mobile station must then enter the Paging Channel Selection Task (see Section 2.6.1.2).

If the mobile station cannot complete this task on the strongest dedicated

control channel, it may tune to the second strongest dedicated control channel and attempt to complete this task within a second 3-second interval. If it cannot complete this task on either of the two strongest control channels, the mobile station may check the serving-system status: If the serving-system status is enabled, it may be disabled; if the serving-system status is disabled, it may be enabled. The mobile station must then enter the Scan Dedicated Control Channels Task (see Section 2.6.1.1.1).

2.6.1.2 Paging Channel Selection.

2.6.1.2.1 Scan Paging Channels.

The mobile station must examine the signal strength on each of channels FIRSTCHP$_s$ to LASTCHP$_s$ (see Section 2.6.1.1.2).

The mobile station must then enter the Verify Overhead Information Task (see Section 2.6.1.2.2).

2.6.1.2.2 Verify Overhead Information.

The mobile station must set the Wait-for-Overhead-Message bit (WFOM$_s$) to '0'; the mobile station must then tune to the strongest paging channel and, within 3 seconds, receive an overhead message train (see Section 3.7.1.2) and update the following:

- System identification: Set the 14 most significant bits of SID$_r$ to the value of the SID1 field. Set the least significant bit of SID$_r$ to '1' if the serving-system status is enabled; otherwise, set the bit to '0'.
- ROAM status: The mobile station must compare the received system identification (SID$_r$) with the stored system identification (SID$_s$). If SID$_r$ = SID$_s$, the mobile station must compare SID$_s$ with SID$_p$. If SID$_p$ = SID$_s$, the mobile station must set the ROAM status to disabled. If SID$_p$ = SID$_s$, the mobile station must set the ROAM status to enabled.

If SID$_r$ = SID$_s$, the mobile station must enter the Retrieve System Parameters Task (see Section 2.6.1.1).

- Local control status: If the local control option is enabled within the mobile station (see Section 2.3.9) and the bits of the home system identification (SID$_p$) that comprise the group identification match the corresponding bits of SID$_s$, then the local control status must be enabled. Otherwise, the local control status must be disabled.

The mobile station must then enter the Response to Overhead Information Task (see Section 2.6.2.1).

If the mobile station cannot complete this task on the strongest paging channel, it may tune to the second strongest paging channel and attempt to complete this task within a second 3-second interval. If it cannot complete this task on either of the two strongest paging channels, the mobile station may check the serving-system status: If the serving-system status is enabled, it may be disabled; if the serving-system status is disabled, it may be enabled. The mobile station must then enter the Scan Dedicated Control Channels Task (see Section 2.6.1.1.1).

2.6.2 Idle.

During the Idle Task, a mobile station must execute each of the following four (sub)tasks (see Sections 2.6.2.1, 2.6.2.2, 2.6.2.3, 2.6.2.4) at least every 46.3 ms, the periodicity of word blocks on the forward control channel. If the mobile station is not listening to a control channel of the preferred system, it may exit this task and enter the Retrieve System Parameters Task (see Section 2.6.1.1).

2.6.2.1 Response to Overhead Information.

Whenever a mobile station receives an overhead message train (see Section 3.7.1.2), the mobile station must compare SID$_s$ with SID$_r$. If SID$_s$ = SID$_r$, the mobile station must exit the Idle Task and enter the Initialization Task (see Section 2.6.1).

If SID$_s$ = SID$_r$, the mobile station must update the following numeric values using information contained in the system parameter overhead message:

- Serial number bit (S_s). Set S_s to the value in the S field.
- Registration bit (R_s). If the roam status is disabled, set R_s to the value of the REGH field; if the roam status is enabled, set R_s to the value of the REGR field.
- Extended address bit (E_s). Set E_s to the value in the E field.
- Discontinuous transmission bit (DTX_s). Set DTX_s to the value of the DTX field.
- Number of paging channels (N_s). Set N_s to 1 plus the value of the N − 1 field.
- Read-control-filler bit (RCF_s). Set RCF_s to the value of the RCF field.
- Combined paging/access bit (CPA_s). Set CPA_s to the value of the CPA field.
- Number of access channels ($CMAX_s$). Set $CMAX_s$ to 1 plus the value of the CMAX − 1 field.
- Determine control channel boundaries for accessing the system ($FIRSTCHA_s$ and $LASTCHA_s$) by using the following algorithm:

I. If the serving-system status is enabled,

a. If $CPA_s = 1$, set $FIRSTCHA_s$ to the first dedicated control channel for System A.

b. If $CPA_s = 0$, set $FIRSTCHA_s$ to the value of the first dedicated control channel for System A plus N_s.

c. $LASTCHA_s = FIRSTCHA_s + CMAX_s - 1$.

II. If the serving-system status is disabled,

a. If $CPA_s = 1$, set $FIRSTCHA_s$ to the first dedicated control channel for System B.

b. If $CPA_s = 0$, set $FIRSTCHA_s$ to the value of the first dedicated control channel for System B plus N_s.

c. $LASTCHA_s = FIRSTCHA_s + CMAX_s - 1$.

The mobile station must then respond as indicated to each of the following messages, if received in the overhead message train. The order in which the mobile station must respond to the messages, if two or more are received, is given by their order in the following list:

1. Local Control Messages.

If the local control status is enabled (see Section 2.6.1.2.2) the mobile station must respond to the local control messages.

2. New Access Channel Set Message.

a. The mobile station must set $FIRSTCHA_s$ to the value of the NEWACC field of the message.

b. The mobile station must set $LASTCHA_s = NEWACC_r + CMAX_s - 1$.

3. Registration Increment Message.

If the mobile station is equipped for autonomous registration, the mobile station must set $REGINCR_s$ to the value of the REGINCR field in the message.

4. Registration ID Message.

If the mobile station is equipped for autonomous registration, the mobile station must perform the following:

a. The mobile station must set $REGID_s$ to the value of the REGID field of the received message and set the first-registration ID status to disabled (see Section 2.6.1.1.2).

b. The mobile station must then attempt to find SID_s among the $SID_{s,p}$ values stored in the registration memory (see Section 2.3.4).

c. If SID_s is found among the $SID_{s,p}$ values stored in the registration memory, the mobile station must perform the following:

i. The mobile station must use the following (or an equivalent) algorithm to review the $NXTREG_{s,p}$ associated with the $SID_{s,p}$ to determine if $REGID_s$ has cycled through zero:

- If $NXTREG_{s,p}$ is greater than or equal to $REGID_s + REGINCR_s + 5$, then $NXTREG_{s,p}$ must be replaced by the greater of 0 and the value $NXTREG_{s,p} - 2^{20}$.
- Otherwise do not change $NXTREG_{s,p}$.

ii. The mobile stations must then compare $REGID_s$ with the $NXTREG_{s\text{-}p}$ associated with the $SID_{s\text{-}p}$.

• If $REGID_s$ is greater than or equal to $NXTREG_{s\text{-}p}$ and autonomous registration is enabled, the mobile station must enter the System Access Task with a "registration" indication (see Section 2.6.3).

• If $REGID_s$ is greater than or equal to $NXTREG_{s\text{-}p}$ and autonomous registration is not enabled, then set $NXTREG_{s\text{-}p}$ equal to $REGID_s$.

• Otherwise, the mobile station must ignore the message and continue to process messages in the overhead message train.

d. If SID_s is not found among the $SID_{s\text{-}p}$ values stored in the registration memory, the mobile station must perform the following:

• If autonomous registration is enabled, the mobile station must exit this task and enter the System Access Task with a "registration" indication supplied (see Section 2.6.3).

• Otherwise, the mobile station must ignore the message and continue to process messages in the overhead message train.

5. Rescan Message.

The mobile station must immediately exit this task and enter the Initialization Task (see Section 2.6.1).

6. Any Other Message.

Ignore message.

2.6.2.2 Page Match.

The mobile station must monitor mobile station control messages for page messages (see Section 3.7.1.1).

• If the ROAM status is disabled, the mobile station must attempt to match $MIN1_p$ to $MIN1_r$ for one-word messages and both $MIN1_p$ and $MIN2_p$ to $MIN1_r$ and $MIN2_r$, respectively, for two-word messages. All decoded MIN bits must match to cause the mobile station to respond to the message.

• If the ROAM Status is enabled, the mobile station must attempt to match both $MIN1_p$ and $MIN2_p$ to $MIN1_r$ and $MIN2_r$, respectively. All decoded MIN bits must match to cause the mobile station to respond to the order.

When a match occurs, the mobile station must enter the System Access Task with a "page response" indication (see Section 2.6.3).

2.6.2.3 Order.

The mobile station must monitor mobile station control messages for orders and must attempt to match both $MIN1_p$ and $MIN2_p$ to $MIN1_r$ and $MIN2_r$, respectively. All decoded MIN bits must match to cause the mobile station to respond to the order. The responses to the following orders are:

• Audit order. The mobile station must enter the System Access Task (see Section 2.6.3) with an "order" indication.

• Local control order. The action to be taken depends on the local control field.

• Any other order. Ignore order.

2.6.2.4 Call Initiation.

When the user desires to initiate a call, the System Access Task (see Section 2.6.3) must be entered with an "origination" indication.

2.6.2.5 Non-Autonomous Registration Initiation.

If $R_s=1$, the mobile station may initiate a non-autonomous registration by entering the System Access Task (see Section 2.6.3) with a "registration" indication.

2.6.3 System Access.

2.6.3.1 Set Access Parameters.

When the System Access Task is started, a timer, called the access timer, must be set as follows:

• If this is an origination, to a maximum of 12 seconds,

• If this is a page response, to a maximum of 6 seconds,

• If this is an order response, to a maximum of 6 seconds,

• If this is a registration, to a maximum of 6 seconds.

The mobile station must set the last-try code (LT_s) to '0' and then enter the Scan Access Channels Task (see Section 2.6.3.2).

2.6.3.2 Scan Access Channels.

The mobile station must examine the signal strength on each of the channels $FIRSTCHA_s$ to $LASTCHA_s$ and choose up to two channels with the strongest signals. See Response to Overhead Information Task (Section 2.6.2.1) for access channel set determination.

The mobile station must then tune to the strongest access channel and enter the Retrieve Access Attempts Parameters Task (see Section 2.6.3.3).

2.6.3.3 Retrieve Access Attempt Parameters.

The mobile station must set the maximum-number-of-seizure-attempts allowed ($MAXSZTR_{st}$) to a maximum of 10, and the maximum-number-of-busy-occurrences ($MAXBUSY_{st}$) to a maximum of 10.

The mobile station must then initialize the following to zero:

• Number of busy occurrences ($NBUSY_{sv}$).

• Number of unsuccessful seizure attempts ($NSZTR_{sv}$).

The mobile station must then examine the read control-filler bit (RCF_s).

• If $RCF_s=0$, the mobile station must then within 400 ms (+100 ms, −0 ms) set DCC_s to the value in the DCC field of a received message and set the power level (PL_s) to 0.

• If $RCF_s=1$, the mobile station must then within 1000 ms (+100 ms, −0 ms) read a control-filler message, set DCC_s and $WFOM_s$ to the values in the DCC and WFOM fields of the message, respectively, and set PL_s to the power level given by Table 2.1.2–1 for the value of the CMAC field of the message and the mobile station power class (see Sections 2.1.2.2, 2.3.3, and 3.7.1.2.4).

If the DCC field or the control-filler message is not received within the time allowed, then the mobile station must examine the access timer. If the access timer has expired, the mobile station must enter the Serving-System Determination Task (see Section 2.6.3.12). If the access timer has not expired, the mobile station must enter the Alternate Access Channel Task (see Section 2.6.3.13).

The mobile station must then set BIS_s to '1' and examine the $WFOM_s$ bit.

• If $WFOM_s=1$, the mobile station must enter the Update Overhead Information Task (see Section 2.6.3.4).

• If $WFOM_s=0$, the mobile station must wait a random delay. Each time it waits a random delay, a different random delay must be generated with the time uniformly distributed in the interval 0 to 92 ± 1 ms and, if quantized, with granularity no more than 1 ms. The mobile station must then enter the Seize Reverse Control Channel Task (see Section 2.6.3.5).

2.6.3.4 Update Overhead Information.

If this task is not completed within 1.5 seconds, the mobile station must exit this task and enter the Serving-System Determination Task (see Section 2.6.3.12). If the Update Overhead Information Task is completed, the mobile station must enter the Seize Reverse Control Channel Task (see Section 2.6.3.5).

The mobile station must receive an overhead message train (see Section 3.7.1.2) and act as indicated below in response to the following global action messages, if received in the overhead message train:

• Overload Control Message.

—If this access is an origination, the mobile station must examine the value of the overload class field (OLC) identified by $ACCOLC_p$. If the identified OLC field is set to '0', the mobile station must exit this task and enter the Serving-System Determination Task (see Section 2.6.3.12); if the identified OLC field is set to '1', the mobile station must

continue to respond to messages in the overhead message train.

—Otherwise, the mobile station must continue to respond to messages in the overhead message train.

• Access Type Parameters Message.

The busy-idle status bit (BIS_s) must be set to the value of the BIS field of the received message.

• Access Attempt Parameters Message.

The mobile station must update the following parameters:

—If this access is a page response,

a. Maximum number of seizure tries allowed ($MAXSZTR_{st}$) must be set to the value of the MAXSZTR–PGR field of the received message.

b. Maximum number of busy occurrences allowed ($MAXBUSY_{st}$) must be set to the value of the MAXBUSY–PGR field of the received message.

—Otherwise,

a. Maximum number of seizure tries allowed ($MAXSZTR_{st}$) must be set to the value of the MAXSZTR–OTHER field of the received message.

b. Maximum number of busy occurrences allowed ($MAXBUSY_{st}$) must be set to the value of the MAXBUSY–OTHER field of the received message.

After the overhead message train is received and processed as required above, the mobile station must wait a random time. Each time this task is executed, a different random delay must be generated, distributed uniformly in the interval 0 to 750 ms, and if quantized, with granularity no greater than 1 ms. At the end of the delay, the mobile station must enter the Seize Reverse Control Channel Task (see Section 2.6.3.5).

2.6.3.5 Seize Reverse Control Channel.

The mobile station must read the busy-idle status of the channel.

• If the channel is busy, the mobile station must increment $NBUSY_{sv}$ by 1.

—If $NBUSY_{sv}$ exceeds $MAXBUSY_{st}$, then the mobile station must exit this task and enter the Serving-System Determination Task (see Section 2.6.3.12).

—If $NBUSY_{sv}$ does not exceed $MAXBUSY_{st}$, then the mobile station must exit this task and the Delay After Failure Task must be executed (see Section 2.6.3.6).

• If the channel is idle, then the mobile station must set $NBUSY_{sv}$ to zero, turn on the transmitter at the power level indicated by PL_s (see Sections 2.6.3.3 and 2.1.2.2), wait the proper delay (see Section 2.1.2.1) until the transmitter is within 3 dB of the required power level, and then start to send the message to the land station (see Section 2.7.1).

If $BIS_s=0$, then the mobile station must enter the Service Request Task (see Section 2.6.3.7); if $BIS_s=1$, then upon starting to send the message, the mobile station must continuously monitor the busy-idle status of the channel.

• If the channel becomes busy before the first 56 bits of the message are sent, the mobile station must immediately stop sending the message and turn off the transmitter.

• If the channel fails to change to busy by the time the mobile station has sent 104 bits, then the mobile station must immediately stop sending the message and turn off the transmitter.

In either of these cases, the mobile station must then increment the count of seizure failures ($NSZTR_{sv}$) by 1 and compare the result with the maximum number of seizure attempts allowed ($MAXSZTR_{st}$).

—If $NSZTR_{sv}$ exceeds $MAXSZTR_{st}$, the mobile station must exit this task and enter the Serving-System Determination Task (see Section 2.6.3.12).

—If $NSZTR_{sv}$ does not exceed $MAXSZTR_{st}$, the mobile station must exit this task and enter the Delay After Failure Task (see Section 2.6.3.6).

• If the busy-idle status changes to busy after 56 bits and before 104 bits are sent, then the mobile station must enter the Service Request Task (see Section 2.6.3.7).

2.6.3.6 Delay After Failure.

The mobile station must examine the access timer. If the access timer has expired, the mobile station must enter the Serving-System Determination Task (see Section 2.6.3.12). If the access timer has not expired, the mobile station must wait a random time. Each time it enters this task, it must generate a different time, uniformly distributed in the interval 0 to 200 ms, and if quantized, with granularity no greater than 1 ms. The mobile station must then enter the Seize Reverse Control Channel Task (see Section 2.6.3.5).

2.6.3.7 Service Request.

The mobile station must continue to send its message to the land station. The information which must be sent is as follows (with the formats given in Section 2.7.1.):

• Word A must always be sent.

• If $E_s=1$, or $LT_s=1$, the ROAM status is enabled, or the ROAM status is disabled and $EX_p=1$, or the access is an "order", or the access is a "registration", or the mobile station was paged with a two-word mobile station control message, Word B must be sent.

• If $S_s=1$, Word C must be sent.

• If the access is an "origination", Word D must be sent.

• If the access is an "origination" and 9 to 16 digits were dialed, Word E must be sent.

When the mobile station has sent its complete message, it must continue to send unmodulated carrier for a nominal duration of 25 ms and then turn off the transmitter.

The next task to be entered depends on the type of access by the mobile station:

• If the access is an order confirmation, the mobile station must enter the Serving-System Determination Task (see Section 2.6.3.12).

• If the access is an origination, the mobile station must enter the Await Message Task (see Section 2.6.3.8).

• If the access is a page response, the mobile station must enter the Await Message Task (see Section 2.6.3.8).

• If the access is a registration request, the mobile station must enter the Await Registration Confirmation Task (see Section 2.6.3.9).

2.6.3.8 Await Message.

If this task is not completed within 5 seconds, the mobile station must enter the Serving-System Determination Task (see Section 2.6.3.12).

The mobile station must monitor mobile station control messages (see Section 3.7.1.1). If the mobile station sent Word B as part of the Service Request (see Section 2.6.3.7), then the mobile station must attempt to match $MIN1_p$ and $MIN2_p$ to $MIN1_r$ and $MIN2_r$, respectively; otherwise, the mobile station must attempt to match only $MIN1_p$ to $MIN1_r$.

The mobile station must respond as indicated to any of the following messages if all decoded MIN bits match.

If the access is an origination or page response:

• Initial voice channel designation message: (see Section 3.7.1.1). The mobile station must update the parameters set in the message. If $R_s=1$ and the mobile station is equipped for autonomous registration, the mobile station must enter the Autonomous Registration Update Task (see Section 2.6.3.11), supplying a "success" indication and then enter the Initial Voice Channel Confirmation Task (see Section 2.6.4.2). Otherwise, the mobile station must enter the Initial Voice Channel Confirmation Task.

• Directed-retry message: (see Section 3.7.1.1). If the mobile station is equipped for directed retry, it must respond to the directed-retry message as follows:

If the mobile station encounters the start of a new message before it receives

all four words of the directed-retry message, it must exit this task and enter the Serving-System Determination Task (see Section 2.6.3.12).

The mobile station must set the last-try code (LT_s) according to the ORDQ field of the message:

—If ORDQ='000', set LT_s to '0'.

—If ORDQ='001', set LT_s to '1'.

The mobile station must then clear $CCLIST_s$ and examine each CHANPOS field in Words 3 and 4 of the message. For each nonzero CHANPOS field, the mobile station must calculate a corresponding channel number by adding CHANPOS to $FIRSTCHA_s-1$. The mobile station must then determine whether each channel number is within the set allocated to cellular systems, and if so, list the channel number in $CCLIST_s$.

After completing its response to the directed-retry message, the mobile station must examine the access timer. If the access timer has expired, the mobile station must enter the Serving-System Determination Task (see Section 2.6.3.12). If the access timer has not expired, the mobile station must enter the Directed-Retry Task (see Section 2.6.3.14).

If the access is an origination:

• Intercept: The mobile station must enter the Serving-System Determination Task (see Section 2.6.3.12).

• Reorder: The mobile station must enter the Serving-System Determination Task (see Section 2.6.3.12).

If the access is a page response:

• Release: The mobile station must enter the Serving-System Determination Task (see Section 2.6.3.12).

If the access is an origination and the user terminates a call during this task, the termination status must be enabled so that the call can be released on a voice channel (see Section 2.6.4.4) instead of on a control channel.

2.6.3.9 Await Registration Confirmation.

If this task is not completed within 5 seconds, the mobile station must exit this task and enter the Action on Registration Failure Task (see Section 2.6.3.10).

The mobile station must monitor mobile station control messages (see Section 3.7.1.1). If the mobile station sent Word B as part of the Service Request (see Section 2.6.3.7), then the mobile station must attempt to match $MIN1_p$ and $MIN2_p$ to $MIN1_r$ and $MIN2_r$, respectively; otherwise, the mobile station must attempt to match only $MIN1_p$ to $MIN1_r$.

The mobile station must respond as indicated to any of the following messages if all decoded MIN bits match:

• Release order (see Section 3.7.1.1). The mobile station must exit this task and enter the Action on Registration Failure Task (see Section 2.6.3.10).

• Order confirmation (see Section 3.7.1.1). If the mobile station is equipped for autonomous registration and autonomous registration is enabled, the mobile station must enter the Autonomous Registration Update Task (see Section 2.6.3.11), supplying a "success" indication; the mobile station must then enter the Serving-System Determination Task (see Section 2.6.3.12). Otherwise, the mobile station must enter the Serving-System Determination Task (see Section 2.6.3.12).

2.6.3.10 Action on Registration Failure.

If the mobile station is equipped for autonomous registration and autonomous registration is enabled, the mobile station must enter the Autonomous Registration Update Task (see Section 2.6.3.11), supplying a "failure" indication; the mobile station must then enter the Serving-System Determination Task (see Section 2.6.3.12). Otherwise, the mobile station must enter the Serving-System Determination Task (see Section 2.6.3.12).

2.6.3.11 Autonomous Registration Update.

If the first-registration ID status is enabled, return to the invoking task. Otherwise the mobile station must attempt to find SID_s among the $SID_{s,p}$ values stored in the registration memory and create an entry for SID_s if it is not found. The mobile station must then update the $NXTREG_{s,p}$ associated with the $SID_{s,p}$ according to the following:

• If a "success" indication was supplied to the Registration Update Task, the mobile station must update the next registration ID to: $NXTREG_{s,p}=REGID_s+REGINCR_s$.

• If a "failure" indication was supplied to the Registration Update Task, the mobile station must generate a random number ($NRANDOM_{ss}$). Each time this step is executed, a different random number must be generated, uniformly distributed in the interval 0 to 10, and with granularity no more than 1.

The mobile station must then update the next registration ID to: $NXTREG_{s,p}=REGID_s+NRANDOM_{ss}$.

The mobile station must then return to the invoking task.

2.6.3.12 Serving-System Determination.

If the serving-system status does not correspond to the preferred system, the mobile station may enter the Retrieve System Parameters Task (see Section 2.6.1.1); otherwise, it must enter the Paging Channel Selection Task (see Section 2.6.1.2).

2.6.3.13 Alternate Access Channel.

If the mobile station is tuned to the strongest access channel, it *may* tune to the second strongest channel and then enter the Retrieve Access Attempt Parameters Task (see Section 2.6.3.3). Otherwise, it must enter the Serving-System Determination Task (see Section 2.6.3.12).

2.6.3.14 Directed Retry.

The mobile station must examine the signal strength on each of the channels listed in $CCLIST_s$ and choose up to two channels with the strongest signals. The mobile station must then tune to the strongest access channel and enter the Retrieve Access Attempts Parameters Task (see Section 2.6.3.3).

2.6.4 Mobile Station Control on the Voice Channel.

2.6.4.1 Loss of Radio-Link Continuity.

While the mobile station is tuned to a voice channel, it must monitor the fade timing status (see Section 2.4.1.3). If the fade timing status is enabled, a fade timer must be started; each time the fade timing status is disabled, the timer must be reset. If the timer counts to 5 seconds, the mobile station must turn off its transmitter; and enter the Serving-System Determination Task (see Section 2.6.3.12).

2.6.4.2 Confirm Initial Voice Channel.

Within 100 ms of the receipt of the initial voice channel designation (see Section 3.7.1.1), the mobile station must determine whether the channel number is within the set allocated to cellular systems, and

• If it is within the allocated set, the mobile station must tune to the designated voice channel, turn on the transmitter at the power level indicated by the VMAC field of the initial voice channel message (see Sections 2.1.2.2 and 3.7.1.1), turn on the SAT transponder (see Section 2.4.1), and set the stored SAT Color Code (SCC_s) to the value of the SCC field of the initial voice channel message (see Section 3.7.1.1).

—If this is an origination access, the mobile station then must enter the Conversation Task (see Section 2.6.4.4).

—If this is a page response access, the mobile station then must enter the Waiting for Order Task (see Section 2.6.4.3.1).

• Otherwise, the mobile station must enter the Serving-System Determination Task (see Section 2.6.3.12).

2.6.4.3 Alerting.

2.6.4.3.1 Waiting for Order.

When this task is entered, an order timer must be set to 5 seconds. The following may occur:

• If the order timer expires the mobile station must turn off the transmitter; then the mobile station must enter the Serving-System Determination Task (see Section 2.6.3.12).

• Within 100 ms of the receipt of any of the orders listed below (see Section 3.7.2), the mobile station must compare SCC_s to the present SAT color code (PSCC) field in the received message. If SCC_s=PSCC, the order must be ignored. If SCC_s=PSCC, the action to be taken for each order is as follows:

—Handoff. Turn on signaling tone for 50 ms, turn off signaling tone, turn off transmitter, adjust power level, tune to new channel, adjust to new SAT, set SCC_s to the value of the SCC field of the message (see Section 2.4.1), turn on transmitter, reset fade timer, remain in the Waiting for Order Task, and reset the order timer to 5 seconds.

—Alert. Turn on signaling tone, wait 500 ms, and enter the Waiting for Answer Task (see Section 2.6.4.3.2).

—Release. Enter Release Task (see Section 2.6.4.5).

—Audit. Send order confirmation message to land station (see Section 2.7.2), remain in the Waiting for Order Task, and reset the order timer to 5 seconds.

—Maintenance. Turn on signaling tone, wait 500 ms, and enter the Waiting for Answer Task (see Section 2.6.4.3.2).

—Change power. Adjust the transmitter to the power level indicated by the order qualification code (see Section 3.7.1.1 and 2.1.2.2) and send order confirmation message to land station (see Section 2.7.2). Remain in the Waiting for Order Task, and reset the order timer to 5 seconds.

—Local Control. If the local control status is enabled (see Section 2.6.1.2.2) and a local control order is received, the local control field must be examined to determine the action and confirmation to take.

—Any other order. Ignore order.

2.6.4.3.2 Waiting for Answer.

When this task is entered, an alert timer must be set to 65 seconds (−0, +20%). The following may occur:

• If the alert timer expires the mobile station must turn off the transmitter; then the mobile station must enter the Serving-System Determination Task (see Section 2.6.3.12).

• If the user answers, signaling tone must be turned off and the Conversation Task (see Section 2.6.4.4) must be entered.

• Within 100 ms of the receipt of any of the orders listed below, the mobile station must compare SCC_s to the PSCC field in the received message. If SCC_s=PSCC, the order must be ignored. If SCC_s=PSCC, the action to be taken for each order is as follows:

—Handoff. Turn off signaling tone for 500 ms, turn on signaling tone for 50 ms, turn off signaling tone, turn off transmitter, adjust power level, tune to new channel, adjust to new SAT, set SCC_s to the value of the SCC field of the message (see Section 2.4.1), turn on transmitter, reset fade timer, and turn on signaling tone. Then remain in the Waiting for Answer Task.

—Alert. Remain in the Waiting for Answer Task, and reset the alert timer to 65 seconds.

—Stop Alert. Turn off signaling tone, and enter the Waiting for Order Task (see Section 2.6.4.3.1).

—Release. Turn off signaling tone, wait 500 ms, and then enter the Release Task (see Section 2.6.4.5).

—Audit. Send order confirmation message to land station (see Section 2.7.2) and remain in the Waiting for Answer Task.

—Maintenance. Remain in the Waiting for Answer Task, and reset the alert timer to 65 seconds.

—Change power. Adjust the transmitter to the power level indicated by the order qualification code (see Sections 3.7.1.1 and 2.1.2.2) and send order confirmation message to land station (see Section 2.7.2). Remain in the Waiting for Answer Task.

—Local Control. If the local control status is enabled (see Section 2.6.1.2.2) and a local control order is received, the local control field must be examined to determine the action and confirmation to take.

—Any other order. Ignore order.

2.6.4.4 Conversation.

When this task is entered, a release-delay timer must be set to 500 ms. If the termination status is enabled (see Section 2.6.3.8), the mobile station must set the termination status to disabled, wait 500 ms and then enter the Release Task (see Section 2.6.4.5).

The following may occur:

• If the user terminates the call, the release-delay timer must be examined. If the timer has expired, the Release Task must be entered (see Section 2.6.4.5). If the timer has not expired, the mobile station must wait until the timer expires and then enter the Release Task.

• If the user requests a flash, a flash must be processed by turning on signaling tone for 400 ms. If a valid order (one which is not ignored) is received while processing a flash, the flash must be terminated immediately and the order must be processed. Flashes so terminated are not considered valid.

• Within 100 ms of the receipt of any of the orders listed below, the mobile station must compare SCC_s to the PSCC field in the received message. If SCC_s=PSCC, the order must be ignored. If SCC_s=PSCC, the action to be taken for each order is as follows:

—Handoff. Turn on signaling tone for 50 ms, turn off signaling tone, turn off transmitter, adjust power level, tune to new channel, adjust to new SAT, set SCC_s to the value of the SCC field of the message (see Section 2.4.1), turn on transmitter, reset fade timer, and remain in the Conversation Task.

—Send Called-Address.

If received within 10 seconds of the completion of the last valid flash, send the called-address to the land station (see Section 2.7.2) and remain in the Conversation Task.

Otherwise, ignore the order and remain in the Conversation Task.

—Alert. Turn on signaling tone, wait 500 ms, and then enter the Waiting for Answer Task (see Section 2.6.4.3.2).

—Release. Examine the release-delay timer. If the timer has expired, the mobile station must enter the Release Task (see Section 2.6.4.5). If the timer has not expired, the mobile station must wait until the timer expires and then enter the Release Task.

—Audit. Send order confirmation message to land station (see Section 2.7.2) and remain in the Conversation Task.

—Maintenance. Turn on signaling tone, wait 500 ms, and then enter the Waiting for Answer Task (see Section 2.6.4.3.2).

—Change power. Adjust the transmitter to the power level indicated by the order qualification code (see Sections 3.7.1.1 and 2.1.2.2) and send order confirmation message to land station (see Section 2.7.2). Remain in the Conversation Task.

—Local Control. If the local control status is enabled (see Section 2.6.1.2.2) and a local control order is received, the local control field must be examined to determine the action and confirmation to take.

—Any other order. Ignore order.

2.6.4.5 Release.

The following must be performed:

• Send signaling tone for 1.8 seconds. If a flash (see Section 2.6.4.4) was being sent when this task was entered, signaling tone must continue to be sent and the timing bridged so that no more

than 1.8 seconds of signaling tone is sent.

- Stop sending signaling tone.
- Turn off the transmitter.

The mobile station must then enter the Serving-System Determination Task (see Section 2.6.3.12).

2.7 Signaling Formats.

2.7.1 Reverse Control Channel.

The reverse control channel (RECC) is a wideband data stream sent from the mobile station to the land station. This data stream must be generated at a 10 kilobit/second ±1 bit/second rate. Figure 2.7.1–1 depicts the format of the RECC data stream.

DOTTING	WORD SYNC	CODED DCC *	FIRST WORD REPEATED 5 TIMES	SECOND WORD REPEATED 5 TIMES	THIRD WORD REPEATED 5 TIMES	...
30	11	7	240	240	240	

seizure precursor

DOTTING = 1010...101
WORD SYNC = 11100010010

* DIGITAL COLOR CODE - CODED PER TABLE 2.7.1-1.

REVERSE CONTROL CHANNEL MESSAGE STREAM (Mobile-to-Land)
Figure 2.7.1-1.

Table 2.7.1–1

Coded Digital Color Code

Received DCC	7-Bit coded DCC
00	0000000
01	0011111
10	1100011
11	1111100

All messages begin with the RECC seizure precursor which is composed of a 30-bit dotting sequence (1010 . . . 101), an 11-bit word sync sequence (11100010010), and the coded digital color code (DCC). The 7-bit coded DCC is obtained by translating the received DCC according to Table 2.7.1–1.

Each word contains 48 bits, including parity, and is repeated five times; it is then referred to as a word block. A word is formed by encoding 36 content bits into a (48, 36) BCH code that has a distance of 5, (48, 36; 5). The left-most bit (i.e., earliest in time) shall be designated the most-significant bit. The 36 most-significant bits of the 48-bit field shall be the content bits.

The generator polynomial for the code is the same as for the (40, 28; 5) code used on the forward control channel (see Section 3.7.1).

Each RECC message can consist of one to five words. The types of messages to be transmitted over the reverse control channel are:

- Page Response Message
- Origination Message
- Order Confirmation Message
- Order Message

These messages are made up of combinations of the following five words:

Word A - Abbreviated Address Word

F = 1	NAWC	T	S	E	RSVD = 0	SCM	$MIN1_{23-0}$	P
1	3	1	1	1	1	4	24	12

Word B - Extended Address Word

F = 0	NAWC	LOCAL	ORDQ	ORDER	LT	RSVD = 000...0	$MIN2_{33-24}$	P
1	3	5	3	5	1	8	10	12

F4700

Word C - Serial Number Word

F = 0	NAWC	SERIAL	P
1	3	32	12

Word D - First Word of the Called-Address

F = 0	NAWC	1st DIGIT	2nd DIGIT	...	...	...	...	7th DIGIT	8th DIGIT	P
1	3	4	4	4	4	4	4	4	4	12

Word E - Second Word of the Called-Address

F = 0	NAWC = 000	9th DIGIT	10th DIGIT	...	...	...	...	15th DIGIT	16th DIGIT	P
1	3	4	4	4	4	4	4	4	4	12

The interpretation of the data fields is as follows:

F—First word indication field. Set to '1' in first word and '0' in subsequent words.

NAWC—Number of additional words coming field.

T—T field. Set to '1' to identify the message as an origination or an order; set to '0' to identify the message as an order response or page response.

S—Send serial number field. If the serial number word is sent, set to '1'; if the serial number word is not sent, set to '0'.

E—Extended address field. If the extended address word is sent, set to '1'; if the extended address word is not sent, set to '0'.

SCM—The station class mark field (see Section 2.3.3).

ORDER—Order field. Identifies the order type (see Table 3.7.1-1).

ORDQ—Order qualifer field. Qualifies the order confirmation to a specific action (see Table 3.7.1-1).

LOCAL—Local control field. This field is specific to each system. The ORDER field must be set to local control (see Table 3.7.1-1) for this field to be interpreted.

LT—Last-try code field (see Section 2.6.3.8).

MIN1—First part of the mobile identification number field (see Section 2.3.1).

MIN2—Second part of the mobile identification number field (see Section 2.3.1).

SERIAL—Serial number field. Identifies the serial number of the mobile station (see Section 2.3.2).

DIGIT—Digit field (see Table 2.7.1-2).

RSVD—Reserved for future use; all bits must be set as indicated.

P—Parity field.

Examples of encoding called-address information into the called-address words are given below:

I. If the number 2# is entered, the word is:

NOTE	0010	1100	0000	0000	0000	0000	0000	0000	P
4	4	4	4	4	4	4	4	4	12

II. If the number 13792640 is entered, the word is:

NOTE	0001	0011	0111	1001	0010	0110	0100	1010	P
4	4	4	4	4	4	4	4	4	12

III. If the number *24273258 is entered, the words are:

Word D - First Word of the Called-Address

NOTE	1011	0010	0100	0010	0111	0011	0010	0101	P
4	4	4	4	4	4	4	4	4	12

Word E - Second Word of the Called-Address

NOTE	1000	0000	0000	0000	0000	0000	0000	0000	P
4	4	4	4	4	4	4	4	4	12

NOTE: These four bits depend on the type of message.

Table 2.7.1-2

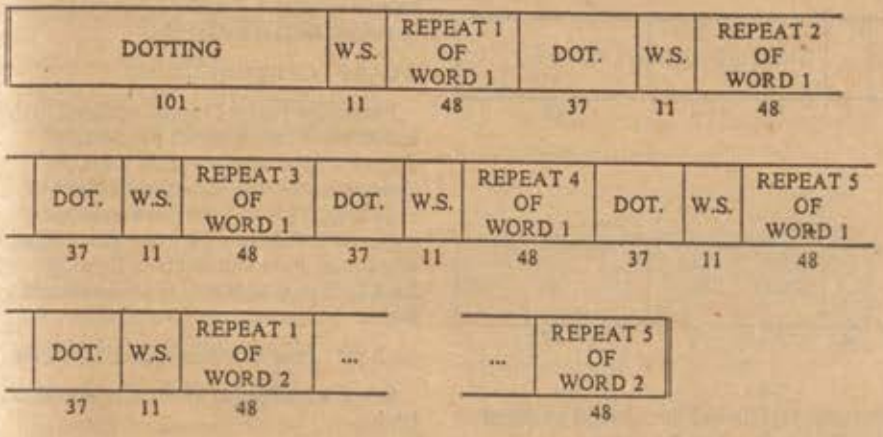
Digit Code

Digit	Code	Digit	Code
1	0001	7	0111
2	0010	8	1000
3	0011	9	1001
4	0100	0	1010
5	0101	*	1011
6	0110	#	1100
		Null	0000

Note:
(1) The digit 0 is encoded as binary "ten"; not binary "zero."
(2) The code 0000 is the null code, indicating no digit present.
(3) All other four-bit sequences are reserved, and must not be transmitted.

2.7.2 Reverse Voice Channel.

The revese voice channel (RVC) is a wideband data stream sent from the mobile station to the land station. This data stream must be generated at a 10 kilobit/second ±1 bit/second rate. Figure 2.7.2–1 depicts the format of the RVC data stream.



DOTTING = 1010...101
W.S. = 11100010010

REVERSE VOICE CHANNEL MESSAGE STREAM (Mobile-to-Land)
Figure 2.7.2-1.

A 37-bit dotting sequence (1010 . . . 101) and an 11-bit word sync sequence (11100010010) are sent to permit land stations to achieve synchronization with the incoming data, except at the first repeat of word 1 of the message where a 101-bit dotting sequence is used. Each word contains 48 bits, including parity, and is repeated five times together with the 37-bit dotting and 11-bit word sync sequences; it is then referred to as a word block. For a multi-word message, the second word block is formed the same as the first word block including the 37-bit dotting and 11-bit word sync sequences. A word is formed by encoding the 36 content bits into a (48, 36) BCH code that has a distance of 5, (48, 36; 5). The left-most bit (i.e., earliest in time) shall be designated the most-significant bit. The 36 most-significant bits of the 48-bit field shall be the content bits. The generator polynomial for the code is the same as for the (40,28;5) code used on the forward control channel (see Section 3.7.1).

Each RVC message can consist of one or two words. The types of messages to be transmitted over the reverse voice channel are:

- Order Confirmation Message.
- Called-Address Message.

The message formats are as follows:

Order Confirmation Message

F	NAWC	T				RSVD	P
=	=	=	LOCAL	ORDQ	ORDER	=	
1	00	1				000...0	
1	2	1	5	3	5	19	12

Called-Address Message

Word 1 - First Word of the Called-Address

F	NAWC	T	1st	2nd					7th	8th	P
=	=	=	DIGIT	DIGIT	...	...	...	...	DIGIT	DIGIT	
1	01	0									
1	2	1	4	4	4	4	4	4	4	4	12

Word 2 - Second Word of the Called-Address

F	NAWC	T	9th	10th					15th	16th	P
=	=	=	DIGIT	DIGIT	...	...	...	...	DIGIT	DIGIT	
0	00	0									
1	2	1	4	4	4	4	4	4	4	4	12

The interpretation of the data fields is as follows:

F—First word indication field. Set to '1' in first word and '0' in second word.

NAWC—Number of additional words coming field.

T—T field. Set to '1' to identify the message as an order confirmation. Set to '0' to identify the message as a called-address.

DIGIT—Digit field (see Table 2.7.1-2).

ORDER—Order field. Identifies the order type (see Table 3.7.1-1).

ORDQ—Order qualifier field. Qualifies the order confirmation to a specific action (see Table 3.7.1-1).

LOCAL—Local Control field. This field is specific to each system. The ORDER field must be set to local control (see Table 3.7.1-1) for this field to be interpreted.

RSVD—Reserved for future use; all bits must be set as indicated.

P—Parity field.

3. Land Station.

3.1 Transmitter.

3.1.1 Frequency Parameters.

3.1.1.1 Channel Spacing and Designation.

The land station transmit channel at 870.030 MHz (and the corresponding mobile station transmit channel at 825.030 MHz) shall be termed channel number 1. See § 22.902 of the Commission's Rules.

3.1.1.2 Frequency Tolerance.

See § 22.101(a) of the Commission's Rules.

3.1.2 Power Output Characteristics.

Maximum effective radiated power (ERP) and antenna height above average terrain (HAAT) must be coordinated locally on an ongoing basis. See §§ 22.107(b) and 22.904 of the Commission's Rules.

3.1.3 Modulation Characteristics.

3.1.3.1 Voice Signals.

The (FM) modulator is preceded by the following four voice-processing stages (in the order listed):

- Compressor
- Pre-Emphasis
- Deviation Limiter
- Post Deviation-Limiter Filter (See § 22.907(a) of the Commission's Rules).

3.1.3.1.1 Compressor.

This stage must include the compressor portion of a 2:1 syllabic compandor. For every 2 dB change in input level to a 2:1 compressor within its operating range, the change in output level is a nominal 1 dB. The compressor must have a nominal attack time of 3ms and a nominal recovery time of 13.5 ms as defined by the CCITT. (Reference: Recommendation G162, CCITT Plenary Assembly, Geneva, May–June 1964, Blue Book, Vol. 111, P. 52.)

The nominal reference input level to the compressor is that corresponding to a 1000 Hz acoustic tone at the expected nominal speech volume level. This level must produce a nominal ±2.9 kHz peak frequency deviation of the transmitted carrier.

3.1.3.1.2 Pre-Emphasis.

The pre-emphasis characteristic must have a nominal + 6dB/octave response between 300 and 3000 Hz.

3.1.3.1.3 Deviation Limiter.

For audio (voice) inputs applied to the transmitter voice-signal processing stages, a land station must limit the instantaneous frequency deviation to ±12 kHz. This requirement excludes supervision signals (see Section 3.4) and wideband data signals (see Section 3.1.3.2). See § 22.906 of the Commission's Rules.

3.1.3.1.4 Post Deviation-Limiter Filter.

See § 22.907(a)(2) of the Commission's Rules.

3.1.3.2 Wideband Data Signals.

3.1.3.2.1 Encoding.

The forward control channel (FOCC) and forward voice channel (FVC) wideband data streams (see Section 3.7) must be further encoded such that each nonreturn-to-zero binary one is transformed to a zero-to-one transition, and each nonreturn-to-zero binary zero is transformed to a one-to-zero transition.

3.1.3.2.2 Modulation and Polarity.

The filtered wideband data stream must then be used to modulate the transmitter carrier using direct binary frequency shift keying. A one (i.e., high state) into the modulator must correspond to a nominal peak frequency deviation 8 kHz above the carrier frequency, and a zero into the modulator must correspond to a nominal peak frequency deviation 8 kHz below the carrier frequency. See § 22.906 of the Commission's Rules.

3.1.4 Limitations on Emissions.

Radiated products from co-located transmitters shall not exceed spurious and harmonic level requirements which would apply to any of the transmitters operated singly.

See § 22.907 of the Commission's Rules.

3.2 Receiver.

3.2.1 Frequency Parameters.

3.2.1.1 Channel Spacing and Designation.

The land station receive channel at 825.030 MHz (and the corresponding mobile station receive channel at 870.030 MHz) shall be termed channel number.

1. See § 22.902 of the Commission's Rules.

3.2.2 Demodulation Characteristics.

3.2.2.1 Voice Signals.

The demodulator is followed by the following two voice-signal processing stages:

- De-Emphasis
- Expandor

3.2.2.1.1 De-emphasis.

The de-emphasis characteristic must have a nominal—6 dB per octave response between 300 and 3000 Hz.

3.2.1.2 Expandor.

This stage must include the expandor portion of a 2:1 syllabic compandor. For every 1 dB change in input level to a 1:2 expandor, the change in output level is a nominal 2 dB. The signal expansion must follow all other demodulation signal processing (including the 6 dB/octave de-emphasis and filtering). The expandor must have a nominal attack time of 3 ms and a nominal recovery time of 13.5 ms as defined by the CCITT. (Reference: Recommendation G162, CCITT Plenary Assembly, Geneva, May–June 1964, Blue Book, Vol. 111, p. 52.)

The nominal reference input level to the expandor is that corresponding to a 1000 Hz tone from a carrier with a ± 2.9 kHz peak frequency deviation.

3.2.3 Limitations on Emissions.

See Subpart C, Part 15 of the Commission's Rules.

3.2.4 Other Receiver Parameters.

System performance is predicated upon receivers meeting EIA minimum performance standard PN 1377 (Recommended Standards for 800 MHz Cellular Land Stations).

3.3 Security and Identification [Reserved]

3.4 Supervision.

3.4.1 Supervisory Audio Tone.

3.4.1.1 SAT Detection [Reserved]

3.4.1.2 SAT Transmission.

Whenever a land station transmitter is active on a voice channel, one of the following tones must be modulated on the carrier with a frequency deviation of ± 2 kHz ± 10 percent:

—5970 Hz.
—6000 Hz.
—6030 Hz.

The frequency tolerance of the tone must be ± 1 Hz. See § 22.906(b) of the Commission's Rules.

3.4.1.3 Fade Timing Status [Reserved]

3.4.2 Signaling Tone Detection [Reserved]

3.5 Malfunction Detection [Reserved]

3.6 Call Processing.

The following sections describe the land station operation to control the mobile station. Frequent references are made to the corresponding sections in the mobile section and to the messages that flow between the land station and the mobile station. It is helpful to read sections 2.6 and 3.6 in parallel and examine the message formats in sections 2.7 and 3.7 at the same time.

3.6.1 Overhead Functions for Mobile Station Initiation.

To control mobile stations executing the Initialization Task (see Section 2.6.1), the following information must be sent in the overhead message train (see Section 3.7.1.2 for the formats of the messages):

- First part of the system identification (SID1).
- Number of paging channels (N).

3.6.2 Mobile Station Control on the Control Channel.

3.6.2.1 Overhead Information.

To control mobile stations monitoring a control channel, the following overhead information must be sent in the system parameter overhead message (see Section 3.7.1.2 for the message formats):

- First part of the system identification (SID1).
- Serial number (S). To require that all mobile stations send their serial numbers during a system access, the S field must be set to '1'; otherwise it must be set to '0'.
- Registration (REGH, REGR). To enable registration for home mobile stations, the REGH field must be set to '1'; otherwise it must be set to '0'. To enable registration for roaming mobile stations, the REGR field must be set to '1'; otherwise it must be set to '0'. If registration is enabled, the land station must support both antonomous and non-autonomous registration by mobile stations.
- Extended Address (E). To require that all mobile stations send both MIN1 and MIN2 during a system access, the E field must be set to '1'; otherwise it must be set to '0'.
- Discontinuous transmission (DTX). To permit mobile stations to use the discontinuous transmission mode on the voice channel, the DTX field must be set to '1'; otherwise it must be set to '0'.
- Number of paging channels (N).
- Read control-filler message (RCF). To require that all mobile stations read a control-filler message before accessing a system on a reverse control channel, the RCF field must be set to '1'; otherwise it must be set to '0'.
- Combined paging/access (CPA). If the access functions are combined with the paging functions on the same set of control channels, the CPA field must be set to '1'. If the access functions are not on the same set of channels as the paging functions, the CPA field must be set to '0'.
- Number of access channels (CMAX).

The following overhead information is sent as required in messages appended to a system parameter overhead message (see Section 3.7.1.2 for message formats):

- Local control. A system may customize operation for home mobile stations and for those roaming mobile stations whose home systems are members of a group by sending local control global action messages.
- New access channels. If the access channel set is not the default set (see Section 2.6.2.1), the new access channel global action message must be sent with the NEWACC field set to the first access channel.
- Registration increment. Each time a mobile station with autonomous registration enabled registers, it increments its next registration ID by a fixed value ($REGINCR_s$; see Section 2.6.3.11). To change this value, the registration increment global action message must be sent with the REGINCR field appropriately set.
- Registration ID. The registration ID message must be sent in order to require that all mobile stations with autonomous registration enabled and with a given or lower next registration ID ($NXTREG_{s-p}$) register.

• Rescan. To require that all mobile stations enter the Initialization Task and scan the dedicated control channels, the rescan global action message must be sent.

3.6.2.2 Page.

To page a mobile station, a mobile station control message must be sent (see Section 3.7.1.1). Home mobile stations may be paged with a one-word or a two-word message. Roaming mobile stations must be paged with a two-word message.

3.6.2.3 Order.

Orders must be sent to mobile stations with a two-word mobile station control message (see Section 3.7.1.2). The following orders may be transmitted:

• Audit.
• Local control.

3.6.2.4 Local Control.

A cellular system may customize operation for home mobile stations, and for those roaming mobile stations whose home systems are members of a group, by sending local orders with the order field set to local control (which informs the mobile station to examine the local control field), and by sending one or both of two local control global action overhead messages (see Sections 3.7.1.1, 3.7.1.2.2 and 3.7.2).

A group of systems is formed by participating systems agreeing to a common set of local control protocols and by using system identifications (SID) that have identical group identifications.

3.6.3 Land Station Support of System Access by Mobile Stations.

3.6.3.1 Overhead Information.

The following information must be sent on a forward control channel to support system access by mobile stations (see Section 3.7.1.2 for message formats):

• Digital color code (DCC). The DCC is transmitted from the land station to the mobile station. The mobile station then uses the DCC to identify to the land station which land station transmitter the mobile station is receiving.

• Control mobile attenuation code (CMAC). The CMAC must be transmitted from the land station to the mobile station in the control-filler message if the mobile station must adjust its transmitter power level before accessing a system on a reverse control channel. The translation of the CMAC field to transmitter power level depends on the mobile station's power class as indicated by its station class mark (SCM_p) (see Sections 2.1.2.2 and 2.3.3). When not required, the CMAC field must be set to '000'. To require that mobile stations read a control-filler message prior to system access, the RCF field must be set to '1' in the system parameter overhead message.

• Wait-for-overhead-message (WFOM). If the mobile station must wait for an overhead message train before accessing a system on a reverse control channel, then the WFOM field must be set to '1' in the control-filler message; otherwise it must be set to '0'.

• Overload control (OLC). If the mobile stations assigned to one or more of the 16 overload classes must not access the system for originations on the reverse control channel, the overload control global action message must be appended to a system parameter overhead message. When this message is appended, the overload class fields corresponding to the restricted overload classes must be set to '0', and the remaining overload class fields must be set to '1'.

• Access type parameters. If a mobile station must not check for an idle-to-busy status transition on the reverse control channel when accessing a system, then the access type parameters global action message with the BIS field set to '0' must be appended to a system parameter overhead message; otherwise the BIS field must be set to '1' whenever the message is appended.

• Access attempt parameters. If the default values for the number of seizure attempts and/or the limit on the number of busy occurrences for mobile stations accessing the reverse control channel must not be used, then the access attempt parameters global action message must be appended to a system parameter overhead message.

3.6.3.2 Reverse Control Channel Seizure by a Mobile Station.

If mobile stations must check for an idle-to-busy status transition on a reverse control channel when accessing a system (i.e., the BIS field is set to '1'), then whenever the land station receives a seizure precursor (see Section 2.7.1) which matches its encoded form of the digital color code with 1 or no bit errors, it must set the status of the busy-idle bits on the forward control channel to busy within 1.2 ms. of receipt of the last bit of the seizure precursor. The busy-idle bits must remain busy until the minimum of:

—30 ms. after the last bit of the last word of the message has been received, or,

—175 ms. has elapsed.

3.6.3.3 Response to Mobile Station Messages.

Whenever the mobile station sends a message to the land station, it is not required that the land station respond to the message. During periods of overload and/or high usage, it may be desirable to permit mobile stations to "time-out" rather than sending release or other orders which use system capacity.

The following responses to mobile station messages may be sent:

• Origination message. Send one of the following orders:
—Initial voice channel designation, Directed retry,
—Intercept,
—Reorder.

• Page response message. Send one of the following orders:
—Initial voice channel designation,
—Directed retry,
—Release.

• Order message. Send one of the following orders:
—Order confirmation,
—Release.

• Order confirmation message. No message is sent.

3.6.4 Mobile Station Control on Voice Channel.

Whenever the mobile station is transmitting on a voice channel, changes in the status of the supervisory audio tone (SAT) and signaling tone (ST) are used to signal the occurrence of certain events during the progress of a call. These events include confirming orders, sending a release request, sending a flash request, and loss of radio-link continuity. The mobile station will signal these events by changing the status of the SAT and ST, abbreviated (SAT, ST), in a prescribed manner (see Section 2.6.4). These status changes must be detected by the land station and interpreted within the context of the task the land station is in as a message which identifies the event signaled by the mobile station. Requirements concerning these land station actions are described below. In the following sections, the (0,1) status shall always be treated as the (0,0) status.

In addition to the analog signaling to and from the mobile station, digital messages can be sent to the mobile station and received from the mobile station. The response to a digital message sent to the mobile station will be either be a digital message or a status change of SAT and ST.

3.6.4.1 Loss of Radio-Link Continuity [Reserved]

3.6.4.2 Initial Voice Channel Confirmation.

Confirmation that a mobile station has successfully tuned to its initial designated voice channel will be received by the land station as a change in the SAT, ST status from (0,0) to (1,0).

If the confirmation is not received, the land station must either resend the message or turn off the voice channel transmitter.

Following confirmation, if the mobile station was paged, the land station must enter the Waiting for Order Task (see Section 3.6.4.3.1); otherwise, the land station must enter the Conversation Task (see Section 3.6.4.4).

3.6.4.3 Alerting.

3.6.4.3.1 Waiting for Order.

When the mobile station confirms the initial voice channel designation after having been paged, it enters this task. The following orders can be sent to mobile station, with the resultant confirmation and action to be taken as follows:

• Handoff. The mobile station confirms the order by a change in the SAT, ST status from (1,0) to (1,1), with the (1,1) status held for 50 ms. The land station must remain in the Waiting for Order Task.

• Alert. The mobile station confirms the order by a change in the SAT, ST status from (1,0) to (1,1). The land station must then enter the Waiting for Answer Task (see Section 3.6.4.3.2).

• Release. The mobile station confirms the order by a change of the SAT, ST status from (1,0) to (1,1), with the (1,1) status held for 1.8 seconds. The land station must then turn off the transmitter.

• Audit. The mobile station confirms the order by a digital message (see Section 2.7.2). The land station must remain in the Waiting for Order Task.

• Maintenance. The mobile station confirms the order by a change in the SAT, ST status from (1,0) to (1,1). The land station must then enter the Waiting for Answer Task (see Section 3.6.4.3.2).

• Change power. The mobile station confirms the order by a digital message (see Section 2.7.2). The land station must remain in the Waiting for Order Task.

• Local control. The confirmation and action depend on the message.

3.6.4.3.2 Waiting for Answer.

When this task is entered, an alert timer must be set to 30 seconds. The following orders can be sent with the confirmation and action to be taken as follows:

• Handoff. The mobile station confirms the order by changing the SAT, ST status from (1,1) to (1,0) for 500 ms, followed by a change in the status from (1,0) to (1,1), with the (1,1) status held for 50 ms, on the old channel. Then a (1,1) status is sent on the new channel. The land station must remain in the Waiting for Answer Task.

• Alert. No confirmation is received. The land station must reset the alert timer to 30 seconds, and remain in the Waiting for Answer Task.

• Stop alert. The mobile station confirms the order by a change in the SAT, ST status from (1,1) to (1,0). The land station must then enter the Waiting for Order Task.

• Release. The mobile station confirms the order by a change in the SAT, ST status from (1,1) to (1,0) for 500 ms, followed by a change in the status from (1,0) to (1,1), with the (1,1) status held for 1.8 seconds. The land station must then turn off the transmitter.

• Audit. The mobile station confirms the order by a digital message (see Section 2.7.2). The land station must remain in the Waiting for Answer Task.

• Maintenance. No confirmation is received. The land station must reset the alert timer to 30 seconds and remain in the Waiting for Answer Task.

• Change power. The mobile station confirms the order by a digital message (see Section 2.7.2). The land station must remain in the Waiting for Answer Task.

• Local control. The confirmation and action depend on the message.

The mobile station signals an answer by a change in the SAT, ST status from (1,1) to (1,0). The land station must then enter the Conversation Task (see Section 3.6.4.4).

3.6.4.4 Conversation.

While the land station is in the Conversation Task, the following orders can be sent to the mobile station, with confirmation and action to be taken as follows:

• Handoff. The mobile station confirms the order by a change in the SAT, ST status from (1,0) to (1,1), with the (1,1) status held for 50 ms. The land station must remain in the Conversation Task.

• Send called address. The mobile station confirms the order by a digital message with the called-address information (see Section 2.7.2). The action to be taken will depend on the called-address information.

• Alert. The mobile station confirms the order by a change in the SAT, ST status from (1,0) to (1,1). The land station must then enter the Waiting for Answer Task (see Section 3.6.4.3.2).

• Release. The mobile station confirms the order by a change in the SAT, ST status from (1,0) to (1,1), with the (1,1) status held for 1.8 seconds. The land station must turn off the transmitter.

• Audit. The mobile station confirms the order by a digital message (see Section 2.7.2). The land station must remain in the Conversation Task.

• Maintenance. The mobile station confirms the order by a change in the SAT, ST status from (1,0) to (1,1). The land station must then enter the Waiting for Answer Task (see Section 3.6.4.3.2).

• Change power. The mobile station confirms the order by a digital message (see Section 2.7.2). The land station must remain in the Conversation Task.

• Local control. The confirmation and action depend on the message.

In addition, the following messages can be received autonomously from the mobile station:

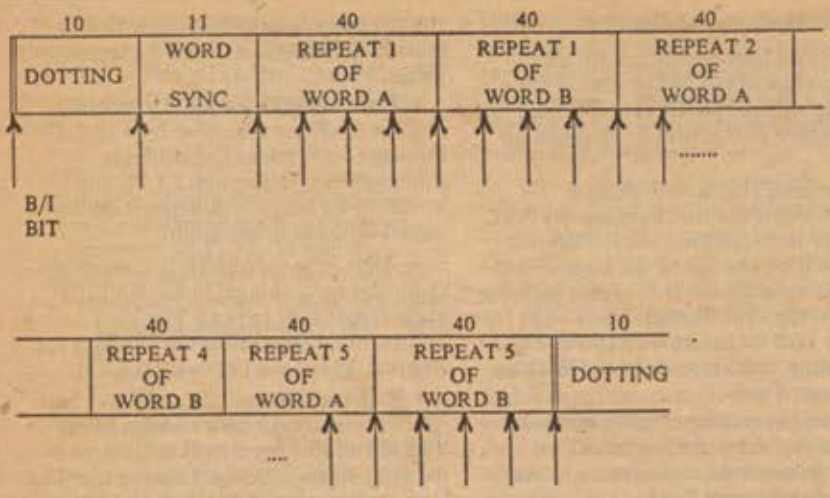
• Flash request. The mobile station signals a flash by a change in the SAT, ST status from (1,0) to (1,1), with the (1,1) status held for 400 ms followed by a transition to the (1,0) status.

• Release. The mobile station signals a release by a change in the SAT, ST status from (1,0) to (1,1) with the (1,1) status held for 1.8 seconds. The land station must turn off the transmitter.

3.7 Signaling Formats.

3.71 Forward Control Channel.

The forward control channel (FOCC) is a continuous wideband data stream sent from the land station to the mobile station. This data stream must be generated at a 10 kilobit/second ±0.1 bit/second rate. Figure 3.7.1–1 depicts the format of the FOCC data stream.



NOTE:
1)A GIVEN MOBILE READS ONLY ONE OF THE TWO INTERLEAVED MESSAGES.

2)BUSY-IDLE BITS ARE INSERTED AT EACH ARROW

FORWARD CONTROL CHANNEL MESSAGE STREAM (Land-to-Mobile)
Figure 3.7.1-1.

Each forward control channel consists of three discrete information streams, called stream A, stream B, and busy-idle stream, that are time-multiplexed together. Messages to mobile stations with the least significant bit of their mobile identification number (see Section 2.3.1) equal to '0' are sent on stream A, and those with the least-significant bit of their mobile identification number equal to '1' are sent on stream B.

The busy-idle stream contains busy-idle bits, which are used to indicate the current status of the reverse control channel. The reverse control channel is busy if the busy-idle bit is equal to '0' and idle if the busy-idle bit is equal to '1'. A busy-idle bit is located at the beginning of each dotting sequence, at the beginning of each word sync sequence, at the beginning of the first repeat of word A, and after every 10 message bits thereafter.

A 10-bit dotting sequence (1010101010) and an 11-bit word sync sequence (11100010010) are sent to permit mobile stations to achieve synchronization with the incoming data. Each word contains 40 bits, including parity, and is repeated five times; it is then referred to as a word block. For a multi-word message, the second word block and subsequent word blocks are formed the same as the first word block including the 10-bit dotting and 11-bit word sync sequences. A word is formed by encoding 28 content bits into a (40, 28; 5) [1] BCH code. The left-most bit (i.e., earliest in time) shall be designated the most-significant bit. The generator polynomial for the (40, 28; 5) BCH code is

$$g_{28}(x) = X^{12}+X^{10}+X^{8}+X^{5}+X^{4}+X^{3}+X^{0}.$$

The code, a shortened version of the primitive (63, 51; 5) BCH code, is a systematic linear block code with the leading bit as the most significant information bit and the least-significant bit as the last parity-check bit.

Each FOCC message can consist of one or more words. The types of messages to be transmitted over the forward control channel are:

- Mobile station control message
- Overhead message
- Control-Filler message

Control-filler messages may be inserted between messages and between word blocks of a multi-word message.

The following sections contain descriptions of the message formats that the land station transmits over either stream A or B. For purposes of format presentation and explanation, the busy-idle bits have been deleted in the discussion of the message formats.

3.7.1.1 Mobile Station Control Message.

The mobile station control message can consist of one, two, or four words.

BILLING CODE 6712-01-M

Word 1 - Abbreviated Address Word

T_1T_2	DCC	$MIN1_{23-0}$	P
2	2	24	12

Word 2 - Extended Address Word

2	2	10	1	5	3	5	12
T_1T_2 = 10	SCC = 11	$MIN2_{33-24}$	RSVD = 0	LOCAL	ORDQ	ORDER	P
	SCC ≠ 11		VMAC	CHAN			
2	2	10	3	11			12

Word 3 - First Directed-Retry Word

T_1T_2 = 10	SCC = 11	CHANPOS	CHANPOS	CHANPOS	RSVD = 000	P
2	2	7	7	7	3	12

Word 4 - Second Directed-Retry Word

T_1T_2 = 10	SCC = 11	CHANPOS	CHANPOS	CHANPOS	RSVD = 000	P
2	2	7	7	7	3	12

BILLING CODE 6712-01-C

The interpretation of the data fields is as follows:

T_1T_2—Type field. If only Word 1 is sent, set to '00' in Word 1. If a multiple-word message is sent, set to '01' in Word 1 and set to '10' in each additional word.

DCC—Digital color code field.

MIN1—First part of the mobile identification number field (see Section 2.3.1).

MIN2—Second part of the mobile identification number field (see Section 2.3.1).

SCC—SAT color code (see Table 3.7.1–2).

ORDER—Order field. Identifies the order type (see Table 3.7.1–1).

ORDQ—Order qualifier field. Qualifies the order to a specific action (See Table 3.7.1–1).

LOCAL—Local control field. This field is specific to each system. The ORDER field must be set to local control (see Table 3.7.1–1) for this field to be interpreted.

VMAC—Voice mobile attenuation code field. Indicates the mobile station power level associated with the designated voice channel (see Table 2.1.2–1).

CHAN—Channel number field. Indicates the designated voice channel.

CHANPOS—Channel position field. Indicates the position of a control channel relative to the first access channel (FIRSTCHA$_n$).

RSVD—Reserved for future use, all bits must be set as indicated.

P—Parity field.

Table 3.7.1-1.—*Order and Order Qualification Codes*

Order code	Order qualification code	Function
00000	000	Page (or origination).
00001	000	Alert.
00011	000	Release.
00100	000	Reorder.
00110	000	Stop alert.
00111	000	Audit.
01000	000	Send called-address.
01001	000	Intercept.
01010	000	Maintenance.
01011	000	Change power to power level 0 (see Section 2.1.2.2).
01011	001	Change power to power level 1.
01011	010	Change power to power level 2.
01011	011	Change power to power level 3.
01011	100	Change power to power level 4.
01011	101	Change power to power level 5.
01011	110	Change power to power level 6.
01011	111	Change power to power level 7.
01100	000	Directed retry—not last try.
01100	001	Directed retry—last try.
01101	000	Non-autonomous registration—do not make whereabouts known.
01101	001	Non-autonomous registration—make whereabouts known.
01101	010	Autonomous registration—do not make whereabouts known.
01101	011	Autonomous registration—make whereabouts known.
11110	000	Local control.

(All other codes are reserved.)

Table 3.7.1-1.—*Order and Order Qualification Codes*—Continued

Order code	Order qualification code	Function
11110	000	Local control.

(All other codes are reserved.)

Table 3.7.1-2

SAT Color Code (SCC)

Bit pattern	SAT frequency
00	5970 Hz.
01	6000 Hz.
10	6030 Hz.
11	Not a channel designation.

3.7.1.2 Overhead Message.

A three-bit OHD field is used to identify the overhead message types. Overhead message type codes are listed in Table 3.7.1–3, and are grouped into the following functional classes:

- System parameter overhead message,
- Global action overhead message,
- Registration identification message,
- Control-filler message.

Overhead messages are sent in a group called an overhead message train. The first message of the train must be the system parameter overhead message. The desired global action messages and/or a registration ID message must be appended to the end of the system parameter overhead message. The total number of words in an overhead message train is one more than the value of the NAWC field contained in the first word of the system parameter overhead message. The last word in the overhead message train is identified by a '1' in the END field of that word; the END field of all other words in the train must be set to '0'. For NAWC-counting purposes, inserted control-filler messages (see Section 3.7.1) must not be counted as part of the overhead message train.

The system parameter overhead message must be sent every 0.8 ± 0.3 seconds on each of the following control channels:

- Combined paging-access forward control channel (i.e., CPA = 1, see Section 3.7.1.2.1),
- Separate paging forward control channel (i.e., CPA = 0),
- Separate access forward control channel (i.e., CPA = 0) when the control-filler message is sent with the WFOM bit set to '1' (see Section 3.7.1.2.4).

The global action messages and the registration identification message are sent on an as needed basis.

3.7.1.2.1 System Parameter Overhead Message.

The system parameter overhead message consists of two words.

Word 1

T_1T_2 = 11	DCC	SID1	RSVD = 000	NAWC	OHD = 110	P
2	2	14	3	4	3	12

Word 2

T_1T_2 = 11	DCC	S	E	REGH	REGR	DTX	RSVD = 0
2	2	1	1	1	1	1	1

N−1	RCF	CPA	CMAX−1	END	OHD = 111	P
5	1	1	7	1	3	12

The interpretation of the data fields is as follows:

T_1T_2—Type field. Set to '11' indicating an overhead word.

OHD—Overhead message type field. The OHD field of word 1 is set to '110' indicating the first word of the system parameter overhead message. The OHD field of word 2 is set to '111' indicating the second word of the system parameter overhead message.

DCC—Digital color code field.

SID1—First part of the system identification field.

NAWC—Number of additional words coming field. In word 1 this field is set to one fewer than the total

number of words in the overhead message train.
S—Serial number field.
E—Extended address field.
REGH—Registration field for home stations.
REGR—Registration field for roaming stations.
DTX—Discontinuous transmission field.
N–1—N is the number of paging channels in the system.
RCF—Read-control-filler field.
CPA—Combined paging/access field.
CMAX–1—CMAX is the number of access channels in the system.
END—End indication field. Set to '1' to indicate the last word of the overhead message train; set to '0' if not last word.
RSVD—Reserved for future use, all bits must be set as indicated.
P—Parity field.

3.7.1.2.2 Global Action Overhead Message.

Each global action overhead message consists of one word. Any number of global action messages can be appended to a system parameter overhead message.

BILLING CODE 6712-01-M

Rescan Global Action Message

T_1T_2 = 11	DCC	ACT = 0001	RSVD = 000...0	END	OHD = 100	P
2	2	4	16	1	3	12

Registration Increment Global Action Message

T_1T_2 = 11	DCC	ACT = 0010	REGINCR	RSVD = 0000	END	OHD = 100	P
2	2	4	12	4	1	3	12

New Access Channel Set Global Action Message

T_1T_2 = 11	DCC	ACT = 0110	NEWACC	RSVD = 00000	END	OHD = 100	P
2	2	4	11	5	1	3	12

Overload Control Global Action Message

T_1T_2 = 11	DCC	ACT = 1000	OLC 0	OLC 1	OLC 2	OLC 3	OLC 4	OLC 5	OLC 6	OLC 7
2	2	4	1	1	1	1	1	1	1	1

OLC 8	OLC 9	OLC 10	OLC 11	OLC 12	OLC 13	OLC 14	OLC 15	END	OHD = 100	P
1	1	1	1	1	1	1	1	1	3	12

Access Type Parameters Global Action Message

T_1T_2 = 11	DCC	ACT = 1001	BIS	RSVD = 000...0	END	OHD = 100	P
2	2	4	1	15	1	3	12

Access Attempt Parameters Global Action Message

T_1T_2 = 11	DCC	ACT = 1010	MAXBUSY −PGR	MAXSZTR −PGR
2	2	4	4	4

MAXBUSY −OTHER	MAXSZTR −OTHER	END	OHD = 100	P
4	4	1	3	12

Local Control 1 Message

T_1T_2 = 11	DCC	ACT = 1110	LOCAL CONTROL	END	OHD = 100	P
2	2	4	16	1	3	12

Local Control 2 Message

T_1T_2 = 11	DCC	ACT = 1111	LOCAL CONTROL	END	OHD = 100	P
2	2	4	16	1	3	12

BILLING CODE 6712-01-C

The interpretation of the data fields is as follows:

T_1T_2—Type field. Set to '11' indicating overhead word.
ACT—Global action field. See Table 3.7.1–4.
BIS—Busy-idle status field.
DCC—Digital color code field.
OHD—Overhead message type field. Set to '100' indicating the global action message.
REGINCR—Registration increment field.
NEWACC—New access channel starting point field.
MAXBUSY-PGR—Maximum busy occurrences field (page response).
MAXBUSY-OTHER—Maximum busy occurrences field (other accesses).
MAXSZTR-PGR—Maximum seizure tries field (page response).
MAXSZTR-OTHER—Maximum seizure tries field (other accesses).
OLCN—Overload class field (N = 0 to 15).
END—End indication field. Set to '1' to indicate the last word of the overhead message train; set to '0' if not last word.
RSVD—Reserved for future use, all bits must be set as indicated.
LOCAL CONTROL—May be set to any bit pattern.
P—Parity field.

3.7.1.2.3 Registration ID Message.

The registration ID message consists of one word. When sent, the message must be appended to a system parameter overhead message in addition to any global action messages.

T_1T_2 = 11	DCC	REGID	END	OHD = 000	P
2	2	20	1	3	12

The interpretation of the data fields is as follows:

T_1T_2—Type field. Set to '11' indicating overhead word.
DCC—Digital color code field.
OHD—Overhead message type field. Set to '000' indicating the registration ID message.
REGID—Registration ID field.
END—End indication field. Set to '1' to indicate the last word of the overhead message train; set to '0' if not last word.
P—Parity field.

Table 3.7.1–3.

Overhead Message Types

Code	Order
000	Registration ID.
001	Control-filler.
010	Reserved.
011	Reserved.
100	Global action.
101	Reserved.
110	Word 1 of system parameter message.
111	Word 2 of system parameter message.

Table 3.7.1–4

Global Action Message Types

Action code	Type
0000	Reserved.
0001	Rescan paging channels.
0010	Registration increment.
0011	Reserved.
0100	Reserved.

Table 3.7.1–4—Continued

Global Action Message Types

Action code	Type
0101	Reserved.
0110	New access channel set.
0111	Reserved.
1000	Overload control.
1001	Access type parameters.
1010	Access attempt parameters.
1011	Reserved.
1100	Reserved.
1101	Reserved.
1110	Local control 1.
1111	Local control 2.

3.7.1.2.4 Control-Filler Message.

The control-filler message consists of one word. It is sent whenever there is no other message to be sent on the forward control channel. It may be inserted between messages as well as between word blocks of a multi-word message. The control-filler message is chosen so that when it is sent, the 11-bit word sync sequence (11100010010) will not appear in the message stream, independent of the busy-idle bit status.

The control-filler message is also used to specify a control mobile attenuation code (CMAC) for use by mobile stations accessing the system on the reverse control channel, and a wait-for-overhead-message bit (WFOM) indicating whether or not mobile stations must read an overhead message train before accessing the system.

T_1T_2 = 11	DCC	010111	CMAC	RSVD = 00	11	RSVD = 00	1	WFOM	1111	OHD = 001	P
2	2	6	3	2	2	2	1	1	4	3	12

The interpretation of the data fields is as follows:

T_1T_2—Type field. Set to '11' indicating overhead word.
DCC—Digital color code field.
CMAC—Control mobile attenuation field. Indicates the mobile station power level associted with the reverse control channel (see Table 2.1.2–1).
RSVD—Reserved for future use; all bits must be set as indicated.
WFOM—Wait for overhead-message field.
OHD—Overhead message type field. Set to '001' indicating the control-filler word.
P—Parity field.

3.7.1.3 Data Restrictions.

The 11-bit word-sync sequence (11100010010) is shorter than the length of a word, and therefore can be embedded in a word. Normally, embedded word-sync will not cause a problem because the next word to be sent will not have the word-sync sequence embedded in it. There are, however, three cases in which the word-sync sequence may appear periodically in the FOCC stream. They are:

- the overhead message,
- the control-filler message,
- Mobile station control messages with pages to mobile stations with certain central office codes.

These three cases are handled by (1) restricting the overhead message transmission rate to about once per second, (2) designing the control-filler message to exclude the word-sync sequence, taking into account the various busy-idle bits, and (3) restricting the use of certain central office codes.

If the mobile station control message (see Section 3.7.1.1) is examined with the MIN1 separated into NXX–X–XXX as described in Section 2.3.1 (where NXX is the central office code, N represents a number from 2–9, and X represents a number from 0–9), Table 3.7.1–5 can be constructed to identify the central office codes which will cause the word-sync word to be sent. If a number of mobile stations are paged consecutively with the same central office code, mobile stations that are attempting to synchronize to the data stream may not be able to do so because of the presence of the false word sync sequence. Therefore, the combinations of central office codes and groups of line numbers appearing in Table 3.7.1–5 must not be used for mobile stations.

Table 3.7.1–5

Restricted Central Office Codes

Bit pattern					Central office code	Thousands digit
T_1T_2	DCC	NXX	X	XXX		
01	11	000100(1)0000			175	0 to 9.
01	11	000100(1)0001			176	0 to 9.
01	11	000100(1)0010			177	0 to 9.
01	11	000100(1)0011			178	0 to 9.
01	11	000100(1)0100			179	0 to 9.
01	11	000100(1)0101			170	0 to 9.
01	11	000100(1)0110			181	0 to 9.
01	11	000100(1)0111			182	0 to 9.
0Z	11	100010(0)1000			663	0 to 9.
0Z	11	100010(0)1001			664	0 to 9.
0Z	11	100010(0)1010			665	0 to 9.
0Z	11	100010(0)1011			666	0 to 9.
0Z	Z1	110001(0)0100			899	0 to 9.
0Z	Z1	110001(0)0101			800	0 to 9.
0Z	ZZ	111000(1)0010			909	0 to 9.
00	ZZ	011100(0)1001	0ZZZ		568	1 to 7.
00	ZZ	111100(0)1001	0ZZZ		070	1 to 7.
00	ZZ	001110(0)0100	10ZZ		339	8, 9, 0
00	ZZ	011110(0)0100	10ZZ		595	8, 9, 0
00	ZZ	101110(0)0100	10ZZ		851	8, 9, 0
00	ZZ	111110(0)0100	10ZZ		007	8,9,0
0Z	ZZ	000011(1)0001	0010		150	2.
0Z	ZZ	000111(1)0001	0010		224	2.
0Z	ZZ	001011(1)0001	0010		288	2.
0Z	ZZ	001111(1)0001	0010		352	2.
0Z	ZZ	010011(1)0001	0010		416	2.
0Z	ZZ	010111(1)0001	0010		470	2.
0Z	ZZ	011011(1)0001	0010		544	2.
0Z	ZZ	011111(1)0001	0010		508	2.
0Z	ZZ	100011(1)0001	0010		672	2.
0Z	ZZ	100111(1)0001	0010		736	2.
0Z	ZZ	101011(1)0001	0010		790	2.
0Z	ZZ	101111(1)0001	0010		864	2.
0Z	ZZ	110011(1)0001	0010		928	2.
0Z	ZZ	110111(1)0001	0010		992	2.
0Z	ZZ	111011(1)0001	0010		056	2.
0Z	ZZ	111111(1)0001	0010			2.

NOTES:
(1) In each case, Z represents a bit that may be "1" or "0".
(2) Some codes are not used as central office codes in the US at this time. They are included for completeness.
(3) The bit in parentheses is the busy-idle bit.

3.7.2 Forward Voice Channel

The forward voice channel (FVC) is a wideband data stream sent by the land station to the mobile station. This data stream must be generated at a 10 kilobit/second ±0.1 bit/second rate. Figure 3.7.2-1 depicts the format of the FVC data stream.

DOTTING	W.S.	REPEAT 1 OF WORD	DOT.	W.S.	REPEAT 2 OF WORD
101	11	40	37	11	40

DOT.	W.S.	REPEAT 9 OF WORD	DOT.	W.S.	REPEAT 10 OF WORD	DOT.	W.S.	REPEAT 11 OF WORD
37	11	40	37	11	40	37	11	40

DOTTING = 1010...101
W.S. = 11100010010

FORWARD VOICE CHANNEL MESSAGE STREAM (Land-to-Mobile)
Figure 3.7.2-1.

A 37-bit dotting sequence (1010 . . . 101) and an 11-bit word sync sequence (11100010010) are sent to permit mobile stations to achieve synchronization with the incoming data, except at the first repeat of the word, where the 101-bit dotting sequence is used. Each word contains 40 bits, including parity, and is repeated eleven times together with the 37-bit dotting and 11-bit word sync sequences; it is then referred to as a word block. A word is formed by encoding the 28 content bits into a (40, 28) BCH code that has a distance of 5, (40, 28; 5). The left-most bit (i.e., earliest in time) shall be designated the most-significant bit. The 28 most-significant bits of the 40-bit field shall be the content bits. The generator polynomial is the same as that used for the forward control channel (see Section 3.7.1).

The mobile station control message is the only message transmitted over the forward voice channel. The mobile station control message consistsof one word.

Mobile Station Control Message

2	2	2	9	5	3	5	12
T_1T_2 = 10	SCC = 11	PSCC	RSVD = 000...0	LOCAL	ORDQ	ORDER	P
	SCC ≠ 11		RSVD = 000...0	VMAC	CHAN		
2	2	2	8	3	11		12

The interpretation of the data fields is as follows:

T_1T_2—Type field. Set to '10'.
SCC—SAT color code for new channel (see Table 3.7.1–2).
PSCC—Present SAT color code. Indicates the SAT color code associated with the present channel.
ORDER—Order field. Identifies the order type (see Table 3.7.1–1).
ORDQ—Order Qualifier field. Qualifies the order to a specific action (see Table 3.7.1–1).
LOCAL—Local Control field. This field is specific to each system. The ORDER field must be set to local control (see Table 3.7.1–1) for this field to be interpreted.
VMAC—Voice mobile attenuation code field. Indicates the mobile station power level associated with the designated voice channel (see Table 2.1.2–1).
CHAN—Channel number field. Indicates the designated voice channel.
RSVD—Reserved for future use; all bits must be set as indicated.
P—Parity field.

Statement of Commissioner Joseph R. Fogarty in which Commissioner James H. Quello joins, Concurring in Part

In Re: Report and Order on Rules for Cellular Communications Systems—CC Docket No. 79-318

I write separately here to emphasize that the public interest will be well-served by this Report and Order and by the revolutionary cellular mobile radio technology and service which our action unleashes. That there is a critical need for cellular service *now*—not tomorrow, and certainly not years from now—is abundantly clear. Demand for mobile radio telephone service has far exceeded available supply, particularly in the more heavily populated urban areas of the country. The Illinois Bell developmental market tests have indicated further that the demand for mobile service will be substantially greater than previously anticipated.

Relevant provisions of the Communications Act support and, indeed, in my judgment, mandate prompt Commission action in recognition of the immediate and pressing need of the public for mobile telephone service. Section 1 of the Act, which defines the fundamental purposes for which this agency was established, charges the Commission with making "available, so far as possible, to all the people of the United States a rapid, efficient Nationwide, * * * wire and radio communications service with adequate facilities at reasonable charges * * *." As the Supreme Court has recognized, the ultimate purpose of the Act is "to secure the maximum benefits of radio to all the people of the United States." [1] Additionally, Section 303(g) of the Act directs the Commission to pursue "the larger and more effective use of radio in the public interest."

Our action providing for a separate wireline carrier cellular allocation in all markets for a five-year period is designed specifically to meet these statutory and service imperatives. As the Commission found in its *Second Report and Order* in Docket No. 18262,[2] critical benefits of technical expertise, access to capital, and nation-wide service compatibility and availability will attend the earliest possible construction and provision of cellular service by wireline carriers. These are benefits which the public can enjoy immediately, benefits which no sound

[1] *National Broadcasting Co. v. U.S.*, 319 U.W. 190, 217 (1943).
[2] 46 FCC 2d 752, 750 (1974).

and responsible policy analysis can ignore.

While we are attaching paramount importance to the critical need for the expeditious implementation of cellular mobile telephone service, we are not ignoring competitive considerations in reaching this decision. The split-frequency approach which we have adopted allows for two competing cellular systems in every market. The interconnection policy which we have prescribed will require telephone companies to furnish the appropriate and necessary interconnection to cellular systems upon reasonable demand, and upon terms no less favorable than those offered to the cellular systems of their affiliated entities or independent telephone companies. We are promoting a significant second tier of cellular service competition at the retail level by precluding any prohibition on the resale and shared use of cellular services. We are conditioning AT&T's participation in cellular systems and services on its formation of a separate subsidiary which must maintain its own books of account, separate officers, separate operating personnel, and separate computing and switching facilities. Telephone companies may provide cellular terminal equipment but only on an unbundled and detariffed basis, and AT&T may offer such deregulated terminal equipment only through a subsidiary, separate from the subsidiary which will offer cellular service.

We have been careful to consider the value of competition in adopting a regulatory structure for the provision of cellular service, but we have also been mindful that promotion of competition is not the whole of the public interest.[3] Our statutory responsibilities require us to weigh and balance competing objectives of quality, quantity, and timeliness of essential communications service offerings. I believe we have been faithful to those responsibilities in this proceeding, and I believe we have provided a framework for the implementation of cellular service which is firmly based on the overall public interest.

While I enthusiastically join in the bulk of this Report and Order, I am troubled by the Commission's decision to apply the separate subsidiary requirement to *all* wireline carriers participating in the provision of cellular service. Although the Report and Order alludes to a waiver standard for "small" telephone companies, I am concerned that this approach will only clog up the cellular authorization process with paper and litigation. It would be far better to meet any legitimate concerns about safeguarding facilities-based cellular system competition by definitively selecting a standard for the imposition of the separate subsidiary requirement based on the size of the telephone company (e.g., number of main stations or revenues). The Commission's decision on this point will only impede the rapid deployment and offering of cellular technology and service which are so clearly in the public interest. I hope the Commission will remove this unnecessary barrier of over-regulation on reconsideration.

April 14, 1981.

Statement of Commissioner Anne P. Jones, Dissenting in Part

In Re: Report and Order on Rules for Cellular Communications Systems—CC Docket No. 79-318

I feel very strongly that the services which the cellular mobile radio technology can provide should be made available to the public at the earliest possible date. Since AT&T appears to be in the best position to get cellular systems under way quickly, I do not oppose the basic principle of a set aside of one of the two 20 MHz allocations for the wireline carriers. However, I feel that the Commission went too far in establishing a set aside in every market in the country. I believe it would be better to limit the set aside to markets in which it can be demonstrated that there is a present, pressing need for cellular mobile service. As the Commission plan is currently structured, the wireline carrier allocation will be maintained in a given market for five years, even if two or more non-wireline carriers are willing to construct cellular systems in that market while the wireline carrier is not.

I realize that nationwide compatibility of the cellular service is one goal of the Commission in this proceeding. However, nationwide compatibility can be achieved by a combination of the technical standards which we have required and voluntary operational standards which might be agreed upon by the various carriers involved. It is not necessary that wireline carriers provide cellular service in all markets in order to achieve nationwide compatibility.

Further, I am concerned that as a result of the last-minute change by which we allowed the wireline cellular subsidiary to retail cellular services we have lost the structural means to compelling a wholesale tariff. The ability of non-wireline carriers to develop a given market as resellers while waiting for the comparative hearing process to determine which of them is best qualified as the underlying, facility-based cellular carrier was integral to the Commission's plan, which balanced rapid availability of the cellular service with the desire to have this service provided under the most competitive form of supply. Without the structural means of compel a wholesale tariff, I fear that this balance may have been upset. I realize that retailing the cellular service back through the wireline carrier parent corporation is not without problems. Perhaps a resale entity within the wireline cellular subsidiary itself would best achieve our desired result.

Since Petitions for Reconsideration of our decision will doubtlessly be filed, I invite comment on the problems and proposed solutions which I have outlined here.

[FR Doc. 81-14610 Filed 5-20-81; 8:45 am]
BILLING CODE 6712-01-M

[3] *FCC* v. *RCA Communications, Inc.*, 346 U.S. 86, 93 (1953); *Hawaiian Telephone Co.* v. *FCC*, 498 F.2d 771 (D.C. Cir. 1974).

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47 CFR Part 73

[BC Docket No. 80-515; RM-3573]

Radio Broadcast Services; FM Broadcast Station in Oildale, Calif., Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 237A to Oildale, California, in response to a petition filed by KMAP, Inc. The assignment could provide Oildale with a first local aural service.

EFFECTIVE DATE: July 10, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 11, 1981.

Released: May 14, 1981.

By the Chief, Policy and Rules Division:

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Oildale, California), BC Docket No. 80-515, RM-3573, report and order, (Proceeding Terminated).

1. The Commission has before it for consideration a *Notice of Proposed Rule Making*, 45 FR 58612, published

September 4, 1980, in response to a petition filed by KMAP, Inc. ("petitioner"), proposing the assignment of FM Channel 237A to Oildale, California, as that community's first FM assignment. Supporting comments were filed by petitioner in which it reaffirmed its intent to file for the channel, if assigned. No oppositions to the proposal were received.

2. Oildale (population 20,709), in Kern County (population 341,900),[1] is located approximately 10 kilometers (6 miles) northwest of Bakersfield. Channel 237A could be assigned to Oildale in compliance with the minimum distance separation requirements.

3. In support of its proposal, petitioner submitted information with respect to Oildale which is persuasive as to its need for a first FM channel assignment.

4. We believe that the public interest would be served by the assignment of Channel 237A to Oildale, California. An interest has been shown for its use, and such an assignment would provide the community with an FM station which could render a first local aural broadcast service.

5. Authority for the adoption of the amendment contained herein appears in 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

6. Accordingly, it is ordered, That effective July 10, 1981, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with regard to the following community:

City	Channel No.
Oildale, Calif.	237A

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-15234 Filed 5-20-81; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 90

[PR Docket No. 80-416; RM-3428; FCC 81-186]

Amendment of the Commission's Rules To Allow the Use of Digital Voice Modulation in the Power Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The FCC is amending its Rules on private land mobile radio service to permit licensees in the Power Radio Service to use digital voice modulation in their radio communications. It has been determined that this action serves the public interest, convenience and necessity.

EFFECTIVE DATE: June 22, 1981.

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

FOR FURTHER INFORMATION CONTACT: William P. Berges, Private Radio Bureau (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Adopted: April 23, 1981.

Released: May 11, 1981.

By the Commission: Commissioner Fogarty issuing a separate statement.

Introduction

In the Matter of an amendment of Part 90 of the Commission's Rules and Regulations to allow the use of digital voice modulation in the Power Radio Service, PR Docket No. 80-416, RM-3428, first report and order.

1. We have before us for consideration adoption of rules in which we proposed [1] to amend Part 90 of the Commission's Rules to permit the use of digital voice systems in the Power Radio Service.

Background

2. Presently, voice communications in the private land mobile services are limited to analog (A3 or F3) emissions. The only exception is in the Police and Fire Radio Services where digital voice (F3Y) emission is permitted on the same frequencies that are normally utilized for analog voice emissions. While communications of analog and digital voice systems can be secured using encryption (scrambling) techniques, communications of digital voice scrambled systems provide a much higher degree of security than communications of analog voice scrambled systems. In our action in Docket No. 21142 we limited the use of digital voice systems to these highly coordinated services with high security needs because we were concerned that the sharing of frequencies by analog and digital voice systems would interfere with the existing analog voice operations.[2] Accordingly, in our *First Report and Order* in Docket No. 21224,[3] we said "* * * we believe that considering the untried nature of digital voice modulation, it would be prudent to restrict its authorization to those services where re-use of a frequency in a particular geographic area is at a minumum, or where such use is carefully coordinated among licensees engaged in essentially similar activities."

3. In a petition for rulemaking (RM-3428), The Utilities Telecommunications Council (UTC) noted that the Federal Government [4] and the utilities industry are concerned about attempts to intercept communications of the utilities in general and nuclear power facilities in particular, and requested the Commission to allow Power Radio Service licensees to secure their communications through the use of digital voice scrambled systems. In support, UTC noted that the Power Radio Service is coordinated and there is a need for security of communications by eligibles in this service and it maintained it satisfied the requirements laid down in Docket 21142, *supra*. The Commission recognized the merits of these arguments and on July 23, 1980, we adopted the *Notice of Proposed Rule Making* to amend our rules to authorize the use of digital voice scrambled systems in the Power Radio Service.

Review of Comments

4. The parties which filed comments and replies are listed in the Appendix. There was no opposition to our proposal. Some parties also recommended strongly that the general

[1] See *Notice of Proposed Rule Making*, Docket No. 80-416, FCC 80-447, released August 15, 1980, published on August 19, 1980 (45 FR 55245).

[2] See generally, *First Report and Order*, Docket No. 21142, FCC 78-70, released February 9, 1978.

[3] *Id.* at paragraph 5.

[4] Section 73.55 of the Nuclear Regulatory Commission's Rules and Regulations (10 CFR 73.55) details the requirements for the protection of nuclear power facilities against industrial sabotage.

use of digital voice scrambled systems should be permitted in many other land mobile radio services. For instance, Motorola, Inc. urged the Commission to expand the use of these systems to all highly coordinated radio services. Some other parties opposed their general use but supported their operation for the transmission of selected types of communications only. For instance, the Central Committee on Telecommunications of the American Petroleum Institute urged the Commission to permit licensees in the Petroleum Radio Service to use digital voice scrambled systems, but only for those types of communications that are related to the protection of corporate personnel and property.

Decision

5. We have reviewed the comments and replies submitted in response to our *Notice* carefully. In view of the support for our proposal we have decided to authorize the use of digital voice scrambled systems in the Power Radio Service. There was no opposition to this proposal and we conclude, after weighing the various factors involved, including the likelihood of interference and the ability to detect its source and resolve the problems, that adoption of rules permitting licensees in this coordinated service to employ digital scrambling techniques for high security communications serves the public interest, convenience and necessity.

We also believe the comments which urged the Commission to expand this use to other land mobile radio services deserve greater consideration. We feel, however, that these requests are beyond the scope of our original Notice and that these needs and the needs of users in uncoordinated services is not sufficiently known. We therefore have decided to explore this issue more fully in our accompanying *Further Notice of Proposed Rule Making.*[5]

6. Accordingly, it is ordered, that pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 90 of the Commission's Rules is amended, effective June 22, 1981, as set forth in the attached Appendix B. It is further ordered that the Secretary shall cause a copy of this First Report and Order to be published in the **Federal Register.**

7. For further information concerning this document, you may contact William P. Berges, (202) 632-6497.

[5] See *Further Notice of Proposed Rule Making,* Docket No. 80-416, FCC released May 12, 1981, published in this issue of the **Federal Register.**

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

APPENDIX A

Parties Filing Comments and Reply Comments

Comments

Utilities Telecommunications Council (UTC)
Special Industrial Radio Service Association, Inc. (SIRSA)
Central Committee on Telecommunications of the American Petroleum Institute (API)
Manufacturers Radio Frequency Advisory Committee (MRFAC)
Motorola, Inc. (Motorola)

Reply Comments

Utilities Telecommunications Council (UTC)
Motorola, Inc. (Motorola)
Associated Public Safety Communications Officers, Inc. (APCO)

APPENDIX B

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

1. Section 90.63 is amended by adding paragraph (g) to read as follows:

§ 90.63 Power radio service.

* * * * *

(g) Digital emission. A licensee may use F3Y (digital voice) or F9Y (digital data) emission subject to the provisions of §§ 90.175 and 90.233.

2. Section 90.207, paragraph (k) is revised to read as follows:

§ 90.207 Types of emission.

* * * * *

(k) For stations in the Fire, Police and Power Radio Services utilizing digital voice modulation in either the scrambled or unscrambled mode F3Y emission will be authorized. Authorization to use F3Y emission is construed to include the use of F9Y emission subject to the provisions of § 90.233.

* * * * *

3. Section 90.212, paragraph (b) is revised to read as follows:

§ 90.212 Provisions relating to the use of scrambling devices and digital voice modulation.

* * * * *

(b) The use of digital scrambling techniques or digital voice modulation requires the specific authorization of F3Y emission, and this emission will be authorized only to stations in the Police, Fire and Power Radio Services, subject to the provisions of paragraph (d) of this Section and paragraph (c) of § 90.385.

* * * * *

4. Section 90.385, paragraph (c) is revised to read as follows:

§ 90.385 Restrictions and limitations on permissible communications, on use, and on mode of operation.

* * * * *

(c) Notwithstanding any contrary provisions in this subpart, a system licensed for use by a person or entity eligible under Subparts B, C, D, or E of this part may be employed for any purpose or operated in any manner, including the use of F2, F4, F9, and F9Y emissions and in the Police, Fire and Power Radio Services only, F3Y emission which is consistent with the regulations governing the service in which the user is eligible; Provided, That the loading standard which applies to the system is met and the channel or channels are assigned to that person or entity for its exclusive use.

Statement of Commissioner Joseph R. Fogarty

In Re: Amendment of Part 90 of the Commission's Rules and Regulations to Allow the Use of Digital Voice Modulation in the Power Radio Service.

The time has come for the Commission to develop an overall policy on the question of the privacy and security of the telecommunications network. During the last two decades the potential for invasion of the privacy of communication and the violation of the integrity of the communications network has increased alarmingly. This situation developed with the prodigious expansion of communication services and the rapid growth of communication technologies. New technologies have increased the sophistication and capabilities of virtually all forms of communications. Unfortunately, these new technologies have also contributed to the development of refined tools suitable to be used for unauthorized interception and tampering with modern communication services. More sensitive and less expensive monitoring devices, interception systems and computerized processing hardware and software have created a potential for unauthorized surveillance, interception, tampering and use heretofore unknown. The growing network of computer terminals and communication links now provides many access points as well as the necessary equipment for those bent on unauthorized interception and use of information. The intensified employment of terrestrial microwave and satellite facilities has resulted in a growing problem involving the theft of material contained in MDS, STV and satellite transmissions. Cable, while not easily penetrated, is not impregnable. In addition, increasing reliance on electronic communication is enhancing incentives towards these illicit activities.

Such developments raise a myriad of serious issues concerning the privacy and security of the telecommunications network which the Commission is obligated to confront. It is clear from provisions of the

Communications Act, the United States Criminal Code, and our prior decisions that the privacy of communications must be protected and that any potential threat to privacy is a cause for grave concern on our part. *See U.S.* v. *Sudgen*, 226 F.2d 281 (9th Cir. 1956); *KMLA Broadcasting Corp.* v. *Twentieth Century Cigarette Vendors Corp.*, 264 F. Supp. 35 (D.C. Cal. 1967); *Jochnowitz* v. *N.Y. Telephone Co.*, 32 FCC 2d 858, 84 (1972). As we have stated previously, we do not believe it to be consistent with the public interest to permit any "new product of man's ingenuity to destroy our traditional right to privacy." *Amendment of Parts 2 and 15*, 2 FCC 2d 641, 644 (1966). Unfortunately, aside from issuing staff papers and holding seminars, the Commission has never developed an overall policy designed to ensure that the privacy and security of the network is maintained.

The privacy and security question affects all of the areas that the Commission regulates—Broadcast, Common Carrier, Private Radio and Cable. The Commission is literally sitting on a "time bomb." We have already had complaints from MDS and STV operators concerning theft of service and the illegal manufacture and sale of equipment to abet such thievery. This problem has apparently reached epidemic proportions in Los Angeles. Moreover, there are currently in progress throughout the country a number of lawsuits concerning theft of STV service.[1] In service complaints in the DBS and cellular areas. The problem is not merely domestic in scope. Internationally, the privacy problem has created important questions concerning transborder data flows which threaten to inhibit the free flow of information worldwide.

The law is unclear with conflicting cases even within adjoining districts.[2] Section 605 of the Communications Act is antiquated while Chapter 119 of the Omnibus Crime Control and Safe Streets Act of 1968, with its emphasis on oral communications, is not readily adaptable to new technology.

Now is the time for the Commission to bring order to this chaos. I recommend that the Commission form a task force, including representatives from other interested agencies and departments of the government, to study the problem of maintaining the privacy and security of the telecommunications network in the face of the threat presented by new technologies. The task force after study, would report to the Commission on policies and rules that the FCC might adopt in this area and on any amendments to the Communications Act and the Omnibus Act that the Commission might recommend to Congress. Prompt action is imperative. I urge that the Commission move very quickly toward the formation of this task force to protect the national interest.

[FR Doc. 81-15152 Filed 5-20-81; 8:45 am]
BILLING CODE 6712-01-M

[1] It is my firm belief that the Commission should intervene in each of these cases.

[2] *See Home Box Office* v. *Pay TV of Greater New York, Inc.*, 467 F. Supp. 525 (E.D.N.Y. 1979); *contra, Orth-O-Vision Inc.* v. *Home Box Office*, 474 F. Suppl. 672 (S.D.N.Y. 1979).

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1034

[Rev. Service Order No. 1344]

Rerouting of Traffic—Appointment of Agents

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Revised Service Order No. 1344.

SUMMARY: Revised Service Order No. 1344 appointed agents of the Commission, vested with the authority to authorize diversion and rerouting of loaded and empty freight cars from and to any point in the United States whenever, in their opinion, an emergency exists whereby any railroad is unable to move traffic currently over its lines. Amendment No. 1 to this order extends the expiration date until 11:59 p.m., May 18, 1982.

EFFECTIVE DATE: 11:59 p.m., May 18, 1981, and continuing in effect until 11:59 p.m., May 18, 1982.

FOR FURTHER INFORMATION CONTACT:

M. F. Clemens, Jr., (202) 275-7840.

Decided: May 15, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam. Acting Chairman Alexis and Commissioner Trantum were absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-15157 Filed 5-20-81; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 46, No. 98
Thursday, May 21, 1981

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-81-9]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before: July 20, 1981.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 18, 1981.

Edward P. Faberman,
Assistant Chief Counsel, Regulations and Enforcement Division, Federal Aviation Administration.

Petitions for Rulemaking: Denied

Docket No.	Petitioner	Description of the rule requested
17315	Institute for Public Interest Representation.	Amendment to 14 CFR 25.561 and 25.785 to accomplish the following: (1) Increase seat strength requirements to 20 "g" in all directions. (2) Require both dynamic and static compliance testing for all seats and tie-down mechanisms. (3) Encourage use of energy-absorbing materials in seat and seat attachment construction. (4) Require retroactive application of the proposed amendments. (5) Develop and promulgate specific standards for rearward-facing seats. *DENIED 5/8/81.*

[FR Doc. 81-15219 Filed 5-20-81; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 21

[Docket No. 16921; Notice No. SC-81-3]

Special Conditions for Canadair Limited Model CL-600-1A11 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed amendment to special conditions.

SUMMARY: This notice proposes to amend Special Conditions No. 25-94-EA-12, issued March 26, 1980, applicable to the Canadair Limited Model CL-600-1A11 airplane. The amendment is necessary in view of changes in the airplane's maximum certificated operating altitude and takeoff weight.

DATES: Comments must be received by June 22, 1981.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 16921, 800 Independence Avenue SW, Washington, DC 20591; or delivered in duplicate to: Room 916, 800 Independence Avenue SW., Washington, DC 20591. All Comments must be marked: Docket No. 16921. Comments may be inspected in the Rules Docket Weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Raymond J. Borowski, Chief, Engineering and Manufacturing Branch, Flight Standards Division, AEA-200, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. Telephone (212) 995-2842, or Jerold M. Chavkin, Chief, Aircraft Engineering Division, AWS-100, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591. Telephone (202) 426-8161.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on

or before the closing date for comments specified above will be considered by the Administrator before taking action on these proposals. The proposals contained in this notice may be changed based on comments received. All comments submitted will be available both before and after the closing date in the Rules Docket for examination by interested persons.

Type Certification Basis

The applicable airworthiness requirements for import products are those regulations designated in accordance with § 21.29 and are known as the "type certification basis" for the airplane design. Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness requirements designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of the airplane.

Special conditions, as appropriate, are now issued after public notice in accordance with §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis in accordance with § 21.17(a)(2).

The type certification basis for the Model CL-600-1A11 is Part 25 of the Federal Aviation Regulations (FAR) dated February 1, 1965, as amended through Amendment 25-37; §§ 25.675(a), 25.685(a), 25.733(c), 25.775(e), 25.787(c), 25.815, 25.841(b), 25.951(a), 25.979(d) & (e), 25.1041, 25.1143, 25.1303(a), 25.1322, 25.1385(c), 25.1557(b), 25.1583(a) of Amendment 25-38; §§ 25.901(b) & (c), 25.903(c) & (e), 25.933, 25.943, 25.959, 25.1091(a) & (d), 25.1145(c), 25.1199(b) & (c), 25.1207, 25.1549, 25.1585(a)(9) of Amendment 25-40; § 25.1309 of Amendment 25-41; § 25.1353(c) of Amendment 25-42; Amendment 25-45; §§25.351 and 25.603 of Amendment 25-46; FAR Part 36 dated December 1, 1969, as amended through Amendment 36-9; SFAR 27 effective February 1, 1974, as amended through Amendment SFAR 27-2; and the amended special conditions that may be promulgated from the proposals herein.

Equivalent safety has been established for the following requirements: § 25.773(b)(2), DV Window; § 25.955(a)(4), Blocked Flow Meter Fuel Flow Requirements; § 25.571, Damage-Tolerance and Fatigue Evaluation of Structure; and § 25.201, Stall Demonstration.

There is no exemption from any applicable requirement.

Background

The Model CL-600-1A11 is a pressurized, wide-body twin-turbofan airplane, powered by two AVCO Lycoming ALF 502L engines, each having a thrust rating of 6,700 pounds.

The type design of the Canadair Model CL-600-1A11 airplane contains unusual design features for an airplane type certificated under the applicable airworthiness regulations, and those airworthiness regulations do not contain adequate or appropriate safety standards for the Canadair Model CL-600-1A11 airplane. Therefore, special conditions were necessary to establish a level of safety equivalent to that described in the airworthiness regulations for unusual features of high speed, high-altitude operation, and an auxiliary power unit (APU) installation. Special Conditions No. 25-94-EA-12 were issued on March 26, 1980, to Canadair Limited (Canadair) for the type certification of its Model CL-600-1A11 airplane.

Canadair expected to receive certification that would allow its Model CL-600-1A11 airplane to operate at an altitude of 49,000 feet or less; however, it has been type certificated with a maximum operating altitude of 40,000 feet and a 33,000 pound maximum takeoff weight, and this proposed amendment to the original special conditions is necessary to implement these changes and correct two drafting errors. The applicant has agreed to the amendment.

Since it is known that the applicant intends to pursue certification that would allow the Model CL-600-1A11 to operate at 49,000 feet or less, it is proper to consider this contingency now by redesignating the Model CL-600-1A11 as the CL-600-1A11 Series airplanes. Therefore, this redesignation is made to cover airplanes with alternate performance.

The Proposed Amendment to the Special Conditions

Accordingly, the Federal Aviation Administration proposes to amend special conditions (No. 25-94-EA-12) issued to Canadair Limited on March 26, 1980, for the type certification of the Model CL-600-1A11 as follows:

1. By removing the words "Model CL-600 airplane" from the subject and the first, second, third, and sixth preamble paragraphs and adding the words "Model CL-600-1A11 Series airplane" in each place.

2. By removing the words "32,500 pounds" and "49,000 feet" from the third sentence of the second preamble

paragraph and adding the words "33,000 pounds" and "40,000 feet," respectively, in their place.

3. By removing the word "and" at the end of the *Special Flight Conditions* 1(a)(1) and inserting the word "or" in its place.

4. By removing the term "b" in the first line of *Special Flight Conditions* 2(c) and inserting the term "(b)(2)," in its place.

5. By adding a new *Special Airframe Conditions* 1(c) to read as follows: "(c) With regard to the fuselage structural design for cabin pressure capability above 45,000 feet altitude, the following apply:"

6. By redesignating *Special Airframe Conditions* 1(c) and 1(d) as 1(c)(1) and 1(c)(2), respectively.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421, and 1423); Section 6(c), Department of Transportation Act (49 U.S.C. 1655 (c); 14 CFR 11.28 and 11.29(b))

Note.—This action is not a proposed rule of general applicability and is therefore not covered under Executive Order 12291 or the Regulatory Flexibility Act. The FAA has determined that this document is not considered to be significant as defined in Department of Transportation Regulatory Policies and procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket.

Issued in Washington, D.C., on May 11, 1981.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 81-14894 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 21

[Docket No. 21740, Notice No SC-81-2]

Special Conditions: Israel Aircraft Industries Model 1124 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Special Conditions.

SUMMARY: This notice proposes special conditions for the modified Israel Aircraft Industries Model 1124 series airplane which is to be manufactured in Israel and imported into the United States. This airplane will have novel or unusual design features associated with an automatic takeoff thrust control system (ATTCS) for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. This notice contains the safety standards which the Administrator finds necessary to establish a level of safety equivalent to that established in the regulations by reason of the novel or unusual features.

DATES: Comments must be received by June 22, 1981.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 21740, 800 Independence Avenue SW, Washington, DC 20591; or delivered in duplicate to Room 916, 800 Independence avenue SW, Washington, DC 20591. All comments must be marked: Docket No. 21740. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: James Walker, Lead Region Staff, FAA Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108. Telephone (206) 767-2565.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Background

On August 5, 1980, Israel Aircraft Industries, LOD Airport, State of Israel, filed an application for an amendment to Type Certificate No. A2SW to include an automatic takeoff thrust control system (ATTCS) installation for approval under that type certificate covering the Model 1124 series aircraft.

The Model 1124 airplane is a twin-engine, mid-wing, transport category aircraft having pressurization, a maximum takeoff weight of 23,500 pounds, a maximum approved operating altitude of 45,000 feet, and a total occupancy of 12 persons, including the crew. The airplane is equipped with two AiResearch TFE 731-3 turbofan engines each producing 3,700 pounds rated thrust or TFE 731-3R engines each rated at 3,880 pounds thrust. The higher rated -3R engine is used in conjunction with the installation of an ATTCS.

The modification covered under the amendment to the type certificate is the installation of an ATTCS. With the ATTCS installed, takeoffs would normally be made with engine thrust set at less than the maximum takeoff thrust approved for the airplane under existing conditions. In the event of an engine failure on takeoff, the automatic system will reset the fuel control fuel metering schedule on the operating engine to provide the maximum takeoff thrust. ATTCS special conditions issued to date for other airplanes without automatic limiters that prevent engine limits from being exceeded require the ATTCS be designed to permit manual decrease or increase in thrust up to the maximum takeoff thrust approved for the airplane under existing conditions through the use of power levers. The application of maximum takeoff thrust, whether set by the automatic system or manually, will not result in the takeoff operating limits of the engine being exceeded. The ATTCS system installed on the "full throttle engines" of the Model 1124 airplane contains an electronic fuel controller and thrust limiters which automatically limit thrust and prevent engine operating limits from being exceeded under conditions with full throttle employed. In the event of an engine failure, a signal from the ATTCS is transmitted to the limiters for the maximum thrust. In the event of an ATTCS failure with engine failure, the crew would be required to activate an override switch to obtain the maximum thrust. Because of this design feature where the pilot must move his hand off the throttle to activate the maximum thrust available, the agency has determined that the special conditions ordinarily issued to other aircraft should be modified to provide that such activation is permitted if the means to increase thrust is located on or forward of the power levers, is easily operated by either pilot, and meets the requirement of § 25.777.

The Israel Model 1124 series airplane is an import product and, as such, type certification will be accomplished using the procedures covered under § 21.29 of the FAR.

General

The type design of the Model 1124 series airplane with the ATTCS installed contains a number of novel or unusual design features for an airplane type certificated under the airworthiness requirements incorporated by reference in Type Certificate No. A2SW or under the applicable airworthiness requirements in effect on the date of application for change to that type certificate. In either case, the applicable airworthiness requirements do not contain adequate or appropriate safety standards. Special conditions are necessary to provide a level of safety equal to that established by the regulations incorporated by a reference in the type certificate and to support a finding by the Administrator that no feature or characteristic of the airplane with an automatic system installed makes it unsafe for the category in which certification is requested. These special conditions specify limits on the maximum thrust increment which may be applied to the operating engines by the automatic takeoff thrust control system, prescribe system reliability and status monitoring requirements, require provisions for manual selection of the maximum takeoff thrust approved for the airplane under existing conditions, prohibit approval of the system if the automatic or manual application of maximum takeoff thrust would result in an engine operating limit being exceeded, and require the installation of an independent engine failure warning system if the inherent characteristics of the airplane do not provide a clear warning to the crew.

The FAA has developed special conditions for an ATTCS for any current turbine-powered transport category airplane and sent the proposal to U.S. user groups and various foreign Civil Air Authorities for review and comment in November 1977. Comments were received, reviewed, and the special conditions were revised and sent to the same groups in May 1978. This procedure was repeated again in November 1978. Cooperating with the FAA in this development were the Aerospace Industries Association (AIA), Air Transport Association of America (ATA), Air Line Pilots Association (ALPA), Allied Pilots Association (APA), Rolls Royce (RR), Hawker Siddeley Aviation Ltd. (HS), British Civil Air Authority (BCAA), the Civil Air Authorities of Australia and Japan, the French Technical Commission Navigation (FTCN), and the French Civil Air Authorities (FCAA), Lockheed, Boeing, McDonnell Douglas, and Rockwell International.

Based on the comments at that time and on further review by the FAA, a number of changes were made to the special conditions. These were as follows:

(1) For the fail-operational system proposed (capable of performing its intended function after a single failure or combination of failures not shown to be extremely improbable within the ATTCS system), a change of the ATTCS failure probability from extremely improbable to improbable for the ATTCS alone; the addition of an extremely improbable failure probability for the combined ATTCS and engine failure; and deletion of the all-engine performance criteria.

2. For other than the fail-operational system proposed, a change in the failure probability from improbable to 10^{-3} for the ATTCS alone; introduction of a minimum climb gradient for the combined ATTCS and engine failure case; and deletion of an engine failure warning means if the inherent characteristics of the engine failure are clearly made known to the pilot.

3. Clarifying changes, including a graphical presentation to clarify the definition of the term "Critical Time Interval."

These proposed special conditions follow the proposals which have been extensively coordinated.

Type Certification Basis

The type certification basis for the Isreal Aircraft Industries Model 1124 airplane, with the ATTCS to be incorporated in the type certificate, is as follows:

1. *Applicable to Model 1124:* Section 21.29 and CAR 4b, effective December 31, 1953, Amendments 4b–1 through 4b–11, including certain sections of Amendment 4b–12, and paragraphs pertaining to engine fire shielding.

(a) SR 422b effective July 9, 1959, and SR 450A effective August 31, 1962.

(b) Section 25.771 of Amendment 25–4; § 25.2 of Amendments 25–15, 25–17, and 25–20; certain sections of FAR Part 25, up to and including Amendment 25–34, that correspond to certain sections of Part CAR 4b, including § 25.1309 with respect to reverse thrust installations.

(c) Sections 33.97 and 33.99 of Amendment 33–33; SFAR 27 effective January 1, 1974; Part 36 effective December 1, 1969, Amendments 36–1 through 36–8.

(d) Special Conditions specified in FAA letters to the applicant dated December 13, 1963, and June 2, 1964; Special Conditions No. 25–37–EU–8, dated November 16, 1971, and any special conditions resulting from this notice.

2. *Applicable to the Model 1124A:* The same certification basis cited for the Model 1124 airplane except for the addition of § 25.672 of Amendment 25–23 dealing with lateral stability.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions for the Israel Aviation Industries Model 1124 series airplane equipped with an automatic takeoff thrust control system installed.

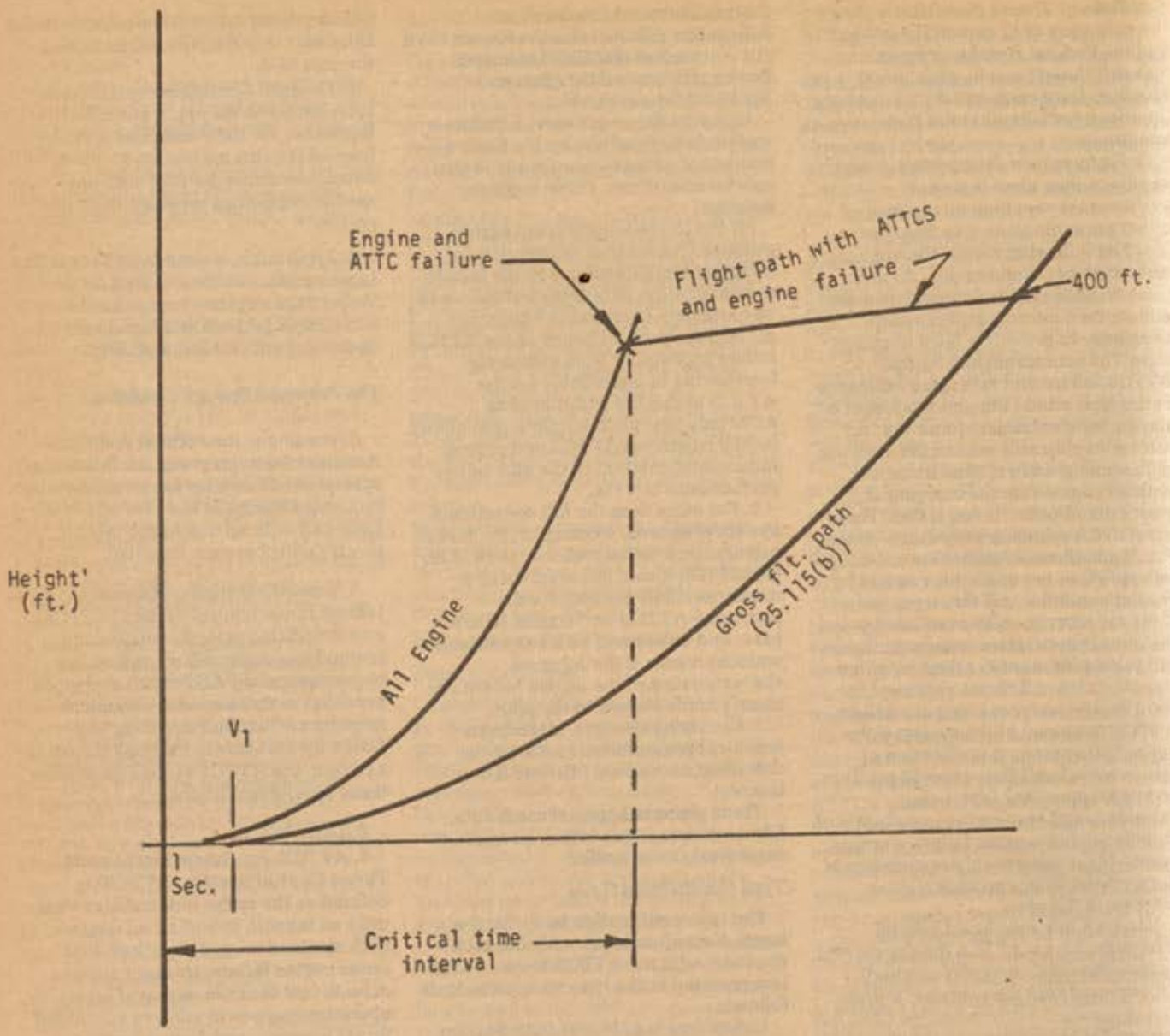
A. *General.* With the automatic takeoff thrust control system (ATTCS) and associated systems functioning normally as designed, all applicable requirements of FAR Part 25, except as provided in these special conditions, must be met without requiring any action by the crew to increase thrust. In addition, the ATTCS system must meet these special conditions.

B. *Definitions:*

1. *ATTCS.* An Automatic Takeoff Thrust Control System (ATTCS) is defined as the entire automatic system used on takeoff, including all devices, both mechanical and electrical, that sense engine failure, transmit signals, actuate fuel controls or power levers on operating engines to achieve scheduled thrust increase, and furnish cockpit information on system operation.

2. *Critical Time Interval.* When conducting an ATTCS takeoff, the Critical time interval between V_1 minus 1 second and a point on the minimum performance all-engine flight path where, assuming a simultaneous engine and ATTCS failure, the resulting minimum flight path thereafter intersects the FAR Part 25 required gross flight path at no less than 400 feet from the takeoff surface. This definition is shown in the following graph:

BILLING CODE 4910-13-M



BILLING CODE 4910-13-C

3. *Takeoff Thrust.* Notwithstanding the definition of "Takeoff Thrust" in Part 1 of the Federal Aviation Regulation, "takeoff thrust" means each thrust obtained from each initial thrust setting approved for takeoff under these special conditions.

C. *Performance Requirements.* The applicant may elect to comply with the performance requirements contained in either paragraph 1 or 2 as follows:

1. The following reliability and performance criteria apply:

(a) ATTCS system failure during the critical time interval must be shown to be improbable.

(b) The concurrent existence of an ATTCS failure and an engine failure during the critical time interval must be shown to be extremely improbable.

(c) All applicable performance requirements of Part 25 must be met with an engine failure occurring at the most critical point during takeoff with the ATTCS system functioning.

2. If compliance is not shown with the criteria given in paragraph 1 of this special condition, the following apply:

(a) An ATTCS system failure during the critical time interval must be shown to have a probability of failure of 10^{-3} or less.

(b) The concurrent existence of an ATTCS failure and an engine failure during critical time interval must be shown to be extremely improbable.

(c) All applicable performance requirements of Part 25 must be met with an engine failure occurring at the most critical point during takeoff with the ATTCS system functioning.

(d) The takeoff runway length required shall be the greater of:

(1) The accelerate-stop distance determined under § 25.109 with initial takeoff thrust setting and with ATTCS operating;

(2) The horizontal distance along the takeoff path from the start of takeoff to the point at which the airplane is 35 feet above the takeoff surface, determined under § 25.113 with one engine failed and the ATTCS operating at the most critical point during takeoff;

(3) The horizontal distance along the takeoff path from the start of takeoff to the point at which the airplane is 15 feet above the takeoff surface with one engine and the ATTCS failed at the most critical takeoff point; or

(4) One hundred fifteen (115) percent of the horizational distance along the takeoff path, with all engines operating at the initial takeoff thrust setting, from the start of takeoff to the point at which the airplane is 35 feet above the takeoff surface as determined by a procedure consistent with § 25.111.

(e) With the intial takeoff thrust set as described in special condition D (Thrust Setting), the critical engine inoperative, the ATTCS system failed, and without moving the power lever on the remaining engine, the airplane must:

(1) Have a positive gross climb gradient at all points in the takeoff path (procedures consistent with § 25.101 must be used); and

(2) Have an available gradient of climb of not less than 1.0 percent determined in accordance with § 25.121(b).

(f) The gradient of climb used to determine the takeoff path required by § 25.1587 may not be greater than:

(1) The net gradient determined in accordance with § 25.115(b) with the ATTCS functioning; or

(2) The gross gradient available resulting from the configuration of special condition C.2.(e).

D. *Thrust Setting.* The initial takeoff thrust set on each engine at the beginning of the takeoff roll may not be less than:

1. Ninety (90) percent of the thrust level set by the ATTCS (the maximum takeoff thrust approved for the airplane under existing conditions);

2. That required to permit normal operation of all safety-related systems and equipment dependent upon engine thrust or power lever position; or

3. That shown to be free of hazardous engine response characteristics when thrust is advanced from the initial takeoff thrust level to the maximum approved takeoff thrust.

E. *Powerplant Controls:*

1. In addition to the requirements of § 25.1141, no single failure or malfunction, or probable combination thereof, of the ATTCS system, including associated systems, may cause the failure of any powerplant function necessary for safety.

2. The ATTCS must be designed to:

(a) Apply thrust on the operating engine following an engine failure during takeoff to achieve the selected takeoff thrust without exceeding engine operating limits.

(b) Permit manual decrease or increase in thrust up to the maximum takeoff thrust approved for the airplane under existing conditions through the use of the power lever, except that for aircraft equipped with limiters that automatically prevent engine operating limits from being exceeded under existing conditions, other means may be used to increase the maximum level of thrust controlled by the power levers in the event of an ATTCS failure provided the means is located on or forward of the power levers, is easily identified and operated under all operating conditions by a single action of either pilot with the hand that is normally used to actuate the power levers, and meets the requirements of § 25.777 (a), (b), and (c).

(c) Provide a means to verify to the flightcrew before takeoff that the ATTCS is in a condition to operate; and

(d) Provide a means for the flightcrew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation.

F. *Powerplant Instruments.* In addition to the requirements of § 25.1305:

1. A means must be provided to indicate when the ATTCS is in the armed or ready condition; and

2. If the inherent flight characteristics of the airplane do not provide adequate warning that an engine has failed, a warning system that is independent of the ATTCS must be provided to give the pilot a clear warning of any engine failure during takeoff.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (490 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.28)

Note.—This action is not a proposed rule of general applicability and is therefore not covered under Executive Order 12291 or the Regulatory Flexibility Act. The FAA has determined that this document is not considered to be significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the regulatory evaluation prepared for this action is contained in the docket. A copy of it may be obtained by contacting the person identified as the information contact.

Issued in Washington, D.C., on May 12, 1981.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 81-14987 Filed 5-20-81; 8:45 am]

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14 CFR Part 39

[Docket No. 8168]

Airworthiness Directives; British Aerospace, Aircraft Group (Formerly British Aircraft Corporation) Model BAC 1-11 Series 200 and 400 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD) applicable to British Aerospace, Aircraft Group Model BAC 1-11 series 200 and 400 airplanes, by reducing the scrap life limit of the spring discs in the main landing gear down lock jacks. The amendment is needed to

prevent collapse of the main landing gear.

DATES: Comments must be received on or before July 20, 1981.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 8168, 800 Independence Avenue SW., Washington, D.C. 20591

or delivered in duplicate to: Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

Comments delivered must be marked: Docket No. 8168.

Comments may be inspected at Room 916 between 8:30 am and 5:00 pm.

The applicable service bulletin may be obtained from: British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041.

A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: C. Christie, Acting Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or C. Chapman, Acting Chief, Technical Standards Branch, AWS-110, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: 202-426-8192.

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

Commenters wishing the Federal Aviation Administration to acknowledge receipt of their comments submitted in response to this notice must submit those comments and a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 8168." The postcard will be date/time stamped and returned to the commenter.

This notice proposes to amend Amendment 39-476 (32 FR 12910), AD 67-25-01, which currently requires repetitive inspections of main undercarriage down lock links and imposes service life limits on the Belleville washers in the main under carriage down lock jacks on British Aerospace, Aircraft Group, Model BAC 1-11 series 200 and 400 airplanes. After issuing Amendment 39-476, the FAA determined, as a result of fatigue tests and quality investigations, that the life expectancy of the spring discs in the main landing gear down lock jacks is less than originally expected. Therefore, in order to prevent collapse of the main landing gear, the FAA is proposing to amend Amendment 39-476 by reducing the scrap life limit of the spring discs in the main landing gear down lock jacks on British Aerospace, Aircraft Group, Model BAC 1-11 series 200 and 400 airplanes.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by amending Amendment 39-476 (32 FR 12910), AD 67-25-01, as follows:

1. By adding the following paragraph immediately after existing paragraph (e):

(f) For airplanes with Tonks spring discs, P/N AK43-1283, installed in BAC Modification PM 4676 main landing gear down lock jacks, unless already accomplished, before accumulating 16,000 landings or within the next 3,000 landings after the effective date of this AD, whichever occurs later, remove the spring discs from service in accordance with paragraph 2, "Accomplishment Instructions," of BAC 1-11 Alert Service Bulletin 32-A-PM5700, Issue No. 1, dated May 10, 1979,[1] or an FAA-approved equivalent.

2. By changing the designations of existing paragraphs (f) and (g) to (g) and (h) respectively."

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The FAA has determined that this proposed regulation involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since there are only a few of these aircraft owned by small entities. A draft evaluation has been prepared for this proposed regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "For Further Information Contact."

Issued in Washington, D.C., on May 14, 1981.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 81-15122 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

[1] BAC 1-11 Alert Service Bulletin 32-A-PM5700, Issue No. 1, filed as part of the original document.

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14 CFR Part 71

[Airspace Docket No. 81-CE-6]

Transition Area, Atwood, Kansas; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Atwood, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Atwood-Rawlins County Airport, utilizing the Atwood Non-Directional Radio Beacon (NDB) as a navigational aid.

DATES: Comments must be received on or before July 1, 1981.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530 601 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may also be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Charles M. Bumstead, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications

should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before July 1, 1981, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures, and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 374–3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Atwood, Kansas. To enhance airport usage, a new instrument approach procedure is being developed for the Atwood-Rawlins County Airport utilizing the Atwood Non-Directional Radio Beacon as a navigational aid. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Atwood, Kansas, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

The Proposed Amendment

Accordingly, Federal Aviation Administration proposes to amend Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by adding the following new transition area:

Atwood, Kansas

That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of the Atwood-Rawlins County Airport, Atwood, Kansas, Latitude 39°50'21" N, Longitude 101°02'27" W) and within 3 miles each side of the 360° bearing from the Atwood NDB (Latitude 39°50'23" N, Longitude 101°02'30" W) extending from the 5.5 mile radius area to 8.5 miles northwest of the NDB facility.

Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).

The FAA has determined that this proposed regulation only involves an established body of techincal regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on May 8, 1981.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 81-15119 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-CE-5]

Transition Area, Oakley, Kansas; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Oakley, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Oakley, Kansas, Municipal Airport, utilizing the Oakley Non-Directional Radio Beacon (NDB) as a navigational aid.

DATES: Comments must be received on or before June 28, 1981.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Charles M. Bumstead, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE–532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before June 28, 1981 will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374–3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Oakley, Kansas. To enhance airport usage, a new instrument approach procedure is being developed for the Oakley, Kansas, Municipal

Airport, utilizing the Oakley Non-Directional Radio Beacon as a navigational aid. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Oakley, Kansas, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

The Proposed Amendment

Accordingly, Federal Aviation Administration proposes to amend Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by adding the following new transition area:

Oakley, Kansas

That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of the Oakley Municipal Airport, Oakley, Kansas, (Latitude 39°06'45" N, Longitude 100°48'49" W) and within 3 miles each side of the 171° bearing from the Oakley NDB (Latitude 39°07'04" N, Longitude 100°49'01" W) extending from the 5.5 mile radius area to 8.5 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)).

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on May 8, 1981.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 81-15118 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-SO-23]

Proposed Designation of Transition Area, Sandersville, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule will designate the Sandersville, Georgia, transition area. Standard instrument approach procedures, NDB RWY 12 and VOR/DME A, have been developed for the Kaolin Field Airport. Controlled airspace is required to protect aircraft Instrument Flight Rule (IFR) operations and must be designated before IFR flight procedures can become effective.

DATES: Comments must be received on or before: July 27, 1981.

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

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

FOR FURTHER INFORMATION CONTACT:

Harlen D. Phillips, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before July 27, 1981, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320, or by calling (404) 763-7646. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Sandersville, Georgia, 700-foot transition area. This action will provide controlled airspace protection for aircraft executing the NDB RWY 12 and VOR/DME-A standard instrument approach procedures at Kaolin Field. The proposed Kaolin (nonfederal) nondirectional radio beacon and the Dublin VORTAC will support the approach procedures. If the proposed designation is acceptable, the airport operating status will be changed from VFR to IFR.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (46 FR 540), of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following:

Sandersville, Georgia

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Kaolin Field) Lat. 32°57'53" N., Long. 82°49'55" W.).

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a major rule under Executive Order 12291; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This proposed amendment involves only a small alteration of navigable airspace and air traffic control procedures over a limited area.

Issued in East Point, Ga., on May 11, 1981.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 81-14901 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AAL-3]

Alteration of Colored Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the floors of Green Airway G-8 between Elfee, Alaska, NDB, and King Salmon, Alaska, NDB, and Green Airway G-10 between Elfee, Alaska, NDB, and Port Heiden, Alaska, NDB. In addition, this notice proposes to substitute the name "Elfee NDB" where "Cold Bay, Alaska, NDB," appears. This action would aid flight planning and improve flight safety by designating a common airway floor in the area.

DATES: Comments must be received on or before June 22, 1981.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 81-AAL-3, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, Alaska, 99513.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW, Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 81-AAL-3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs, should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.103 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to raise the floor of Green Airways G-8 and G-10 to 2,000 feet AGL in the Elfee, Alaska, area. This alteration would establish a common floor for all controlled airspace in that area. Also, Cold Bay, Alaska, NDB, has been renamed Elfee, Alaska, NDB, and this proposal will incorporate that editorial change. This action would increase aviation safety and aid flight planning for operations in the Elfee area. The description of these airways under Part 71 was republished on January 2, 1981 (46 FR 407).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.103 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), as republished and amended (46 FR 407 and 12951), as follows:

1. Under G-8 by deleting the words "20 AGL INT Dutch Harbor NDB 041° and Cold Bay, Alaska, NDB 253° bearings; 20 AGL Cold Bay NDB; King Salmon, Alaska, NDB;" and substituting for them the words "20 AGL INT Dutch Harbor NDB 041°T(027°M) and Elfee, Alaska, NDB 253°T(236°M) bearings; 20 AGL Elfee NDB; 20 AGL King Salmon, Alaska, NDB;"

2. Under G-10 by deleting the words "From Elfee, Alaska, NDB, via INT Elfee NDB 041° and Port Heiden, Alaska, NDB 248° bearings; Port Heiden NDB;" and substituting for them the words "From Elfee, Alaska, NDB, 20 AGL INT Elfee NDB 041°T(024°M) and Port Heiden, Alaska, NDB 248°T(229°M) bearings; 20 AGL Port Heiden NDB;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticpated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant effect on a substantial number of small entities under the criteria of the Regulatory Flexability Act.

Issued in Washington, D.C., on May 13, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-15024 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AWA-6]

Proposed Alternation of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke several alternate airway segments in the New England area and designate new VOR federal airway segments, where necessary, to maintain airway continuity. This action responds to our commitment to eliminate all alternate airway designations.

DATES: Comments must be received on or before June 22, 1981.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA New England Region, Attention: Chief, Air Traffic Division, Docket No. 81–AWA–6, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803.

The officical docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 81–AWA–6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs, should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke several alternate airways, designate an airway, and extend some airways in the New England area. This action is consistent with our policy to revoke all alternate airways in the National Airspace System. This action will also aid flight planning. The description of these airways under Part 71 were republished on January 2, 1981 (46 FR 409).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), as republished (46 FR 409), as follows:

1. By amending the descriptions of the specified airways as follows:

a. V–2: By deleting the words "Syracuse, N.Y., including a N alternate via INT Rochester 064° and Syracuse 283° radials;" and substituting for them the words "Syracuse, N.Y.;"

b. V–72: By deleting the words "Cambridge, N.Y.; INT Cambridge 063° and Keene, N.H., 336° radials." and substituting for them the words "Cambridge, N.Y.; INT Cambridge 063°T(077°M) and Lebanon, N.H., 214°T(299°M) radials; Lebanon; to Montpelier, Vt."

c. V–151: By deleting the words "including a W alternate via INT Keene 336° and Lebanon 214° radials; Montpelier, Vt., including an E alternate via Lebanon 005° and Montpelier 112° radials;" and substituting for them the words "Montpelier, Vt.;"

d. V–475: By deleting the words "including an east alternate from Madison to Providence via INT Madison 082° and Providence 212° radials;" and substituting for them the words "Montpelier, Vt.;"

e. V–483: By deleting the words "Syracuse." and substituting for them the words "Syracuse; Rochester, N.Y.; INT Syracuse 283°T(294°M) and Rochester 064°T(073°M) radials; Rochester."

2. By adding a new airway to read as follows:

"V–374 From Martha's Vineyard, Mass., via INT Martha's Vineyard 272°T(287°M) and Madison, Conn., 082°T(095°M) radials; Madison."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on May 13, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81–15025 Filed 5–20–81; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 81–AWE–12]

Alteration of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign VOR Federal Airway V–6, between Oakland, Calif., and Sacramento, Calif. The realignment would improve traffic flow in the

Concord, Calif., area and permit more flexibility for maneuvering traffic in the Oakland and Sacramento terminal area.

DATES: Comments must be received on or before June 22, 1981.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 81-AWE-12, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such writen data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 81-AWE-12." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a reques! to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW, Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs, should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign V-6 between Oakland, Calif., and Sacramento, Calif. The current alignment of V-6 conflicts with arrival/departure traffic in the Buchanan Airport, Concord, Calif., area. This action would increase safety and improve traffic flow by relocating V-6 eastward, thereby remaing clear of the airport terminal traffic and reduce delays in the Oakland and Sacramento areas. The description of this airway under Part 71 was republished on January 2, 1981 (46 FR 409).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend V-6 under § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), as republished (46 FR 409) by deleting the words "From Oakland, Calif.; INT Oakland 039° and Sacramento, Calif., 212° radials; Sacramento," and substituting for them the words "From Oakland, Calif., via INT Oakland 040°T(023°M) and Sacramento 212°T(195°M) radials; Sacramento;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedure (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on May 13, 1981.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-15013 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Dual-Purpose Child Resistant Packaging; Public Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of public meeting.

SUMMARY: The Commission will hold a public meeting during which interested persons may make an oral presentation concerning the use of dual-purpose child resistant packaging.

DATES: The public meeting will be held at 10:00 a.m., Tuesday, June 16, 1981. Those persons who wish to make an oral presentation should notify the Office of the Secretary (202) 634-700 June 10, 1981. A summary or copy of testimony should be submitted to the Office of the Secretary by June 12, 1981. On June 11, 1981, the Commission Staff will brief the Commission on dual-purpose Closures.

ADDRESS: The public meeting will be held in the Commission's Third floor meeting room, 1111 18th Street, NW., Washington, D.C. 20207. A summary or copy of written testimony, preferably in five copies, should be submitted to the Secretary, U.S. Consumer Product Safety Commission, Washington, D.C. 20207. The Commission staff's January, 1981 and February, 1981 briefing packages on this issue are available in the Office of the Secretary of the Commission, 1111 18th Street, NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Richard Danca, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207 (202) 634-7700.

Under the Poison Prevention Packaging Act of 1970 (PPPA) (15 U.S.C. 1471 et seq.), the Commission has

regulations that require special (child resistant) packaging for certain substances to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances (16 CFR 1700.14) Section 2(4) of the PPPA defines "special packaging" as packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance within a reasonable time and not difficult for normal adults to use properly. The act specifies that this defintion does not mean packaging which all children cannot open or obtain a toxic or harmful amount within a resonable time. The Commission also has regulations under the PPPA that specify standards and testing requirements for special packaging (16 CFR 1700.15 and 1700.20).

In a briefing package submitted to the Commission in January, 1981, the Commission staff discusses options on the further use of a type of special packaging known as "dual-purpose packaging". The staff defines dual-purpose packaging as packaging that is intended for use both as child resistant and non-child resistant packaging. There are two major types of dual-purpose closures. One type has a plug and an overcap. Another type has a reversible cap with a non-complying closure on the reverse side of the child-resistant closure. Both type of packages can easily be converted into conventional, or non-child resistant packaging, by removing the plug or by reversing the cap. Dual-purpose packages have been marketed for a number of years, and currently account for approximately 10 percent of the market for prescription packaging vials. Their use has recently spread to over-the-counter preparations. The Commission staff believes that dual-purpose packages are likely to become more widespread in use in the next few years.

As explained in the briefing package, the staff believes that this packaging will enable children to gain ready access to household substances subject to the PPPA requirements, and thereby increase the risk of serious personal injury or serious illness to children associated with these substances. The January, 1981 briefing package also containes materials and arguments by manufacturers of dual-purpose packages who oppose any regulation that would restrict or prohibit the use of this packaging. A copy of the January, 1981 briefing package, as well as a package of supplemental materials sent to the Commission in February, 1981, is available in the Office of the Secretary of the Commission.

The Commission staff will brief the Commission on June 11, 1981. On June 16, 1981, the Commission will hold a public meeting at which interested persons will be given an opportunity to present their views on the issue of dual-purpose packaging and the appropriate action, if any, that the Commission should take. The Commission will be considering the following options: (1) Taking no action at this time to restrict or prohibit the continued marketing of dual-purpose packages.

(2) Directing the staff to prepare, for Commission consideration, proposals to gather additional data on the use of dual-purpose packaging, including methods for monitoring childhood ingestions attributable to dual-purpose packaging.

(3) Directing the staff to prepare a proposed regulation that would prohibit the prospective use of dual-purpose packing under the PPPA. The prohibition would apply to all products which are required to be in special packaging. The proposal would be published in the **Federal Register**, and interested persons would be given an opportunity to submit comments.

(4) Directing the staff to prepare a proposed regulation that would prohibit the prospective use of dual-purpose packaging for products, other than prescription drugs, which are required to be in special packaging. A final regulation undert this option would permit the continued use of dual-purpose packaging for prescription drugs required to be in special packaging under the act. The proposal would be published in the **Federal Register**, and interested persons would be given an opportunity to submit comments.

Interested persons who wish to make a presentation at the June 16, 1981 public meeting should contact Richard Danca in the Office of the Secretary (202) 634–7700 by June 10, 1981, and should submit a copy or summary of their presentation to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, by June 12, 1981.

(Sec. 27(a), 30(a), Pub. L. 92–573, (15 U.S.C 2076(a), 2079(a)); secs. 1–9, Pub. L. 91–601, (15 U.S.C. 1471 et. seq))

May 19, 1981.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 81-15439 Filed 5-19-81; 9:30 am]

BILLING CODE 6355-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket No. 80-2, Notice 4]

Design Standards for Highways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice regarding status of proposed rule.

SUMMARY: The FHWA is issuing this notice to announce that a response has been transmitted to the American Association of State Highway and Transportation Officials (AASHTO) commenting upon its proposed new publication entitled "A Policy on Geometric Design of Highways and Streets." It has been proposed that the new publication replace several existing publications now contained as references in 23 CFR Part 625, thereby becoming the design standards which apply to most highways eligible for funding under the Federal-aid highway program.

FOR FURTHER INFORMATION CONTACT: Mr. Wilson B. Harkins, Highway Design Division, Office of Engineering, 202/426–0313, or Mr. Stanley H. Abramson, Office of the Chief Counsel, 202/426–0761, Federal Highway Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The standards, policies and guides which have been approved by the FHWA for application on all Federal-aid highway projects are incorporated by reference in 23 CFR Part 625 (43 FR 14648, April 7, 1978). Those provisions which apply to geometric design are listed in 23 CFR 625.3 (a).

On February 14, 1980, the FHWA published a notice of proposed rulemaking (NPRM) at 45 FR 10236 requesting comments on proposed changes to the above geometric design standards. The changes would be based on the substitution of a proposed new AASHTO publication "A Policy on Geometric Design of Highways and Streets" (Policy) for several of the existing documents now referenced in 23 CFR Part 625.

The FHWA extended the original 90 day comment period by 30 days (45 FR 34302, May 22, 1980) from May 14, 1980, to June 13, 1980, in order to provide interested parties additional time to respond to the NPRM. Sixty-eight (68) comments were received. A "Notice

regarding status of proposed rule" was published on November 17, 1980 (45 FR 75690). This status notice discussed the comments received as a result of the NPRM, concentrating on procedural comments as opposed to the comments pertaining to technical aspects of the proposed standards. The notice also indicated that a final rule was not expected before September 1982. That estimate remains unchanged at this time.

The November 17 notice stated that all correspondence between the FHWA and the AASHTO relating to this rulemaking action would be placed in the public docket and made available to all interested parties. In conformance with that commitment the FHWA announces that comments and recommendations on the proposed Policy were transmitted to the AASHTO on April 27, 1981. A copy of the response to the AASHTO has been placed in the public docket (80-2) and is available for review by interested parties.

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

Issued on: May 14, 1981.

L. P. Lamm,

Executive Director.

[FR Doc. 81-15200 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Exclusion for Certain Conservation Cost-Sharing Payments; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rulemaking cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary income tax regulations relating to the exclusion for certain conservation cost-sharing payments. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 20, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-222-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Phoebe A. Mix of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION: The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend part 153 of title 26 of the Code of Federal Regulations. The final regulations which are proposed to be based on the temporary regulations would amend 26 CFR Part 1.

For the text of the temporary regulations, see FR Doc. 81-15133 (T.D. 7778) published in the Rules and Regulations portion of this issue of the **Federal Register.**

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Request for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submittted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

William E. Williams,

Acting Commissioner of Internal Revenue.

[FR Doc. 81-15134 Filed 5-18-81; 11:12 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Ch. 1

Everglades National Park—Florida; Petition for Rulemaking, Request for Comments and Notice of Public Hearing

AGENCY: National Park Service, Interior.

ACTION: Petition for rulemaking, request for comments and notice of public hearing.

SUMMARY: The National Park Service has received a rulemaking petition from Mrs. Jimmie Robinson, on behalf of the Organized Fishermen of Florida, to amend the current regulation prohibiting commercial fishing in Everglades National Park after December 31, 1985. This notice sets forth the present circumstances with respect to commercial fishing in Everglades National Park and seeks comments on the suggested regulatory revision. Public hearings will be held at Everglades City and Key Largo, Florida on June 23 and 24, 1981, respectively, concerning the issues raised herein.

DATES: Public hearings will be held at Everglades City, Florida on Tuesday, June 23, 1981 from 7:00 p.m. to 10:00 p.m. and at Key Largo, Florida on Wednesday, June 24, 1981 from 7:00 p.m. to 10:00 p.m. National Park Service personnel will be available at 6:00 p.m. at each public hearing to answer questions concerning the current regulations. Written comments, suggestions or corrections will be accepted until July 20, 1981.

ADDRESS: The public hearing in Everglades City will be held at Everglades City High School, School Drive, Everglades City, Florida. The public hearing in Key Largo will be held at Key Largo Elementary School, Mile Marker Number 105, U.S. Highway 1, Key Largo, Florida. Comments should be addressed to Superintendent, Everglades National Park, P.O. Box 279, Homestead, Florida 33030.

FOR FURTHER INFORMATION CONTACT: Jack Morehead, Superintendent, Everglades National Park, P.O. Box 279, Homestead, Florida 33030 (305) 247-6211.

SUPPLEMENTARY INFORMATION: On February 15, 1980, the National Park Service published final rules governing fishing and boating in Everglades National Park. These final rules were supplemented by corrections published on March 7, 1980 and April 3, 1980. These regulations, published at 36 CFR 7.45(e)-(h), were a response to a declining fishery within the Park and the effect of fishing and boating on several endangered and threatened species. The regulations achieved a balance of the competing uses of the Park resources, namely commercial and sport fishing, by 1) enacting bag limits, 2) restricting methods of take, 3) closing certain areas to sport and commercial fishing, 4) closing certain areas to all boat traffic,

and 5) prohibiting commercial fishing after December 31, 1985.

The National Park Service has now been petitioned by Mrs. Jimmie Robinson, on behalf of the Organized Fishermen of Florida, to amend the regulation prohibiting commercial fishing after 1985. The basis of this petition is a series of past representations by National Park Service officials concerning the ability to fish commercially after establishment of the Park.

The National Park Service supports the current regulations as one means of balancing competing demands for use of Park resources. The National Park Service is also sympathetic to the equitable considerations raised by the Organized Fishermen petition. In an attempt to reach an alternative balance over the use of Park resources which would maintain the same level of protection achieved by the current regulations, the National Park Service seeks public comment on the result desired by the petition in terms of the effect on both Park resources and commercial fishermen. Specifically, the National Park Service seeks comments on the following:

1. Commercial fishing within the Park is currently limited to approximately 101 net fishermen, 47 hook and line fishermen and 38 trap fishermen. Given present restrictions on methods of take and closed areas, can Park resources sustain this level of commercial fishing after the 1985 termination date?

2. If not, what formula of (a) further restrictions of methods of take, (b) further closure of areas, and/or (c) number of commercial fishing permits available, would retain the protection afforded Park resources by the current regulations?

3. If the number of commercial fishing permits available must be reduced below the current number, on what basis should the National Park Service allocate available permits among existing permit holders?

4. If the current level of protection to Park resources cannot be maintained while allowing even a reduced amount and/or further restricted methods of commercial fishing, what other methods are available for (a) protecting and enhancing park resources through means other than regulating fishing *per se* (e.g., enhancing water quality), or (b) reducing the burden to commercial fishing caused by regulations necessary to protect Park resources (e.g., license fee imposed on sport fishermen to compensate commercial fishermen)?

The National Park Service also seeks comments on the economic impact, including the impact to small entities (small businesses, organizations, and governmental jurisdictions) of the regulatory revision sought by the petition and alternatives suggested to the revision.

In addition to written comments on these issues, interested parties are encouraged to provide oral comments at the public hearings to be held at Everglades City and Key Largo, Florida (Dates and Addresses are noted above). Parties who intend to provide oral comments at either or both of these hearings are further encouraged to notify Jack Morehead, Everglades Superintendent (Address above) of this intention by telephone or letter by June 17, 1981. Notification should include at which hearing the party intends to testify and political jurisdiction, group or organizations, if any, represented. Testimony will be heard at each public hearing in the following order: Persons or their representatives holding elected federal office, holding state office, holding local government office, representing groups or organizations; individuals. Persons who have notified the Park Superintendent in accordance with this Notice of their intention to testify shall be given priority within each group, (*e.g.*, Persons representing groups or organizations who have given notification of their intention to testify will speak after persons holding local government office who have not given notification, but will speak before persons representing groups or organizations who have not given notification.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 81-15270 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 148

[CGD 81-036]

IMCO Code Governing the Shipment of Bulk Solids

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: The purpose of this notice is:

1. To inform the public that the Inter-Governmental Maritime Consultative Organization (IMCO) is planning an extensive review of Appendix B of the "Code of Safe Practices for Solid Bulk Cargoes" that promulgate safety precautions for hazardous solids in transportation in bulk.

2. To solicit comments concerning the position to be taken by U.S. on the proposed IMCO Codes now under review for extensive revision.

DATES: The closing date for submitting comments is July 6, 1981.

ADDRESSES: Comments should be mailed to Commandant (G-CMC), [CGD 81-036], U.S. Coast Guard, Washington, D.C. 20593. Between the hours of 7:00 a.m. and 5:00 p.m., Monday through Thursday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Mr. John McAnulty, Office of Merchant Marine Safety, (202) 426-1578, G-MHM-2.

Discussion: The Inter-Governmental Maritime Consultative Organization (IMCO) publication, "Code of Safe Practice for Bulk Cargoes 1980 Edition" contains an Appendix B that codifies segregation, stowage and special shipping requirements for bulk materials possessing chemical hazards. This publication may be obtained by writing directly to the Inter-Governmental Maritime Consultative Organization, 101-104 Piccadily, London W1V OAE England.

At the XXII Session of the IMCO Containers and Cargoes Subcommittee, it was agreed that Appendix B of the Code of Safe Practices for Bulk Cargoes requires extensive review and that this work should commence at the twenty-third session scheduled for February 1982. When Appendix B is amended it will become mandatory for signatory countries.

Several items not currently regulated as hazardous for bulk solids shipments by the United States appear in Appendix B of the latest IMCO Code 1980 Edition. These include various grades of high concentration Ammonium Nitrate, Aluminum Ferrosilicon, Antimony Ore, Alfalfa Pellets, Bakery Materials, Corn, Broken Rice, Toasted Meal, Chromium Ore, Coal, Various Ore Concentrates, Direct Reduced Iron (DRI), Ferro Phosphorous, Iron Oxide (spent), Pencil Pitch, Seed Cakes from a wide variety of farm products, Silica Managanese, Vanadium Ore, Wood Chips and Zinc ashes.

Request For Information: The U.S. intends to submit a paper to the Containers and Cargo Subcommittee expressing concern about the inclusion of some of these items in Appendix B and making appropriate recommendations to modify this

appendix. In order to assure that th recommendations to modify this appendix. In order to assure that the recommendations reflect the needs of the bulk cargo industry, written comments on the Proposed Code are requested so they can be incorporated, where appropriate, in the paper submitted to the IMCO Subcommittee on Containers and Cargoes.

Specifically, the Coast Guard is interested in obtaining information regarding:

1. The desirability of including these items in an international code.

2. What requirements for shipping a product will enhance safety.

3. What additional shipping requirements should be included in the proposed code.

4. And what wording should be used to clarify the proposed requirements.

Text Of Proposed Code: Many large tonnage products not previously regulated by 46 CFR 148 appear in Appendix B, and the U.S. Coast Guard would like additional comments. The following are items that warrent special notice because of the large tonnage shipments.

Ammonium nitrate—There are five entries for high concentration ammonium nitrate appearing in Appendix B for which the U.S. Coast Guard has not permitted 1nternational shipment in the past because they were considered a high hazard risk. IMCO believes they are safe to ship under the conditions specified in the code entries.

Coal—Coal is being exported from this country in large tonnages and the projected increase is impressive. There are various types of coals and the hazards involved in shipping coal depends on the time delay from mine to ship, the source, the chemical and physical composition and even the country of orgin. One regulation for all types of coal certainly is an over-simplification and at best a considerable burden to coal producers, shippers, and consignees.

Grain (Cereal Products)—Under the list of cereal products are many items that are classified as grain by U.S. Department of Agriculture such as corn, rice, alfalfa, and an item noted as bakery products. None of these items carry a hazard classification at present. Many are hazardous for reasons other than those stated in Appendix B and each item should be considered as a seperate entry in the table.

Ore Concentrates—This item is too general to be included in a table. It should be much more specific as to which ore concentrates should be entered in the appendix. We would like information as to which ores should or should not come under the Code.

Direct Reduced Iron—This commodity has been intensively studied by IMCO, the U.S. Coast Guard and industry. A revised entry was prepared by the XXII Session of the Containers and Cargoes Committee. The methods of inerting or ventilating cargoes and the various passivating processes are currently under study for future consideration.

Seed Cake—There are three entries for seed cake that include several sources. Items where the oil has been extracted should be classified differently from material high in oil content.

Dated: May 14, 1981.

Clyde T. Lusk, Jr.,

Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 81-15344 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-95; RM-3117; M-3165; RM-3204]

FM Broadcast Stations in Bountiful, Centerville, and West Jordan, Utah, and Rock Springs, Wyoming; Order Extending Time for Filing Replies to Oppositions To Petition for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Petition for reconsideration of actions in rulemaking proceeding; extension of reply comment period.

SUMMARY: Action taken herein extends the time for filing replies to oppositions to a petition for reconsideration of the Commission's action concerning assignment of FM channels to Bountiful, Centerville, and West Jordan, Utah, and Rock Springs, Wyoming. Additional time is given in response to a request filed by General Broadcasting, Inc., which states more time is needed to investigate issues raised in the opposition.

DATE: Replies must be filed on or before May 12, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Bountiful, Centerville, and West Jordan, Utah, and Rock Springs, Wyoming); order extending time for filing replies to oppositions to petition for reconsideration.

Adopted: May 8, 1981.

Released: May 12, 1981.

By the Chief, Policy and Rules Division:

1. On March 20, 1981, Public Notice was given of the filing of a petition for reconsideration by General Broadcasting, Inc. ("GBI"), concerning the above-captioned matter (46 FR 17880; March 20, 1981).[1] Oppositions thereto were filed by Busch Corporation ("Busch"), and D. Garry Munson and John Charles Larsh ("Munson/Larsh") on April 20, 1981, and replies thereto were due to be filed May 5, 1981.

2. On May 1, 1981, counsel for GBI filed a request for extension of time to and including May 12, 1981, in which to file a reply to the oppositions. Counsel states that the oppositions raise factual issues which it needs more time to investigate. Counsel states further, that all parties to this proceeding have indicated no objection to the requested extension of time.

3. Section 1.46(b) of the Commission's rules states that extension requests must be filed seven days in advance of the filing deadline. However, since the Commission feels it would be in the public interest to have this material available to it in arriving at a decision in this proceeding, and since the parties do not object, we will grant the additional time.

4. Accordingly, it is ordered, that the time for filing a reply to the oppositions to the petition for reconsideration in BC Docket No. 80-95 (RMs-3117, 3165 and 3204) is extended to and including May 12, 1981.

5. This action is taken pursuant to authority contained in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

Federal Communications Commission.

Henry L. Baumann

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-15274 Filed 5-20-81; 8:45 am]

BILLING CODE 6712-01-M

[1] Editorial note: The petition for reconsideration was submitted for publication in the Notices section of the Federal Register.

47 CFR Part 73

[BC Docket No. 81-332; RM-3756]

FM Broadcast Station in Newport, Washington; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 285A to Newport, Washington, in response to a petition filed by Pend Oreille Valley Broadcasting. The assignment would provide Newport with a first local aural service.

DATES: Comments must be filed on or before July 10, 1981, and reply comments must be filed on or before July 30, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Newport, Washington).

Adopted: May 11, 1981.

Released: May 18, 1981.

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:* (a) A petition for rule making[1] was filed by Gerald E. Carpenter, Eric E. Carpenter, and Louis Musso III, doing business as Pend Oreille Valley Broadcasting ("petitioner"), proposing the assignment of Channel 285A to Newport, Washington, as that community's first Class A FM assignment.

(b) The channel can be assigned to Newport, provided the transmitter is located at least 2.2 kilometers (1.4 miles) northwest of Newport.

(c) Petitioner states that it will apply for the channel, if assigned.

2. *Community Data:*

(a) *Location:* Newport, seat of Pend Oreille County, is located approximately 64 kilometers (40 miles) north of Spokane, Washington.

(b) *Population:* Newport—1,418;[2] Pend Oreille County—6,025.

(c) *Local Aural Service:* Newport is served locally by Class D noncommercial educational FM Station KUBS (Channel 218D).

3. *Economic Considerations:* Petitioner states that Newport, and Pend Oreille County, in particular, continue to show substantial population increases. It states that logging and timber-related industries remain the economic mainstay of Newport. Additionally, petitioner indicates that Newport is the major trading, medical, shopping and transportation center for the rural-agricultural region of Pend Oreille County, as well as for several other surrounding counties. Petitioner, in justification of its proposal, states that the assignment could give Newport and Pend Oreille County its first frequency, first aural service and first nighttime service of local origin.

4. *Technical Data:* Transmitter site must be located at least 2.2 kilometers (1.4 miles) northwest of Newport to avoid short-spacing to Channel 282, which has been applied for use at Kellogg, Idaho. Additionally, since the proposed assignment is within 400 kilometers (250 miles) of the U.S.-Canada border, Canadian concurrence must be obtained. Preliminary approval to the short-spacing to Channel 284 in Cranbrook, B.C., has been negotiated.

5. In light of the fact that the proposed FM channel assignment would provide a first broadcast service to Newport, Washington, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Newport, Wash.		285A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before July 10, 1981, and reply comments on or before July 30, 1981.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are

[1] *Public Notice* of the petition was given on October 2, 1980, Report No. 1251.

[2] Population figures are taken from the 1970 U.S. Census.

filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 81-15235 Filed 5-20-81; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-333; RM-3758]

FM Broadcast Station in Owensville, Missouri; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 237A to Owensville, Missouri, in response to a petition filed by Gerald W. Hertlein. The assignment would provide Owensville with a first local aural service.

DATES: Comments must be filed on or before July 10, 1981, and reply comments must be filed on or before July 30, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 11, 1981.

Released: May 18, 1981.

By the Chief, Policy and Rules Division:

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Owensville, Missouri), BC Docket No. 81-333, RM-3758, notice of proposed rule making.

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed by Gerald W. Hertlein ("petitioner") requesting the assignment of Channel 237A to Owensville, Missouri, as that community's first FM assignment.[2] No comments were filed in opposition to the proposal.

(b) The channel can be assigned to Owensville, with a site restriction, to conform with the minimum distance separation requirements.

(c) Petitioner states that he will apply for the channel, if assigned.

2. *Demographic Data:*

(a) *Location:* Owensville is located in Gasconade County, approximately 113 kilometers (70 miles) southwest of St. Louis, Missouri.

(b) *Population:* Owensville—2,416; Gasconade County—11,878.[3]

(c) *Local Aural Broadcast Service:* None.

3. *Economic Considerations:* Petitioner has described the local economy and states that a local FM outlet will fill a requirement for coverage of general events in the community, inclusive of storm alerts, nighttime sports events, school announcements, and agricultural information, as well as a competitive advertising outlet for retail business concerns. Petitioner also includes letters from the local citizenry expressing their desire for, and support of the proposed allocation to Owensville.

4. *Technical Data:* The channel allocation can be effectuated provided the transmitter site is located a minimum of approximately 9.2 kilometers (5.7 miles) south of Owensville to avoid short-spacing to Station KWWR, Mexico, Missouri.

5. In light of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Owensville, Mo		237A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before July 10, 1981, and reply comments on or before July 30, 1981.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to the rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time of a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Attachment: Appendix

Appendix

1. Pursuant to authority found in Sections 4(i)5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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[1] *Public Notice* of the petition was given on October 2, 1980, Report No. 1251.

[2] The Commission previously considered petitioner's request in BC Docket No. 79-215, 45 F.R. 37239, released June 2, 1980. The request was denied because petitioner was not interested in using the channel conditioned on a 5.7 mile site restriction.

[3] Population figures are taken from the 1970 U.S. Census.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they wil be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considerd in connection with the decision in this docket.

(c) The filing of a counterprosal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-15236 Filed 5-20-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-334; RM-3750]

FM Broadcast Station in Atoka, Okla.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 276A to Atoka, Oklahoma, in response to a petition filed by M. J. Chase. The assignment would provide Atoka with a first local FM service.

DATE: Comments must be filed on or before July 10, 1981, and reply comments must be filed on or before July 30, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, 202-632-7792.

By the Chief, Policy and Rules Division:

SUPPLEMENTARY INFORMATION:

Adopted: May, 1981.

Released: May 15, 1981.

In the Matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Atoka, Oklahoma); BC Docket No. 81-334, RM-3750.

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed by M. J. Chase ("petitioner"), proposing the assignment of Channel 276A to Atoka, Oklahoma, as that community's first FM radio station.

(b) Channel 276A can be assigned to Atoka in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data:*

(a) *Location:* Atoka, the seat of Atoka County, is located approximately 176 kilometers (110 miles) southeast of Oklahoma City, Oklahoma.

(b) *Population:* Atoka—3,346; Atoka County—10,972.[2]

(c) *Local Aural Broadcast Service:* Atoka is served by daytime-only AM Station KEOR.

3. *Economic Considerations:*

Petitioner indicates that the area is experiencing a definite pattern of growth. It incorporates data from the Atoka, Oklahoma Chamber of Commerce to reflect that the area's major industries presently consist of the manufacture of furniture and clothing. Additionally, it states that while several other small industries are located there, an economy boost is expected when construction of the McGee Creek Dam project on Lake Atoka begins in 1981, by creating an influx of several hundred workers into the area. Also, it indicates that the community is located on a major shipping route, and that, with its full-time rail service, should provide the community with the necessary transportation to assure its continued industrial growth.

4. In view of the fact that the proposed FM channel assignment would provide Atoka, Oklahoma, with a first FM and local nighttime aural broadcast service, the Commission believes it appropriate to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to that community, as follows:

City	Channel No.	
	Present	Proposed
Atoka, Okla		276A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before July 10 1981, and reply comments on or before July 30, 1981.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 Fed. Reg. 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making

[1] *Public Notice* of the petition was given on September 19, 1980, Report No. 1248.

[2] Population figures are taken from the 1970 U.S. Census.

other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an orginal and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-15189 Filed 5-20-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 80-416; RM-3428; FCC 81-187]

Amendment of the Commission's Rules To Expand the Use of Digital Voice Modulation Generally to the Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Further Notice of Proposed Rulemaking.

SUMMARY: The FCC proposes to amend Part 90 of its rules on private land mobile radio services to expand the use of digital voice modulation and solicits comments from the public in order to determine whether the use of this type of modulation is required by all licensees to protect the privacy of their communications.

DATES: Comments are due on or before June 22, 1981 and replies on or before July 22, 1981.

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

FOR FURTHER INFORMATION CONTACT: William P. Berges, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION: .

Adopted: April 23, 1981.

Released: May 12, 1981.

By the Commission: Commissioner Fogarty issuing a separate statement.

Introduction

In the Matter of an amendment of Part 90 of the Commission's Rules and Regulations to expand the use of digital voice modulation generally to the private land mobile radio services, PR DOCKET NO. 80-416, RM-3428, further notice of proposed rule making.

1. We are addressing in this phase of this proceeding the generalized requirements for digital voice emission (F3Y) and digital scrambling techniques in the private land mobile services. We take this action in response to the requests made by many parties who filed comments to our original *Notice of Proposed Rule Making* in this proceeding.[1]

Background

2. Normally operations authorized in the private land mobile radio services are intended to provide analog (A3 or F3) voice communications between stations. Communications of digital voice systems (F3Y emission), however, can attain a higher degree of security through the use of encryption (scrambling) techniques. In our *First Report and Order* in Docket No. 21142,[2] in recognition of this fact, we authorized Police and Fire Radio Service licensees to operate digital voice systems on the same frequencies that are normally utilized by conventional analog voice systems. We were concerned, however, that the digital voice transmissions might cause some co-channel and adjacent channel interference to the existing analog voice operations. We authorized digital emissions in the Police and Fire Radio Services, however, because we believed that by allowing these licensees to satisfy their secure communications requirements it would contribute to the safety of life and property. Furthermore, we were of the opinion that interference problems could be kept to a minimum, through the careful frequency coordination and limited re-use of frequencies that normally prevail in these services.

3. On July 20, 1979, the Utilities Telecommunications Council (UTC) filed a petition requesting the Commission to permit licensees in the Power Radio Service to secure their communications through the use of digital voice systems. After considering

[1] See *Notice of Proposed Rule Making*, Docket No. 80-416, FCC 80-477, released August 15, 1980, published on August 19, 1980 (45 FR 55245).

[2] See generally, *First Report and Order*, Docket No. 21142, FCC 78-70, released February 9, 1978.

both the fact that frequency coordination in the utilities industry is very effective and that this industry had needs for secure communications systems, we released a *Notice of Proposed Rule Making*, Docket No. 80-416, *supra*, proposing to amend Part 90 of the Commission's Rules to permit the use of digital voice systems in the Power Radio Service. The majority of the parities who filed comments and replies to the *Notice* supported our porposal and today the Commission adopted the *First Report and Order* in Docket No. 80-416,[3] authorizing the use of digital voice systems in the Power Radio Service.

Discussion

4. Many of the parties who filed comments to the *Notice* also strongly recommended the Commission amend its Rules to permit the use of digital voice systems in other land mobile radio services. For instance, the Central Committee on Telecommunications of the American Petroleum Institute (API) supported the use of digital voice systems in the Petroleum Radio Service but only for the "protection of corporate personnel and property." The Special Industrial Radio Service Association, Inc. (SIRSA) supported the use of these systems for the protection of the Special Industrial Radio Service licensees' property only. Both API and SIRSA opposed the use of digital voice emission except for the specific purposes they supported. On the other hand, the Manufacturer's Radio Frequency Advisory Committee, Inc. (MRFAC) requested the Commission to permit the general use of digital voice systems in the Manufacturers Radio Service, because, it argued, licensees in that service require a high degree of communications security to protect their plant areas and the sensitive and highly desirable materials they process.

5. In connection with this subject, Motorola, Inc. (Motorola) [4] claimed it has closely monitored the operation of digital voice systems for the past two years and has no evidence that they have caused any interference problems. Motorola is convinced, therefore, that analog and digital systems can co-exist in the same channels and urged the Commission to amend its Rules to permit the use of digital voice systems to all highly coordinated radio services. In similar comments the Associated Public-Safety Communications Officers, Inc. (APCO) [5] noted it has nor reports that the use of digital voice systems in the Police and Fire Radio Services has caused any co-channel or adjacent channel interference and urged the Commission to expand their use to those public safety agencies that are licensed in the Local Government Radio Service.[6] No support was expressed for this need in such radio services as the Special Emergency, Business and Taxicab Services to name but a few where some need for communications security has been expressed in the past.

6. We have decided to explore these issues further, including the needs of uncoordinated and less than "highly coodinated" services for the use of digital voice scrambling techniques. We would like to point out, however, that the Commission would not be able to unscramble and determine the purpose of secured digital voice communications once we generally allowed it. Thus, if we adopted rules which authorized the use of digital voice communications for the protection of life and property only, as API and SIRSA suggested, or by a selected group of radio users in shared radio systems, as APCO suggested, the Commission would not be able to verify that these rules were not violated. Therefore, it is not practicable to propose, we believe, rules for digital voice systems with a protection of life and property limitation.

7. The proposal for the unrestricted use of digital voice systems as MRFAC proposed appears to have merit but we request public comment as to the need for this capability in each Part 90 radio service. Motorola pointed out the need for secure communications can arise in numerous situations throughout all land mobile radio services, and APCO indicated that digital voice operations have not caused any known interference in the Police and Fire Radio Services. Motorola has also stated that digital and voice operations are fully compatible with each other and can co-exist in the same channels.

Proposal

8. In view of the foregoing, we propose to amend Part 90 of the Commission's Rules as shown in the Appendix, to permit the use of digital voice systems, and tentatively we propose limiting such use to a secondary non-interference status by all licensees in the Private Land Mobile Radio Services. We also propose that the use of digital voice systems in frequencies below 800 MHz be coordinated. We further propose that the use of digital voice systems on any frequency be approved in each case by the Commission. In proposing these amendments, we invite all parties who are interested in the rules governing licensing and operation of voice systems, to file comments concerning our proposed rule changes, and provide us information concerning the general requirements for secure communications in all land mobile radio services.

9. As noted above, the use of digital voice has been authorized in the Police and Fire Radio Services, and by action today, the Power Radio Service. There has not been any identified interference from the use of digital voice operation in these services. However, these services may be distinguished from other private land mobile services on the basis of the degree of coordination, the extent of frequency reuse, and the necessity of cooperation in the use of shared channels. Obviously, cooperation requires that the nature of conversations be overheard and this is not possible with encrypted digital voice. Therefore, it would be helpful if commenters addressed the potential interference from the use of digital voice in the proposed additional services. Comments should include discussion of co-channel as well as adjacent channel and "tertiary" channel interference.

10. The Commission concludes after an analysis of these proposed rules that they are not likely to have a significant economic impact on a substantial number of small entities, and, therefore, we are not preparing an accompanying initial regulatory flexibility analysis. See § 603 of the Regulatory Flexibility Act of 1980. (Pub. L. 96-354). The Commission concludes this because it does not anticipate a significant number of small business licensees will employ these types of systems.

11. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments)

[3] See generally, *First Report and Order*, Docket No. 80-416, FCC 81-186 released May 11, 1980, published in this issue of the Federal Register.

[4] Motorola is the only manufacturer whose digital voice equipment is Type Accepted for operation in the Private Land Mobile Radio Services, under Part 90 of the Commission's Rules.

[5] APCO is an organization for public safety radio users which, among other things, coordinates the frequencies of licensees in the Police Radio Service.

[6] Part 90 of the Commission's Rules authorizes police, fire, highway maintenance, forestry conservation and many other public entities to commonly share radio systems which are licensed in the Local Government Radio Service.

between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231.

12. Authority for issuance of this Notice is contained in Section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to procedures set out in Section 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before June 22, 1981, and reply comments on or before July 22, 1981. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public files and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

13. In accordance with the provisions of Section 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

14. For further information concerning this document, you may contact William P. Berges, (202) 632-6497.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

APPENDIX

Part 90 of the Commission's Rules would be amended as follows:

§ 90.19 [Amended]

1. In § 90.19 delete paragraph (h).

§ 90.21 [Amended]

2. In Section 90.21 delete paragraph (f).

3. Section 90.175 is amended by revising the introductory text and the introductory text of paragraph (e) and by adding a new paragraph (f) as follows:

§ 90.175 Frequency coordination requirements.

Except for applications listed in paragraphs (e) and (f) of this section, each application: (1) for a new frequency assignment, or (2) for a change in existing facilities by increasing the authorized power, raising the authorized antenna height, or changing the authorized station location or the location of the antenna; or (3) for the addition of a base station within the licensee's existing area of operation, shall include a showing of frequency coordination as set forth in either paragraph (a) or (b) of this section.

* * * * *

(e) The following applications need not be accompanied by evidence of frequency coordination, except for digital operations listed in paragraph (f):

* * * * *

(f) *Digital operations.* Notwithstanding any provisions in this part, the use of F3Y (digital) voice or F9Y (digital data) emission on any frequency, shall require prior approval by the Commission. All applications for such approval shall include:

(1) For frequencies between 470 and 512 MHz, a showing of frequency coordination as set forth in paragraph (b) of this section.

(2) On any other frequency other than frequencies between 470 and 512 MHz, a showing of frequency coordination as set forth in paragraph (a) of this section.

4. Section 90.207 is revised to read as follows:

§ 90.207 Modulation requirements.

Operations in the services governed by this part are normally intended for voice communications, except as provided for radiolocation operations in Subpart F and non-voice operations in Subpart J.

(a) *Voice operations.* Subject to the following paragraphs, stations in these services will be authorized to use A3 or F3 emission on a primary basis. In addition, F3Y (digital voice) emission will be authorized in the Police, Fire and Power Radio Services on a primary basis and in all other mobile radio services on a secondary basis. Authorization to use F3Y emission is construed to include the use of F9Y (digital data) emission subject to the provisions of paragraphs (a), (b) and (d) of Section 90.233.

(1) Except for Traveler's Information Stations in the Local Government Radio Service authorized in accordance with Section 90.242, only A3J emission will be authorized for telephony on frequencies below 25 MHz.

(2) The use of A3 and F3 emission will be authorized on all frequencies above 25 MHz.

(3) The use of F3Y emission will be authorized on all frequencies above 25 MHz. On the 806–821 MHz and 851–866 MHz bands F3Y emission will be authorized only as provided in Section 90.385.

(4) Authorization to use A3, F3 and F3Y emission also includes the use for tone signals or signaling devices whose sole function are to establish and to maintain communications, and for operations in the Public Safety and Special Emergency Radio Services, to activate emergency warning devices used solely for the purpose of advising the general public or emergency personnel of an impending emergency situation.

(5) Station identification shall be transmitted in analog mode (clear voice) or Morse code, using A3 or F3 emission in accordance with the provisions of Section 90.425.

(6) Analog or digital scrambling techniques may be employed at any station authorized the use of A3, F3 or F3Y emission, subject to the provisions of paragraph (a)(5) of this section.

(b) *Non-voice operation.* The following emissions will be authorized for non-voice operations:

	A1	A2	F1	F2	F4	F9	P9
Tone paging	X	X	X	X			
Radioteleprinter				X		X	
Radiofacsimile					X		
AVM			X	X		X	X
Telemetry	X	X	X	X		X	
Call Box	X	X	X	X			

(c) *Radiolocation.* The emissions for radiolocation operations will be in accordance with the emissions authorized in the operating frequency bands and the exceptions indicated in subpart F.

§ 90.212 [Removed]

5. Section 90.212 is removed.

6. In § 90.385, paragraph (c) is revised to read as follows:

§ 90.385 Restrictions and limitations on permissible communications, on use, and on mode of operation.

* * * * *

(c) Notwithstanding any contrary provisions in this subpart, a system licensed for use by a person or entity eligible under subparts B, C, D, or E of this part may be employed for any purpose or operated in any manner, including the use of F2, F3Y, F4, F9, and F9Y emissions which are consistent with the regulations governing the service in which the user is eligible: Provided, That the loading standard which applies to the system is met and the channel or channels are assigned to that person or entity for its exclusive use.

Statement of Commissioner Joseph R. Fogarty

In Re: Amendment of Part 90 of the Commission's Rules and Regulations to Allow the Use of Digital Voice Modulation in the Power Radio Service.

The time has come for the Commission to develop an overall policy on the question of the privacy and security of the telecommunications network. During the last two decades the potential for invasion of the privacy of communication and the violation of the integrity of the communications network has increased alarmingly. This situation developed with the prodigious expansion of communication services and the rapid growth of communication technologies. New technologies have increased the sophistication and capabilities of virtually all forms of communications. Unfortunately, these new technologies have also contributed to the development of refined tools suitable to be used for unauthorized interception and tampering with modern communication services. More sensitive and less expensive monitoring devices, interception systems and computerized processing hardware and software have created a potential for unauthorized surveillance, interception, tampering and use heretofore unknown. The growing network of computer terminals and communication links now provides many access points as well as the necessary equipment for those bent on unauthorized interception and use of information. The intensified employment of terrestrial microwave and satellite facilities has resulted in a growing problem involving the theft of material contained in MDS, STV and satellite transmissions. Cable, while not easily penetrated, is not impregnable. In addition, increasing reliance on electronic communication is enhancing incentives towards these illicit activities.

Such developments raise a myriad of serious issues concerning the privacy and security of the telecommunications network which the Commission is obligated to confront. It is clear from provisions of the Communications Act, the United States Criminal Code, and our prior decisions that the privacy of communications must be protected and that any potential threat to privacy is a cause for grave concern on our part. *See U.S.* v. *Sudgen*, 226 F.2d 281 (9th Cir. 1956); *KMLA Broadcasting Corp.* v. *Twentieth Century Cigarette Vendors Corp.*, 264 F. Supp. 35 (D.C. Cal. 1967); *Jochnowitz* v. *N.Y. Telephone Co.*, 32 FCC 2d 858, 84 (1972). As we have stated previously, we do not believe it to be consistent with the public interest to permit any "new product of man's ingenuity to destroy our traditional right to privacy." *Amendment of Parts 2 and 15*, 2 FCC 2d 641, 644 (1966). Unfortunately, aside from issuing staff papers and holding seminars, the Commission has never developed an overall policy designed to ensure that the privacy and security of the network is maintained.

The privacy and security question affects all of the areas that the Commission regulates—Broadcast, Common Carrier, Private Radio and Cable. The Commission is literally sitting on a "time bomb." We have already had complaints from MDS and STV operators concerning theft of service and the illegal manufacture and sale of equipment to abet such thievery. This problem has apparently reached epidemic proportions in Los Angeles. Moreover, there are currently in progress throughout the country a number of lawsuits concerning theft of STV service.[1] In the future, we are bound to face theft of service complaints in the DBS and cellular areas. The problem is not merely domestic in scope. Internationally, the privacy problem has created important questions concerning transborder data flows which threaten to inhibit the free flow of information worldwide.

The law is unclear with conflicting cases even within adjoining districts.[2] Section 605 of the Communications Act is antiquated while Chapter 119 of the Omnibus Crime Control and Safe Streets Act of 1968, with its emphasis on oral communications, is not readily adaptable to new technology.

Now is the time for the Commission to bring order to this chaos. I recommend that the Commission form a task force, including representatives from other interested agencies and departments of the government, to study the problem of maintaining the privacy and security of the telecommunications network in the face of the threat presented by new technologies. The task force after study, would report to the Commission on policies and rules that the FCC might adopt in this area and on any amendments to the Communications Act and the Omnibus Act that the Commission might recommend to Congress. Prompt action is imperative. I urge that the Commission move very quickly toward the formation of this task force to protect the national interest.

[FR Doc. 81-15153 Filed 5-20-81; 8:45 am]

BILLING CODE 6712-01-M

[1] It is my firm belief that the Commission should intervene in each of these cases.

[2] *See Home Box Office* v. *Pay TV of Greater New York, Inc.*, 467 F. Supp. 525 (E.D.N.Y. 1979); *contra, Orth-O-Vision Inc.* v. *Home Box Office*, 474 F. Suppl. 672 (S.D.N.Y. 1979).

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1307

[Ex Parte No. MC-98 (Sub-No. 1)]

Classification, Exceptions and Rules Tariff; Investigation Into Motor Carrier Classification

AGENCY: Interstate Commerce Commission.

ACTION: Request for comments on interim policy statement.

SUMMARY: This proceeding was started to explore the necessity for changing the way commodities are classified and how the Commission evaluates the reasonableness of those classifications. An interim decision was served May 15, 1981. The Commission is seeking comments regarding its tentative findings in this investigation: that the National Motor Carrier Classification needs to be revised; that it is unreasonable for the classifier to publish different ratings for an article dependent on whether it is truck load (TL), less than truck load (LTL), or any quantity (AQ); that certain characteristics which are now used in classifying articles are not relevant; and that reduction of the classification to a single rating number is less useful to rate setters than other proposed alternatives. No changes in the Code of Federal Regulations are proposed.

DATES: Comments are due on or before July 6, 1981.

ADDRESS: The complete decision is available from the Secretary of the Commission, I.C.C., Washington, D.C. 20423. Send comments to: Office of Proceedings, Room 5356, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder, (202) 275-7656.

SUPPLEMENTARY INFORMATION: This proceeding was started to explore the necessity for changing the way commodities are classified and how the Commission evaluates the reasonableness of those classifications. An interim decision was served May 15, 1981.

After investigation and consideration of public comment the Commission has tentatively decided it should limit the number of characteristics it will consider in ruling on the reasonableness of motor carrier classifications. Those of the 15 traditional characteristics which pertain to ratemaking could no longer be considered by classifiers.

The Commission has tentatively found that the National Motor Freight Classification should no longer contain different ratings for the same commodity for less than truckload, truckload, or any quantity movements. This change was premised on the finding that tramsportation characteristics remain the same regardless of the quantity shipped.

The Commission also expressed its preliminary beleif that the reduction of the classification to a single rating number for an article is less useful to rate setters than other reasonalbe alternatives. Consequently, the National Classification Committee would be permitted to publish information about the relevant transportation characteristics rather than a rating number.

Comments regarding the tentative findings in this investigation are invited.

The proceedings embraced in this decision, Docket No. 36724, 37242, and 37364, were discontinued.

The complete decision is available from the Secretary of the Commission, I.C.C., Washington, D.C. 20423.

This decision will not significantly affect either the quality of the human envoronment or conservation of energy resources.

(49 U.S.C. §§ 10321, 10702, 10708, and 50 U.S.C. § 553)

Decided: April 27, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam. Commissioner Gilliam concurred with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Gilliam, Concurring

I agree that the number of transportation characteristics used in determining classifications should be reduced to the four factors listed in this decision. However, it is my initial impression of this proposal that prohibiting the publication of class ratings by the National Motor Freight Traffic Association is equivalent to elimination of the classification system.

The historical reason for the classification is to provide a mechanism for grouping thousands of commodities into a limited number of classes. Rates are then published on these few classes. This simplifies the publication of basic rates and provides carriers with rates on all commodities. This allows carriers to fulfill their common carrier obligation and provides a point of reference for establishing commodity rates. The classification reflects average transportation characteristics of commodities rather than actual transportation experience.

If the classification has outlived its usefulness in its present form, then it should be eliminated. I believe the decision mischaracterizes the present action. This is not merely a revision, but a substitution of an entirely different concept. While it may be a good idea, I am concerened about the practical implications of abondoning the classification system and the usefulness of the information which is proposed to be substituted. While it is true that the existing classification will still be available as a reference, it is obvious that this tool will eventually be of no value if it is not updated.

[FR Doc. 81-15117 Filed 5-20-81 8:45 am]

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Notices

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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

Oil and Gas Leasing Within the Washakie Wilderness of the Shoshone National Forest; Park, Fremont, and Hot Springs Counties, Wyoming; Intent To Prepare an Environmental Impact Statement

The Forest Service, U.S. Department of Agriculture, will prepare an environmental impact statement, in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, to disclose the environmental consequences of preliminary geophysical exploration and of oil and gas leasing within the Washakie Wilderness and four (4) adjoining areas proposed for addition to the Wilderness, all within the Shoshone National Forest. The Bureau of Land Management, U.S. Department of the Interior, asked the Forest Service to recommend whether or not 72 proposed oil and gas leases should be issued and, if issued, what terms and conditions (i.e., stipulations) for the management of surface resources should be made part of each lease to prevent or control adverse impacts, and for the prompt reclamation of the disturbed lands upon abandonment of operations. This request was made in accordance with a Memorandum of Understanding between the Bureau of Land Management and the Forest Service.

This environmental impact statement will disclose the potential environmental consequences of the current and possible future proposals for oil and gas lease issuance, as well as possible preliminary geophysical exploration operations, upon National Forest lands within the Congressionally designated Washakie Wilderness (687,132 acres and the following four (4) areas which the Administration recommended for wilderness designation in the April 16, 1979, decision accompanying the Final Environmental Statement for the Roadless Area Review and Evaluation (RARE II): Sleeping Giant A (1750 acres), Sleeping Giant C (2355 acres), South Fork B (10,949 acres), and Du Noir Special Management Unit (28,987 acres); a total of 731,173 acres. These National Forest lands lie east of the Continental Divide, south of U.S. Highways 14–16–20 and north of U.S. Highway 26–287. Portions of Park, Fremont, and Hot Springs Counties, Wyoming, are included in the area to be evaluated.

Oil and gas operations progress through five phases: preliminary exploration (prospecting), exploratory drilling, development, production, and abandonment. Preliminary exploration on National Forest System land is authorized by the Forest Service with issuance of a prospecting permit. The Forest Service prospecting permits are nonexclusive and neither authorizes removal of minerals or mineral materials nor extends a promise of a preference right to a mineral lease. The remaining four phases of operations are only authorized upon issuance of an oil and gas lease by the Bureau of Land Management, U.S. Department of the Interior. Leases are typically obtained between the first and second phases, but a lease may be obtained before the first phase. Regulations do not require preliminary exploration before the issuance of a lease.

Mineral leasing of these lands is authorized by the Mineral Lands Leasing Act of 1920 and Section 4(d)(3) of the Wilderness Act of 1964, provided that leases contain "reasonable stipulations as may be proscribed by the Secretary of Agriculture for the protection of the wilderness character of the land consistent with the use of the land for the purposes for which they are leased".

The Bureau of Land Management will make the final decision whether or not to offer the lands for oil and gas leasing. Before operations can take place on a leasehold, the lessee, or his representative for operations, must submit a proposed operating plan to the Geological Survey, U.S. Department of the Interior. This proposed plan is forwarded to the Forest Service for review and concurrence as to whether the plan meets the performance standards of the surface resource management stipulations of the lease before a permit to drill is approved.

A site-specific environmental analysis is made by the Geological Survey in cooperation with the Forest Service during the review of the proposed operating plan. The analysis is documented in either an environmental assessment or, as mandated by the National Environmental Policy Act, in an environmental impact statement if the proposed action is a major federal action significantly affecting the quality of the human environment.

Craig W. Rupp, Regional Forester of the Rocky Mountain Region, is the official responsible for making the Forest Service recommendations on leasing of these National Forest lands. He has determined that oil and gas leasing within the Washakie Wilderness and the adjoining proposed wilderness additions would be a major federal action. Therefore, an environmental impact statement will be prepared. The following factors were considered:

1. The magnitude of the current 72 leasing proposals (i.e., over-the-counter offers and simultaneous listings) covering about 200,000 acres;
2. The need to make timely decisions on applications made for Forest Service prospecting permits to do preliminary geophysical exploration (prospecting) should the need arise;
3. The need to make timely recommendations to the Bureau of Land Management on both the existing and possible future lease issuance proposals;
4. The present nature and inacessibility of the lands involved;
5. The possible effect on surface resources and values, including wilderness.

Randall R. Hall, Forest Supervisor of the Shoshone National Forest, will direct the preparation of the environmental impact statement. An interdisciplinary team on the Shoshone National Forest will develop a preliminary list of public issues and management concerns based on previous planning efforts and public involvement activities. This material will be consolidated into an information brochure. It will be mailed or otherwise distributed to individuals, organizations, and agencies who have indicated in the past, an interest or concern regarding this subject to ascertain the scope of the issues to be addressed and for identifying the significant issues.

Response forms will be provided with each brochure to facilitate public response. The brochure and response form will be available for distribution by June 5, 1981. A minimum of thirty (30) days will be allowed for review and comment on the preliminary issues and concerns. An announcement concerning the environmental impact statement preparation and the availability of the information brochure will be sent to all news media outlets in northwest Wyoming, as well as the major news services.

Local, state, and Federal agencies having jurisdiction in this area will be contacted. At the present time the Bureau of Land Management (issuance of oil and gas lease), Geological Survey (technical information on oil and gas occurrence and approval of operating plan), and the Fish and Wildlife Service (occurrence of threatened and endangered species) have been tentatively identified as the Federal cooperating agencies to be involved in preparation of this environmental impact statement. The Wyoming Game and Fish Department and Park, Fremont, and Hot Springs Counties will be contacted for assistance. Scoping and coordination meetings with other agencies will be scheduled prior to July 6, 1981.

The following open houses will be held to encourage public participation in the scoping process:

June 30, 1981: Cody Convention Center; 1240 Beck, Cody, Wyoming

July 1, 1981: Natrona County Library; 307 East 2nd, Casper, Wyoming

July 2, 1981: U.S. Forest Service Office; Masonic bldg., Dubois, Wyoming

Copies of the informational brochure will be distributed, question and answer sessions will be held, and participants will be asked to complete a response form. Details regarding locations and times will be announced in the informational brochure and through local news media outlets.

The information obtained from public comment on the informational brochure as well as agency scoping meetings and open houses, will be used to identify and list the public issues, management concerns, and management opportunities to be addressed in the environmental impact statement. This list will direct the types and amounts of data to be gathered and analyses to be completed for the draft environmental impact statement.

Possible alternatives to be addressed in the environmental impact statement include, (a) recommending against lease issuance, and (b) recommending lease issuance with appropriate stipulations. Stipulations would have two objectives. One would be to authorize surface occupancy of those lands where adverse impacts can be prevented or controlled and disturbed lands can be restored. The other would be to prohibit surface occupancy of specific tracts within a leasehold where adverse impacts could not be reclaimed within a reasonable period of time.

A detailed outline of the process for completing the environmental impact statement is available for public review at the Forest Supervisor's Office, West Yellowstone Highway, P.O. Box 2140, Cody, Wyoming, 82414.

The oil and gas leasing environmental impact statement for the Washakie Wilderness and adjoining proposed wilderness areas will use information, in, and supplement, the existing Washakie Wilderness Interim Management Plan dated February 12, 1980, and will be carried forward into the Shoshone National Forest Land and Resource Mangement Plan which is tentatively scheduled for completion late in 1983.

The draft environmental impact statement for oil and gas leasing is tentatively scheduled for completion in October, 1981. A sixty (60) day period for public review and comment will follow. The final environmental impact statement is tentatively scheduled for filing with the Environmental Protection Agency in February, 1982.

Comments on this notice of intent and the environmental impact statement on oil and gas leasing should be sent to Randall R. Hall, Forest Supervisor, Shoshone National Forest, West Yellowstone Highway, P.O. Box 2140, Cody, Wyoming, 82414. Further information may be obtained from Don I. Campbell, Forest Planning Staff Officer and Interdisciplinary Team Leader, at the same address, or by telephone (307) 587-2274.

Dated: May 15, 1981.

Larry R. Coffelt,

Acting Regional Forester.

[FR Doc. 81-15232 Filed 5-20-81; 8:45 am]

BILLING CODE 3410-11-M

Wilderness Oil and Gas Leasing; Bob Marshall Wilderness, et al.; Intent To Prepare an Environmental Impact Statement

In the Matter of Wilderness Oil & Gas Leasing—Bob Marshall Wilderness, Great Bear Wilderness, Scapegoat Wilderness, Mission Mountains Wilderness, and Three Adjacent Rare II Areas; Flathead, Helena, Lewis & Clark, and Lolo National Forests; Flathead, Lake, Lewis & Clark, Missoula, Powell and Teton Counties, Montana.

The Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement regarding its recommendation to the Secretary of the Interior for noncompetitive oil and gas lease applications within the above noted areas. Several hundred oil and gas lease applications have been received for these areas. The Regional Forester of the Forest Service's Northern Region must recommend to the Secretary of the Interior through the Montana State Office of the Bureau of Land Management whether these leases should be granted and, if so, under what circumstances. The area to be analyzed is a large 1,745,778-acre roadless area retaining much of its original natural character. About 92 percent of the area is within four components of the National Wilderness Preservation System. The remaining acreage is in three areas (RARE II areas) which have been recommended for wilderness designation. The natural resources within these areas are significant on a local, Regional, and National basis.

The proposed action may affect two National Wild and Scenic Rivers, many Americans will view the proposed action as having a significant effect on the human environment. The proposed action may be precedent setting in nature, i.e., first oil and gas leases issued in the National Wilderness Preservation System. The proposed action may have an effect on endangered or threatened species or their habitat. Overall, this decision is considered a major Federal action which may significantly affect the quality of the human environment. Therefore, an environmental impact statement will be prepared.

A range of alternatives will be considered, including, but not limited to:

1. No action—no leasing.

2. Deny leasing based on grounds of site-specific concerns and proceed with formal withdrawal procedures if appropriate.

3. Leases be granted for all or part of the area with reasonable requirements to protect the wilderness character. Reasonable requirement may include:

a. Standard requirements (stipulations) used to protect the resources found in typical situations.

b. Special stipulations for resource protection or mitigation of specific impacts.

c. Stipulations which prohibit surface occupancy of limited areas based on site-specific justification.

d. Combinations of the above "a" through "c."

The Forest Service has reviewed public input from several recent

environmental analyses concerning proposed oil and gas activity in this area and other roadless areas. From this public input a tentative list of issues and concerns has been developed. These tentative issues will be publicized through the news media on a National, Regional, and local basis. Federal, State, and local agencies; industrial and environmental organizations; local Indian tribes; and individuals will be invited to comment. The four affected National Forests are developing a mailing list of agencies, groups, and individuals who have commented on past oil and gas lease proposals. They will be advised of this action and asked to review the tentative list. From this public participation, the most significant issues will be determined. Alternatives will be developed through workshops that include representatives of Federal, State, and local agencies, affected Indian tribes, environmental organizations and industrial groups.

The Department of the Interior, Fish and Wildlife Service, will be invited to participate as a cooperating agency to evaluate impacts on threatened and endangered species and their habitat.

Public meetings will be held to review the draft environmental impact statement. These will probably be held in Kalispell, Missoula, Helena, and Great Falls, Montana, during 1982.

Tom Coston, Regional Forester of the Forest Service's Northern Region is the responsible official. A draft environmental impact statement should be ready for public review early in 1982, with the final environmental impact statement scheduled for completion later in 1982.

Questions about the proposed action and environmental impact statement should be directed to Warren A. Illi, Lands and Minerals Staff Officer, Flathead National Forest, Kalispell, Montana 59901 (406–755–5401). Written comments and suggestions concerning this analysis should be sent to USDA Forest Service, Flathead National Forest, P.O. Box 147, Kalispell, Montana 59901.

Dated: May 14, 1981.

Everett L. Towle,

Acting Regional Forester, Northern Region.

[FR Doc. 81-15231 Filed 5-20-81; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Order 81-5-75]

Fitness Determination of Scenic Airlines, Inc.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 81–5–75, Order to Show Cause.

SUMMARY: The Board is proposing to find that Scenic Airlines, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than June 18, 1981, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A of Order 81–5–75.

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Smith, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673–5348.

SUPPLEMENTARY INFORMATION: The complete text of Order 81–5–75 is available from the Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 81–5–75 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 14, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-15236 Filed 5-20-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 81-5-92]

Fitness Determination of Sundance Airways, Inc.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 81–5–92, Order to Show Cause.

SUMMARY: The Board is proposing to find that Sundance Airways, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than June 14, 1981, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A of Order 81–5–92.

FOR FURTHER INFORMATION CONTACT: Mr. John McCamant, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673–5082.

SUPPLEMENTARY INFORMATION: The complete text of Order 81–5–92 is available from the Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 81–5–92 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 18, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-15237 Filed 5-20-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 81-5-79]

Fitness Determination of Vee Neal, Inc., d.b.a. Vee Neal Airline; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 81–5–79, Order to Show Cause.

SUMMARY: The Board is proposing to find that Vee Neal, Inc. d.b.a. Vee Neal Airlines is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than June 18, 1981, together with a summary of the testimony, statistical data, and other

material relied upon to support the allegations.

ADDRESS: Responses or additional data should be filed with Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A of Order 81–5–79.

FOR FURTHER INFORMATION CONTACT: Ms. Joyce Snovitch, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673–5074.

SUPPLEMENTARY INFORMATION: The complete text of Order 81–5–79 is available from the Distribution Section, room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 81–5–79 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 14, 1981.

Phyllis T. Kaylor,
Secretary

[FR Doc. 81–15258 Filed 5–20–81; 8:45 am]
BILLING CODE 6320–01–M

[Order 81–5–80]

Lone Star Airways Additional Points Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 81–5–80, application of Lone Star Airways under Subpart Q for a Certificate of Public Convenience and Necessity for authority between and among Oklahoma City, Omaha and Tulsa (Docket 39427) and between Los Angeles and Honolulu (Docket 39434).

SUMMARY: The Board is proposing to grant a certificate of public convenience and necessity to Lone Star Airways to authorize it to provide service to the points listed in its applications, subject to a favorable determination of its fitness (Docket 38185). The complete text of the order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below no later than June 22, 1981, a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 39427, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673–5340.

FOR FURTHER INFORMATION CONTACT: Peter Bonanno, Jr., Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5009.

SUPPLEMENTARY INFORMATION: Objections should be served upon the civic officials and airport managers at Oklahoma City, Omaha, Tulsa, Los Angeles and Honolulu; the governors of Oklahoma, Nebraska, California and Hawaii; the California Transportation Commission, Aeronautics Subcommittee; the Hawaii State Department of Transportation; the Nebraska Department of Aeronautics; the Oklahoma Aeronautics Commission; and Lone Star Airways. The complete text of Order is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Person outside the metropolitan area may send a postcard request for Order 81–5–80 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 14, 1981.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81–15254 Filed 5–20–81; 8:45 am]
BILLING CODE 6320–01–M

[Order 81–5–82]

U.S.-London Case (1982); Order To Institute a Proceeding To Select City/Carrier for Nonstop Service to England

AGENCY: Civil Aeronautics Board.

ACTION: Order to institute a proceeding to select city/carrier for nonstop service to England, Order 81–5–82.

SUMMARY: The Board proposes to institute the *U.S.-London Case (1982)*, Docket 39634, to determine which carrier or carriers should be certificated to serve that market beginning April, 1982. The Board tentatively concludes that Newark should be selected as the 1982 gateway for new London service. Carrier applications for service to other U.S. Cities may also be submitted in this docket.

FURTHER PROCEDURES: Applications, motions and petitions must be filed no later than June 3, 1981 with the Civil Aeronautics Board (20 copies, addressed to Docket 39634, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428).

ADDRESS FOR SUBMISSION: Docket 39634, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

To get a copy of the complete order, request it from C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Glenn M. Datnoff (202–673–5203), Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 14, 1981.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81–15255 Filed 5–20–81; 8:45 am]
BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

National Aeronautics and Space Administration; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 80–00330. Applicant: National Aeronautics and Space Administration, Lyndon B. Johnson Space Center, Payload Deployment and Retrieval System, BC/27 Shuttle Equipment Procurement Section, Houston, TX 77058. Article: Remote Manipulator System and Associated Equipment. Manufacturer: SPAR Aerospace Limited, Canada. Intended use of article: See Notice on page 47894 in the **Federal Register** of July 17, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application Denied. A domestic manufacturer was both willing and able to produce apparatus of equivalent scientific value to the foreign article, for the purposes for which this article is intended to be used, and have it available to the applicant without unreasonable delay.

Reasons: In stating the reasons for its decision, the Department will list the issues as presented by the applicant, present the recommendations and findings of its scientific consultants at the National Bureau of Standards, and

address the issues in the order given by the applicant.

Issues: The applicant attached to its June 2, 1980 resubmission a supplementary memorandum of fact and law, Part III of which listed issues and arguments which it believed underlay the Department's decision. These are summarized seriatim in the order presented:

1. The applicant argued that the RMS is a scientific instrument within the meaning of the Act.

2. The applicant argued that, in the light of the pertinent regulations of the Department of Commerce and NASA's contract with Canada, the RMS was not "being manufactured in the United States" (80 Stat. 899; 19 U.S.C. 1202).

(a) Department of Commerce Regulations: The applicant cited 15 CFR 301.11(a) as support for its contention that the Department of Commerce must "establish that at least one domestic instrument possesses all the pertinent specifications of the RMS" and, because this "would be impossible," must "find to the contrary." Moreover, the applicant contended that the Department could not determine that the RMS is "customarily * * * custom-made within the United States" because the RMS is "unique and never before manufactured in the United States."

(b) The NASA Contract with Canada: Addressing the issue of the willingness of domestic industry to produce the custom-made RMS, the applicant contended that "no United States firm would have entered into an agreement with NASA for the procurement of the RMS" with the terms and conditions of the contract with Canada, viz.,

That NASA would not be charged the cost of the first flight unit;

That Canada would not recover R&D costs;

That additional procurement would be "at reasonable prices to be agreed and with specifications and schedule to be agreed." Additionally, the applicant contended that, in view of the fact that the Congress never appropriated funds for the research and development activity of the RMS, there was "no reasonable basis to expect a domestic firm to undertake this activity without reimbursement."

3. The applicant contended that duty-free entry of the RMS was justified by "excessive delivery time." Calculating from the time that NASA issued its request for proposal to Canada in May 1978, the applicant stated that "it is clear that no domestic manufacturer could have delivered the RMS * * * on schedule." Canada, however, "had previously spent in excess of three years in the design and development of the RMS". The applicant further contended that the lack of appropriated funds for the project prevented it from seeking competitive proposals and, thereby, from comparing the "delivery times quoted by domestic manufacturers and foreign manufacturers as required by 15 CFR 301.11(c)."

4. The applicant contended that the projected schedule of payloads to be handled by the RMS "does not disclose any use for a commercial purpose within five years of entry." Although there will "undoubtedly" be payloads "owned by commercial entities and foreign governments," the applicant did not consider these as commercial use "within the meaning of the statute," but instead as "governmental use in accordance with the * * * NASA charter."

Findings of the National Bureau of Standards: in its memorandum of November 4, 1980, the National Bureau of Standards advised as follows:

"this application is a resubmission of Docket Number: 79-00220, which was denied without prejudice to resubmission.

In the DWOP, the applicant was asked to provide information that would justify duty-free entry on the basis that technological or manufacturing capability to provide a comparable apparatus did not exist within the domestic industry. We are unable to find any justification to this regard in the resubmission.

"The applicant intends to use the foreign article, a remote manipulator system and associated equipment, in space research experiments requiring multiple position sensor exposure without free-flying deployment. This includes experiments such as the Induced Environment Contamination Monitor (IECM) and the Plasma Diagnostic Probe (PDP). The article will provide various space orientations and then return the experiment to the pay load area.

"The applicant claims, *inter alia*, the specification of a remote manipulator system and associated equipment as pertinent to the intended use and not available from a domestic manufacturer. We find the specification pertinent to the deployment and retrieval of experiments conducted in an outer space environment; however, the apparatus is supportive to the experiments and as such does not have the ability per se to do analysis, data gathering, statistical computation, etc., those functions normally associated with scientific instruments.

"We do not know of any domestically manufactured apparatus that could be used for the purposes described by the applicant. This is not to imply that technologically qualified domestic manufacturers such as Boeing, Fairchild, General Electric, Grumman, Lockheed, Martin-Marietta or North American Rockwell could not have provided, in a timely manner, an article to the applicant's specifications and equivalent to the foreign article for the intended use. The technology and capability for such an undertaking existed within the domestic industry at the time that the applicant knew of his systems requirements; in fact, the applicant did not invite domestic manufacutrers to respond to the requirements until shortly before entering into a joint agreement with the Government of Canada, in the form of a Memorandum of Understanding (MOU), which precluded consideration of domestic manufacturers.

"The capability of domestic manufacturers to provide state-of-the-art hardware and technological innovation is evidenced in the NASA Skylab program which is the domestic forerunner of the ESA Spacelab program and the Space Shuttle itself. There exist several U.S. Patents (dating back to 1968) based on articulate arm manipulators which establish the basic technology for the development of an apparatus such as the foreign RMS.

"We, therefore, believe that the technology and capability to provide and apparatus to the applicant's specification, comparable to the foreign article and within a reasonable time frame, did exist within the domestic industrial complex. The conditions (related primarily to cost) that were presented to interested domestic manufacturers have no bearing on technological capability. They do, however, bear heavily on the issue of 'willingness,' about which we are not in a position to respond. However, based on additional information received, there appears to be a definite willingness to provide an article to the applicant's specifications on the part of at least one domestic manufacturer; specifically, Martin-Marietta Aerospace as evidenced by their correspondence with NASA."

With respect to the NBS memorandum, the Department notes for the record that, contrary to NBS' belief, the applicant did not, at any time, invite domestic manufacturers to respond to its requirements.

Findings of the Department of Commerce: The Department's findings are presented in the order of the specific issues listed by the applicant:

1. A substantive finding as to the scientific nature of the RMS is held in abeyance.

The Department, for the reasons cited by NBS, is not persuaded that the RMS is a scientific instrument or apparatus with the meaning of the statute and Tariff Item 851.60. In rendering its decision on this case, however, the Department takes no final position in this respect, deferring to the U.S. Customs Service, Department of the Treasury, which under the Act is charged with determining whether an instrument falls in Tariff Item 851.60 within the Act's meaning. Moreover, the issue is mooted by this decision, on other grounds, to deny the application.[1]

2. There is justification for a finding that an equivalent apparatus "is being manufactured in the United States" on grounds, as set forth in the legislative history of the Act, that "there is satisfactory evidence that a manufacturer is able and willing to produce and have such a domestic article available promptly so that it may be obtained by the applicant without unreasonable delay, taking into account the normal commercial practice applicable to the production and distribution of instruments or apparatus of the same general type."

(a) Domestic manufacturers were able to have an RMS available. In a letter dated July 3, 1980, the Administrator of NASA wrote the Secretary of Commerce that, "U.S. aerospace corporations unquestionably have the technological capabilities to develop the * * * RMS." A June 1973 report of survey performed at NASA's request stated that the "Canadian team does not have the specific teleoperator background, SMAS math models, controllers and zero-g facilities of the best qualified U.S. companies." Comments on the original application by Charles Klabosh Co., Jacksonville, Florida, included the statement that U.S. firms could produce "a functionally and operationally suitable device." In February 1975 Martin-Marietta wrote to NASA as follows: "An area of technical expertise we have developed over the years is in the field of remote manipulator systems. In the past seven years we have won contracts from MSFC and JSC and have invested some of our company funds." The technical advice of NBS on this point is included in the memorandum quoted above.

To support its contention that space applications are unique, the applicant cited State Department testimony at hearings on a predecessor bill of the Act, relating to "exceptional instances", in which, for example, the size of an instrument being selected "for use in spacecraft" might "render impossible the use of the domestic instrument." This refers to a legitimate regulatory consideration in the Department's administration of the Act. The provision at 15 CFR 301.2(n) which establishes that "pertinent specifications" do not "extend to such characteristics as size * * * and versatility unless the applicant can demonstrate that they are necessary for accomplishing the purposes," reflects, in fact, this part of the legislative history. We specifically reject, however, the inference from this pre-enactment testimony on a predecessor bill that any application in space is unique. Comparable physical and methodological constraints on scientific investigation and research are encountered in deep-sea mineralogical and biological studies, the elucidation of intracellular structures, studies on the behavior and composition of sub-atomic particles, the definition of anti-neoplastic properties of various chemotherapeutic agents, and earth-based astronomical investigations whether or not aided by extraterrestrial instrumentation. The systematic development of improved techniques and instrumentation for overcoming such restraints is not an unexpected challenge for modern scientific undertakings. The term "unique", therefore, appears particularly ill-suited to the description of any scientific research goal and especially so to the development of instrumentation, the limitations on which have been well defined for more than a decade. We also note that the regulatory qualifications cited above relate to comparisons between existing instruments (as did the State Department's illustration) and not directly to the determination of domestic availability. When the determination required of the Department has to do, as in this case, not with a comparison of produced for stock or produced on order instruments but with custom-made instruments, the Department must conduct its review principally in light of the more general criteria set forth in 15 CFR 301.11(b), relating to overall technological capability. Nevertheless, the Department has considered the applicant's contention that the proposed use of the RMS in space is a "unique use," as well as its listing of "unique design requirements" for overcoming obstacles presented by the "harsh environment of space" (radiation, weightlessness, thermal protection, special lubricants for use in vacuums, etc.). On February 19, 1974 the applicant testified at House budget hearings that "remotely controlled * * * manipulator arms were developed by the Atomic Energy Industry many years ago. In adapting them for payload handling in space, we have benefited from their development activity." Computer sensing and controlling, articulated, robotic arms similar to the RMS, complete with a variety of software programs, are domestically made and have been commercially available from Cincinnati-Milacron since prior to the applicant's request for proposal to the Canadians (see, for example, U.S. Patent No. 3,909,600 filed May 31, 1973 and U.S. Patent No. 4,178,632, filed March 6, 1978). Optimizing strength to weight ratios for use in space has been a continuing objective and capability of U.S. aerospace manufacturers since the inception of the space program. It is well within their experience and capability, particularly when there already exists functional similarity to exemplary models. Design for operation in a gravity-free environment has not been shown to be a more difficult design problem than operation of commercial equipment in the gravitational field of earth, where there are additional static forces not present in space. The successful operation in a space environment of previous generations of mechanical equipment with relatively moving parts (e.g., the Lunar Rover) appears to indicate the availability of state-of-the-art solutions to lubrication and temperature-control problems peculiar to space. The Design Definition Report of the Canadian manufacturer refers only in passing to lubrication features of the system and characterizes these as "dry lubrication" and "dry lubricated bearings" without further specifications or other discussion which might indicate special engineering requisites. Thermal control involves an active system of thermostatically operated heaters and a passive system of a thermal blanket, consisting of five layer build-up with an outer layer having acceptable "absorptance, emittance and specular reflectance properties," and attached to the arm with Velcro tape. The Department therefore concludes that the proposed use of the RMS in space involved no major technological or design problem not previously encountered and that, in any event, U.S. aerospace firms had the capability to surmount such problems as did exist. We also note in this connection that Article X of the NASA/NRCC MOU provides that, in the event Canada was unable to perform as specified, NASA would be free to

[1] The Department of Commerce requested clarification of the Customs classification of this instrument in a letter dated October 10, 1980.

"initiate spearate and independent development of an RMS * * *" This, as well as assurances given to Members of Congress by NASA that contracting RMS development and production to Canada would not involve "high-technology transfers," clearly implies that NASA believes domestic industry possesses the capability to manufacture the RMS.

(b) At least one U.S. manufacturer was willing to produce the RMS. Martin-Marietta, in the same letter quoted from above, wrote of its "avowed intent to compete and hopefully win (sic) the Manipulator subsystem for the Shuttle Orbiter" and of its "distress in losing the opportunity to compete on a Shuttle-related subsystem for which we are eminently qualified, such as the Manipulator."

(c) The Department, in this case, does not need to establish that "at least one domestic instrument possesses all the pertinent specifications of the RMS." To interpret the Department's regulations at 15 CFR 301.11(a) in this manner fails to take into account 15 CFR 301.11(b) and the language in the statutory legislative history. Under 15 CFR 301.11(b) the Department must establish that in "other instances" (see House Report 1779, 89th Cong. p. 19 and Senate Report 1678, 89th Cong. p. 12), taking into account normal commercial practice, a domestic manufacturer was able and willing to produce an equivalent instrument.

With respect to the applicant's contention that the Department "could not determine that the RMS * * * is customarily * * * custom-made within the United States," this interpretation is clearly irreconcilable with other regulatory language in the same paragraph. Terms such as "the extent of the technological gap between the instrument * * * and the manufacturer's customary products * * * the availability of the professional and technical skills * * * essential to bridging the gap * * * and the time required by the domestic manufacturer to produce an instrument * * * to purchaser's specifications" clearly exhibit a regulatory intent (consistent with the legislative guidance for "other instances") to provide sufficient latitude for positive determinations of domestic availability on grounds of domestic capability and willingness.

(d) If normal commercial practice for the Space Shuttle Program had been followed, it is clear that at least one U.S. firm could have had a domestic instrument available. Normal commercial practice for the production of technologically advanced, complex instruments and apparatus designed for operation in the space environment is, typically, funded government procurement through competitive bid procedures. A decision to secure such instruments without such funding and procedures, whether taken directly by the user agency or indirectly by the funding authority, is at variance with the normal practice and may not be construed as relieving the Department of Commerce of its obligation to apply the statute consistently, however much such a decision may reflect the preferred policy or budgetary constraints of the user agency of funding authority. Analogous circumstances are frequently encountered in the Department's administration on Pub. L. 89-651 whenever budgetary limitations on non-governmental nonprofit applicants preclude the acquisition of a more expensive domestic instrument. To approve an application on the basis of such circumstances would directly contravene guidance in the legislative history that the "comparative cost of a foreign and a domestic instrument or apparatus would have no relationship to equivalency of scientific value."

3. In order to raise the issue of excessive delivery time, the applicant had to be able to show an actual "difference between the delivery times quoted by domestic manufacturer and foreign manufacturer" (15 CFR 301.11(c)) and to demonstrate how the difference would "seriously impair" the accomplishment of its purposes. The applicant was unable to show this. We also note that, at House Authorization hearings on February 25, 1975 related to NASA's FY 1976 funding, NASA testified as follows:

"NASA is continuing its in-house efforts in (the RMS) area . . . The in-house effort will lead to a Remote Manipulatory System RFP release by the Orbiter prime contractor in the fall of this year if the system is developed by a U.S. contractor instead of the Canadian government." In the absence of a quoted delivery time by domestic manufacturers the Department may justify a finding of non-availability on grounds of domestic unwillingness, citing under 15 CFR 301.7 the proofs of the applicant's active solicitation of such quotes and the failure of domestic firms to respond to such solicitation. In this case, however, the record supplies no evidence of active solicitation of domestic bids, proposals or delivery dates. For the reasons explained earlier, it is immaterial whether the failure to solicit domestic bids is attributable to the applicant or to its funding authority.

4. The Department takes no position with respect to the issue of commercial use. We note that the issue pertains to as yet unspecified applications of the apparatus as well as to interpretation of the statute's force regarding currently projected uses. Were it the Department's decision to approve this application, all uses would be subject to scrutiny against the meaning of the Act by the U.S. Customs Service for the duration of the specified statutory period. The issue is mooted, however, by this decision, on other grounds, to deny the application.

SUMMARY: The applicant contracted for the foreign development and production of the RMS in accordance with an enunicated U.S. policy of encouraging international cooperation in space endeavors. iIn the absence of explicit Congressional direction to the contrary, however, the Department of Commerce may not substitute the merits of any such policy for its statutory responsibility to administer the Act in accordance with the clear intent of the statute's implementing regulations and well-established administrative practice. We note that during its consideration of Pub. L. 89-651 Congress rejected special treatment for government procurements. The Department is prepared to support appropriate legislative solutions for policy conflicts arising in connection with its administration of the Act, as it did, for instance, in supporting special legislation granting duty-free treatment for equipment and components imported for the international Mauna Kea telescope project.

Based, however, on the foregoing discussion, we find that at least one domestic manufacturer was both willing and able to manufacture a product equivalent to the foreign article for the intended purposes of the applicant and have it available without unreasonable delay within the meaning of the Act.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-15173 Filed 5-20-81; 8:45 am]

BILLING CODE 3510-25-M

National Aeronautics and Space Flight Center; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientifc, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80-00331. Applicant: National Aeronautics and Space Administration, George C. Marshall Space Flight Center, Marshall Space Flight Center, Alabama 35812. Article: Spacelab. Manufacturer: European Space Agency (ERNO), West Germany. Intended Use of Article: See Notice on page 47894 in the Federal Register of July 17, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application Denied. A domestic manufacturer was both willing and able to produce apparatus of equivalent scientific value to the foreign article, for the purposes for which this article is intended to be used, and have it available to the applicant without unreasonable delay.

Reasons: In stating the reasons for its decision, the Department will provide background information on developments leading to the procurement of Spacelab, list the issues as presented by the applicant, present the recommendations and findings of its scientific consultants at the National Bureau of Standards, and address the issues in the order given by the applicant.

Background information: In 1965 the U.S. Air Force began full scale development of the Manned Orbiting Laboratory (MOL), a manned space laboratory for military purposes. This project continued to 1969 when it was cancelled in a budget cutback. Although there were no MOL launches, the hardware was in the process of being made at the time the project was cancelled. DOD discussed the usefulness of the MOL with NASA at the time the project was cancelled. Among the firms most seriously affected was McDonnell Douglas Corp. where 7200 jobs were affected by the MOL cancellation. Reportedly McDonnell Douglas had the responsibility for the laboratory module and the experiment module structure. See "MOL Canceled In Abrupt Decision" and "MOL contractors Attempt to Assess Action's Impact", *Aviation Week and Space Technology*, June 16, 1969, pp. 28–30.

On July 1, 1970, about a year after the cancellation of the MOL project, NASA announced plans for a manned, earth-orbiting laboratory in space, Skylab. McDonnell Douglas was the prime contractor for the laboratory, which contained the crew living quarters and on board experiments. Skylab was launched in 1973, less than 3 years after it was first announced and three months before NASA signed its Memorandum of Understanding with the European Space Agency (ESA) for design, development and production of Spacelab. During the period that Skylab was in orbit (1973 to 1979), it housed three teams of three astronauts each, each team having one professional scientist. One team stayed aloft for 85 days. An Appollo spacecraft was used to shuttle these teams from earth to Skylab and return. See "Skylab From the Start, Had Its Jinxes", B. Webster, *New York Times*, p. A 19, July 12, 1979; *Skylab Status Report*, prepared for the House Committee on Science and Astronautics, January, 1973 (report dated November 10, 1972), at page 41 lists the experiments intended for Skylab, including experiments in bio-medical, solar physics earth observation, astrophysics, metallurgy and other fields.

In 1970, NASA announced that it would make a space station available for national and international uses and solicited investment in the program by foreign nations. Such investment, it was said, would not determine the priorities of experiments flown except in cases where experiments proposed by participating and non-participating countries had equal merit. Experiments would be paid for by the proposer, and commercial users would be expected to fund the operational (but not developmental) costs. See "Other Nations to Use Space Station," B. M. Elson, *Aviation Week and Space Technology*, September 28, 1970, pp. 50–54.

NASA presented the following information as facts applicable to this application:

"American industry was aware of NASA's desire to obtain a Spacelab, and, in fact, conducted several studies for NASA in December 1971, (McDonnell Douglas), January 1972 (North American Rockwell) and May 1972 (General Dynamics). These studies reported on the feasibility of designing, developing, and producing a Spacelab with the assumption that the project would be funded by NASA. There was also an unstated assumption in the studies that the Spacelab was within the state-of-the-art and could be produced both domestically as well as outside of the United States."

Similarly, in the published hearings before Congressional committees in 1972 and in 1973, NASA reported its interest in the Spacelab concept and the likelihood that it would be manufactured under a cooperative arrangement with ESA:

"The European interest in developing the Spacelab grew rapidly since the United States first proposed the activity in 1971 as a possible focus for European participation in Shuttle era programs. On August 14, 1973, NASA and ESA signed the Memorandum of Understanding for a cooperative Spacelab program and on August 15, 1973, the Intergovernmental Agreement was signed by the United States and certain other governments who were members of ESA for the cooperative Spacelab program.

"NASA records show that NASA did not attempt to determine the willingness of domestic industries to design, develop and produce the Spacelab before entering into the MOU with ESA. Several studies were undertaken to determine whether it was feasible to develop Spacelab, but the studies do not state whether they contemplated the research, development and production being done by domestic or foreign manufacturers. There is no record in NASA of any domestic industry expressing an interest in competing for the design, development and manufacture of Spacelab. In December 1979, NASA awarded a contract to ESA for the production and delivery of the second Spacelab unit."

The purpose of Spacelab has been described in the Statement of Douglas R. Lord, Director, Spacelab Program NASA on March 5, 1974 in hearings on the 1975 NASA Authorization in *Hearings before the Subcommittee on Manned Space Flight of the House Committee on Science and Astronautics*, H.R. 12689 superseded by H.R. 13998, No. 25, Part 2 at page 273: "The term Spacelab is applied to a unique Shuttle payload designed to enhance the capabilities of the Shuttle for conducting on-orbit research. The Spacelab (MF74–5113) is not an independent spacecraft but rather an extension of the Shuttle orbiter itself. It is, in reality, a generic term that is applied to any of several system configurations which can be mounted in the Shuttle payload bay. In its most recognizable form the Spacelab consists of a pressurized module with tunnel access to the cabin area of the Shuttle. Here we can create a laboratory environment in which man can work in a shirtsleeve atmosphere. It will provide an extension of the experimenter's ground based laboratories with the added qualities which only space flight can provide, such as long-term gravity-free environment, a vantage point from which Earth can be viewed and examined as an entity, and a platform above the atmosphere from which the celestial sphere can be studied."

Spacelab was characterized by Mr. Lord in his presentation as an outgrowth of Skylab but having more relaxed reliability requirements than Skylab for experimental equipment. He testified: "We still emphasize low procurement and operational costs as prime drivers in the development of this system."

The Spacelab is a simpler technical structure than Skylab. Spacelab is the smaller of the two. Its services are standardized. Spacelab has neither its own life-support system nor deployable solar panels as Skylab did, but parasitically depends on the Space Shuttle Orbiter for life support and electric power. The missions to be flown on Spacelab are projected for 30 days or fewer, as compared with Skylab's 85 day mission.

Issues: The applicant attached to its June 2, 1980 resubmission a supplementary memorandum of fact and law, Part III of which listed issues and arguments which it believed underlay the Department's decision. These are summarized seriatim in the order presented:

1. The applicant argued that the Spacelab is a scientific instrument within the meaning of the Act.

2. The applicant argued that, in the light of the pertinent regulations of the Department of Commerce and NASA's contract with the European Space Agency (ESA), Spacelab was not "being manufactured in the United States" (80 Stat. 899; 19 U.S.C. 1202).

(a) Department of Commerce Regulations: The applicant cited 15 CFR 301.11(a) as support for its contention that the Department of Commerce must "establish that at least one domestic instrument possesses all the pertinent specifications of the Spacelab" and, because this "would be impossible," must "find to the contrary." Moreover, the applicant contended that the Department could not determine that the Spacelab is "customarily . . . custom-made within the United States" because the Spacelab is "unique and never before manufactured in the United States."

(b) The NASA Contract with ESA: Addressing the issue of the willingness of domestic industry to produce the custom-made Spacelab, the applicant contended that "no United States firm would have entered into an agreement with NASA for the procurement of the Spacelab" with the terms and conditions of the contract with ESA, viz.,

—That NASA would not be charged the cost of the first flight unit;

—That ESA would not recover R&D costs;

—That additional procurement would be "at reasonable prices to be agreed and with specifications and schedule to be agreed." Additionally, the applicant contended that, in view of the fact that the Congress never appropriated funds for the research and development activity of the Spacelab, there was "no reasonable basis to expect a domestic firm to undertake this activity without reimbursement."

3. The applicant contended that duty-free entry of the Spacelab was justified by "excessive delivery time." Calculating from the time that NASA issued its request for proposal to ESA in May, 1978, the applicant stated that "it is clear that no domestic manufacturer could have delivered the Spacelab * * * on schedule." ESA, however, "had previously spent in excess of four years in the design and development of the Spacelab." The applicant further contended that the lack of appropriated funds for the project prevented it from seeking competitive proposals and, thereby, from comparing the "delivery times quoted by domestic manufacturers and foreign manufacturers as required by 15 CFR 301.11(c)."

4. The applicant contended that the projected schedule of payloads to be handled by the Spacelab "does not disclose any use for a commerical purpose within five years of entry." Although there will "undoubtedly" be payloads "owned by commercial entities and foreign governments," the applicant did not consider these as commercial use "within the meaning of the statute," but instead as "governmental use in accordance with the * * * NASSA charter."

Findings of the National Bureau of Standards: In its memorandum of November 4, 1980, the National Bureau of Standards advised as follows:

"This application is a resubmission of Docket Number: 79-00242, which was denied without prejudice to resubmission. In the DWOP, the applicant was asked to provide additional information justifying duty-free entry regarding the lack of domestic technological capability to provide an apparatus to the applicant's specifications. We are unable to find any justification to this regard.

"The applicant intends to use the foreign article, a spacelab, which will be flown to and from space in the cargo bay of the orbiter and remain attached to the Orbiter during all phases of the mission. The space mission will involve the disciplines of space processing advanced technology, earth viewing, life sciences, atronomy, astrophysics, solar physics and terrestrial physics.

"The applicant has not provided any additional information to justify the request for duty-free entry. The applicant refers to the memorandum of understanding (MOU) as precluding consideration of any other source of supply. The applicant should be aware that this cannot be considered pertinent to the issue of scientific equivalency or the inability or unwillingness to manufacture on the part of qualified domestic sources. The applicant is, further, most cognizant of previous space exploration and experimentation efforts conducted by the NASA Space Shuttle—Skylab program. The instruments and equipment in this program were provided by domestic manufacturers and, therefore, the capability to provide equivalent hardware existed in the domestic marketplace at time of order (August 14, 1973) of the foreign article.

"It would, therefore, appear that the capability and technology to provide a comparable article existed within domestic industry. We cannot conclude, however, whether or not a comparable article could have been provided by a domestic source by 1980. It is only obvious that the technology and capability to design a comparable article to the applicant's specifications did, in fact, exist at time of order of the foreign article."

Findings of the Department of Commerce: The Department's findings are presented in the order of the specific issues listed by the applicant:

1. A substantive finding as to the scientific nature of the Spacelab is held in abeyance.

The Department is not persuaded that the Spacelab is a scientific instrument or apparatus with the meaning of the statute and Tariff Item 851.60. It is simply a captive chamber with an external platform which does not have the ability, per se, to do analysis, data gathering, statistical computation or similar functions normally associated with scientific instruments. In rendering its decision on this case, however, the Department takes no final position in this respect, deferring to the U.S. Customs Service, Department of the Treasury, which under the Act is charged with determining whether an instrument falls in Tariff Item 851.60 within the Act's meaning. Moreover, the issue is mooted by this decision, on other grounds, to deny the application.[1]

2. There is justification for a finding that an equivalent apparatus "is being manufactured in the United States" on grounds, as set forth in the legislative history of the Act, that "there is

[1] The Department of Commerce requested clarification of the Customs classification of this instrument in a letter dated October 10, 1980.

satisfactory evidence that a manufacturer is able and willing to produce and have such a domestic article available promptly so that it may be obtained by the applicant without unreasonable delay, taking into account the normal commercial practice applicable to the production and distribution of instruments or apparatus of the same general type."

(a) Domestic manufacturers were able to have a Spacelab available. In a letter dated July 3, 1980, the Administrator of NASA wrote the Secretary of Commerce that, "U.S. aerospace corporations unquestionably have the technological capabilities to develop the * * * Spacelab * * *" This is corroborated by the applicant's statement of facts.

"There was also an unstated assumption in the studies (by three domestic aerospace manufacturers on designing, developing and producing Spacelab) that the Spacelab was within the state-of-the-art and could be produced both domestically as well as outside of the United States." This statement is supported by the Skylab—Spacelab discussion in the Background Information section of this report.

To support its contention that space applications are unique, the applicant cited State Department testimony at hearings on a predecessor bill of the Act, relating to "exceptional instances," in which, for example, the size of an instrument being selected "for use in spacecraft" might "render impossible the use of the domestic instrument." This refers to a legitimate regulatory consideration in the Department's administration of the Act. The provision at 15 CFR 301.2(n) which establishes that "pertinent specifications" do not "extend to such characteristics as size . . . and versatility unless the applicant can demonstrate that they are necessary for accomplishing the purposes," reflects, in fact, this part of the legislative history. We specifically reject, however, the inference from this pre-enactment testimony on a predecessor bill that any application in space is unique. Comparable physical and methodological constraints on scientific investigation and research are encountered in deep-sea mineralogical and biological studies, the elucidation of intracellular structures, studies on the behavior and composition of sub-atomic particles, the definition of anti-neoplastic properties of various chemotherapeutic agents, and earth-based astronomical investigations whether or not aided by extraterrestrial instrumentation. The systematic development of improved techniques and instrumentation for overcoming such restraints is not an unexpected challenge for modern scientific undertakings. The term "unique," therefore, appears particularly ill-suited to the description of any scientific research goal and especially so to the development of instrumentation the limitations on which have been well defined for more than a decade. We also note that the regulatory qualifications cited above relate to comparisons between existing instruments (as did the State Department's illustration) and not directly to the determination of domestic availability. When the determination required of the Department has to do, as in this case, not with a comparison of produced for stock or produced on order instruments but with custom-made instruments, the Department must conduct its review principally in light of the more general criteria set forth in 15 CFR 301.11(b), relating to overall technological capability. Nevertheless, the Department has considered the applicant's contention that the proposed use of the Spacelab in space is a "unique use," but finds it unpersuasive in view of the Skylab which was domestically produced in 1973, as discussed earlier in this decision.

(b) Contemporaneous information on the willingness or unwillingness of domestic manufacturers to produce a Spacelab is not available because the applicant obligated itself to foreign design, development and procurement without making this determination. "The most important qualification upon duty free entry of instruments and apparatus under item 851.60 is that they are entitled to such treatment only if the Secretary of Commerce finds that no instrument or apparatus of equivalent scientific value for the purposes for which they are intended to be used is being manufactured in the United States" (House Report 1779 on Pub. L. 89-651, July 28, 1966 at page 18). Regulation 15 CFR 301.11(b) which implements the legislative history at page 19 of the House Report states that an item is deemed to be "manufactured in the United States" if a U.S. manufacturer is able and willing to produce a custom-made instrument. U.S. aerospace industry participation in the study phase of the Spacelab, the domestic capability admitted during Congressional hearings, the reported impact of the cancellation of the MOL program, and the domestic manufacture of the Skylab program hardware all reasonably lead to the inference of domestic willingness to manufacture the Spacelab itself had normal procurement practices been followed. There is, in any event, nothing in the record to support the contrary inference.

(c) The Department, in this case, does not need to establish that "at least one domestic instrument possesses all the pertinent specifications of the Spacelab." To interpret the Department's regulations at 15 CFR 301.11(a) in this manner fails to take into account 15 CFR 301.11(b) and the language in the statutory legislative history. Under 15 CFR 301.11(b) the Department must establish that in "other instances" (See House Report 1779, 89th Cong., p. 19 and Senate Report 1678, 89th Cong., p. 12), taking into account normal commercial practice, a domestic manufacturer was able and willing to produce an equivalent instrument.

With respect to the applicant's contention that the Department "could not determine that the Spacelab * * * is customarily * * * custom-made within the United States," this interpretation is clearly irreconcilable with other regulatory language in the same paragraph. Terms such as "the extent of the technological gap between the instrument * * * and the manufacturer's customary products * * * the availability of the professional and technical skills * * * essential to bridging the gap * * * and the time required by the domestic manufacturer to produce an instrument * * * to purchase's specifications" clearly exhibit a regulatory intent (consistent with the legislative guidance for "other instances") to provide sufficient latitude for positive determinations of domestic availability on grounds of domestic capability and willingness.

(d) If normal commercial practice for the Space Shuttle Program had been followed, it is clear that at least one U.S. firm could have had a domestic instrument available. Normal commercial practice for the production of technologically advanced, complex instruments and apparatus designed for operation in the space environment is, typically, funded government procurement through competitive bid procedures. A decision to secure such instruments without such funding and procedures, whether taken directly by the user agency or indirectly by the funding authority, is at variance with the normal practice and may not be construed as relieving the Department of Commerce of its obligation to apply the statute consistently, however much such a decision may reflect the preferred policy or budgetary constraints of the user agency or funding authority. Analogous circumstances are frequently encountered in the Department's

administration of Pub. L. 89–651 whenever budgetary limitations on non-governmental nonprofit applicants preclude the acquisition of a more expensive domestic instrument. To approve an application on the basis of such circumstances would directly contravene guidance in the legislative history that the "comparative cost of a foreign and a domestic instrument or apparatus would have no relationship to equivalency of scientific value.

3. In order to raise the issue of excessive delivery time, the applicant had to be able to show an actual "difference between the delivery times quoted by domestic manufacturer and foreign manufacturer" (15 CFR 301.11(c)) and to demonstrate how the difference would "seriously impair" the accomplishment of its purposes. The applicant was unable to show this. As we noted in the preceding presentation of facts, the applicant authorized sole source foreign development and procurement of Spacelab after Skylab had already been domestically developed and launched. In the absence of a quoted delivery time by domestic manufacturers, the Department may justify a finding of non-availability on grounds of domestic unwillingness, citing under 15 CFR 301.7 the proofs of the applicant's active solicitation of such quotes and the failure of domestic firms to respond to such solicitation. In this case, however, the record supplies no evidence of active solicitation of domestic bids, proposals or delivery dates. For the reasons explained earlier, it is immaterial whether the failure to solicit domestic bids is attributable to the applicant or to its funding authority.

4. The Department takes no position with respect to the issue of commercial use. We note that the issue pertains to as yet unspecified applications of the apparatus as well as to interpretation of the statute's force regarding currently projected uses. Were it the Department's decision to approve this application, all uses would be subject to scrutiny against the meaning of the Act by the U.S. Customs Service for the duration of the specified statutory period. The issue is mooted, however, by this decision, on other grounds, to deny the application.

Summary: The applicant contracted for the foreign development and production of the Spacelab in accordance with an enunciated U.S. policy of encouraging international cooperation in space endeavors. In the absence of explicit Congressional direction to the contrary, however, the Department of Commerce may not substitute the merits of any such policy for its statutory responsibility to administer the Act in accordance with the clear intent of the statute's implementing regulations and well-established administrative practice. We note that during its consideration of Pub. L. 89–651 Congress rejected special treatment for government procurements. The Department is prepared to support appropriate legislative solutions for policy conflicts arising in connection with its administration of the Act, as it did, for instance, in supporting special legislation granting duty-free treatment for equipment and components imported for the international Mauna Kea telescope project.

Based, however, on the foregoing discussion, we find that at least one domestic manufacurer was both willing and able to manufacture a product equivalent to the foreign articles for the intended purposes of the applicant and have it available without unreasonable delay within the meaning of the Act.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-15174 Filed 5-20-81; 8:45 am]

BILLING CODE 3510-25-M

Kansas State University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 81–00017. Applicant: Kansas State University, Department of Chemistry, Kansas State University, Manhattan, Kansas 66506. Article: Vibrating Densimeter and Display Unit. Manufacturer: Sodev-Inc., Canada. Intended use of article: See Notice on page 9686 in the **Federal Register** of January 29, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a resolution of one part per million and operates on one cubic centimeter sample volumes. The National Bureau of Standards advises in its memorandum dated April 24, 1981 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific valued to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-15175 Filed 5-20-81; 8:45 am]

BILLING CODE 3510-25-M

Stanford University et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, DC. 20230.

Docket Number 81–00173. Applicant: Stanford University, 851 Welch Road, Palto Alto, CA 94304. Article: Parts for GX–13 X-Ray Generator. Manufacturer: Marconi-Elliott Systems, Ltd., United

Kingdom. Intended use of article: The articles are parts for an existing x-ray generator which is being used for studies of ordered assemblies of biological molecules or molecular complexes derived from tissues such as chick embryos or rat liver. These materials when placed in an x-ray beam, give informative low angle diffraction patterns. Application received by Commissioner of Customs: March 27, 1981.

Docket Number 81–00174. Applicant: Villanova University, Lancaster Avenue, Villanova, PA 19085. Article: Nihon Kohden Model PC–3A Continuous Recording Oscilloscope Camera with Accessories. Manufacturer: Nihon Kohden, Japan. Intended use of article: The article is intended to be used to record and display on a screen electrical signals generated by nerves and muscles. A permanent photographic record is made using the oscilloscope camera for subsequent analysis and publication in scientific journals. Application received by Commissioner of Customs: March 27, 1981.

Docket Number 81–00177. Applicant: Memorial Hospital Medical Center of Long Beach, 2801 Atlantic Avenue, Long Beach, CA 90801. Article: Electron Microscope, Model EM 109R with Accessories. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article is intended to be used to compare the ultrastructural appearance of selected neoplasms (e.g., CA prostate, testicular tumors, CA lung, colon, stomach, breast) with the localization of various tumor markers and antigens (e.g., acid phosphatase, carcinoembryonic antigen alphafetoprotein); these results, as well as the degree of histologic differentiation of the tumor will be correlated with the presence and site of metastases and the survival of the patient. Kidney tissues from rats and rabbits will also be studied to determine morphological and immunomorphological aspects of experimentally induced charge-modified, immune-complex glomerulo-nephritis. The article will also be used for (a) education of residents in its use and (b) education of residents in ultrastructural aspects of human diseases. Application received by Commissioner of Customs: March 27, 1981.

Docket Number 81–00178. Applicant: University of Utah, Purchasing Department, 151 Annex Building, Salt Lake, City, Utah 84112. Article: Rheovibron Viscoelastometer, Model DDV–11–C and Accessories. Manufacturer: Toyo Baldwin Co., Ltd., Japan. Intended use of article: The article is intended to be used for studies of a variety of block copolymers and their inorganic salt complexes which are of interest in the materials science and biomedical fields. The block copolymers are primarily used as vascular implant materials. The inorganic salt complexes are used to form hydrogels which can be used in a variety of biomedical applications (membranes, cell culture substrates, nerve implants, etc.). The objectives of this investigation are two-fold; first the accurate determination of the effects of varying the degree of compliance matching between the implanted polymer and the natural vessel on implant failure and secondly, the determination of the phase morphology of the block copolymers under study. Application received by Commissioner of Customs: March 27, 1981.

Docket Number 81–00179. Applicant: The Institute of Paper Chemistry, P.O. Box 1039, Appleton, Wisconsin 54912. Article: Electron Microscope, Model JEM 100CX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for investigations of the internal and/or external structure including bacteria, algae, and fungi; particulate or fibrous air pollutants; water pollutants, pollen grains; seeds; leaves; wires and metal surfaces involved in the processing of pulp and paper; pulp and paper contaminants of the following materials:

Wood; paper fibers, vegetable fibers; synthetic fibers and polymers; clay particles; pigment particles and inks; microorganisms, including bacteria, algae, and fungi; particulate or fibrous air pollutants; water pollutants; pollen grains; seeds; leaves; wires and metal surfaces involved in the processing of pulp and paper; pulp and paper contaminants.

The article will also be used for training in the following courses:

A–277—Advanced Wood Anatomy and Properties
A–278—Microtechnique
A–400—Thesis Research

Application received by Commissioner of Customs: March 27, 1981.

Docket Number 81–00182. Applicant: St. Mary's Hospital, 101 Memorial Drive, Kansas City, MO 64108. Article: Automated Ultrasonic Body Imager. Manufacturer: Ausonics Ltd., Australia. Intended use of article: The article is intended to be used to obtain high quality images of human breast for analysis of tissue characteristics and for the identification of pathological processes. The article will also be used for imaging the entire brain of the newborn in such a manner that the volume of the ventricular system can be evaluated and monitored during the critical neonatal period when the infant is at risk for intercranial hemorrhage. Testicles will also be imaged to permit non-invasive diagnosis of a variety of diseases. In addition, the article will be used in the training of both physicians and technologists. Application received by Commissioner of Customs: April 6, 1981.

Docket Number 81–00184. Applicant: University of California, Davis, Department of Clinical Pathology, School of Veterinary Medicine, Davis, CA 95616. Article: Micro-Cleanup Concentrator Apparatus. Manufacturer: John Solomon, Canada. Intended use of article: The article is intended to be used for the investigation of polar to nonpolar organic substances of pesticides. Experiments to be conducted will involve exposure of animals of varying doses of pesticides. Application received by Commissioner of Customs: April 7, 1981.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-15176 Filed 5-20-81; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Financial Assistance Application Announcement

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its General Business Services Program (GBS) to operate one project for a 12 month period beginning August 31, 1981 in the Norfolk/Virginia Beach/Portsmouth and Hampton/Newport News SMSA's in the State of Virginia. The cost of the project is estimated to be $220,000. The Project No. is 03–10–80010–01.

CLOSING DATE:

June 17, 1981.

ADDRESS: Washington Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 1730 K Street, N.W., Suite 420, Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Vincent S. Martin, Grant/Cooperative

Agreement Specialist, telephone 202/634–7883.

SUPPLEMENTARY INFORMATION: A. Scope and Purpose of this Announcement.

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. The General Business Services Program (GBS) is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers competitive grants to consulting firms (either non-profit or for profit) which must be capable of providing such services as the preparation of business plans, financial packaging, industrial management assistance, personnel management services, marketing planning, and a broad range of other business services excluding legal services.

B. Eligible Applicants.

Educational institutions, state or local governments, federally recognized Indian tribes, and other for-profit and non-profit organizations are eligible to apply for a grant under this announcement.

C. Evaluation Process.

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria.

The Awarding of MBDA Grants is discretionary. Generally projects are supported in order of merit to the extent permitted by available funds. Evaluation of proposals will employ the following criteria:

1. *Capability of Firm.*

A. Experience in providing management consulting services and other technical assistance to businesses, at the level and of the nature described in the work requirements.

B. Internal resources available to the project (e.g., administrative, technical, capability statement, business references).

2. *Staffing Capability.*

A. Staffing Pattern (who is accountable to whom, for what).

B. Experience of key personnel in providing management consulting services that are at the level and the nature described in the work requirements. (Submit resumes). (Project manager must be designated).

C. Qualification standards for selection of other project staff (what criteria will be used for assignment to this project).

D. Duties of each project position.

3. *Credentials.*

A. Submit examples of work: specimen packages acceptable (Business Plans).

B. Unique abilities or resources of the applicant which provide leverage for clients.

C. Discussion of area knowledge: include demographics, ethnic makeup of minority business, local market conditions centers of business influence, etc.

4. *Techniques and Methods Proposed To Implement the work requirement (Applicant's Work Plan).*

Proposed procedures: (how, when and where work will be done and by whom), this section should follow the outline of the work requirement and will be part of the award.

5. Costs: provide explanation of all proposed costs by line item.

E. Disposition of Proposals.

Notification of awards will be made by the award officer. Organizations whose proposals are unsuccessful will be so advised by the awards officer.

F. Proposal Instructions and Forms.

Questions concerning the preceeding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants.

G. A Pre-Application conference to assist all interested applicants will be held at the following address on Wednesday, May 27, 1981 at 10:00 A.M.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Norfolk Federal Building, 200 Granby Mall, Norfolk, Virginia, Main Conference Room

Dated: May 13, 1981.

Luis G. Encinias,

Regional Director.

[FR Doc. 81-15237 Filed 5-20-81; 8:45 am]

BILLING CODE 3510-21-M

COMMISSION ON CIVIL RIGHTS

Michigan Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 6:00p and will end at 9:00p, on June 4, 1981, at the Kellog Center, Michigan State University, Harrison Road, East Lansing, Michigan 43824. The purpose of this meeting is to have a discussion of equality in loans and affirmative action programs.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ms. Jo-Ann Terry, 18922 Fairfield, Detroit, Michigan 48221, (313) 496–2628; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, (312) 353–7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 18, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-15227 Filed 5-20-81; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Water in Southwest Asia; Change in Meeting Date

The Defense Science Board Task Force on Water in Southwest Asia meeting scheduled for 20–21 May 1981 at the Pentagon, Arlington, Virginia, as published in the **Federal Register** (Vol. 46, No. 82, dated Wednesday, April 29, 1981, FR Doc. 81–12859) has been changed to 27 May 1981. In all other respects, the original notice cited above remains the same.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

May, 18, 1981.

[FR Doc. 81-15244 Filed 5-20-81; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Review on MX Missile Basing; Advisory Committee Meeting

The Defense Science Board Panel to Review MX Missile Basing will meet in closed session on 11–13 June 1981 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The 11–13 June meeting of the Defense Science Board Panel to Review MX Missile Basing will review options and make recommendations concerning basing schemes for the MX Missile.

In accordance with 5 U.S.C. App. 1 § 10(d) (1976), it has been determined

that this Defense Science Board Panel meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

Dated: May 15, 1981.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 81-15166 Filed 5-20-81; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Review on MX Missile Basing; Advisory Committee Meeting

The Defense Science Board Panel to Review MX Missile Basing will meet in closed session on 25–27 June 1981 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The 25–27 June meeting of the Defense Science Board Panel to Review MX Missile Basing will review options and make recommendations concerning basing schemes for the MX Missle.

In accordance with 5 U.S.C. App. 1 § 10(d) (1976), it has been determined that this Defense Science Board Panel meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

Dated: May 15, 1981.

M. S. Healy,

OSD Federal Register Liaison Officer, Washinton Headquarters Services, Department of Defense.

[FR Doc. 81-15167 Filed 5-20-81; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Task Force on Anti-Tactical Missiles; Advisory Committee Meeting

The Defense Science Board Task Force on Anti-Tactical Missiles (ATM) will meet in closed session on 18–19 June 1981 in Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the preceived needs of the Department of Defense.

At its meeting on 18–19 June 1981 the Defense Science Board Task Force on ATM will review the potential enemy development of new ballistic and cruise missiles and propose and evaluate options for countering such threats.

In accordance with 5 U.S.C. App. 1 § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

Dated: 15 May 1981.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 81-15168 Filed 5-20-81; 8:45 am]

BILLING CODE 3810-70-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

May 7, 1981.

The USAF Scientific Advisory Board Ad Hoc Committee on Non-Nuclear Armament will meet at National Academy of Sciences, Woods Hole Study Center, Woods Hole, Massachusetts on 22 June–2 July 1981. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The Committee will consider all facts presented to them and outline, draft, and prepare a report recommending development and/or acquisition of specified non-nuclear armament. The briefings and discussions will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 81-15228 Filed 5-20-81; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Privacy Act of 1974; Notice of Amendments to Systems of Records: Correction

AGENCY: Department of the Army.

ACTION: Correction to System of Records.

SUMMARY: In FR Doc. 81–10791 (46 FR 21221), April 9, 1981, the Department of the Army proposed amendments to four systems of records subject to the Privacy Act of 1974. One system notice had an inadvertent error, in that a change proposed was not incorporated in the notice. This document corrects that error, as explained under "**SUPPLEMENTARY INFORMATION**" below.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of The Adjutant General (DAAG–AMR–S), HQDA, Room 1146, Hoffman Building I, Alexandria, VA 22331; telephone: (703) 325–6163.

SUPPLEMENTARY INFORMATION: Army system notice A0715.07cUSFK, "Command Unique Personnel Information Data System (CUPIDS) erroneously did not include the change proposed in the paragraph "Record Source Categories" in the second column on page 21222 when the notice was printed in its entirety. Contents of the paragraph "Record source categories" in the second column on page 21224 should have read as follows:

"Record source categories: Application for ration control; recorded sales made with ration control plate at retail U.S. military facilities throughout the ROS; orders made through exchange catalog sales and retail outlets located on U.S. facilities and installations in the ROK."

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 81-15212 Filed 5-20-81; 8:45 am]

BILLING CODE 3710-08-M

Department of the Army, Corps of Engineers

Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Indiana Shoreline Protection

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed project involves beach nourishment along the south shoreline of Lake Michigan at the Indiana Dunes National Lakeshore. The plan provides for mitigation of shoreland erosion attributable to Federal harbor structures at Michigan City, Indiana. Initially, 1.4 million cubic yards of coarse sand would be placed along the shore to build a protective beach. The sand would come from an approved land source via truck.

2. Alternatives studied in detail are: (a) No action; (b) a protective beach plan; and (c) a combination beach nourishment and stone revetment plan. A lake borrow area was also considered as an alternative source of sand for beach nourishment. Seven other alternatives were considered on a preliminary basis.

3. The public involvement program has included close coordination with the U.S. National Park Service, the management agency for the Indiana Dunes National Lakeshore. A public meeting was held in May 1975 to discuss and formulate alternatives. Another public meeting on the planning study was held in January 1976. Two public workshops were held in April 1978. Affected Federal, state and local agencies and interested private organization and parties were invited to attend. In addition to the National Park Service, recent coordination has been undertaken with the following: U.S. Fish and Wildlife Service, the Indiana Department of Natural Resources, and the Indiana Pollution Control Board.

4. Significant issues to be analyzed in detail include construction impacts on operation of the Indiana Dunes National Lakeshore, impacts associated with transporting sand, and disruption of aquatic communities.

5. No scoping meeting will be held. The scoping process has been undertaken as part of the on-going public participation and coordination program.

6. The DEIS is expected to be available to the public in July 1981.

7. Questions about the proposed action and DEIS can be answered by Rose Austin, U.S. Army Corps of Engineers, Chicago District, Environmental and Social Analysis Section, 219 South Dearborn Street, Chicago, Illinois 60604 (312/353-6464).

Dated: May 12, 1981.

Christos A. Dovas,

LTC, Corps of Engineers, District Engineer.

[FR Doc. 81-15241 Filed 5-20-81; 8:45 am]

BILLING CODE 3710-HN-M

Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS); Proposed Flood Control, Outdoor Recreation Navigation Project, Little Calumet River, Indiana

AGENCY: Chicago District, Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed project involves the construction of flood control measures, outdoor recreation facilities and a marina and breakwater along the 22 mile-long Little Calumet River between the Illinois-Indiana stateline and Lake Michigan in Lake and Porter Counties, Indiana. The flood control measures include: the reconstruction of existing spoil-bank levees along 6 miles of the river in the heavily urbanized areas of Hammond, Munster and Highland, Indiana; a tie-back floodwall along the Indiana-Illinois stateline; set-back levees along portions of the river in Gary and Griffith, Indiana which provide for opportunities for wetland preservation and enhancement; a 30-foot bottom width channel along four miles of the river which has been previously ditched in Gary, Indiana to provide for water quality enhancement during low flow conditions; and, a flood warning and response system for major flood events. Outdoor recreation facilities consisting of trails, natural interpretive areas, and other passive features will be recommended for project lands. A small boat marina and breakwater will be considered for the river near Lake Michigan.

2. The alternatives that were considered are as follows:

a. No action.

b. Three alternative flood control plans were considered in detail. Outdoor recreation and recreation navigation facilities are currently being designed to conform with the selected plan. Plans 1, 2 and 3 all considered replacement of the existing spoil-bank levees in Hammond, Munster and Highland, Indiana. In conjunction with these levees a tie-back floodwall was considered along the Indiana-Illinois stateline. In the remainder of the project area plan 1 considered nonstructural flood control measures, plan 2 considered the construction of a 50-foot bottom width channel, and plan 3 considered set-back levees with minor channel cleaning to provide adequate protection from flooding yet provide opportunities for wetland and water quality enhancement. The recommended plan includes features of all three plans based on various public and agency comments.

3. Public meetings to discuss the study and aid in the formulation and selection of the three alternatives for detailed study were held in March and April 1979. Four public meetings were held in January 1981 to present and discuss the results of the environmental, engineering and economic analyses of the three alternative plans and to obtain public input to assist in the selection of a plan to recommend for authorization. Affected Federal, State, local agencies, municipalities, and interested private organizations and individuals have been involved in all aspects of project planning and plan selection. Coordination has been undertaken with the following: U.S. Fish and Wildlife Service; U.S. Environmental Protection Agency; Indiana Department of Natural Resorces; the Indiana State Historic Preservation Officer; State of Illinois; Northwestern Indiana Regional Planning Commission; Lake and Porter Counties; the cities of Hammond, Munster, Highland, Gary, Griffith, Lake Station and Portage, Indiana; and, the Izaak Walton League and other local environmental groups.

4. Significant issues to be analyzed in depth include effects of the plans on wetlands, terrestrial vegetation, wildlife, water quality, groundwater, social impacts associated with the tie-back floodwall along the Indiana-Illinois stateline, and dredged material disposal impacts.

5. No scoping meeting will be held. The scoping process has been undertaken as part of the on-going public participation and coordination program.

6. The DEIS is expected to be available to the public in January 1982.

7. Questions about the proposed action and DEIS can be answered by Mr. Tom Slowinski, U.S. Army Corps of Engineers, Chicago District, Environmental and Social Analysis Section, 219 South Dearborn Street, Chicago, Illinois 60604 (312-353-7805).

Dated: May 12, 1981.

Christos A. Dovas,

LTC., Corps of Engineers, District Engineer.

[FR Doc. 81-15242 Filed 5-20-81; 8:45 am]

BILLING CODE 3710-HN-M

Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Recreational Boat Harbor at Kenosha, Wisconsin

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed project involves constructing a recreational boat harbor at Kenosha, Wisconsin. The proposed project would require constructing breakwaters, harbor excavation and disposing of the excavated material. Initial and expected maintenance dredging for the proposed project would be minimal.

2. The alternatives being studied in detail are as follows:

a. No action.

b. Four plans located at the site immediately south of the existing confined disposal facility in which the boat harbor would be constructed in open water protected by breakwaters.

c. Two plans at the same general location in which the boat harbor would

be excavated from the present shoreland area.

d. One plan at the same general location in which the boat harbor would be located partly in protected lake water and partly in an excavated area.

e. One plan in which the boat harbor would be constructed within a portion of the existing confined disposal facility.

f. One plan at the same general location in which the boat harbor would be composed of three portions—one within a portion of the existing confined disposal facility; a second in protected lake water; and a third in excavated shoreland area.

g. One plan located at Simmons Island Park immediately north of the present commercial harbor entrance constructed in lake water protected by breakwaters.

h. Excavated material from plans described in paragraphs 2c, 2d and 2f above would be disposed of either in the existing confined disposal facility, in specially constructed in-lake confined disposal areas, or on upland sites yet to be determined.

3. Coordination meetings have included an initial public meeting in October 1968 and an alternatives public meeting in September 1975. A public workshop was held in November 1977 to initiate the detailed study of the Kenosha recreational boat harbor. Affected Federal, state and local agencies and interested private organizations and parties were invited to attend. Additional coordination has included several less formal meetings with representatives from the city of Kenosha and the Kenosha Board of Harbor Commissioners. Coordination has also been undertaken with the U.S. Fish and Wildlife Service, the Wisconsin Department of Natural Resources, and the State Historical Society of Wisconsin.

4. Significant issues to be analyzed in depth are construction impacts on air and water quality; disruption or destruction of terrestrial, aquatic, and benthic communities; and disposal of excavated and dredged material.

5. No scoping meeting will be held. The scoping process has been undertaken as part of the on-going public participation and coordination program. The Corps of Engineers will hold a final public meeting on this project and will seek comments from attendees. The meeting is tentatively scheduled for late 1981, after release of the DEIS. No definite date has been set. Notice of the specific time and location will be issued to appropriate media and persons expressing interest.

6. The DEIS is expected to be available in November 1981.

7. Questions about the proposed action and DEIS can be answered by: Rose Austin, U.S. Army Corps of Engineers, Chicago District, Environmental and Social Analysis Section, 219 South Dearborn Street, Chicago, Illinois 60604 (312/353-6464).

Dated: May 12, 1981.

Christos A. Dovas,

LTC, Corps of Engineers, District Engineer.

[FR Doc. 81-15243 Filed 5-20-81; 8:45 am]

BILLING CODE 3710-HN-M

Department of the Navy

Feral Burro Management at the Naval Weapons Center; Public Hearing and Availability of Draft Environmental Impact Statement

Notice is hereby given that a public hearing will be held for the purpose of receiving oral and written comments concerning the Draft Environmental Impact Statement (DEIS) for Feral Burro Management, at the Naval Weapons Center, China Lake, California. The purpose of the program is to resolve the long-term problem of burro management at the Weapons Center. A public hearing will be held on June 3, 1981, at the Lecture Center, Burroughs High School, Ridgecrest, Kern County, California.

A short presentation describing the removal program will be made at the beginning of the session followed by an opportunity for public comment. Persons wishing to speak may register in advance by contacting: Public Works Officer (Code 26), Naval Weapons Center, China Lake, CA 93555, Telephone number: (714) 939-2382.

Speakers may also registerr on the evening of the hearing by completing a registration card at the door. Oral statements at the hearing will be limited to five minutes. Lengthy comments should be submitted in writing and summarized orally. Only registered speakers will be recognized. Written comments are not required but are strongly preferred to ensure the accuracy of the record and an appropriate Navy response in preparing the final EIS. All representations, including those received separately from the public hearing, will be made a part of the project record and will be included in the final EIS along with a Navy response to each comment.

Written comments concerning the DEIS will be received at the above address at any time before or after the public hearing, until June 22, 1981. Additional copies of the DEIS are available upon request.

Dated: May 19, 1981.

P. B. Walker,

Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 81-15283 Filed 5-20-81; 8:45 am]

BILLING CODE 3810-71-M

DEPARTMENT OF EDUCATION

School Construction in Areas Affected by Federal Activity; Cutoff Date for Transmittal of Applications for Fiscal Year 1981

Applications are invited for new projects under the School Construction Program.

Authority for this program is contained in Pub. L. 81-815, school construction in areas affected by Federal activities. (20 U.S.C. 631-647)

Notice is given that the Secretary of Education has established a cutoff date for the transmittal of applications for increase periods ending June 1981 or June 1982 for assistance under Sections 5 and 9 of Pub. L. 81-815. (An increase period is a period of four consecutive regular school years during which a school district has experienced a substantial increase in school membership as a result of new or increased Federal activities.) This cutoff date also applies to applications for new projects under Section 14 of Pub. L. 81-815, and to new applications for supplemental assistance under Section 8 of Pub. L. 81-815. (Section 14 authorizes assistance for certain school districts which serve children residing on Indian lands, or which are significantly burdened by the presence of nontaxable Federal property. Section 8 authorizes assistance that supplements certain awards made under Sections 5, 9, and 14 of Pub. L. 81-815.)

Approval of these applications will be subject to the availability of funds.

Cutoff Date for Transmittal of Applications

Applications must be mailed or hand delivered to the U.S. Secretary of Education from the State educational agencies on or before June 30, 1981.

Applications Delivered by Mail

Applications sent by mail must be addressed to the Secretary of Education, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 2107A, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service Postal 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 evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(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 for a new project will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Education, 400 Maryland Avenue, S.W., Room 2107A, Washington, D.C.

Hand delivered applications will be accepted between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays. Hand delivered applications will not be accepted after 4:30 p.m. on the cutoff date.

Program Information

Federal funds are provided for the construction or temporary provision of urgently needed minimum school facilities in school districts which have had substantial increases in school membership as a result of new or increased Federal activities. Funds are also provided for construction of needed minimum school facilities in school districts which serve children residing on Indian lands, or which are significantly burdened by the presence of nontaxable Federal property.

Application Forms

Application forms and instructions may be obtained from the appropriate State educational agency which serves the applicant local educational agency.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application.

Applicable Regulations

The regulations applicable to this program are:

(a) Regulations governing the School Construction Program (34 CFR Part 221) published in the **Federal Register** on April 8, 1975.

Note.—Proposed regulations governing the School Construction Program (34 CFR Part 221) were published in the **Federal Register** on June 29, 1979. When these regulations are published in final, they will supersede all other regulations.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 75 and 77).

(20 U.S.C. 633)

(Catalog of Federal Domestic Assistance No. 84.040, School Assistance in Federally Affected Areas—Construction)

Dated: May 14, 1981.

T. H. Bell,

Secretary of Education.

[FR Doc. 81-15177 Filed 5-20-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the transfer from Sweden to Denmark of 500 grams of uranium, containing a maximum of 18 grams of U-235 (3.6% enrichment). The material is in the form of UO_2 powder, and will be tested for quality. It is intended to return the material to Sweden upon completion of the tests.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of this retransfer, designated as RTD/EU(SW)-59 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: May 15, 1981.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-15128 Filed 5-20-81; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/SD(EU)-30, from West Germany to Switzerland, 6.882 kilograms Uranium, containing 6.383 kilograms U-235 (92.749%), to be used for fuel elements for the Saphir research reactor.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: May 15, 1981.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-15129 Filed 5-20-81; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to Section 131 of the atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of American and the Government of Australia Concerning Peaceful Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the sale of 4.805 grams of thorium to the Australian Radiation Laboratory for use as standard reference material.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material under Contract Number S–AU–105 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: May 15, 1981.

For the Department of Energy.

Harold D. Bengelsdorf

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-15130 Filed 5-20-81; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of contractual arrangements for the sale of one metric ton of heavy water for use as moderator in the Fugen reactor, operated by the Power Reactor and Nuclear Fuel Development Company, Japan.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: May 15, 1981.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-15131 Filed 5-20-81; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreeement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following retransfers:

RTD/EU(SD)–35, retransfer from Switzerland to the Federal Republic of Germany of 0.0024 grams of uranium, enriched to 97.5% in U–235, in the form of 16 discs, for calibration for neutron dosimetry.

RTD/SD(UD)–38, retransfer from Switzerland to the Federal Republic of Germany to Switzerland of 0.0024 grams of uranium, enriched to 97.5% in U–235, in the form of 16 calibrated discs, for neutron dosimetry.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of these retransfers will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: May 15, 1981.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 81-11532 Filed 5-20-81; 8:45 am]

BILLING CODE 6450-01-M

Conduct of Employees; Waiver for W. Kenneth Davis

Section 602(a) of the Department of Energy Organization Act (Pub. L. 95–91, hereinafter referred to as the "Act") prohibits a "supervisory employee" (defined in section 601(a) of the Act) of the Department from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any "energy concern" (defined in section 601(b) of the Act).

Section 602(c) of the Act authorizes the Secretary of Energy to waive the requirements of section 602(a) where the interest is a pension, insurance, or other similarly vested interest.

Mr. W. Kenneth Davis has been nominated by the President to be Deputy Secretary of the Department of Energy. Mr. Davis, who is leaving the employ of Bechtel Power Corporation, a subsidiary of Bechtel Group, Inc., has a vested interest in the Bechtel Retired Management Plan. Under this Plan, Bechtel pays all premium costs for specified medical, dental, and term life insurance coverage for retired Bechtel management personnel and their spouses.

I am satisfied that Mr. Davis' interest in the Bechtel Retired Management Plan is a vested interest within the meaning of section 602(c) of the Act. Accordingly, I am waiving the requirements of section 602(c) with regard to that interest for the duration of Mr. Davis' employment with the Department. This waiver will take effect when Mr. Davis' nomination to the position of Deputy Secretary has been confirmed by the United States Senate and he has been sworn into office.

Mr. Davis has committed himself not to participate in Departmental decisions relating directly to Bechtel at any time during his term as Deputy Secretary. This commitment is described in the text of a limited waiver of the participation prohibitions of section 606 of the Act that I am granting Mr. Davis. That waiver is being published in the **Federal Register.**

In light of the above, I have also determined, pursuant to section 208(b), Title 18, United States Code, that Mr. Davis' vested interest in the Bechtel Retired Management Plan is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from him.

Dated: May 4, 1981.

James B. Edwards,

Secretary.

[FR Doc. 81-15245 Filed 5-20-81; 8:45 am]

BILLING CODE 6450-01-M

Conduct of Employees; W. Kenneth Davis

Section 606(a) of the Department of Energy Organization Act (Pub. L. 95–91, hereinafter referred to as the "Act") prohibits a "supervisory employee" (defined in section 601(a) of the Act) of the Department, for one year after terminating employment with an "energy concern" (defined in section 601(b) of the Act), from knowingly participating in any Department proceeding in which his former employer is substantially, directly, or materially involved, other than a rulemaking proceeding having a substantial effect on numerous energy concerns.

Further, section 606(b) of the Act prohibits a supervisory employee, for one year after commencing service in the Department, from knowingly participating in any Department proceeding for which he had direct responsibility, or in which he participated personally and

substantially, within the previous five years while in the employment of an energy concern.

The term "Department proceeding" is defined in § 1010.103(h) of the Department's regulations on conduct of employees (title 10, Code of Federal Regulations) as any judicial proceeding, Department hearing, application, rulemaking, order, license, contract, grant, award, fund transfer, claim, controversy, charge, accusation, or arrest in which the Department is directly involved.

Section 606(c) of the Act authorizes the Secretary of Energy to waive the participation prohibitions of sections 606(a) and 606(b) when he finds that application of the prohibitions would be contrary to the national interest.

Mr. W. Kenneth Davis has been nominated by the President to be Deputy Secretary of the Department of Energy. Since 1958, Mr. Davis has served as a corporate Vice President of one of the principal Bechtel operating entities, currently Bechtel Power Corporation, which is now a subsidiary of Bechtel Group, Inc., (an energy concern). Mr. Davis is a nationally recognized expert in the field of energy. He has served as an officer of, among others, the American Institute of Chemical Engineers and the National Academy of Engineering. Moreover, he has served on advisory and other committees for the Massachusetts Institute of Technology, and has been Adjunct Professor of Engineering and Applied Science at the University of California (Los Angeles). It is my expectation that he will bring to the Department invaluable expertise covering a broad spectrum of energy areas.

Mr. Davis has agreed to sever all official relationships with, and financial interests in, Bechtel prior to assuming office, except for his vested interests in the Bechtel Trust and Thrift Plans and Retired Management Plan. (The latter, involving life, medical, and dental insurance programs, will require a waiver of the devestiture requirement of section 602 of the Act, which I am granting.) And Mr. Davis has no understanding with Bechtel concerning a return to Bechtel employment after leaving the Department. In this connection, I am advised that, under Bechtel's mandatory retirement policy, Mr. Davis would not be permitted to return to Bechtel in a management position after July, 1983, in any event. In addition, Mr. Davis has agreed to divest himself of his other energy concern holdings. These actions involve considerable financial sacrifice for Mr. Davis, but he is willing to take them in order to serve his country.

Mr. Davis has stated that he does not seek a waiver in order to participate in Departmental decisions relating directly to Bechtel (although I have every reason to believe that, if permitted to participate in such decisions, he would carry out his responsibilities in a straightforward and objective manner regardless of any implications for Bechtel's pecuniary interests). Indeed, Mr. Davis has committed himself not to participate in such decisions at any time during his term as Deputy Secretary. More specifically, he will not participate in:

(1) Negotiation, modification, amendment, termination (for cause or for convenience), or performance evaluation of any Bechtel contract with the Department or any Bechtel subcontract with a DOE contractor, or any post-contract dispute relating to such a contract or subcontract;

(2) Selection of a contractor, subcontractor, grant or loan guarantee recipient in a proceeding where Bechtel is a proposer or applicant;

(3) Review of unsolicited proposals made by Bechtel to the Department, or to a DOE contractor under a DOE-funded program;

(4) Review of any petitions for rulemaking submitted by Bechtel;

(5) Administrative adjudications to which Bechtel is a party;

(6) Any phase of litigation to which Bechtel is a party; or

(7) Any other Department proceeding to which Bechtel is a party.

I have considered very carefully the benefits to be derived by the United States from having Mr. Davis available to participate fully as the Deputy Secretary in Departmental program and policy formulation. I have weighed these benefits against the need to assure the public of the integrity of Mr. Davis' actions and any perception that his actions might be prejudiced by his prior affiliation with Bechtel. In all likelihood, program and policy formulation in which Mr. Davis would participate as Deputy Secretary will not involve matters construable as "Department proceedings" the outcome of which could possibly redound to the advantage (or disadvantage) of Bechtel. Nevertheless, out of an abundance of caution and to the extent that they might apply, I have decided to grant him a waiver of the participation prohibitions of section 606 of the Act to remove any question as to the permissibility of his full involvement in Departmental program and policy formulation and thus remove any legal cloud that might inhibit him from such full involvement. This waiver does not cover any of the types of matters enumerated above.

This waiver will take effect when Mr. Davis' nomination to the position of Deputy Secretary has been confirmed by the United States Senate and he has been sworn into office.

Although publication is not required, this waiver will be published in the **Federal Register** so that the public will be fully and clearly informed.

Dated: May 4, 1981.

James B. Edwards,

Secretary.

[FR Doc. 81-15246 Filed 5-20-81; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No 1286]

Petitions for Reconsideration of Actions in Rule Making Proceedings

May 15, 1981.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Clear Channel Broadcasting in the Standard Broadcast Band. (Docket No. 20642)

Filed by: Ernest W. Jennes & Paul J. Berman, Attorneys for Midwest Television, Inc., (KFMB), on 2-24-81. (Application for Review)

Subject: An Inquiry into the Future Role of Low Power Television Broadcasting and television Translators in the National Telecommuncations System. (BC Docket No. 78-253)

Filed by: Jonathan D. Blake & Paul J. Berman, Attorneys for Association of Maximum Service Telecasters, Inc. on 5-11-81

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-15346 Filed 5-20-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. B-17]

AM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: May 19, 1981.

Cut-off date: June 26, 1981.

Notice is hereby given that the following applications have been

accepted for filing. Because they are in conflict with applications previously accepted for filing and subject to cut-off dates for conflicting applications, no application which would be in conflict with them will be accepted for filing.

Petitions to deny these applications must be on file with the Commission not later than the close of business on June 26, 1981.

Minor amendments to these applications, and to those they are in conflict with, may be filed as a matter of right not later than the close of business on June 26, 1981.

BP-810410AW (WBIS), Bristol, Connecticut, Radio House, Inc. Has: 1440 kHz, 500 W, Day. Req: 1120 kHz, 500 W, 1 kW-LS, DA-N, U.
BP-810410BD (New), Concord, Massachusetts, Walden Communications Company Inc. Req: 1120 kHz, 1 kW, DA-2, U.
BP-810511AN (New), Greenwood, Mississippi, Mid-Delta Broadcasting Company, Inc. Req: 1540 kHz, 1 kW, Day.
BP-810511AR (New), Greenwood, Mississippi, Ronnie J. Grantham. Req: 1540 kHz, 1 kW, Day.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-15183 Filed 5-20-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. B-16]

AM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: May 15, 1981.

Cut-Off Date: June 22, 1981.

Notice is hereby given that the following applications have been accepted for filing. Because they are in conflict with applications previously accepted for filing and subject to cut-off dates for conflicting applications, no application which would be in conflict with them will be accepted for filing.

Petitions to deny these applications must be on file with the Commission not later than the close of business on June 22, 1981.

Minor amendments to these applications, and to those they are in conflict with, may be filed as a matter of right not later than the close of bunsiness on June 22, 1981.

BP-801112AB (KAPS), Mt. Vernon, Washington, Valley Broadcasters, Inc. Has: 1470 kHz 500 W, DA, Day. Req: 660 kHz, 1 kW, 10 kW-LS, U.
BP-801120AB (KFLR), Phoenix, Arizona, Family Life Broadcasting System. Has: 1230 kHz, 250 W, 1 kW-LS, U. Req: 660 kHz, 1 kW, U.
BP-810210AE (New), Santa Ynez, California, Radio Representatives, Inc. Req: 660 kHz, 1 kW, 10 kW-LS, DA-D, U.
BP-810211AF (KMO), Fife, Washington, KMO, Inc. Has: 1360 kHz, 5kW, Day (Tacoma, Washington). Req: 660 kHz, 1kW, 50 kW-LS, U (Fife, Washington).
BP-810306AH (New), Window Rock, Arizona, The Navajo Nation. Req: 660 kHz, 50 kW, DA-N, U.
BP-810403AD (New), Wishek, North Dakota, Wishek Broadcasting, Inc. Req: 1330 kHz, 500 W, D.
BP-810403AG (New), New York, New York, Osborne Communications Corp. Req: 1380 kHz, 5 kW, DA-1, S-WAWZ (mutually exclusive with renewal application of WBNX, New York, New York).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-15185 Filed 5-20-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. A-31]

AM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: May 15, 1981.

Cut-off date: June 22, 1981.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after June 22, 1981. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on June 22, 1981, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the close of business on June 22, 1981.

Petitions to deny any application on this list must be on file with the Commission no later than the close of business on June 22, 1981.

BP-21,225 (WTGG), Lewisburg, Pennsylvania, Town, Gown and Country Radio. Has: 1010 kHz, 250 W, D. Req: 1010 kHz, 1 kW, D.
BP-800219AN (WELM), Elmira, New York, Pembrook Pines Elmira, Ltd.Has: 1410 kHz, 0.5 kW, 1 kW-LS, DA-N, U. Req: 1410 kHz, 0.5 kW, 2.5 KW-LS, DA-2, U.
BP-800515AE (WKJB), Mayaguez, Puerto Rico, WKJB AM-FM, Inc. Has: 710 kHz, 500 W, 5 Kw-LS, U. Req: 710 kHz, 500 W, 10 kW-LS, U.
BP-800527AE (KWSR), Rifle, Colorado, Oil Shale Broadcasting Company. Has: 810 kHz, 1 kW, D. Req: 660 kHz, 250 W, 10 kW-LS, U.
BP-800620AD (WBRM), Marion, North Carolina, Lake City Broadcasting Corporation. Has: 1250 kHz, 1 kW, D. Req: 1250 kHz, 500 W, 5 kW-LS, DA-N, U.
BP-801114AE (KITI), Centralia-Chehalis, Washington, Premier Broadcasters, Inc. Has: 1420 kHz, 1 W, DA-N, U. Req: 1420 kHz, 5 kW, DA-2, U.
BP-810204AM (New), St. Marys, West Virginia, Donally Robert Eddy and Thomas P. Taggart, d.b.a. Seven Ranges Radio Co. Req: 1570 kHz, 1 kW, D.
BP-810228AF (WYHI), Fernandina Beach, Florida, Northeast Florida Radio, Inc. Has: 1570 kHz, 1 kW, D.Req: 1570 kHz, 5 kW, D.
BP-810302AC (New), Rupert, West Virginia, Mt. State B. Co., Inc.
Req: 1250 kHz, 5 kW, D.
BP-810309AN (WMOO), Fairhope, Alabama, Trio Broadcasters, Inc.
Has: 1550 kHz, 50 kW, DA-D. Req: 660 kHz, 1 kW, 50 KW-LS, DA-N, U.
BP-810309AP (New), Elmwood Township, Michigan, Good News Media.Req: 1400 kHz, 250 W, 1 kW-LS, U.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-15186 Filed 5-20-81; 8:45 am]

BILLING CODE 6712-01-M

[FCC 81-240]

Closed Circuit Test of the Emergency Broadcast System During the Week of June 8, 1981

Released: May 15, 1981.

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of June 8, 1981. Only ABC, MBS, NPR, AP Radio, CBS, IMN, NBC and UPI Audio radio network affiliates will receive the Test Program for the Closed Circuit Test. AP and UPI wire service clients will receive activation and termination messages of the Closed Circuit Test. Television networks are not participating in the Test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 30 to 45 minutes prior to the test.

Final evaluation of the test is scheduled to be made about one month after the Test.

This is a closed circuit test and will not be broadcast over the air.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-15179 Filed 5-20-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. A-26]

FM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: May 18, 1981.

Cut-Off Date: July 1, 1981.

Notice is hereby given that the applications listed in the attached appendix below are hereby accepted for filing. They will be considered to be ready and available for processing after July 1, 1981. An application in order to be considered with any application appearing on the attached list or with any application on file by the close of business on July 1, 1981, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not later than the close of business on July 1, 1981.

Petitions to deny any application on this list must be on file with the Commission no later than the close of business on July 1, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

BPH–801017AA (New), Page, Arizona, Paranto Broadcasting. Req: 93.5 MHz; Channel No. 228A. ERP: 3 kW; HAAT: 143 ft.

BPH–801104AJ (New), Haynesville, Louisiana, Ladybug Broadcasting Co. Req: 105.5 MHz; Channel No. 288A. ERP: 3 kW; HAAT: 275 ft.

BPED–801210AH (KRRC), Portland, Oregon, The Reed Institute, d.b.a. Reed College. Has: 89.3 MHz; Chanel No. 207D. TPO: .01 kW. (Lic.). Req: 107. 5 MHz; Channel No. 298D. ERP: .007 kW; HAAT: −50.4 ft.

BPH–801216AI (KVWC–FM), Vernon, Texas, KVWC, Inc. Has: 102.3 MHz; Channel No. 272A. ERP: .730 kW; HAAT: 140 ft. (Lic.). Req: 102.3 MHz; Channel No. 272A. ERP: 3 kW; HAAT: 138 ft.

BPH–801230AC (WCKS), Cocoa Beach, Florida, Southland Broadcasting, Inc. Has: 101.1 MHz; Channel No. 266C. ERP: 100 kW; HAAT: 440 ft. (Lic.). Req: 101.1 MHz; Channel No. 266C. ERP: 100 kW; HAAT: 1,482 ft.

BPH–801231AC (New), Cape May Court House, New Jersey, WRLJ, Inc. Req: 105.5 MHz; Channel No. 288A. ERP: 2.45 kW; HAAT: 333 ft.

BPH–801231AD (New), St. James, Minnesota, Watonwan County Broadcasting Co. Req: 104.9 MHz; Channel No. 285A. ERP: 3 kW; HAAT: 279 ft.

BPH–801231AE (WGAT–FM), Kingsport, Tennessee, Radio Station WKIN, Inc. Has: 104.9 MHz; Channel No. 285A. ERP: 1kW; HAAT: 480 ft. (Lic.) (Gate City, Virginia). Req: 104.9 MHz; Channel No. 285A. ERP: 1 kW; HAAT: 475 ft. (Kingsport, Tennessee).

BPH–810102AC (KTAK), Riverton, Wyoming, Riverton Broadcasting Co., Inc. Has: 93.5 MHz; Channel No. 228A. ERP: 3 kW; HAAT: 280 ft. (Lic.). Req: 93.9 MHz; Channel No. 230C. ERP: 50 kW; HAAT: 950 ft.

BPH–810105AH (New), Lakeport, California, Clearlake Broadcasting Co. Req: 99.5 MHz; Channel No. 258B. ERP: 1.9 kW; HAAT: 1,874 ft.

BPH–810112AB (KSNM), Santa Fe, New Mexico, Cammar Broadcasting, Inc. Has: 95.5 MHz; Channel No. 238C. ERP: 29.5 kW; HAAT: 130 ft. (Lic.). Req: 95.5 MHz; Channel No. 238C. ERP: 100 kW; HAAT: 148 ft.

BPH–810112AD (New), Lawton, Oklahoma, Broadco, Inc. Req: 95.3 MHz; Channel No. 237A. ERP: 3 kW; HAAT: 295 ft.

BPH–810114AC (KSTM), Apache Junction, Arizona, Beta Communications, Inc. Has: 107.1 MHz; Channel No. 296A. ERP: 3 kW; HAAT: −115 ft. (Lic.). Req: 107.1 MHz; Channel No. 296A. ERP: 1.8 kW; HAAT: 430.5 ft.

BPH–810122AK (New), New Boston, Texas, Bowie County Broadcasting Co., Inc. Req: 95.9 MHz; Channel No. 240A. ERP: 3 kW; HAAT: 300 ft.

BPH–810123AA (New), Concord, New Hampshire, Rumford Communications, Inc. Req: 105.5 MHz; Channel No. 288A ERP: 1.32 kW; HAAT: 430 ft.

BPH–810123AB (KBMC), Eugene, Oregon, Inspirational Broadcasting Corp. Has: 94.5 MHz; Channel No. 233C ERP: 3.4 kW; HAAT: 800 ft. (Lic.). Req: 94.5 MHz; Channel No. 233C ERP: 98 kW; HAAT: 813 ft.

BPH–810127AE (New), Sheridan, Arkansas, Cliff A. Packer. Req: 102.3 MHz; Channel No. 272A ERP: 3 kW; HAAT: 300 ft.

BPH–810127AG (KTFX), Tulsa, Oklahoma, Central Broadcasting Co., Inc. Has: 103.3 MHz; Channel No. 277C ERP: 100 kW; HAAT: 195 ft. (Lic.). Req: 103.3 MHz; Channel No. 277C ERP: 100 kW; HAAT: 1,278 ft.

BPH–810129AD (WIQB), Ann Arbor, Michigan, Lake America Communications Co. Has: 102.9 MHz; Channel No. 175B ERP: 10 kW; HAAT: 155 ft. (Lic.). Req: 102.9 MHz; Channel No. 275B ERP: 10 kW; HAAT: 500 ft.

BPH–810129AF (New), Kane, Pennsylvania, Huber-Dixon Broadcasting. Req: 103.9 MHz; Channel No. 280A ERP: 3 kW; HAAT: 300 ft.

BPH–810129AG (WKDE-FM), Alta Vista, Virginia, Altavista Broadcasting Corp. Has: 105.5 MHz; Channel No. 288A ERP: 3 kW; HAAT: 120 ft. (Lic.). Req: 105.5 MHz; Channel No. 288A ERP: 3 kW; HAAT: 300 ft.

BPH–810206AF (New), Tonapah, Nevada, Roughrider Broadcasting, Inc. Req: 92.7 MHz; Channel No. 224A ERP: .290 kW; HAAT: 974 ft.

BPH–810209AD (KRES), Moberly, Missouri, Kres, Inc. Has: 104.7 MHz; Channel No. 284C ERP: 100 kW; HAAT: 480 ft. (Lic.). Req: 104.7 MHz; Channel No. 284C ERP: 100 kW; HAAT: 1,025 ft.

BPH–810326AC (New), Miami, Florida, Constance J. Wodlinger. Req: 96.5 MHz; Channel No. 243C ERP: 100 kW; HAAT: 923 ft.

BPED–810416AD (New), Little Rock, Arkansas, Board of Trustees, Univ. of Arkansas. Req: 89.1 MHz; Channel No. 206C ERP: 100 kW; HAAT: 822.2 ft.

BMPH–801222BG (WGKY-FM), Greenville, Kentucky; Hayward F. Spinks. Has: 105.5 MHz; Channel No. 288A ERP: 3 kW; HAAT: 300 ft. (CP). Req: 105.5 MHz; Channel No. 288A ERP: 3 kW; HAAT: 300 ft.

BPED–790430AI (KNON), Dallas, Texas, Agape Broadcasting Foundation, Inc. Has: 90.9 MHz; Channel No. 215C ERP: 100 kW; HAAT: 790 ft. (Lic.). Req: 90.9 MHz; Channel No. 215C ERP: 100 kW; HAAT: 593 ft.

BPED–791219AB (WOCR), Olivet, Michigan, Bd of Trustees, Olivet College. Has: 89.7 MHz; Channel No. 209DS ERP: .01 kW; HAAT: ft. (Lic.). Req: 89.3 MHz; Channel No. 207A ERP: .124 kW; HAAT: 75 ft.

BPED–791228AR (WCDB), Albany, New York, State University of New York. Has: 90.9 MHz; Channel No. 215D TPO: .01 kW; (Lic.). Req: 90.9 MHz; Channel No. 215A ERP: .100 kW; HAAT: 209 ft.

BPED–791228AZ (WMFO), Medford, Massachusetts, Tufts University. Has: 91.5 MHz; Channel No. 218DS ERP: .01 kW; HAAT: ft. (Lic.). Req: 91.5 MHz; Channel No. 218A ERP: .125 kW; HAAT: 136 ft.

BPED–791231AP (KTUH), Honolulu, Hawaii, University of Hawaii. Has: 90.3 MHz; Channel No. 212DS ERP: .01 kW; HAAT: ft. (Lic.). Req: 90.3 MHz; Channel No. 212A ERP: .1 kW; HAAT: ft.

BPED–791231BT (WSKB), Westfield, Massachusetts, Westfield State College. Has: 91.5 MHz; Channel No. 218DS ERP: .01 kW; HAAT: ft. (Lic.). Req: 89.5 MHz; Channel No. 208A ERP: .100 kW; HAAT: 214 ft.

BPED–800102AJ (WRPS), Rockland, Massachusetts, Rockland Public Schools. Has: 91.5 MHz; Channel No. 218DS ERP: .01 kW; HAAT: ft. (Lic.). Req: 88.3 MHz; Channel No. 202A ERP: .106 kW; HAAT: 139 ft.

BPED–800103AN (WFSE), Edinboro, Pennsylvania, Edinboro State College. Has: 88.7 MHz; Channel No. 204D TPO: .01 kW. (Lic.). Req: 88.9 MHz; Channel No. 205A ERP: 3 kW; HAAT: 313 ft.

BPED–800207AD (KRVH), Rio Vista, California, River Delta Unified School District. Has: 90.9 MHz; Channel No. 215DS ERP: .01 kW; HAAT: ft. (Lic.). Req: 101.5 MHz; Channel No. 268D TPO: .01 kW.

BPED–800304AL (New), Freehold, New Jersey, Mid-Monmouth Broadcasting Assoc., Inc. Req: 88.9 MHz; Channel No. 205A. ERP: .100 kW; HAAT: 112 ft.

BPED–800310AN (WFCS), New Britain, Connecticut, Central Connecticut State College. Has: 90.1 MHz; Channel No. 211DS. ERP: .01 kW; HAAT: ft. (Lic.). Req: 97.9 Mhz; Channel No. 250D, TPO: .01 kW; HAAT: 108 ft.

BPED–800317AB (New), Kokomo, Indiana, Temple Christian Academy. Req: 91.5 MHz; Channel No. 218A. ERP: 3 kW; HAAT: 269 ft.

BPED–800317AD (New), San Luis Obispo, California, San Luis Obispo Community College Dist. Req: 89.1 MHz; Channel No. 206A. ERP: .1 kW; HAAT: 1,417 ft.

BPED–800501AE (WLCR), Lawrenceville, New Jersey, Lawrence Township Bd of Education. Has: 89.7 MHz; Channel No. 209DS. ERP: .01 kW; HAAT: ft. (Lic.). Lawrence Township, New Jersey Req: 107.7 MHz; Channel No. 299D. ERP: .014 kW; HAAT: 33.75 ft. (Lawrenceville, New Jersey).

BPED–800502AB (New), Deerfield, Massachusetts, Trustees of Deerfield Academy. Req: 91.7 MHz; Channel No. 219A. ERP: .120 kW; HAAT: −364 ft.

BPED–800507AI (WDNX), Olive Hill, Tennessee, Rural Life Foundation, Inc. Has: 89.1 MHz; Channel No. 206A. ERP: 1.5 kW; HAAT: 250 ft. (Lic.). Req: 89.1 MHz; Channel No. 206A. ERP: 100 kW; HAAT: 226 ft.

BPED–800520AB (WSPS), Concord, New Hampshire, St. Paul's School. Has: 90.5 MHz; Channel No. 213DS. ERP: .01 kW; HAAT: ft. (Lic.). Req: 90.5 MHz; Channel No. 213A. ERP: .199 kW; HAAT: −59 ft.

BPED–800521AA (WDEQ–FM), De Graff, Ohio, Riverside Local Board of Education. Has: 91.1 MHz; Channel No. 216DS. ERP: .01 kW; HAAT: ft. (Lic.). Req: 103.3 MHz; Channel No. 277D. ERP: .011 kW; HAAT: 23.4 ft.

BPED–800527AF (WDPS), Dayton, Ohio, Dayton City Schools. Has: 88.7 MHz; Channel No. 204DS. ERP: .01 kW; HAAT: ft. (Lic.). Req: 89.3 MHz; Channel No. 207A. ERP: .200 kW; HAAT: 198 ft.

BPED–800602AB (KUNR), Reno, Nevada, University of Nevada. Has: 88.7 MHz; Channel No. 204A. ERP: 2 kW; HAAT: −450 ft. (Lic.). Req: 88.7 MHz; Channel No. 204C. ERP: 20 kW; HAAT: 2,124 ft.

BPED–800602AH (KSHU), Huntsville, Texas, Sam Houston State University. Has: 89.3 MHz; Channel No. 207DS. ERP: .01 kW; HAAT: ft. (Lic.). Req: 97.1 MHz; Channel No. 246D. ERP: .013 kW; HAAT: 222 ft.

BPED–800603AC (WCHC), Worcester, Massachusetts, College of the Holy Cross. Has: 89.1 MHz; Channel No. 206DS. ERP: .01 kW; HAAT: ft. (Lic.). Req: 88.1 MHz; Channel No. 201A. ERP: .100 kW; HAAT: −8 ft.

BPED–800701AA (KNHC), Seattle, Washington, Seattle Public Schools. Has: 89.5 MHz; Channel No. 208A. ERP: 1.5 kW; HAAT: 320 ft. (Lic.). Req: 89.5 MHz; Channel No. 208A. ERP: 3 kW; HAAT: 301 ft.

BPED–800702AC (New), Portland, Oregon, Benson Polytechnic School. Req: 89.9 MHz; Channel No. 210C. ERP: 8.73 kW; HAAT: 964 ft.

BPED–800807AF (New), Lindside, West Virginia, Monroe County Board of Education. Req: 90.3 MHz; Channel No. 212B. ERP: 3.2 kW; HAAT: 1,158 ft.

BPED–800821AA (WEHB), Grand Rapids, Michigan, Grand Rapids Public Broadcasting Corp. Has: 89.9 MHz; Channel No. 210A. ERP: .3 kW; HAAT: 200 ft. (Lic.). Req: 89.9 MHz; Channel No. 210A. ERP: .394 kW; HAAT: 129.3 ft.

BPED–800822AD (WNCY), Springfield, Maine, Nasson College. Has: 91.1 MHz; Channel No. 216DS. ERP: .01 kW; HAAT: ft. (Lic.). Req: 103.9 MHz; Channel No. 280D. ERP: .017 kW; HAAT: −16 ft.

BPED–800825AE (WUWM), Milwaukee, Wisconsin, Board of Regents, Univ. of Wisconsin. Has: 89.7 MHz; Channel No. 209B. ERP: 1.5 kW; HAAT: 870 ft. (Lic.). Req: 89.7 MHz; Channel No. 209B. ERP: 7.13 kW; HAAT: 871 ft.

BPED–800829AX (WRTE), Cahokia, Illinois, Cahokia Unit School District No. 187. Has: 89.5 MHz; Channel No. 208DS. ERP: .01 kW; HAAT: ft. (Lic.). Req: 89.5 MHz; Channel No. 208A. ERP: .100 kW; HAAT: 5 ft.

BPED–800911AD (New), Pekin, Illinois, Illinois Bible Institute, Inc. Req: 91.5 MHz; Channel No. 218B. ERP: 35 kW; HAAT: 338 ft.

BPED–800929AA (WPNR–FM) Utica, New York, Syracuse Univ., Utica College Branch. Has: 90.7 MHz; Channel No. 214D TPO: .01 kW. (Lic.). Req: 90.7 MHz; Channel No. 214A ERP: .426 kW; HAAT: −150 ft.

BPED–801006AA (WSIF), Wilkesboro, North Carolina, Wilkes Community College. Has: 90.1 MHz; Channel No. 211DS ERP: .01 kW; HAAT: ft. (Lic.). Req: 94.7 MHz; Channel No. 234D ERP: .014 kW; HAAT: −151 ft.

BPED–801006AO (WDSO), Chesterton, Indiana, Duneland School Corporation. Has: 89.1 MHz; Channel No. 206DS ERP: .01 kW; HAAT: ft. (Lic.). Req: 89.7 MHz; Channel No. 209A ERP: .243 kW; HAAT: 146 ft.

BPED–801007AJ (KEPO), Eagle Point, Oregon, School District No. 9. Has: 89.1 MHz; Channel No. 206DS ERP: .01 kW; HAAT: ft. (Lic.). Req: 92.1 MHz; Channel No. 221DS ERP: .014 kW; HAAT: 34 ft.

BPED–801014AH (New), Slippery Rock, Pennsylvania, Slippery Rock State College. Req: 90.1 MHz; Channel No. 211A ERP: .109 kW; HAAT: 347 ft.

BPED–801014AI (WVBU–FM), Lewisburg, Pennsylvania, Bucknell University. Has: 90.5 MHz; Channel No. 213DS ERP: .01 kW; HAAT: ft. (Lic.). Req: 90.5 MHz; Channel No. 213B ERP: .456 kW; HAAT: −122 ft.

BPED–801105AG (New), Macomb, Illinois, Western Illinois University. Req: 88.3 MHz; Channel No. 202A ERP: .118 kW; HAAT: 83 ft.

BPED–801118AF (New), Brownsville, Texas: Educom International, Inc. Req: 88.3 MHz; Channel No. 202A ERP: 3 kW; HAAT: 297 ft.

BPED–801119AK (New), San Antonio, Texas, Classical B/cing Society of San Anto. Req: 90.2 MHz; Channel No. 215A ERP: 3 kW; HAAT: 300 ft.

BPED–801124AM (WSBU), St. Bonaventure, New York, St. Bonaventure University. Has: 88.3 MHz; Channel No. 202D TPO: .01 kW. (Lic.). Req: 88.3 MHz; Channel No. 202A ERP: .170 kW; HAAT: −253 ft.

BPED–801126AE (WVWC), Buckhannon, West Virginia, West Virginia Wesleyan College. Has: 89.9 MHz; Channel No. 210DS ERP: .01 kW; HAAT: ft. (Lic.). Req: 92.1 MHz; Channel No. 221D ERP: .013 kW; HAAT: −68 ft.

BPED–801128AA (WRJR), Lewiston, Maine, President and Trustees, Bates College. Has: 91.5 MHz; Channel No. 218DS ERP: .01 kW; HAAT: ft. (Lic.). Req: 91.5 MHz; Channel No. 218A ERP: .119 kW; HAAT: 18 ft.

BPED–801128AL (WNRC), Dudley, Massachusetts, Nichols College. Has: 91.1 MHz; Channel No. 216DS ERP: .01 kW; HAAT: ft. (Lic.). Req: 95.1 MHz; Channel No. 236D ERP: .014 kW; HAAT: 125 ft.

BPED–801201AE (WUMF–FM), Farmington, Maine, University of Maine. Has: 91.9 MHz; Channel No. 220DS ERP: .01 kW; HAAT: ft. (Lic.). Req: 92.3 MHz; Channel No. 222D TPO: .01 kW.

BPED–801201AF (WUPI), Presque Isle, Maine, University of Maine. Has: 90.3 MHz; Channel No. 212DS ERP: .01 KW; HAAT: ft. (Lic.). Req: 92.1 MHz: Channel No. 221D TPO: .01 kW.

BPED–801201AG (WUFK), Fort Kent, Maine, University of Maine. Has: 90.3 MHz; Channel No. 212DS ERP: 01 kW; HAAT: ft. (Lic.). Req: 92.1 MHz: Channel No. 221D TPO: .01 kW.

BPED–801208AH (New), Oxford, Mississippi, Mississippi Auth for Ed TV. Req: 9.3 MHz; Channel No. 212C ERP: 100 kW; HAAT: 1,244 ft.

BPED–801219AH (WDTR), Detroit, Michigan, Bd. of Educ. of the City of Detroit. Has: 90.9 MHz; Channel No. 215B ERP: 17 kW; HAAT: 175 ft. (Lic.). Req: 90.9 MHz; Channel No. 215B ERP: 42 kW; HAAT: 538 ft.

BPED–801230AF (New), Cartersville, Georgia, Immanual Educational B/cing, Inc. Req: 91.7 MHz; Channel No. 219A ERP: .100 kW; HAAT: 441 ft.

BPED–810102AE (WECW), Elmira, New York, Elmira College. Has: 88.1 MHz; Channel No. 201D TPO: .01 kW. (Lic.). Req: 95.5 MHz; Channel No. 238D ERP: .006 kW; HAAT: −312 ft.

BPED–810119AC (New), Porcupine, South Dakota, Lakota Communications, Inc. Req: 90.1 MHz; Channel No. 211C ERP: 100 kW; HAAT: 512 ft.

BPED–810128AA (WYEP–FM), Pittsburgh, Pennsylvania, Pittsburgh Community B/cting corp. Has: 91.5 MHz; Channel No. 218A ERP: .84 kW; HAAT: 520 ft. (Lic.). Req: 91.2 MHz; Channel No. 217B ERP: 6.6 KW; HAAT: 825.2 ft.

BPED–810129AC (WORT), Madison, Wisconsin, Back Porch Radio Broadcasting, Inc. Has: 89.7 MHz; Channel No. 209B ERP: 1.3 kW; HAAT: 940 ft. (Lic.). Req: 89.9 MHz: Channel No. 210B ERP: 1.98 kW; HAAT: 937 ft.

BPED–810129AE (WPLT), Plattsburgh, New York, State University of New York. Has: 91.1 MHz; Channel No. 216D TPO: .01 kW. (Lic.). Req: 93.9 MHz; Channel No. 230D ERP: .009 kW; HAAT: 26 ft.

BPED–810317AE (New), Twin Falls, Idaho, Christian Radio of Magic Valley, Inc. Req: 90.7 MHz; Channel No. 214C ERP: 18 kW; HAAT: 3,276 ft.

BMPED–801204AI (KMHD), Gresham, Oregon, Mt. Hood Community College District. Has: 88.5 MHz; Channel No. 203C ERP: 7.5 kW; HAAT: 880 ft. (CP). Req: 89.1 MHz; Channel No. 206C ERP: 50 kW: HAAT; 882 ft.

BPED–801016AD (WWGC), Carrollton, Georgia, West Georgia College. Has: 90.5 MHz; Channel No. 213A EPR: .170 kW; HAAT: 82 ft. (Lic.). Req: 90.7 MHz; Channel No. 214A ERP: .946 kW: HAAT: 109 ft.

BPED–801027AC (WMNR), Monroe, Connecticut, Monroe Board of Education. Has: 88.1 MHz; Channel No. 201A ERP: .6 kW; HAAT: 200 ft. (Lic.). Req: 88.1 MHz; Channel No. 201B ERP: 90 kW; HAAT: 255 ft.

[FR Doc. 81–15184 Filed 5–20–81; 8:45 am]

BILLING CODE 6712–01–M

[BC Docket No. 81-326, File No. BPCT-780720IB]

KTVO, Inc. (KTVO-TV), Kirksville, Missouri; Designating Application for Hearing on Stated Issues

Memorandum Opinion and Order

Adopted: May 7, 1981.

Released: May 15, 1981.

By the Commission: Commissioner Jones concurring in the result.

1. The Commission has before it the above-captioned application of KTVO, Inc. (KTVO) for changes in the facilities of Television Broadcast Station KTVO-TV, Channel 3, Kirksville, Missouri; a Petition to Deny filed by Channel Seventeen, Inc. (Channel Seventeen or petitioner), licensee of Station KCBJ-TV, Channel 17, Columbia, Missouri;[1] and related pleadings.[2]

Background

2. Station KTVO presently operates with visual effective radiated power (ERP) of 100 kW with antenna height above average terrain (HAAT) of 1,080 feet, from a tower site located 4.5 miles east of Lancaster, Missouri.

The applicant proposes moving its tower site approximately 32 miles southeast of its present location. The new tower would be located 5.6 miles north of Knox City, Missouri, and KTVO would change its ERP to 83.2 kW and its HAAT to 1,970 feet. This constitutes a major environmental action.[3] KTVO proposes to suppress its signal in the direction of KCBJ to avoid Grade B overlap, and provide a Grade B signal gain area of 6,039 square miles with a loss area of 1,966 square miles, 429 of which would be an unserved area. KTVO claims that 5,475 persons live in the unserved area. Much of the remainder of the loss area receives three other television signals from Des Moines, Iowa, station.

The Channel Seventeen Petition

3. *Standing.* Channel Seventeen claims standing, as a party in interest under Section 309(d) of the Communications Act of 1934, 47 U.S.C. 309(d), because of potential economic harm to its UHF facility. Petitioner alleges that KTVO would be competing for advertising revenues and audience in two counties which are outside petitioner's Grade B contour. The Commission has recognized alleged economic injury as a basis for standing if the alleged injury is direct and immediate. *F.C.C.* v. *Sanders Bros. Radio Station*, 309 U.S. 407 (1940); *National Broadcasting Co., Inc.*, 15 RR 965 (1957). We find Channel Seventeen has standing. 47 U.S.C. 309(d)(1).

4. *UHF Impact Policy.* Channel Seventeen alleges injury under the Commission's UHF impact policy. Traditionally, the new or increased penetration of a VHF signal into a UHF service area forms the basis of a UHF impact issue.[4] The burden a petitioner must meet to require specification of such an issue is set out in *WFMY Television Corp., supra*. There we stated:

> ". . . to require designation of an application for hearing, a petitioner must demonstrate some nexus between the fact of extended VHF service and claimed specific adverse consequences to the public interest." *Id.* at 1012-13.

Further, the objecting party

> ". . . [must] set forth facts sufficient to support a *prima facie* determination that a grant of the [VHF] application would be inconsistent with the public interest." 47 U.S.C. 309(d). *Id.* at 1012.

Specifically recognized adverse consequences are: (1) significant impact on present UHFs; (2) suppression of opportunity for UHF development free from substantial adverse competition; (3) unfair competition between affiliates of the same network; and (4) substantial impact on, or loss of near-term potential for, use of any vacant UHF channels. *Id.* at 1014-17. On the other hand, the VHF can demonstrate its expansion is in the public interest by showing that: (1) it would be the first or second service in the new areas to be served; or (2) it is the first network service to the particular areas to be served; or (3) it will provide an additional choice of networks in the service areas. *Id.* at 1017. *WFMY* thus presents a balancing test between the competing interest of the UHF in protecting its economic base and of the VHF in proposing an expansion of service to determine which is in the best interest of the public.

5. Petitioner submits no evidence showing that it obtains any advertising revenues from the area KTVO plans to serve under its proposal and thus has demonstrated no likelihood of economic harm. Rather, the Arbitron figures submitted indicate KCBJ may be viewed only on a minimal level in two counties outside its Grade B contour that KTVO would propose to serve. This mere suggestion of competition from a new service in the gain area plainly is not, of itself, enough to warrant designation of a UHF impact issue against KTVO, particularly since the area in question is outside KCBJ's Grade B contour. KCBJ further claims that the proposed expansion will inhibit near-term potential UHF development of allocated, but unassigned, frequencies—especially Channel 16, Quincy, Illinois. We note that petitioner first raised this assertion in the earlier hearing (see *supra* n. 1) some five years ago, and in its current pleadings has merely presented additional speculative statements concerning near-term potential for this allocation. Commission records indicate no applications for, nor explicit interest in, this allocation. Thus, in the instant proceeding, a significant nexus between the proposed expansion of VHF service and any adverse consequences to the public interest plainly does not exist. *WFMY, supra* at 1012-13.[5] Accordingly, petitioner's allegations fall short of meeting the threshold required to specify a UHF impact issue. SEE *WSET, Inc. (WSET-TV)*, 80 FCC 2D 233 (1980).

6. *De Facto Reallocation.* Channel Seventeen also requests a *de facto* reallocation issue against KTVO. It alleges that the VHF expansion will provide service to the Quincy-Hannibal market and thus defeat the purposes of the Commission's allocation scheme. The Commission considers a variety of applicant's proposal is an attempt to serve communities other than the city of license. *See Communications Investment Corporation*, No. 78-1715 (D.C. Cir. Jan. 21, 1981). Kirksville, Missouri (population 15,300) is 64 miles from Quincy, Illinois (population 42,700) and 72 miles from Hannibal, Missouri (population 17,500). KTVO's transmitter is now located 25 miles north of Kirksville, 68 miles from Quincy and 79 miles from Hannibal. The applicant proposes to move its transmitter 30

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[1] The same party previously contested a similar proposed major modification of KTVO's facilities. Channel Seventeen filed a Petition to Deny alleging standing based on the fact that the KTVO modification would overlap the KCBJ Grade B contour. KTVO amended to remove the overlap, but Channel Seventeen, Inc. was permitted to remain a party. 63 FCC 2d 780 (1975), 63 FCC 2d 797 (1976), 63 FCC 2d 770 (Rev. Bd. 1977). That modification was not allowed because KTVO would not have put a city-grade signal over its community of license and the modification would have created significant unserved areas contrary to the public interest. The Review Board found that a UHF impact issue was not supported by the record when considered under the precedent of *WFMY Television Corp.*, 59 FCC 2d 1010 (1976). Rather, the other two issues were determinative, and the proceeding was terminated.

[2] These pleadings include an unopposed motion for extension of time within which to file a reply to KTVO's opposition to the petition, filed by Channel Seventeen. That motion hereby is granted.

[3] 47 CFR 1.1305 *et seq.*

[4] *Capital Cities Communications, Inc.*, 59 FCC 2d 435 (1976); *WLVA, Inc.*, 35 FCC 2d 182 (1972); *Selma Television, Inc., (WSLA)*, 29 FCC 2d 522 (1971); *KTIV Television Corp.*, 4 RR 2d 243 (1965).

[5] However, we note that were the UHF impact policy to apply, KTVO would be given substantial credit in its expansion proposal for offering first-time ABC network service to a gain area of 4,900 square miles and an audience of over 200,000 people. *WFMY, supra* at 1017.

miles southeast to a point 30 miles east of Kirksville, 37 miles from Quincy and 49 miles from Hannibal. KTVO presently serves Kirksville with a city grade signal; both Quincy and Hannibal are outside KTVO's present Grade B contour. KTVO's proposal evinces no intent to serve the Quincy-Hannibal market an the expense of service to the city of license. KTVO will place a city grade signal over Kirksville of approximately the same strength as that now provided and will encompass Quincy within its Grade A contour and Hannibal within its Grade B contour; neither Quincy nor Hannibal will receive city grade service. KTVO does not propose to move its main studio from Kirksville. KTVO has shown a prior interest in bringing service to the Quincy-Hannibal market by proposing a major modification which was denied partly because KTVO would not have put a city grade signal over Kirksville. *See* note 1 *supra*. In the present case, however, KTVO does not propose to decrease service to the city of license. KTVO's proposal to continue city grade service to Kirksville and to add Grade A service to Quincy and Grade B service to Hannibal does not suggest that KTVO intends to be a Quincy-Hannibal station rather than a Kirksville station. Therefore, no *de facto* reallocation issue is warranted.

7. *Misrepresentation.* Petitioner further alleges that statements made by KTVO during the earlier hearing, that the transmitter site then chosen was the only available and suitable site, lacked candor. KTVO responds that the current site was not examined nor obtained by it until well after these statements were made. We have no difficulty in reconciling the prior opinion and the fact that a second site was later selected. Thus, the allegation advanced by Channel Seventeen fails to present a substantial and material question of fact, 47 U.S.C. 309(d)(i). Consequently, no misrepresentation issue will be specified.

8. *Environmental Impact.* Finally, petitioner alleges that the public interest would be served by denial of the KTVO application because of environmental problems with the construction of a tall tower in a migratory bird corridor. KTVO has submitted an extensive environmental narrative statement on this subject. Although the statement indicates that the hazard will be to non-endangered species, KTVO acknowledges the problem with such a tower as an attraction to migratory birds, and plans to use special strobe lights and tower construction designed to minimize this problem. Thus, the record reveals that KTVO is taking the necessary steps to preserve the environment, and we find no environmental issue is warranted.

9. *Conclusion.* We find that Channel Seventeen has presented no substantial and material question of fact which would warrant a hearing. The Channel Seventeen Petition to Deny will be denied.

Unserved Area

10. On May 2, 1980, KTVO, Inc. replied to a Commission staff letter and indicated that its proposed modification would create an unserved area—an area outside the Grade B contour of any television station—of 429 square miles with a population of 5,475 persons. KTVO suggests the use of two translators to limit this loss of service to the public. The creation of unserved areas formed one ground for denial of KTVO's previous application for major modification to its facilities. See n. 1, *supra*, and related text. In the instant proceeding, KTVO argues that it ". . . will provide a net first ABC network service to a population of 213,098 persons residing in an area of 4,788 square miles." However, it is undisputed that there is no other predicted television service to the area KTVO proposes to abandon. As we said in *KTVO, Inc.*, FCC 79-607, released October 16, 1979:

"It is an undisputed principle that the loss of service and, particularly, the withdrawal of the only existing service to an area, is *prima facie* against the public interest, absent a substantial showing of offsetting factors. *Hall* v. *Federal Communications Commission*, [237 F.2d 567 (D.C. Cir. 1956)]. The weighing process in which we engage to determine whether the projected loss of service will be counterbalanced by other factors involves more than a mere comparison of numbers. *KTVO, Inc.*, [63 FCC 2d 770] (Rev. Bd. 1977)." *Id.* at 6.[*]

In that case, we affirmed our long-standing policy that translators cannot compensate for the loss of primary service. Rather, translators may only be used to compensate for such loss where special circumstances exist, such as terrain obstructions, that are substantially beyond the control of the licensee. Here, as there, we think the question of whether the losses will be offset by gains is one which, under the circumstances of this case, is best resolved in hearing. Accordingly, appropriate issues will be specified.

[*] In *KTVO, Inc., supra* at 774, the Review Board stated: "We recognize that KTVO's proposal would provide a first ABC network service to a substantially greater number of people than those who would lose their only television service but, in light of the importance of the above objective regarding [unserved] areas, we do not think that the benefit of serving a larger population with an additional network service is significant enough to outweigh the detriment that would result from a grant of KTVO's proposal."

Dual-City Identification

11. Station KTVO has received permission to identify with both its community of license, Kirksville, Missouri, and Ottumwa, Iowa. Were it to begin broadcasting from the proposed site, Station KTVO would no longer place a city-grade signal over Ottumwa as required for dual-city identification purposes. Accordingly, any grant to KTVO will be conditioned on the rescission of permission for KTVO-TV's dual-city identification.

Conclusion and Order

12. Except as indicated by the issues specified below, the applicant is qualified to construct and operate as proposed. However, since questions remain as to whether the proposed modification is in the public interest, the application must be designated for hearing on the issues specified below.

13. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned application is designated for hearing at a time and place and before an Administrative Law Judge to be specified in a subsequent Order, upon the following issues:

1. To determine what areas and populations would gain or lose service if the application were granted, and what other television services of at least Grade B level are available to those areas and populations;

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, whether, pursuant to Section 307(b) of the Communications Act of 1934, as amended, a grant of the application would provide a fair, efficient and equitable distribution of radio service; and

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether the application should be granted.

14. It is further ordered, That the Petition to Deny filed by Channel Seventeen, Inc. is denied.

15. It is further ordered, That, should KTVO, Inc. be awarded a grant, the following condition be placed on the construction permit:

Upon initiation of program tests, Station KTVO-TV shall no longer be permitted to identify with Ottumwa, Iowa.

16. It is further ordered, That, to avail itself of the opportunity to be heard, the

applicant herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

17. It is further ordered, That the applicant herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing, within the time and manner prescribed in that Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-15181 Filed 5-20-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 81-329, File No. BPCT-800702KH; and BC Docket No. 81-330, File No. BPCT-801031KI]

Lloyd Hearing Aid Corp., Knoxville, Tennesse and Knoxville Family Television, Inc., Knoxville, Tennessee; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: April 29, 1981.

Released: May 13, 1981.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television broadcast station on Channel 43, Knoxville, Tennessee.

2. Lloyd Hearing Aid Corporation's proposed tower is to be located 1.53 miles from the non-directional tower of Station WITA, Knoxville, Tennessee. Because of the proximity of applicant's proposed tower to WITA, any grant of a construction permit to applicant will be conditioned to ensure that WITA's radiation pattern is not adversely affected by the construction of applicant's proposed station.

3. Knoxville Family Television, Inc. proposes to locate its tower 1.37 and 1.53 miles, respectively, from the non-directional towers of Stations WITA and WKXV, Knoxville, Tennessee. In order to ensure that the radiation patterns of WITA and WKXV are not adversely affected, any grant of a construction permit to applicant will be appropriately conditioned.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issued specified below.

5. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

6. It is further ordered, That, any grant of a construction permit to Lloyd Hearing Aid Corporation will be subject to the following condition:

Prior to construction of the TV tower authorized herein, permittee shall notify AM station WITA so that that station may determine operating power by the indirect method. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse affects upon the radiation pattern of the aforementioned AM station. Subsequent to construction of the TV tower and installation of all appurtenances thereon, antenna impedance measurements of the AM antenna shall be made and sufficient field strength measurements, obtained at least 10 locations along each of eight equally spaced radials, shall be made to establish that the AM radiation pattern is essentially omnidirectional and the results submitted to the Commission in an application for the AM station to return to the direct method of power determination. Thereafter, the TV station may commence *Limited Program Tests.*

7. It is further ordered, That, any grant of a construction permit to Knoxville Family Television, Inc. will be subject to the following condition:

Prior to construction of the TV tower authorized herein, permittee shall notify AM stations WITA and WKXV so that those stations may determine operating power by the indirect method. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse affects upon the radiation pattern of the aforementioned AM stations. Subsequent to construction of the TV tower and installation of all appurtenances thereon, antenna impedance measurements of the AM antennas shall be made and sufficient field strength measurements, obtained at least 10 locations along each of eight equally spaced radials, shall be made to establish that the AM radiation patterns are essentially omnidirectional and the results submitted to the Commission in applications for the AM stations to return to the direct method of power determination. Thereafter, the TV station may commence *Limited Program Tests.*

8. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 81-15182 Filed 5-20-81; 8:45 am]

BILLING CODE 6712-01-M

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

[Report No. A-28]

Released: May 14, 1981.

Cutoff date: June 25, 1981.

Notice is hereby given that the applications listed below are accepted for filing and will be considered to be ready and available for processing after June 25, 1981. An application, in order to be considered with the applications listed below or with any other application on file by the close of business on June 25, 1981, which involves a conflict necessitating a hearing with the applications listed below, must be substantially complete

and tendered for filing at the offices of the Commission in Washington, D.C. not later than the close of business on June 25, 1981.

Petitions to deny the applications listed below must be on file with the Commission not later than the close of business on June 25, 1981.

Applications for new stations may not be filed against any application listed below which is designated by an asterisk (*).

BPCT–810119KG (new), Lander, Wyoming, Central Wyoming College, Channel 4, ERP: 100 kW; HAAT: 1515 ft.

*BPET–810122KG KLRN(TV), San Antonio, Texas, Southwest Texas Public Broadcasting Council, Channel 9, Reduce ERP Vis. to 133 kW; Change transmitter location; reduce HAAT to 483 feet.

*BMLCT–810202KJ KDUH–TV, Scottsbluff, Nebraska, Duhamel Broadcasting Enterprises, Channel 4, Change city of license from Hay Springs, Nebraska.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-15180 Filed 5-20-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974; Amendments to Systems of Records

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed amendments to systems of records.

SUMMARY: FDIC proposes to establish two new systems of records. In addition, new intended uses exist for information contained in eight of the existing systems of records; new systems locations exist for two of the existing systems of records; and there should be extensions in the retention and disposal periods for four different systems. Also, two existing systems must be republished in their entirety because of the extensive changes made to them.

DATE: Comments must be received by July 20, 1981.

ADDRESS: Comments may be sent to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Fredric H. Karr, Attorney ((202) 389–4237), Bank Regulation Section, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974 (the Act) (5 U.S.C. 552a) requires the annual publication in the **Federal Register** of the existence and character of the system of records maintained or controlled by Federal agencies, including the FDIC. 5 U.S.C. 552a(e)(4), 88 Stat. 1899–1900. The FDIC last made a major revision of its systems of records on November 21, 1979 (44 FR 66991).

Since November 1979, the FDIC finds that extensive changes must be made to its systems of records. The FDIC is proposing to add two new systems of records. First, the FDIC is proposing a system concerning the filing of financial disclosure statements by FDIC employees. Under the Ethics in Government Act of 1978 (EIG) (2 U.S.C. 701 *et seq.*) and Executive Order 11222 (1965), certain types of Federal employees are required to file with their respective agency a financial disclosure statement. These statements, which are filed with the individual's agency or commission, comprise systems of records reported by OPM (OPM/GOVT–4, OPM/GOVT–8). In addition, certain other FDIC employees, while not required to file the forms specified by either the EIG or Executive Order 11222, engage in financial transaction such as owning securities in or borrowing from an FDIC-supervised depository institution. Prior to 1978, by administrative action, the FDIC Board of Directors would have passed upon the propriety of such ownership or debt and evidence of this administrative action would appear in the FDIC System of Records 30–64–0003 (Board of Directors' Action System). Because FDIC employees are required to file financial disclosure statements which are reported in several different systems of records (and not all of these systems are reported by the FDIC) deems it advisable that these related records be consolidated into one FDIC system. This new system would be entitled "Employee Financial Disclosure Statements—FDIC." The second proposed new system of records is entitled "Financial Payments and Payroll Deduction System—FDIC." This system covers all current and former FDIC employees and private individuals providing goods and/or services to the FDIC under contractual arrangement. Because of the wide Breadth of this system, there will be numerous categories of records for employees. Records on individuals that are not employees of the FDIC will consist of all documents relating to the purchase of goods and/or services, including contractual documents and amounts paid.

In addition, the FDIC is proposing modifications to several of its existing systems of records. These modifications include an expansion of the routine uses for the respective systems, new system locations, and different retention and disposal periods for the materials comprising a system of records. Further, several of the individual systems are proposed to be changed in more than one way. For purpose of discussion and analysis here, the categories of the proposed changes will be set forth followed by the various systems incorporating all of the proposed changes.

The Act requires that all systems of records published in the **Federal Register** include a listing of all routine disclosures of information that the agency makes of that record to people outside of the agency ("routine uses"). There are proposed new routine uses for various FDIC systems. A new routine use is proposed for FDIC System of Records 30–64–0002 (Bank and Proposed Bank Irregularity Record System). Under this proposal, the materials in this system would be disclosed to other Federal and State financial regulatory agencies either where these agencies are processing applications or where an individual has or will become involved with depository institutions under the agencies' jurisdictions. The materials to be disclosed under this proposal would include interagency correspondence, intraagency memoranda and reports of investigation, and may also include Federal and State criminal law enforcement agency investigatory and/or arrest and conviction reports, as well as newspaper clippings. Such materials should be disclosed to aid these Federal and State regulatory agencies in discovering bank irregularities.

A new routine use is proposed for FDIC System of Records 30–64–0004 (Changes in Bank Control Ownership Records). There may be a need to disclose information contained in this system to third parties to make sure that the information already contained in this system is complete and accurate and, concomitantly, to protect a bank where there is a change in its ownership or control. By disclosing to third parties information so as to check the financial stability of the acquiring person, the interests of both the depositors of the bank and the general public will be served.

The FDIC also is proposing a new routine use for several other systems of

records.[1] (This proposal is designed to aid FDIC's Office of Corporate Audits in its function of performing independent audits of all financial and operational activities within the FDIC.) Under this proposal, disclosure may be made by the Office of Corporate Audits to vendors, carriers, or other appropriate third parties for the purpose of verification, confirmation, or substantiation during the performance of audits or investigations. The materials to be disclosed would be those included in the FDIC systems of records listed in footnote one and the names of these systems are rather self-explanatory as to the nature of the records to be disclosed.

In addition, new system locations are proposed for two of the FDIC systems of records. These systems are the FDIC Travel Voucher System (30–64–0014) and the FDIC Unofficial Personnel System (30–64–0015).

The FDIC is proposing to adopt changes to these systems to reflect the systems' relocations. The FDIC is also proposing to change the time periods for the retention and disposition of several of its systems of records.[2] The present periods of retention and disposal are listed in the 1978 and subsequent **Federal Register** annual notices; proposed changes can be found for each of the systems in the FDIC Comprehensive Records Disposition Schedule and the FDIC General Records Schedule and, for certain systems, have been made by the various divisions of FDIC.

Except for 30–64–0009 (Examiner Employment, Training, and Education Records), the FDIC adopts the retention and disposal alternative that is shorter in time.[3] In this spirit, one of the stated purposes of the Paperwork Reduction Act of 1980 (Pub. L. No. 96–511) is to minimize the Federal paperwork burden for citizens. By adopting the alternative for retention and disposal that is shorter in time, the FDIC believes that the objective of at least reducing the length of time for retaining records, and this reducing the amount of Federal paperwork, may be achieved. By the same token, the ultimate destruction of the materials which comprise a particular system of records will not defeat the purposes for which the records are initially compiled and retained for a period of time.

However, in the case of FDIC System of Records 30–64–0009 (Examiner Employment, Training, and Education Records), the FDIC believes that the retention period should be extended from two to three years. In the case of this particular system, records can be of importance in certain grievance and EEO matters where the issues are more than two years old.

As stated before, FDIC System of Records 30–64–0015 is entitled, "Unofficial Personnel System." The FDIC is proposing to add to this system the upward mobility candidate files that the FDIC Office of Employee Relations maintains and to add a new routine use. Accordingly, wholesale changes will be necessary to FDIC System of Records 30–64–0015.

Further, FDIC System of Records 30–64–0017 is entitled "Medical Records and Emergency Contact Information System." The FDIC is proposing to remove American Red Cross blood donor cards from FDIC System of Records 30–64–0015 and place them instead in System 30–64–0017, and portions of the routine uses for Systems 30–64–0015 and 30–64–0017 must be deleted and modified, respectively. Also, certain new records must be added to Systems 30–64–0015 and 30–64–0017 and the retention and disposal for System 30–64–0017 is to be altered. Because of these wholesale changes to Systems 30–64–0015 and 30–64–0017, we plan to republish them in their entirety.

The new sentences added to the existing portions of the FDIC systems of records are printed in italics.

For the foregoing reasons, the FDIC proposes to amend its systems of records as follows:

30–64–0002

SYSTEM NAME:

Bank and Proposed Bank Irregularity Records System—FDIC.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 5, 6, 7, 9, 18 and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1815, 1816, 1817, 1819, 1828, 1829).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) In the event that information contained in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (2) In the event of litigation, the appropriate records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence, or to counsel for the presentation of evidence and/or in the course of discovery; (3) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; (4) Disclosure may be made to the bank affected by a discovered irregularity; (5) *Disclosure may be made to another Federal or State financial institution regulatory agency if the individual involved has notified that agency of his intent to acquire controlling interest in a bank or bank holding company, has filed an application for a bank charter or to form a bank holding company, or has or will become associated with an insured bank under that agency's supervision.*

* * * * *

RETENTION AND DISPOSAL:

Destruction after five years. Destruction is by shredder.

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30–64–0004

SYSTEM NAME:

Changes in Bank Control Ownership Records—FDIC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

(1) The name of the bank whose control is changing, the seller and purchaser, and the number of shares involved, may be distributed to periodicals for publication; (2) in the

[1] The FDIC systems of records to which this routine use would be added would be: 30–64–0007 (Employee Education System); 30–64–0009 (Examiner Employment, Training, and Education Records); 30–64–0012 (Payroll and Employee Financial Records); 30–64–0013 (Saving Bond Payroll Deduction System); 30–64–0014 (Travel Voucher System); and 30–64–0015 (Unofficial Personnel System).

[2] These systems are 30–64–0002 (Bank and Proposed Bank Irregularity Record System); 30–64–0004 (Changes in Bank Control Ownership Records); 30–64–0005 (Consumer Complaints and Inquiry Records); 30–64–0009 (Examiner Employment, Training, and Education Records); 30–64–0013 (Savings Bond Payroll Deduction System); and 30–64–0014 (Travel Voucher System).

[3] FDIC System of Records 30–64–0002 presently provides for disposal of "outdated information" while the FDIC Comprehensive Records Disposition Schedule, Item 35, recommends destruction when the records are more than five years old. The FDIC adopts the five-year disposal schedule because the phrase "outdated information" is susceptible to different interpretations.

event that the system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto;

(3) in the event of civil, criminal, or administrative law enforcement proceedings, the relevant records may be disclosed to the appropriate court and/or counsel for purposes of discovery and the development of the proceedings; (4) disclosure may be made to the appropriate State banking authority and the appropriate Federal financial institutions regulatory agency as required by the Change in Bank Control Act of 1978 (section 7(j)(11)) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(11)) as added by section 602 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, (92 Stat. 3686); (5) disclosure may be made to a law enforcement or other government agency, whether Federal or State, for the purpose of identity verification; (6) disclosure may be made to a congressional office from the record of an individual as may be necessary to respond to an inquiry from the congressional office made at the request of the individual; (7) *the records may be disclosed to third parties for the purposes of verifying the accuracy and/or completeness of any of the information contained in these records.*

* * * * *

RETENTION AND DISPOSAL: Destruction after 10 years. Destruction is by shredder.

* * * * *

30-64-0005

SYSTEM NAME:

Consumer Complaint and Inquiry Records—FDIC

RETENTION AND DISPOSAL:

Records are retained for two years after receipt unless updated by correspondence received during the previous year. Correspondence files are destroyed by shredder; cumputer tapes and discs are erased.

* * * * *

30-64-0006

SYSTEM NAME:

Employee Financial Disclosure Statements—FDIC

SYSTEM LOCATION:

Office of the Executive Secretary, FDIC, 550 17th Street, N.W., Washington, D.C. 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former officers and employees, including Special Corporation employees and employees occupying noncompetitive positions, of FDIC required to file Public Financial Disclosure Reports pursuant to the Ethics in Government Act of 1978 (92 Stat. 1836); current and former employees required to file Confidential Statements of Employment and Financial Interests pursuant to Executive Order 11222 and FDIC's implementing regulation, 12 C.F.R. Part 336; current and former bank examiners and assistant bank examiners required to file disclosures of their personal indebtedness to insure banks or affiliates thereof pursuant to Part 336; and all current and former employees required to disclose their ownership of insured bank securities and other outside interests pursuant to Part 336.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in this system includes records relating to, or data directly furnished by the subject individual, on the following four forms: (1) Financial Disclosure Reports, Standard Form 278—Contains financial information such as income from salaries, honoraria, dividends, rent, interest, trusts and capital gains; interest in property held in a trade or business or for investment or the production of income; income from the sale, exchange or purchase of real property or property such as stocks and bonds; gifts; reimbursements; liabilities in excess of $10,000 owed to any creditors; copies of and documents relating to qualified blind trusts; information on positions held in private organizations and on agreements with private employers; and other documents that may be generated in the course of the course of administering the Ethics in Government Act of 1978; (2) Confidential Statements of Employment and Financial Interests, FDIC Form 6130/15—Contains statements of personal and family holdings, interests in business enterprises and real property, creditors, outside employment, and other documents that may be generated in the course of administering the provisions of Executive Order 11222 and Part 336; (3) Confidential Disclosures of Indebtedness by Bank Examiners, FDIC Form 6130/16—Contains information on extensions of credit (loans and credit cards) by FDIC insured banks and noninsured banks to examiners and assistant examiners; may also contain memoranda and correspondence relating to requests for approval of certain loans extended by insured banks to examiners and assistant examiners; (4) Disclosures of Direct or Indirect Financial Interest in Bank or Other Interest in Corporation Decision, FDIC Form 6130/17—Contains information on whether or not Corporation employees own or control, directly or indirectly, and securities of an insured bank or its affiliates, and if so, lists specific securities; also contains information on other outside interests which may impact on an employee's official duties; may also contain memoranda and correspondence relating to requests for approval or retention of bank securities by Corporation employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title II of the Ethics in Government Act of 1978 (92 Stat. 1836); Section 402 of Executive Order 11222 dated May 8, 1965; Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Financial Disclosure Reports may be disclosed upon written request to any requesting person pursuant to Section 205 of the Ethics in Government Act of 1978 (92 Stat. 1836), as amended, or as otherwise authorized by law; (2) Confidential Statements of Employment and Financial Interests, Confidential Disclosures of Indebtedness by Bank Examiners, and Disclosures of Direct or Indirect Financial Interest in Bank or Other Interest in Corporation Decision may be disclosed where the Director of the Office of Government Ethics or the Chairman of the Board of Directors of the FDIC determines that good cause has been shown for such use (a) to the appropriate Federal, State or local agency responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation or order where FDIC becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (b) 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; (c) to another Federal

agency or to a court where the Government is party to a judicial proceeding before the court; (d) to any source where necessary to obtain information relevant to a conflict-of-interest investigation or determination; (e) in response to a request for discovery or for an appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on index cards.

RETRIEVABILITY:

Indexed alphabetically by name of individual.

SAFEGUARDS:

Maintained in lockable metal filing cabinets in lockable office to which only authorized personnel have access.

RETENTION AND DISPOSAL:

(1) Financial Disclosure Reports—Retained for six years and then destroyed by shredding. (2) Confidential Statements of Employment and Financial Interests—Retained two years after separation of employee or two years after employee leaves the position for which the Confidential Statement was required and then destroyed by shredding. (3) Confidential Disclosures of Indebtedness by Bank Examiners—(a) for examiners required to file Confidential Statements, retained two years after separation of employee or two years after employee leaves the position for which the Confidential Statement was required; (b) for assistant examiners, destroyed when Corporation employment is terminated. Destruction is by shredding. (4) Disclosures of Direct or Indirect Financial Interest in Bank or Other Interest in Corporation Decision—(a) for employees required to file Financial Disclosure Reports, retained for six years and then destroyed; (b) for employees required to file Confidential Statements, retained two years after separation of employee or two years after employee leaves the position for which the Statement was required; (c) for all other employees, destroyed when Corporation employment is terminated. In all cases, destruction is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Ethics Counselor, FDIC, 550 17th Street, N.W., Washington, D.C. 20429.

NOTIFICATION PROCEDURE:

Executive Secretary, Records Unit, FDIC, 550 17th Street, N.W., Washington, D.C. 20429.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification"above.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual on whom the record is maintained or a person designated by them and from the Corporation's Ethics Counselor and support personnel

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

30-64-0007

SYSTEM NAME:

Employee Education System—FDIC.

SYSTEM LOCATION:

Employee Development Branch, FDIC, 550 17th Street, NW, Washington, D.C. 20429; *Division of Bank Supervision Training Center, FDIC, 1701 N. Fort Myer Drive, Arlington, Virginia 22209 for all FDIC bank examiners:* and the appropriate FDIC Regional Office for employees assigned to an FDIC region. (See Appendix A for the location of FDIC Regional Offices.)

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to: (1) to the United Stated Office of Personnel Management, the Merit System Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary in order for these agencies to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdictions; (2) to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; (3) to educational institutions for purposes of enrollment and verification of employee attendance and performance; (4) *to vendors, carriers, or other appropriate third parties, by the FDIC Office of Corporate Affairs, for the purpose of verification, confirmation, or substantiation during the performace of audits or investigations.*

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SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel Management, FDIC, 550 17th Street, N.W., Washington, D.C. 20429; *Director, Division of Bank Supervision, FDIC, 550 17th Street, N.W. Washington, D.C. 20429 for records maintained at Division of Bank Supervision Training Center:* the appropriate FDIC Regional Director for records maintained in FDIC Regional Offices. (See Appendix A for the location of FDIC Regional Offices.)

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30-64-0008

SYSTEM NAME:

Financial Payments and Payroll Deduction System—FDIC.

SYSTEM LOCATION:

Accounting and Budget Branch, FDIC, 1850 K Street, NW, Washington, D.C. 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former FDIC employees and individuals providing goods and/or services to the FDIC under contractual arrangements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Consists of the following information of FDIC employees: mailing addresses and home addresses: rate and amount of pay; hours worked; leave accrued and leave balances; life insurance, health insurance and retirement deductions; tax exemptions; and payroll deduction authorizations (including, where applicable, State or Federal tax liens, bankruptcies, attachments, and wage garnishments and the designed co-owner or beneficiary, and their social security number). Further the system contains records relating to employees' claims for reimbursement of official travel expenses including travel authorizations, advances, and vouchers showing amounts claimed, exceptions taken as a result of audit, advance balances applied; records relating to claims for reimbursement for relocation expense including authorization, advances, vouchers showing amounts claimed and amounts paid; records pertaining to education expense reimbursement, incentive award payments, fiduciary responsibility reimbursements, advances or other funds owed to the Corporation. Records on individuals that are not employees of the FDIC consist of all documents relating to the purchase of goods and/or services from individuals including contractual documents and amounts paid.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Exec. Order 9397, "Numbering System for Federal Accounts Relating to Individual Persons" (Nov. 22, 1943).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Records are periodically made available for inspection to auditors employed by the General Accounting Office; (2) In the event that information contained in this system of records indicates a violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by general statue or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, or State, charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (3) In the event of litigation, the records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence or to counsel for the presentation of evidence and/or in the course of discovery; (4) Disclosure may be made to the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority; and the Equal Employment Opportunity Commission to the extent disclosure is necessary in order for these agencies to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdictions; (5) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; (6) Disclosure may be made to the United States Treasury Department for preparation of savings bonds; (7) Information developed from these records is routinely provided to State, City, and Federal income tax authorities, including, at the Federal level, the Internal Revenue Service and the Social Security Administration, and to other recipients, as authorized by the employee, including the United States Treasury Department, savings institutions, insurance carriers and charity funds.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, index cards, and computer discs.

RETRIEVABILITY:

FILE FOLDERS AND RECORD CARDS ARE INDEXED BY NAME; COMPUTER DISCS ARE INDEXED BY SOCIAL SECURITY NUMBER OR SPECIALIZED INDENTIFYING NUMBER.

SAFEGUARDS:

File folders and record cards are stored in lockable metal cabinets, computer discs are accessed only bu authorized personnel.

RETENTION AND DISPOSAL:

Records are retained by the FDIC for three years and then transferred to Federal Records Center or destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Controller, Office of the Controller, FDIC, 550 17th Street, NW, Washington, D.C. 20429.

NOTIFICATION PROCEDURE:

Executive Secretary, Records Unit, FDIC, 550 17th Street, NW, Washington, D.C. 20429

RECORDS ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

The information is obtained from the persons on whom the records are maintained.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

30-64-0009

SYSTEM NAME:

Examiner Employment, Training, and Education Records—FDIC.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to: (1) the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary in order for these agencies to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdictions; (2) to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; (3) to educational institutions for purposes of enrollment and verification of employee attendance and performance; (4) *to vendors, carriers, or other appropriate third parties, by the FDIC Office of Corporate Audits, for the purpose of verification, confirmation, or substantiation during the performance of audits or investigations.*

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RETENTION AND DISPOSAL:

Progress Evaluation Candidates, records maintained for three years for the successful candidate and then destroyed by shredder, records of unsuccessful candidate retained until the candidate's successful completion or until the candidate leaves the FDIC's employ. Graduate School of Banking student records are permanently retained.

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30-64-0012

SYSTEM NAME:

Payroll and Employee Financial Records—FDIC.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Information developed from these records is routinely provided to State, City, and Federal income tax authorities, including, at the Federal level, the Internal Revenue Service and the Social Security Administration, and, to other recipients, as authorized by the employee, including the United States Treasury Department, savings institutions, insurance carriers and charity funds; (2) records are periodically made available for inspection to auditors employed by the General Accounting Office; (3) relevent records in this system of records may be referred, as a routine use to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting any violation of law, rule or regulation; (4) in the event of litigation, relevant records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence or to counsel for the presentation of evidence and/or in the course of discovery; (5) disclosure may be made to the United States Office of Personal Management, the Merit Systems Protection Board, the Office of

Special Counsel, the Federal Labor Relations Authority, and Equal Employment Opportunity Commission, to the extent necessary in order for these agencies to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdictions; (6) disclosure may be made to a congressional office from the records of an individual in response to an inquiry from the congressional office made at the request of the individual; (7) *disclosure may be made by the FDIC Office of Corporate Audits to vendors, carriers, or other appropriate third parties for the purpose of verification, confirmation, or substantiation during the performance of audits or investigations.*

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30-64-0013

SYSTEM NAME:

Savings Bond Payroll Deduction System—FDIC.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to: (1) the United States Treasury Department for the preparation of savings bonds; (2) the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary in order for these agencies to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdictions; (3) a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; (4) *to vendors, carriers, or other appropriate third parties, by the FDIC Office of Corporate Audits, for the purpose of verification, confirmation, or substantiation during the performance of audits or investigations.*

* * * * *

30-64-0014

SYSTEM NAME:

Travel Voucher System—FDIC.

SYSTEM LOCATION:

Accounting and Budget Branch, FDIC, 1850 K Street, NW., Washington, D.C. 20006, Administrative Branch, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429, and the appropriate FDIC Regional Office for employees assigned to an FDIC region. (See Appendix A for the location of FDIC Regional Offices.)

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Records are periodically made available for inspection to auditors employed by the General Accounting Office; (2) in the event that information contained in this system of records indicates a violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, or State, charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (3) in the event of litigation, the records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence or to counsel for the presentation of evidence and/or in the course of discovery; (4) disclosure may be made to the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary in order for these agencies to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdictions; (5) disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; (6) *disclosure may be made by the FDIC Office of Corporate Audits to vendors, carriers, or other appropriate third parties for the purpose of verification, confirmation, or substantiation during the performance of audits or investigations.*

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RETENTION AND DISPOSAL:

Records are maintained for *three years, then file folders are shredded and computer discs are erased.*

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30-64-0015

SYSTEM NAME:

Unofficial Personnel System—FDIC.

SYSTEM LOCATION:

Office of Personnel Management, FDIC, 1709 New York Avenue, NW., Washington, D.C. 20429. In addition records are maintained at the Division or Office levels in the FDIC Washington Office and at the FDIC Regional Offices. (See Appendix A for the location of FDIC Regional Offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former FDIC employees *and applicants to and graduates of the FDIC upward mobility program.*

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of personnel-related records that are maintained in addition to those kept in the official personnel folder pursuant to the Federal Personnel Manual Suppl. 296-31, Table 8, Sec. 1 [The United States Office of Personnel Management has Privacy Act responsibility for those systems of records which are government-wide in nature and it requires agencies to maintain them. Included among these is the Official Personnel Folder. While OPM has designated the FDIC as being responsible for disclosing to its current employees the contents of their Official Personnel Folder, notice of the existence and character of this system is published by the Office of Personnel Management as "General Personnel Records", OPM/GOVT-1.] This system contains records of various types. They are: (1) records maintained in the Washington and regional offices which may contain information on individuals relating to: birthday; social security number; past and present salaries, grades, and position titles; home address and telephone number, emergency contacts, addresses and telephone numbers, employment history; original applications, resume, and letters of reference; statement of bank loans and stock ownership; record of equipment and material issued to the individual; record of leave and time-and-attendance; written notes or memoranda on employee performance; counseling; examiner assignments and lists of banks examined; records relating to on-the-job training; and data documenting reasons for personnel actions, decisions, or recommendations made about an employee; *disciplinary and adverse action backup material; claims for benefits under the Civil Service Retirement System; Group Life Insurance; documents related to on-the-job injuries;* (2) parking permit records containing information (name, address, and type of automobile) about FDIC

employees who have applied for (or are members of the applicants' carpool) a parking permit in the FDIC's Washington office garage; (3) FDIC personnel awards including information supporting the employee's nomination for one of these awards; (4) dental insurance records including information on earnings, number and name of dependents, sex, birth date, home address, and social security number; (5) employee locator records containing the employee's name, social security number, division or office assignment, office telephone number and office room number; and (6) *upward mobility program coordinator files initiated by the FDIC Office of Employee Relations.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Sec. 506 of the Federal Records Act of 1950 (44 U.S.C. 3101). *For category (6), Sec. 717 of the Equal Employment Opportunity Act (42 U.S.C. 2000e–16).*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

With regard to category (1) above, the records are primarily maintained to be used by the employees supervisor for reparation of general personnel action; however, in the case of categories (1), (2), (3) and (6), disclosures may be made, where relevant: (a) to financial and credit institutions for loan and credit reference purposes (solely to verify the employee's employment with the FDIC, date of employment, and pay grade); (b) [Reserved]; (c) to the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary in order for these agencies to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdiction; (d) in the event of litigation, to the appropriate court, magistrate, or administrative tribunal as evidence, or to counsel for the presentation of evidence and/or in the course of discovery; (e) to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; (f) to State authorities regarding reasons for a former employee's separation from FDIC service, where the inquiry is made pursuant to the former employee's application for unemployment compensation; (g) to Federal and State regulatory agencies, for reasons related to FDIC business, as to the temporary work location of FDIC bank examiners.

Disclosure may be made, in the case of category (4) above, to the dental insurance carrier in support of a claim for dental insurance benefits. In category (5) above, except for the employee's Social Security Number, all information in the record is available to the public. *In category (6) above, disclosure may be made to appropriate FDIC managers, supervisors and Office of Personnel Management individuals who are involved in the assessment, evaluation and selection of an applicant for upward mobility training and/or in the monitoring and evaluation of the upward mobility participant during the training period. In categories (1), (2) and (4) above, disclosure may be made by the FDIC Office of Corporate Audits to vendors, carriers, or other appropriate third parties for the purpose of verification, confirmation, or substantiation during the performance of audits or investigations.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on file cards and in file folders. Category (5) is maintained on computer discs, category (6) of file folders.

RETRIEVABILITY:

Indexed alphabetically by name.

SAFEGUARDS:

Maintained in lockable metal cabinets.

RETENTION AND DISPOSAL:

Records are destroyed when no longer relevant to the purpose for which they were compiled and maintained. Generally, records are destroyed when the employee no longer works in the Division or Office which compiled and maintained the information. Parking permit records are kept for one year and then destroyed. *Records of unsuccessful upward mobility candidates are retained for four years after submission; records of successful applicants are maintained until two years after leaving the employ of the FDIC.*

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel Management, FDIC, 550 17th Street, NW., Washington, D.C. 20429, for Corporation level records. For FDIC Division or Office levels, the Head of the appropriate Division or Office; for FDIC Regional Offices, the Regional Director. (See Appendix A for the location of FDIC Regional Offices); For Parking Permit Records and Employee Locator Records, the Controller, Office of the Controller, FDIC, 550 17th Street, NW., Washington, D.C. 20429. *For the upward mobility program, Director of Employee Relations, FDIC, 550 17th Street, NW., Washington, D.C. 20429.*

NOTIFICATION PROCEDURE:

Executive Secretary, Records Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain; their immediate supervisors or persons at other supervisory levels; other fellow employees. *For upward mobility, record source categories would include educational institutions which the applicant has attended.*

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

* * * * *

30–64–0017

SYSTEM NAME:

Medical Records and Emergency Contact Information System—FDIC.

SYSTEM LOCATION:

Health Unit, FDIC, 550 17th Street, NW, Washington, D.C. 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former FDIC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical record of the employee, including the date of visit to the FDIC Health Unit, the diagnosis, and the treatment administered. Attached to this record is a separate sheet containing the name and telephone number of the person to contact in the event of an emergency involving the employee. *Also contained are the American Red Cross donor cards containing the donor's name, blood type, and dates of donations; Standard Form 78 (Certificate of Medical Examination); and Standard Form 177 (Statement of Physical Ability for Light Duty Work).*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1819); Sec. 506 of the Federal Records Act of 1950 (44 U.S.C. Sec. 3101).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

No disclosure (including intra-agency disclosure) of information contained in the medical files is made without prior written consent of the employee concerned. In the event of an emergency, the emergency contact would be notified. *For American Red Cross donor cards, disclosure of name and blood type is made only to the American Red Cross in response to specific requests for emergency donations to ensure that donor will be accepted immediately on arriving at Blood Center.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

On 8" x 10" cards with a separate emergency contact sheet attached to it. *American Red Cross donor cards are stored alphabetically in wooden files in the Health Unit.*

RETRIEVABILITY:

Indexed alphabetically by name.

SAFEGUARDS:

Kept in lockable metal cabinets in the nurse's office of the Health Unit. Only the nurse and substitute nurse are allowed access to the files. The Health Unit is locked whenever the nurse is absent.

RETENTION AND DISPOSAL:

Kept for the duration of the employee's tenure with the FDIC and for five years thereafter, then destroyed. *Medical records are kept for the duration of the employee's tenure with the FDIC and for five years thereafter, then destroyed. Standard Forms 78 and 177 are reviewed by the Corporation Nurse. If a disability is noted, the form is kept by the nurse; otherwise, the form is destroyed.*

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel Management, 550 17th Street, NW, Washington, D.C. 20429.

NOTIFICATION PROCEDURE:

Executive Secretary, Records Unit, FDIC, 550 17th Street, NW, Washington, D.C. 20429.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

The medical records are compiled by the employee and the nurse during the course of visits to the Health Unit for treatment. The information on the emergency contact sheet is supplied by the employee.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

By order of Board of Directors, April 13, 1981.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 81-15139 Filed 5-20-81; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within *10* days after publication of this notice in the **Federal Register.** Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No.: T-3973.

Filing party: Lynne R. Feldman, Assistant City Attorney, City of Richmond, Richmond, California 94804.

Summary: Agreement No. T-3973, between the City of Richmond (Port) and Hong Kong Islands Shipping Co., Ltd. (HKIL), provides for the granting of a nonexclusive secondary assignment to HKIL for the use of Terminal No. 3, Port of Richmond, California for one (1) year with an option to renew for an additional year. HKIL guarantees the Port will receive an annual minimum of all Port tariff charges which would be applicable to 6,000 throughput moves. The Port and HKIL will share wharfage, the throughput charges per shift will be as specified, the provisions of the Port of Richmond Tariff No. 1 shall be applicable to this agreement except as otherwise indicated and HKIL will be given priority berthing at Terminal 3 until the Port enters into a preferential assignment with another carrier. In addition, an escalation clause is provided to cover labor increases and a 2½ percent increase in throughput charges if the Agreement is extended for the second year.

By order of the Federal Maritime Commission.

Dated: May 18, 1981.

Francis C. Hurney,

Secretary.

[FR Doc. 81-15170 Filed 5-20-81; 8:45 am]

BILLING CODE 6730-01-M

Controlled Carriers Under the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Deletion from list of controlled carriers.

SUMMARY: The Federal Maritime Commission is removing Surinam Navigation Co., from the list of "controlled carriers" which was previously published in the **Federal Register** on November 25, 1980. Recently received information reveals that Suriname is party to a treaty of friendship, commerce, and navigation between the United States and the Netherlands. Its vessels, therefore, are entitled to receive most-favored-nation treatment and are exempt from those portions of the Shipping Act, 1916, which are directed solely to controlled carriers.

DATE: None.

FOR FURTHER INFORMATION CONTACT:

Joseph C. Polking, Acting Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 18 (c) of the Shipping Act, 1916 (46 U.S.C. 817(c)) provides for the regulation of rates or charges of certain state-

owned carriers in the foreign commerce of the United States. However, not all controlled carriers are subject to these regulatory requirements. Section 18(c)(6) of the Act sets forth two categories of controlled carriers which are exempt from these regulatory requirements and three conditions under which controlled carriers are exempt in certain trade areas. The relevant exemption here is that for "any controlled carrier of a state whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment." 46 U.S.C. 817(c)(6)(1).

Surinam Navigation Co. is presently classified as a controlled carrier, not exempt from section 18(c). The Department of State has recently advised the Commission, however, that the United States and the Kingdom of the Netherlands signed a treaty of friendship, commerce, and navigation on March 27, 1956, and that, through an exchange of notes, Suriname (formerly a colony of the Netherlands) became a party to this treaty on February 10, 1963. In view of the above, the Commission now finds that Surinam Navigation Co. is not subject to the regulatory provisions of section 18(c) because it is exempt under the criteria set forth under section 18(c)(6)(i). Therefore, the Commission is deleting Surinam Navigation Co., from its list of non-exempt controlled carriers previously published in the **Federal Register** on November 25, 1980.

The amended list is shown below:

Baltic Shipping Co—U.S.S.R.
Bangladesh Shipping Corp.—Bangladesh
Black Sea Shipping Company—U.S.S.R.
Black Star Line—Ghana
Compagnie Maritime Zairoise (CMZ)—Zaire
Compagnie Nationale Algerienne de Navigation—Algeria
Companhia de Navegacao Loide Brasileiro—Brazil
Companhia Chilena De Navegacion Interoceanica, S.A.—Chile
Djakarta Lloyd, P.T.—Indonesia
Egyptian National Line—Egypt
Far Eastern Shipping Co. (FESCO)—U.S.S.R.
Flota Mercante Gran Centro Americana S.A. (Flomerca)—Guatemala
Murmansk Shipping Co. (Arctic Line)—U.S.S.R.
Neptune Orient Lines (NOL)—Singapore
Pakistan National Shipping Corporation—Pakistan
Peruvian State Line—Peru
Polish Ocean Lines—Poland
Shipping Corporation of India—India
South African Marine Corp. Ltd.—South Africa
Transportes Navieros Ecuatorianos (Transnave)—Ecuador

The process of identification and classification of controlled carriers is continuous. The list as shown will be amended as such carriers enter and leave the United States trades or under any other circumstances become exempt from the regulatory requirements of section 18(c) of the Act.

By the Commission, May 14, 1981.

Joseph C. Polking,

Acting Secretary.

[FR Doc. 81-15114 Filed 5-20-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First Jefferson Corp.; Formation of Bank Holding Company

First Jefferson Corporation, Biloxi, Mississippi, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Jefferson Bank, Biloxi, Mississippi. The factors that are considered in acting on the application are set forth in § 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 15, 1981. 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, May 15, 1981.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-15162 Filed 5-20-81; 8:45 am]

BILLING CODE 6210-01-M

Kingman County Financial Corp.; Formation of Bank Holding Company

Kingman County Financial Corp., Norwich, Kansas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 81.8 per cent or more of the voting shares of The Farmers State Bank of Norwich, Norwich, Kansas. The factors that are considered in acting on the application are set forth in § 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 June 14, 1981. 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, May 14, 1981.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-15163 Filed 5-20-81; 8:45 am]

BILLING CODE 6210-01-M

Olivia Bancorporation, Inc.; Formation of Bank Holding Company

Olivia Bancoporation, Inc., Olivia, Minnesota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 82.2 percent or more of the voting shares of American State Bank of Olivia, Olivia, Minnesota. The factors that are considered in acting on the application are set forth in § 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 June 14, 1981. 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, May 14, 1981.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-15164 Filed 5-20-81; 8:45 am]

BILLING CODE 6210-01-M

United Texas Bancshares, Inc.; Formation of Bank Holding Company

United Texas Bancshares, Inc., Austin, Texas, has applied for the Board's approval under § 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 United Bank of Texas, Austin, Texas. The factors that are considered in acting on the

application are set forth in § 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 14, 1981. 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, May 14, 1981.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-15165 Filed 5-20-81; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Guam Oil & Refining Company Voting Trust is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Terramar Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 11, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-15224 Filed 5-20-81; 8:45 am]

BILLING CODE 6750-01-M

George S. Mann; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: George S. Mann is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of First Union Real Estate Equity & Mortgage Investments. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by George S. Mann. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: April 17, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-15225 Filed 5-20-81; 8:45 am]

BILLING CODE 6750-01-M

Physician Agreements To Control Medical Prepayment Plans

AGENCY: Federal Trade Commission.

ACTION: Notice of initiation of case-by-case law enforcement program.

SUMMARY: The Federal Trade Commission has decided to use a case-by-case law enforcement program, rather than rulemaking, to address the antitrust concerns arising from physician agreements to control medical prepayment plans.

FOR FURTHER INFORMATION CONTACT: Walter T. Winslow, Jr., Assistant Director, or David A. Giacalone, Attorney, Bureau of Competition, Washington, D.C. 20580 (telephone: (202) 724-1062).

Notice

On April 23, 1981, the Federal Trade Commission decided to proceed in the area of physician agreements to control medical prepayment plans on a case-by-case basis, rather than pursuing the rulemaking option discussed in its previous Advance Notice of Proposed Rulemaking, 45 FR 17,019 (1980). As was announced in the earlier Notice, the Commission has been considering what action, if any, to take regarding the antitrust concerns that can arise when medical societies or other physician groups agree to establish, operate, control or otherwise influence medical prepayment plans.

Agreements among physicians relating to prepayment plans raise antitrust concerns because the plans make many decisions that can affect competition among providers of health care services. For example, plans decide how much to pay physicians, what cost containment measures to use to control the price and utilization of health care services, and whether or on what terms to reimburse providers of health care who are not physicians. When a physician group controls a prepayment plan, such decisions might be made with the intent or effect of lessening the competition faced by the physicians, and thus could result in higher prices, the unreasonable exclusion of competing providers of health care, or other anticompetitive effects.

Having reviewed the extensive comments filed in this proceeding and the information obtained through its continuing investigation, the Commission is convinced that industrywide rulemaking is not the appropriate way to address these concerns. Rulemaking does not appear to be the most appropriate remedy, because the Commission has concluded

that medical control of prepayment plans is not always anticompetitive, despite the potential for abuse, and because it may not be feasible to devise a rule that clearly distinguishes between procompetitive and anticompetitive agreements. Analysis of the competitive impact of such agreements in a particular case may often require consideration of a variety of factors, including the purpose behind the agreement; the type of physician group involved; the market power of the plan and the physician group; the extent of control exercised by the group; the particular practices adopted by the controlled plan and their effects on price, coverage and other competitive factors; and any procompetitive business justifications for such plan practices. Since an across-the-board rule cannot readily take all these factors into account, a rule might in some situations prevent the development of procompetitive prepayment plans.

Other factors also suggest that industrywide action is inappropriate at this time. In recent years, there has been a reduction in the degree of medical society involvement in the selection of and representation on some Blue Shield plan boards of directors. That progress is the result of state statutes and lawsuits, as well as voluntary action by individual prepayment plans. In addition, economic studies of the relationship between plan control and reimbursement levels have produced somewhat inconsistent and inconclusive results. While the most recent analysis by the Commission's Bureau of Economics continues to suggest a troublesome relationship between fee levels and medical society involvement on some Blue Shield boards, those results may not support setting a single standard applicable to all medical control situations, regardless of such factors as the type of physician group or type of prepayment plan involved.

In conclusion, although physician agreements to control prepayment plans can raise significant antitrust concerns and deserve close scrutiny in a time of upward spiraling medical costs, an industrywide rulemaking is not the appropriate way to address these concerns. The Commission therefore is no longer considering rulemaking in this area, but has directed its staff to continue monitoring such agreements and will take enforcement action, as appropriate, on a case-by-case basis. The case-by-case approach will allow the Commission to consider fully the many factors that affect the overall competitive impact of medical control of particular prepayment plans. The Commission has also directed its staff to draft, for possible adoption by the Commission, a policy statement that would provide the public and industry members with guidance concerning the principles and analysis to be applied in this law enforcement program.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-15172 Filed 5-20-81; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

[E-81-5]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the New Mexico Public Service Commission involving the need for State electric companies to increase plant capacity.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly section 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the New Mexico Public Service Commission involving the investigation of the need for State electric companies to increase plant capacity. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall forward to the General Services Administration copies of its testimony and briefs within 60 days of formal submission.

Dated: May 13, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-15247 Filed 5-20-81; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, Continued Regulation of Health Maintenance Organizations: Determination of Noncompliance.

SUMMARY: On May 23, 1980, the Office of Health Maintenance Organizations determined that Av-Med Health Plan (Av-Med), 9400 South Dadeland Blvd., Miami, Florida 33156, a federally qualified health maintenance organization (HMO), was not in compliance with the assurances it had provided to the Secretary that it would (1) maintain a fiscally sound operation and (2) maintain satisfactory administrative and managerial arrangements. The determination of noncompliance does not itself affect the status of Av-Med as a federally qualified HMO. Rather, Av-Med has, in fact, initiated corrective action to bring itself into compliance with the assurances it gave the Secretary.

FOR FURTHER INFORMATION CONTACT: John O'Rourke, Acting Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Under section 1312(b)(1) of the Public Health Service Act (42 U.S.C. 300e-11(b)(1)) (the Act), if the Secretary makes a determination under section 1312(a) that a qualified HMO which provided assurances to the Secretary under section 1310(d)(1) is not organized or operated in the manner prescribed by section 1301(c), then he shall (1) notify the HMO in writing of the determination, (2) direct the HMO to initiate such action as may be necessary to bring it into compliance with the assurances, and (3) publish the determination in the **Federal Register.**

On May 23, 1980 OHMO notified Av-Med that it was not in compliance with the assurances that it had given the Secretary that it would (1) maintain a fiscally sound operation and (2) maintain satisfactory administrative and managerial arrangements. On April 14, 1981, OHMO approved a plan for Av-

Med to restore compliance with the requirements.

Dated: May 8, 1981.

John O'Rourke,

Acting Director, Office of Health Maintenance Organizations.

[FR Doc. 81-15226 Filed 5-20-81; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Lakeview District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR 1780 that a meeting of the Lakeview District Advisory Council will be held on June 23, 1981.

The agenda for the meeting will be a field tour to the Warner Lakes Resource Area and will begin at 7:00 A.M. at the Lakeview District Office at 1000 So. Ninth St., Lakeview, Oregon.

The itinerary is:

1. Grazing management in riparian areas.
2. Waterfowl habitat enclosures.
3. Wilderness study areas.
4. Wild horse herd management areas.
5. Vegetative manipulation proposed in the E.I.S.

The meeting (tour) is open to the public and news media. Interested persons may make oral statements to the council or file a written statement that can be considered by the council. The public and news media are invited on the tour, however, transportation will only be furnished for the Advisory Council.

Summary minutes of the Council meeting (tour) will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting (tour).

Malcolm T. Shrode,

Acting District Manager.

May 13, 1981.

[FR Doc. 81-15191 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-08-M

[CA 3713]

California; Order Providing for Opening of Lands

May 15, 1981.

By virtue of the authority contained in Section 24 of the Act of June 10, 1920, 41 Stat. 1075, as amended, 16 U.S.C. 818 (1970), and in accordance with the authority delegated to me by the State Director, California State Office, Bureau of Land Management, dated January 13, 1977 (42 FR 3901), as amended, and pursuant to the determination of the Federal Energy Regulatory Commission, it is ordered as follows:

1. By order dated November 14, 1978, the Federal Energy Regulatory Commission vacated the land withdrawal in part for Power Project No. 1925 as to the following described lands:

Mount Diablo Meridian

Sierra National Forest

T. 10 S., R. 27 E.,
Sec. 36, NE¼SW¼, and that part of the S½SW¼ lying outside the boundary of Project No. 1988 as shown on revised map Exhibit K-4 (FPC No. 1988-60).

The area aggregates approximately 117.56 acres in Fresno County, California.

At 10:00 a.m. on June 24, 1981, the above described lands shall be open to such forms of appropriation as may by law be made of National Forest land, subject to any existing withdrawals, leases, licenses, or permits.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Federal Office Building, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

Joan B. Russell,

Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 81-15213 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-84-M

[CA 4496 WR]

California; Proposed Continuation of Withdrawal and Opportunity for Public Hearing

May 12, 1981.

Pursuant to Section 204(1) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2754; U.S.C. 1714) the Bureau of Land Management, U.S. Department of the Interior, proposes to continue the withdrawal of the Hot Springs Reserve on the following lands:

Mount Diablo Meridian, California

T. 5 N., R. 25 E.,
Sec. 34, SE¼SW¼.

The area described contains 40 acres in Mono County, California.

This withdrawal was created by Executive Order 5389 of July 7, 1930, as amended, which segregates the land from settlement, non-metalliferous mineral location, sale or entry in order to preserve for general public use and benefit the unreserved public lands containing a hot spring or a spring the waters of which possesses curative properties.

No change in segregative effect of the withdrawal or the use of the land is proposed. The lands are and will remain open to metalliferous mineral location and to mineral leasing.

On or before June 25, 1981, all persons who wish to submit comments, suggestions or objections in connection with the proposed continuations may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for public hearing is afforded in connection with the proposed withdrawal continuations. All interested persons who desire to be heard on the proposed continuations must submit a written request for a hearing to the undersigned officer. If the State Director, in his discretion, determines that a public hearing is justified, a notice will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

All communication in connection with the withdrawal continuations should be addressed to the undersigned, Bureau of Land Management, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Walter F. Holmes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-15250 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-84-M

California; District Manager, Redding District, California; Redelegation of Authority

May 12, 1981.

1. Pursuant to the authority contained in section 1.1 of BLM Order No. 701 (20 FR 10526, July 29, 1964) as amended, the following authority is hereby delegated to the Redding District Manager to take action for the State Director in matters listed under Section 1.9—LAND USE. The District Manager may take all the listed action on:

(d) EXCHANGES. Take all actions subject to the title opinion of the Field Solicitor, in all matters relating to exchanges of lands and of timber for lands, except for appraisal reports on any proposed transaction, signing of realty actions involving lands in excess of 2,500 acres, and issuance of patents.

(g) MATERIAL OTHER THAN FOREST PRODUCTS. Take all actions relating to any sale or contract for sale of material other than forest products not exceeding $50,000, or the free use of materials other than forest products, under 43 CFR Part 3600.

(i) SITES FOR RECREATIONAL OR ANY PUBLIC PURPOSE. Take all actions with respect to leases to Federal, State, Local government units and to non-profit associations and corporations pursuant to 43 CFR Part 2740 and to other applicable regulations.

(j) SALES OF PUBLIC LANDS. (1) Take all actions on sales pursuant to 43 CFR 2710 except signing of realty action involving lands in excess of 2,500 acres, preparation of Final Certificates, issuance of patents and Notices of Conveyance. (2) Expressions of interest by and sales to aliens, asociations having an appreciable number of alien members, and corporations whose stock to an appreciable extent is held by aliens, are subject to approval by the Secretary of Interior.

(m) RIGHTS-OF-WAY. Grant right-of-way permits and easements over public and acquired lands pursuant to 43 CFR Part 2800.

(o) LEASES, PERMITS, AND EASEMENTS. Take all actions in issuing: (1) leases or permits for public lands, pursuant to 43 CFR Part 2920; (2) leases, permits and easements for acquired lands under the administration of the Bureau of Land Management, under the principles embodied in 43 CFR Part 2920; (3) no land use authorization may be issued under this authority to Federal Departments or agencies.

2. The authority delegated in paragraph 1 above may not be redelegated but may be exercised by any person authorized as an "acting" District Manager.

3. This delegation continues the authority delegated by order effective June 16, 1980, (45 FR 40673) and further authorized by order dated December 9, 1980 (45 FR 81128).

James B. Ruch,

State Director.

[FR Doc. 81-15249 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-84-M

Carson City District; Preparation of a Grazing Environmental Impact Statement for the Reno Planning Area

The Carson City District Office of the Bureau of Land Management (BLM) will be preparing a grazing environmental impact statement (EIS) for the administration of vegetation resources on the public lands within the Reno Planning Area. The Reno Planning Area includes approximately 1,612,000 acres, 42 percent of which is public land administered by BLM. About 394,000 acres of public land are part of the Lahontan Resource Area, and 286,000 acres of public land are part of the Walker Resource Area. The Reno Planning Area extends about 50 miles north, 8 miles west, 25 miles east, and 65 miles south of Reno, Nevada. It includes land in Washoe, Storey, Lyon, Carson City, and Douglas Counties of Nevada and in Alpine, Lassen, and Plumas Counties of California.

The proposed action is to implement planning decisions concerning the use of vegetation resources for domestic livestock, wild horses and wildlife. Alternatives to the proposed action that will be analyzed include: (1) No Action—This is defined as the existing range management programs in the Reno Planning Area; (2) No Livestock Grazing—This is the exclusion of all livestock from BLM administered public lands within the Reno Planning Area; and (3) Resource Protection—This alternative will emphasize the protection of natural resources.

The EIS will focus on the availability of vegetation for deer, wild horses, and domestic sheep and cattle.

The public is invited to assist in the identification of issues to be discussed in the EIS by participating in two scheduled open house public meetings and by correspondence. One meeting will be in Reno, June 30, 1981, at 7:30 p.m., in the Eldorado Hotel, 345 North Virginia Avenue. The other meeting will be held July 1, 1981, in Carson City, Nevada, at 7:30 p.m., in the Carson City District BLM Office, 1050 E. William Street, Suite 335. News media releases will be issued to inform the public of opportunities to participate. Notices will also be mailed to interested parties, inviting them to participate in the meetings and to respond by mail, telephone or personal contact.

An interdisciplinary team will be formed to address the following topics in the EIS: Livestock grazing, soils, wildlife, minerals, cultural resources, wild horses, recreation, wilderness, watershed, social and economic values, forestry, lands and vegetation.

The following Bureau officials will be available, by appointment, between June 8 and July 2, 1981, to answer questions and receive information about the alternatives including the proposed action and the EIS process: (1) Tom Owen, District Manager; (2) Rudy Reimold, Walker Resource Area Manager; (3) Ken Walker, Lahontan Resource Area Manager; and (4) Kelly Madigan, EIS Team Leader. All of them may be contacted at the Carson City District Office, 1050 East William Street, Suite 335, Carson City, Nevada 89701; telephone (702) 882-1631. Written comments will be accepted until July 30, 1981.

The proposed Management Framework Plan, which is the basis for the alternatives including the proposed action, and other related documents will be available for public review and reference at the BLM Carson City District Office.

Dated: May 15, 1981.

Ed Evatz,

Acting State Director, Nevada.

[FR Doc. 81-15220 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-84-M

Cedar City District Multiple Use Advisory Council; Meeting

Notice is hereby given in accordance with Public Law 92-463, that a meeting of the Cedar City District Multiple Use Advisory Council will be held on June 22, 1981.

The meeting will begin at 9:30 a.m. at the BLM field camp next to Bryce Valley Airport. The agenda will include a report on recommendations from the last meeting, Kanab/Escalante planning decisions, Cedar/Beaver/Garfield preplanning, Paiute Indian land entitlement, an aerial tour of Kanab/Escalante area and a ground tour of the Cedar/Beaver/Garfield area. Those wishing to take part in the ground tour must provide their own transportation.

All Advisory Council meetings are open to the public. Interested persons may make oral statements at 11:30 a.m. or file written statements for the council's consideration. Anyone wishing to make oral statements must notify the District Manager, P.O. Box 724, Cedar

City, Utah 84720 by June 19, 1981. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager.

Arthur L. Tait,

Acting District Manager.

May 15, 1981.

[FR Doc. 81-15214 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-84-M

Intensive Wilderness Inventory in Oregon and Washington; Decisions in Effect and Decisions Appealed

Final decisions on the intensive wilderness inventory of 266 inventory units in Oregon, 44 units in Washington and one unit in both states were announced in the **Federal Register** on November 14, 1980, pages 75597–75602. A follow-up notice was published in the **Federal Register** on January 29, 1981, page 9789, identifying units and parts of units for which the decisions were in effect and units and parts of units for which the decisions were under protest to the Oregon State Director. On March 31, 1981, a notice was published in the **Federal Register**, pages 19605–19607, to explain the State Director's responses to the protests and to announce a period during which appeals could be filed against the responses to the protests. This notice identifies which decisions previously under protest are now in effect and which are under appeal.

A. The decisions to identify the following units and subunits as wilderness study areas (WSAs) were previously under protest. No appeals of the responses to the protests were received and the decisions are now final and in effect. These lands continue to be managed according to the Interim Management Policy and Guidelines for Lands Under Wilderness Review.

Oregon

Unit No.	Unit name	Acres
Lakeview District		
1-24	Sand Dunes	15,520
Burns District		
2-72C	Sheepshead Mountains	54,190
2-72D	Sheepshead Mountains	35,000
2-72F	Sheepshead Mountains	20,330
2-72I	Sheepshead Mountains	38,855
2-72J	Sheepshead Mountains	7,755
2-73A	Winter Range	21,395
2-73H	Winter Range	14,640
2-74F	Alvord Desert Addition	63,060
2-84A	Basque Hills	138,420
2-86E	Blitzen River	52,060
2-87I	Bridge Creek	14,060
Total		459,785
Vale District		
3-53	Dry Creek	22,800

Oregon—Continued

Unit No.	Unit name	Acres
3-110	Lower Owyhee Canyon	73,200
3-111	Saddle Butte	87,500
3-120	Clarks Butte	31,500
3-126A	Jordan Craters	28,700
Total		243,700
Prineville District		
5-31A	North Fork	10,745
5-33	South Fork	19,631
5-34	Sand Hollow	8,791
5-35	Gerry Mountain	20,700
Total		59,867
Oregon total, 21 WSAs		778,872

Washington

Unit No.	Unit name	Acres
Spokane District		
13-2	Chopaka Mountain	5,520
Washington total, 1 WSA		5,520

B. The decisions to eliminate the following inventory units and subunits from further wilderness review were previously under protest. No appeals of the responses to the protests were received and the decisions are now final and in effect. These lands are no longer subject to the Interim Management Policy and Guidelines.

Oregon

Unit No.	Unit name	Acres
Lakeview District		
1-9	Bull Lake	32,360
1-12	Lost Forest Adjacent Lands	6,240
1-94	Poker Jim Flat	14,360
1-95	ZX Ranch	21,120
1-114	Warner Lakes	33,680
1-115A	Guano Slough	47,360
1-115B	Guano Slough	59,120
1-117A	Monument Flat	16,240
1-134	Lone Grave Butte	25,440
1-159	Catlow Valley	58,000
Total		313,920
Burns District		
2-19	Silvies River	7,520
2-72G	Sheepshead Mountains	10,035
2-72H	Sheepshead Mountains	11,410
2-72K	Sheepshead Mountains	2,315
2-72L	Sheepshead Mountains	1,185
2-72M	Sheepshead Mountains	1,190
2-72N	Sheepshead Mountains	5,310
2-85I	South Steens	10,030
Total		48,995
Vale District		
3-41A	Keeney Creek	14,740
3-44	Star Mountain	14,360
3-121	Deadman Creek	8,440
Total		37,540

Oregon—Continued

Unit No.	Unit name	Acres
Prineville District		
5-20	Alkali Flat	7,035
Coos Bay District		
12-10A	Pistol River-Myers Creek Rocks	5
12-12A	Lone Ranch Rocks	4
12-13A	Harris Island	2
12-14A	Table Rock	1
12-15	Fish Rock	1
Total		13
Oregon total, 27 decisions to eliminate		407,503

Washington

Unit No.	Unit name	Acres
Spokane District		
13-3	Lummi Rocks	8
13-4	Blind Island	2
Washington total, 2 decisions to eliminate		10

C. The decisions to identify the following units and subunits as wilderness study areas were previously protested, the protests were denied, and the decisions are now under appeal to the Interior Board of Land Appeals. These lands continue to be managed according to the Interim Management Policy and Guidelines.

Oregon

Unit No.	Unit name	Acres
Lakeview District		
1-101	Abert Rim	22,240
Burns District		
2-77B	Mahogany Ridge	27,370
2-78D[1]	Red Mountain	2,720
2-78F	Red Mountain	14,730
2-85F	South Steens	65,940
2-85G	South Steens	35,850
2-85H	South Steens	24,960
2-86F	Blitzen River	9,380
Total		180,960
Vale District		
3-75	Slocum Creek	7,600
3-77A	Honeycombs	38,200
3-77B	Honeycombs	12,500
3-153[2]	Disaster Peak	13,300
Total		71,600

[1] This subunit is part of a single, larger WAS which also includes Unit 3-153 in the Vale District and Unit NV-020-859 in Nevada.

[2] This unit is part of a single, larger WAS which also includes Subunit 2-78D in the Burns District and Unit NV-020-859 in Nevada.

D. The decisions to eliminate the following inventory units and subunits from further wilderness review were previously protested, the protests were denied, and the decisions are now under appeal to the Interior Board of Land Appeals. These lands will continue to be managed according to the Interim Management Policy and Guidelines.

Oregon

Unit No.	Unit name	Acres
Burns District		
2-43A	Wagontire Mountain	9,590
2-43B	Wagontire Mountain	10,600
2-43F	Wagontire Mountain	13,100
2-57	Jackass Creek	19,255
2-61A	Foster Flat	5,660
2-61	Foster Flat	8,270
2-61E	Foster Flat	15,470
2-61F	Foster Flat	7,350
2-64A	Buzzard Creek	14,140
2-64B	Buzzard Creek	14,570
2-65	Deep Canyon	6,215
2-68	Smokey Hollow	8,225
2-69	Devil's Canyon	14,015
2-70	Wilson Butte	9,745
2-71	Goose Egg	15,930
2-75C	Black Point	26,320
Total		200,455
Medford District		
11-16	Zane Grey	18,460
Oregon total, 17 decisions to eliminate		218,915

Washington

Unit No.	Unit name	Acres
Spokane District		
13-1	Juniper	7,806
Washington total, 1 decision to eliminate		7,806

E. Two other wilderness study areas in Oregon continue under an appeal of earlier intensive inventory decisions. They are WSA 2–81L (Pueblo Mountains) with 67,430 acres and WSA 2–82H (Rincon) with 97,395 acres. The appeal of the decisions concerning these WSAs was announced in the **Federal Register** on October 2, 1980, page 65339.

William G. Leavell,

State Director.

[FR Doc. 81-15216 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-84-M

Montrose District Advisory Council; Meeting

Notice is hereby given in accordance with 43 CFR 1780 that a meeting of the Montrose District Advisory Council will be held on June 23 and 24, 1981.

The meeting will convene at 9 a.m. on June 23 and and 8 a.m. on June 24 at the Ramada Inn, 666 South Broadway, Cortez, Colorado.

The agenda for June 23 and 24 will include: (1) orientation to the San Juan/San Miguel Resource Management Planning Area, and (2) tour and discussions of competing resource uses, issues and concerns in the Sacred Mountain Planning Unit.

The Meeting and tour are open to the public. Interested persons may make oral statements to Council between 9:30 a.m. and 10:00 a.m. on June 23 or file written statements for the Council's consideration. People wishing to attend the tour of the Sacred Mountain Planning Unit are invited but must provide their own transportation and lunches. Anyone wishing to make an oral statement should contact the District Manager, Bureau of Land Management, P.O. Box 1269, Montrose, Colorado 81401; telephone (303) 249–7791, by June 16, 1981.

Summary minutes of the Council meeting will be maintained at the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Marlyn V. Jones,

District Manager.

[FR Doc. 81-15215 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-84

New Mexico and Colorado; San Juan River Regional Coal Team Meeting

May 15, 1981.

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: In accordance with the responsibilities outlined in the Federal coal management regulations (43 CFR 3400), the regional coal team for the San Juan River Federal Coal Production Region will conduct a field trip and hold a meeting to hear a presentation of the Chaco Management Framework Plan, to discuss the Activity Plan Schedule, to discuss the unsuitability process, and to discuss any other items as necessary. The presentation and discussion of the Management Framework Plan will be conducted in a joint session with the Albuquerque District Multiple Use Advisory Council. Public attendance on the field trip and at the meeting is welcome; however, no transportation for the public will be provided on the field trip.

DATE: The regional coal team will visit the San Juan Basin potential coal leasing area on June 29 and 30, and meet at 9:00 a.m., July 1, 1981.

ADDRESSES: The meeting will be held in the Beardsley Room, The Inn, 700 Scott Avenue, Farmington, New Mexico, (505) 327–5221.

FOR FURTHER INFORMATION CONTACT: S. Gene Day, San Juan River Project Manager, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Telephone (505) 988–6226, (FTS) 476–1226.

Charles W. Luscher,

State Director.

[FR Doc. 81-15217 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-84-M

[NM 435 and Amendments]

New Mexico; Termination of Classification of Public Lands for Multiple-Use Management

May 12, 1981.

1. Pursuant to the regulations set forth in 43 CFR 2461.5(c)(2), the classifications and segregation of lands described in **Federal Register** notices summarized as follows are hereby terminated:

(a) Vol. 32, No. 25, Tuesday, February 7, 1967, at pages 2579–2586.

(b) Vol. 32, No. 37, Friday, February 24, 1967, at pages 3230–3231.

(c) Vol. 35, No. 156, Wednesday, August 12, 1970, at page 12781.

(d) Vol. 35, No. 238, Wednesday, December 9, 1970, at pages 18681–18682.

(e) Vol. 35, No. 132, Thursday, July 9, 1970, at pages 11063–11064.

(f) Vol. 35, No. 147, Thursday, July 30, 1970, at pages 12229–12230.

(Aggregating approximately 4,456,048 acres.)

The classification orders segregated the lands from appropriation under the Homestead, Desert Land and Allotment Laws (43 U.S.C. parts 7 and 9, and 25 U.S.C. 334), and from sale under 2455 of the Revised Statutes (43 U.S.C. 1171). Except for 39.85 acres, the lands remained open to all other applicable forms of appropriation including the mining and mineral leasing laws.

2. Termination of the classifications will restore the lands described in the **Federal Register** notices to operation of the public lands laws generally. The 39.85 acres described as lot 22, sec. 19, T. 21 S., R. 2 E., NMPM, New Mexico, will also be restored to the general mining laws and mineral leasing laws.

Inquiries concerning the lands should be addressed to Chief, Division of Technical Services, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

LeRoy C. Montoya,

Chief, Division of Technical Services.

[FR Doc. 81-15251 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 16909]

Oregon; Termination of Proposed Withdrawal and Reservation of Land

Notice of application, OR 16909, filed by the Department of Army, Corps of Engineers, for withdrawal and reservation of land was published as Federal Register Document 77-22455 on Page 39482 of the issue of August 4, 1977. The withdrawal was proposed for protection of an administrative site located at the mouth of the Umpqua River. The applicant agency has cancelled its application in its entirety. The land involved is described as follows:

Willamette Meridian

T. 22 S., R. 13 W.,
Sec. 13, Lot 1, W½SW¼NW¼, and W½E½SW¼NW¼.

The area described contains 68.80 acres in Douglas County, Oregon.

Therefore, pursuant to the regulations contained in 43 CFR 2310.2-1(c), such land will be at 10 a.m., on June 23, 1981, relieved of the segregative effect of the above-mentioned application.

Dated: May 12, 1981.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-15252 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-84-M

Socorro District, New Mexico; District Advisory Council Meeting

A meeting of the Bureau of Land Management (BLM), Socorro District Advisory Council will be held June 24, 1981, beginning at 9:00 a.m. The meeting will be held in the Hospitality Room of the First State Bank, 103 Manzanares Avenue NE., Socorro, New Mexico.

The agenda for the meeting will include: the El Malpais Habitat Management Plan, Proposals (Objectives) for Multiple-Use Land Management Within the Divide Planning Area, Overview of Nogal Habitat Management Plan, Divide Planning Area Rangeland Management Proposal, Middle Rio Grande Occupancy Resolution Program, Tinajas Area of Critical Environmental Concern, Stallion/Ladrone Off-Road Vehicle Designation, Stewardship Plan for the "Y" Ranch, and the Controlled/Natural Burn Plan for Pelona Mountain Area.

The public is welcome to attend the meeting and may make oral statements to the Council between 1:00 and 2:00 p.m. A per person time limit may be imposed on the number of people wishing to speak.

Minutes of the meeting will be prepared and made available for review within 30 days following the meeting.

Paul W. Tanner,

Acting District Manager.

May 13, 1981.

[FR Doc. 81-15253 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 4208, Block 27, Vermilion 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, Metarie, 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 (504) 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 § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 13, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-15259 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc., has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 2956, Block 295, Main 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 (504) 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 § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 13, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-15260 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, 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 4579, Block A-438, 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 (504) 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 § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 13, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-15261 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-31-M

California; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as the East Brawley known geothermal resources area, effective December 17, 1980.

(5) California

East Brawley Known Geothermal Resources Area; San Bernardino Meridian, California

T. 13 S., R. 15 E.,
Sec. 13;
Secs. 22 through 27;
Secs. 34 through 36.
T. 13 S., R. 16 E.,
Sec. 3, lots 3 through 6, 11 through 14, 19 through 22, 27, and 28, SW¼;
Sec. 4;
Sec. 5, lots 1, 2, 7 through 10, 15 through 18, 21 through 28, S½;
Secs. 7, 8, and 9;
Sec. 10, W½;
Sec. 15, W½;
Secs. 16 through 21;
Sec. 22, W½;
Secs. 27 through 34.
T. 14 S., R. 15 E.,
Secs. 1 through 4;
Sec. 5, E½;
Sec. 8, E½;
Secs. 9 through 17;
Sec. 18, E½;
Sec. 19, E½;
Secs. 20 through 29;
Sec. 30, E½;
Sec. 32, E½;
Secs. 33 through 36.
T. 14 S., R. 16 E.,
Sec. 2, W½;
Secs. 3 through 11;
Sec. 13, W½;
Secs. 14 through 36.
T. 15 S., R. 15 E.,
Secs. 1 through 4;
Sec. 10, N½;
Sec. 11, N½;
Sec. 12, N½.
T. 15 S., R. 16 E.,
Sec. 1, W½;
Secs. 2 through 6;
Sec. 7, N½;
Sec. 8, N½;
Sec. 9, N½;
Sec. 10, N½;
Sec. 11, N½;

The area described in aggregates 70,211 acres, more or less.

Dated: May 4, 1981.

Jack B. Dugwyler, Jr.,

Acting Conservation Manager, Western Region.

[FR Doc. 81-15262 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Draft Comprehensive Plan for Mormon Pioneer National Historic Trail

AGENCY: National Park Service, Interior.

ACTION: Availability of Draft Comprehensive Plan and Environmental Assessment.

SUMMARY: The National Park Service has prepared a draft comprehensive plan to guide the management and use of the Mormon Pioneer National Historic Trail, as required by the National Trails System Act, as amended (16 U.S.C. 1244(f)). The plan (a) identifies specific objectives and practices to be observed for such management and use; (b) identifies all significant natural, historical and cultural resources to be preserved; (c) provides details of cooperative agreements to be consummated with State and local Government agencies or private interests; and (d) identifies the process to be followed in marking the trail. The trail extends 1300 miles from Nauvoo, Illinois, to Salt Lake City, Utah. The plan establishes six Initial Protection Segments on Federally-administered lands. The Bureau of Land Management, the U.S. Fish and Wildlife Service, and the National Park Service Administer these Federal segments. In addition, the plan recommends 72 non-Federal areas be subsequently certified by the Secretary of the Interior as Certified Protected Segments of the trail, upon application from involved State or local Government agencies or private interests. The plan identifies the potential for the use of donated lands, donated funds or land exchange to have the Bureau of Land Management acquire limited lands in Wyoming to achieve full trail utilization. Comments on the plan will be received by the Regional Director, Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, Denver, Colorado 80225 for 30 days following publication of this notice. Copies of the plan may be reviewed at either the Rocky Mountain Region, National Park Service, or the following listed State agencies:

Department of Conservation, Div. of Planning and Design, 605 William Stratton Building, Springfield, Illinois 62706, (217) 782–3884
State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319, (515) 281–8673
Department of Economic Development, 301 Centennial Mall, South, Lincoln, Nebraska 68507, (402) 471–3111
Wyoming Recreation Commission, 604 E. 25th Street, Cheyenne, Wyoming 82002, (307) 777–6300
Outdoor Recreation Agency, 807 East South Temple, Suite 101, Salt Lake City, Utah 84102, (801) 533–5692

In 1974, the Bureau of Outdoor Recreation held public meetings on the original Mormon Trail study which was subsequently reported to the Congress and enacted into law. The comprehensive plan is one step in implementing that law; thus, no additional public meetings are deemed necessary on the plan.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Beaudry, Planning Team Captain, at the above address; telephone (303) 234–4942.

Dated: May 14, 1981.

James B. Thompson,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 81-15264 Filed 5-20-81; 8:45 am]

BILLING CODE 4310-70-M

Mormon Pioneer National Historic Trail Advisory Council Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Mormon Pioneer National Historic Trail Advisory Council will be held beginning at 1 p.m.,

June 18, and at 12 noon on June 19, 1981, at the Foothills Ramada Inn, 11595 West 6th Avenue, Lakewood, Colorado. The Advisory Council was established by Public Law 90–543, Section 5(d), as amended by Public Law 95–625, on consult with the Secretary of the Interior through the National Park Service on matters concerning the Trail, including selection of rights-of-way markers and administration.

The meeting will be held for the purpose of Council review of the draft comprehensive management plan and environmental assessment for the Trail.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who will wish to submit written statements may contact Karen Green, Council Manager, Rocky Mountain Region, National Park Service, 655 Parfet Street, P.O. Box 25287, Denver, Colorado 80225, (303)234–5762.

Minutes of the meeting will be available for inspection four weeks after the meeting at the above address.

Dated: May 14 1981.

James B. Thompson,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 81–15263 Filed 5–20–81; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Volume No. 47]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Correction

In FR Doc. 81–9368 appearing on page 19097 in the issue of Friday, March 27, 1981 make the following correction:

On page 19099, third column, first paragraph after the "Note", first line, "MC 35958" should have read "MC 35980".

BILLING CODE 1505–01–M

Motor Carrier Temporary Authority Application

Correction

In FR Doc. 81–11337, at page 22047, in the issue of Wednesday, April 15, 1981, on page 22049, in the middle column, the first full paragraph designated as "MC 147621 (Sub-1–2 CA)", line thirteen, after "Union County, NJ", and before "Fulton County, GA", insert "Camden County, NJ".

BILLING CODE 1505–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule 251 of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where noted, 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.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPI–144

Decided May 13, 1981

By the Commission Review Board No. 1. Members Parker, Chandler and Forties (Parker participating in Part).

MC 155571, filed April 29, 1981. Applicant: GEORGE E. FESSLER, 951 Lobelia Ave., Reading, PA 19605. Representative: Dean N. Wolfe, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760, (301) 840–8565. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 155661, filed April 30, 1981. Applicant: KEITH LEWIS, Oakland Star Route, Lebanon, MO 65536. Representative: Keith Lewis (same address as applicant), (417) 532–4528. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 155680, filed May 1, 1981. Applicant: CAVALIER SHIPPING COMPANY, INC., P.O. Box 3386 Custom House Station, Norfolk, VA 23514. Representative: William G. Monell (same address as applicant), (804) 622–1931. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 155721, filed May 4, 1981. Applicant: SUGGS TRANSPORTATION SERVICE, INC., Surratts Professional Center, 9015 Woodyard Road, Clinton, MD 20735. Representative: Harold Suggs (same address as applicant) (301) 868–7271. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 155761, filed May 5, 1981. Applicant: EUGENE ROTTERMAN, P.O. Box 42, Ledyard, IA 50556. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Transporting (1) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (3) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Volume No. OPY–3–067

Decided: May 12, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher and Williams.

MC 155664, filed April 30, 1981. Applicant: JAMES COATNEY, d.b.a. JIM COATNEY & SONS TRUCKING COMPANY, Route No. 1, Box 480, Grain Valley, MO 64029. Representative: Richard C. Kisch, P.O. Box 10264, Wilmington, DE 19850, (302)–368–1828. Transporting, (1) for or on behalf of the U.S. Government, *general commodities*, (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.; (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.; (3) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs) *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.; (4) as a *broker* of *general commodities* (except household goods), between points in the U.S.; and (5) *used household goods* for the account of the U.S. Government incident to the performance of a pack-and-crate service on behalf of the Department of Defence, between points in the U.S.

MC 155674, filed May 1, 1981. Applicant: AUSTIN F. SADDLEMIRE, d.b.a. CAPITAL DISTRICT BROKERAGE, Pheasant Run, P.O. Box 99, Voorheesville, NY 12186. Representative: Guy D. Richardson, 3596 Ransomville Rd., Ransomville, NY 14131. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OPY–3–069

Decided: May 12, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher and Williams.

MC 144054 (Sub-16), filed April 28, 1981. Applicant: BILL LITTLEFIELD TRUCKING, INC., 775 E. Vilas Road, Medford, OR 97501. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Volume No. OPY 563

Decided: May 14, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell. Fisher and Williams

MC 118838 (Sub-82), filed April 30, 1981. Applicant: GABOR TRUCKING, INC., RR #4, Detroit Lakes, MN 56501. Representative: Andrew R. Clark, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, 612–333–1341. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 147259 (Sub-15), filed April 28, 1981. Applicant: CHURCHILL TRANSPORTATON, INC., 2455 24th St., Detroit, MI 48216. Representative: Richard E. VanWinkle, 16901 VanDam Rd., South Holland, IL 60473, (312) 596–9200. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 151788 (Sub-5), filed April 28, 1981. Applicant: MEL JARVIS CONSTRUCTION CO., INC., 2934 Arnold Ave., Salina, KS 67401. Representative: William B. Barker, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) between points in the U.S.

MC 155578, filed April 28, 1981. Applicant: DAVID JACOBSEN, d.b.a. DAVID JACOBSEN & SONS, 14461 Oakhill Road North, Scandia, MN 55073. Representative: Barry Weintraub, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442–8330. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by owner of the motor vehicle in such vehicle, between points in the U.S.

MC 155579, filed April 28, 1981. Applicant: R. J. CARTAGE, INC., 1633 Maplewood Ave., South Bend, IN 46628. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds between points in the U.S.

MC 155679, filed May 1, 1981. Applicant: W. C. DAY TRUCKING CO., INC., 9028 Town and Country Blvd., Ellicott City, MD 21043. Representative: Warner Clarence Day (same address as applicant), (301) 465–7699. (1) Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., and (2) transporting *food and other edible products and byproducing intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 155729, filed May 4, 1981. Applicant: BOWAN-CLENSY TRUCKING, INC., 1460 Cottage, P.O. Box 5, Middletown, IN 47356. Representative: Lawrence Marquette, P.O. Box 629, Carmel Valley, CA 93924, (408) 625–2031. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the

owner of the motor vehicle in such vehicle between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-15154 Filed 5-20-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OP1-145]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: May 13, 1981.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, 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.

In the absence of legally sufficient interest in the form of verified statements filed on or before (45 days from the date of publication), (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board, No. 1, Members Parker, Chandler and Fortier.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 147280 (Sub-5), filed January 23, 1981, previously published in **Federal Register** issue of February 9, 1981. Applicant: WARREN GRADWELL, d.b.a. W. L. GRADWELL TRANSPORT, 450 N.E. 44th St., Des Moines, IA 50313. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with D. C. Buback Meat Co. of St. Louis, MO.

Note.—The purpose of this republication is to reflect contract carriage service to be performed for D. C. Buback Meat Co., in lieu of Plaza Foods, Inc., of St. Louis, MO.

[FR Doc. 81-15155 Filed 5-20-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, 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.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPY-3-066

Decided: May 13, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher and Williams (Williams not participating).

MC 14215 (Sub-97), filed April 29, 1981. Applicant: SMITH TRUCK SERVICE, INC., 1118 Commercial, Mingo Junction, OH 43938. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *metal products* and *slag and slag iron*, between points in Mahoning, Belmont and Jefferson Counties, OH, Washington and Westmoreland Counties, PA, and Brooke, Marshall and Ohio Counties, WV, on the one hand, and, on the other, points in the U.S.

MC 61825 (Sub-142), filed April 28, 1981. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant), (703) 638–8851. Transporting *metal products* and *chemicals and related products*, between those points in the U.S. in and east of MN, IA, MO, KS, OK and TX.

MC 95084 (Sub-175), filed May 4, 1981. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682–8154. Transporting *general commodities*, between the facilities of CertainTeed Corporation, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 106074 (Sub-177), filed April 28, 1981. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy 221S, Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328, (404) 256–4320. Transporting *such commodities* as are dealt in or used by food and grocery houses, between Southgate, CA, Tacoma, WA, Minneapolis, MN, Omaha, NE, Dallas, TX, New Orleans, LA, St. Louis, MO, Chicago, IL, Toledo and Columbus, OH, Atlanta, GA, Auburndale, FL, Bristol, PA, Brockport, NY, Boston, MA, Paterson, Kearney and Hackensack, NJ, Wilmington, DE, Baltimore, MD and Salem, VA, on the one hand, and, on the other, points in the U.S.

MC 106074 (Sub-178), filed April 28, 1981. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy. 221 S., Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328, (404) 256–4320. Transporting *such commodities* as are dealt in or used by hardware stores and home improvements stores, between points in TX, on the one hand, and, on the other, points in AL, FL, and GA.

MC 106274 (Sub-33), filed April 28, 1981. Applicant: RAEFORD TRUCKING COMPANY, P.O. Box 219, Sanford, NC 27330. Representative: R. B. Guthrie (same address as applicant), (919) 776–0541. Transporting *petroleum, natural gas and their products*, between points in NJ, on the one hand, and, on the other, points in NC.

MC 109265 (Sub-30), filed April 28, 1981. Applicant: W.L. MEAD, INC., P.O. Box 31, Norwalk, OH 44857. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives), between Cincinnati, OH, and points in Butler, Champaign, Franklin, Henry, Miami and Montgomery Counties, OH, on the one hand, and, on the other, points in the U.S.

MC 114274 (Sub-75), filed April 28, 1981. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Place, Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601, (312) 332–5106. Transporting *food and related products*, between Kansas City and St. Louis, MO, Omaha, NE, and points in Linn, Madison, Polk, Dallas and Warren Counties, IA, and Genessee County, MI, on the one hand, and, on the other, points in AR, CO, IL, IN, KS, KY, MI, MN, MO NE, ND, OH, OK, TN, WI, IA, SD, and TX.

MC 119905 (Sub-1), filed April 28, 1981. Applicant: SAFEWAY TRANSPORT, INC., P.O. Box 405, Brookfield, WI 53005. Representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *passengers and their baggage*, in charter operations, beginning and ending at points in Milwaukee, Ozaukee, and Waukesha Counties, WI, and extending to points in IL, IN, and MI.

MC 127505 (Sub-79), filed April 28, 1981. Applicant: R. H. BOELK, d.b.a. R. H. BOELK TRUCK LINES, INC., Route 2, Mendota, IL 61342. Representative: A. Doyle Cloud, Jr., 2008 Clar Tower, 5100 Poplar Ave., Memphis, TN 38137, (901) 767–5600. Transporting *pulp, paper, and related products*, between points in IL, on the one hand, and, on the other, points in MI and WI.

MC 140484 (Sub-94), filed May 4, 1981. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant), (813) 334–4517. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Swift & Company, of Chicago, IL.

MC 143065 (Sub-2), filed May 4, 1981. Applicant: WEATHERFORD TRANSIT, INC., Hwy 15N, Hartsville, SC 29550. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301, (404) 522–2322. Transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Lexington, Richland and Charleston Counties, SC and extending to points in the U.S.

MC 143565 (Sub-3), filed April 29, 1981. Applicant: HIGHWAY TRANSPORTATION CO., a corporation, Route 2, Freedom Park, Herman, ME 04401. Representative: Durwood D. Humphrey (same address as applicant), (207) 848–3314. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with A.K.F. Foods, Inc., doing business as Potato Service, of Presque Isle, ME.

MC 144054 (Sub-17), filed April 28, 1981. Applicant: BILL LITTLEFIELD TRUCKING, INC., 775 E. Vilas Rd., Medford, OR 97501. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329.Transporting (1) *horticultural equipment*, (2) *plastic articles*, (3) *insecticides*, (4) *plant foods*, and (5) *fertilizer*, between the facilities of Daniels, Inc., in IA, on the one hand, and, on the other, points in the U.S.

MC 148425 (Sub-3), filed April 28, 1981. Applicant: SUNDANCE STAGE LINES, INC., 5920 Mission Gorge Rd., San Diego, CA 92120. Representative: Roger Curtis McKee, 110 West C St., Suite 1803, San Diego, CA 92101, (714) 238–0085. Transporting *passengers and their baggage* in the same vehicle with passengers, beginning and ending at San Diego, CA, and extending to points in AZ, NM, CO, UT and NV (except Las Vegas, NV).

MC 149414 (Sub-1), filed April 28, 1981. Applicant: KENT TERMINALS OF MASSACHUSETTS, INC., 31 Fargo St., Boston, MA 02210. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *general commodities* (except classes A and B explosives), between points in MA, on the one hand, and, on the other, points in CT, ME, MA, NH, RI and VT.

MC 151314, filed April 28, 1981. Applicant: B & W EXPRESS, INC., P.O. Box 2122, San Antonio, TX 78297. Representative: Kenneth R. Hoffman, P.O. Box 2165, Austin, TX 78768, (512) 476–6083. Transporting *general commodities* (except classes A and B explosives), between points in Cameron, Willacy, Hidalgo, Starr, Zapata, Jim

Hogg, Brooks, Kenedy, Kleberg, Jim Wells, Duval, Nueces, San Patricio, Aransas, Refugio, Goliad, Bee, Live Oak, McMullen, Atascosa, Karnes, DeWitt, Victoria, Calhoun, Jackson, Matagorda, Brazoria, Galveston, Chambers, Jefferson, Orange, Liberty, Montgomery, Harris, Fort Bend, Wharton, Colorado, Austin, Waller, Grimes, Brazos, Burleson, Lee, Washington, Feyette, Lavaca, Gonzales, Wilson, Bexar, Guadalupe, Comal, Hayes, Caldwell, Travis, Bastrop, Williamson, Bell, Milam, Robertson, Falls, McLennan, Hill, Navarro, Ellis, Tarrant, and Dallas Counties, TX.

MC 151655 (Sub-9), filed April 30, 1981. Applicant: FRANK BROS. TRUCKING CO., P.O. Box 241, 349 Abbott Ave., Hillsboro, TX 76645. Representative: Charles E. Munson, 500 W. Sixteenth St., P.O. Box 1945, Austin, TX 78767, (512) 478–9808. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Robintech Incorporated, of Fort Worth, TX.

MC 152514, filed April 28, 1981. Applicant: MOTOR ACTIVITIES, LTD., 850 Skokie Highway, Lake Bluff, IL 60044. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, (312) 726–6525. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Lomax Consolidators, Inc., of Lake Bluff, IL.

MC 154765, filed April 28, 1981. Applicant: NORTHSTAR TRANSPORTATION, INC., 10951 Lakeview Ave., Lenexa, KS 66219. Representative: Stanley O. Wilson (same address as applicant), (913) 888–9800. Transporting *potting soil*, between points in the U.S., under continuing contract(s) with Stim-U-Plant Laboratories, Inc., of Columbus, OH.

MC 155375, filed April 28, 1981. Applicant: C. BOND COMPANIES, INC., P.O. Box 1989, Fontana, CA 92335. Representative: William J. Blohm (same address as applicant), (714) 350–2427. Transporting *general commodities* (except classes A and B explosives), between points in AZ, CA, NV, OR, UT and WA.

MC 155574, filed April 29, 1981. Applicant: MAMIGON'S EXPRESS, INC., 44 Saint Lawrence St., Braintree, MA 02184. Representative: Robert Tashjian (same address as applicant), (617) 848–2483. Transporting *food and related products*, between points in NH, ME, VT, RI, and CT.

MC 155575, filed April 28, 1981. Applicant: K & L TRUCKING, INC., 511 Wood St., Delta, OH 43515. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *metal products*, between points in Williams County, OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

Volume No. OPY–3–068

Decided: May 13, 1981.

By the Commission Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 26825 (Sub-63), filed April 28, 1981. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: Jack L. Shultz, P.O. Box, 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *metal products*, between points in King County, WA, on the one hand, and, on the other, points in the US in and east of ID, UT and AZ.

MC 113855 (Sub-532), filed April 29, 1981. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126, (701) 235–4487. Transporting *paper and paper products*, between the facilities of Orchid Paper Products, Inc., in the U.S., on the one hand, and, on the other, points in the U.S.

MC 145904 (Sub-38), filed May 4, 1981. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424, (612) 927–8855. Transporting *general commodities* (except classes A and B explosives) between points in IL, IA, IN, KS, MI, MN, MO, NE, ND, OH, SD and WI.

MC 147515 (Sub-3), filed April 28, 1981. Applicant: CARSON PARKER, d.b.a. CLP ENTERPRISES, Route 2, Box 242–1AA, Denton, NC 27239. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting *furniture and fixtures*, between points in NC, SC, and VA.

MC 150055, filed April 24, 1981. Applicant: AGRA TRANSPORT SERVICE, INC., 8164 W. Buckeye Road, Phoenix, AZ 85031. Representative: Lewis P. Ames, 111 West Monroe, 10th Floor, Phoenix, AZ 85003, (602) 257–5572. Transporting *building materials*, between points in CA on the one hand, and, on the other, points in AZ.

MC 155554, filed April 28, 1981. Applicant: DELTA TRUCKING COMPANY, INC., Route 6, Box 54–A (Blue Clay Road), Wilmington, NC 28405. Representative: Herbert Alan Dubin, 818 Connecticut Ave. NW., Washington, DC 20006. Transporting *chemical and related products*, between points in the U.S., under a continuing contract(s) with Pfizer, Inc., of New York, NY.

Volume No. OPY–5–062

Decided: May 14, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 97297 (Sub-2), filed April 13, 1981. Applicant: INTER CITY TRANSIT COMPANY, INC., 512 Magnolia St., North Little Rock, AR 72114. Representative: James M. Duckett, 221 W. 2nd St., Suite 411, Little Rock, AR 72201, (501) 375–3022. Transporting *such commodities* as are dealt in or used by wholesale, retail, discount, variety and department stores, between the facilities of Target Stores, Division of Dayton-Hudson Corporation, in AR, KS, MO, OK, TN, and TX, on the one hand, and, on the other, points in the U.S.

MC 117869 (Sub-7), filed May 4, 1981. Applicant: DENTON PRODUCE, INC., 8804 South Country Club Drive, Oklahoma City, OK 73159. Representative: Michael Lennox, 531 N. Portland, Oklahoma City, OK 73147, (405) 943–2722. Transporting *farm products*, between points in AL and MS on the one hand, and, on the other, points in OK.

MC 124679 (Sub-136), filed April 30, 1981. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Robert H. Cannon (same address as applicant), 801–972–2712. Transporting *sporting goods, sporting goods apparel*, between the facilities of Atomic Ski Corporation in the U.S. on the one hand, and, on the other, points in the U.S.

MC 125368 (Sub-126), filed May 4, 1981. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219, 615–244–8100. Transporting *clay, concrete, glass or stone products*, between the facilities of Libby Owens Ford Glass Company at points in the U.S. on the one hand, and, on the other, points in the U.S.

MC 135989 (Sub-24), filed May 4, 1981. Applicant: COAST EXPRESS, INC., 14280 Monte Vista Ave., Chino, CA 91710. Representative: William J. Lippman, Steele Park, Suite 330, 50 South Steele St., Denver, CO 80209, (303) 320–6100. Transporting (1) *textile mill products*, and (2) *metal products*, between points in the U.S., under continuing contract(s) with American

Safety Equipment Company, of San Fernando, CA.

MC 139219 (Sub-6), filed April 30, 1981. Applicant: LANE TRUCKING, INC., 2230 North Range St., Dothan, AL 36303. Representative: William K. Martin, P.O. Box 2069, Montgomery, AL 36197, 205–262–1671. Transporting (1) *building materials*, (2) *machinery*, (3) *waste, or scrap materials not identified by industry producing*, (4) *clay, concrete, glass or stone products*, between points in GA, FL, AL and MS.

MC 144999 (Sub-7), filed May 4, 1981. Applicant: JEM TRUCKING COMPANY, INC., P.O. Box 217, Wilkesboro, NC 28697. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, 601–355–3543. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with Wilson Foods Corporation of Oklahoma City, OK.

MC 145359 (Sub-37), filed April 30, 1981. Applicant: THERMO TRANSPORT, INC., P.O. Box 41587, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317–846–6655. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with McCulloch Corporation, of Lake Havasu City, AZ.

MC 145679 (Sub-18), filed April 29, 1981. Applicant: A & A TRANSPORT, P.O. Box 569, Palmer, MA 01069. Representative: Robert S. Barouxis (same address as applicant), (413) 283–8911. Transporting *general commodities* (except classes A and B explosives), between points in MA, NH, CT, RI, and NY, on the one hand, and, on the other, points in the U.S.

MC 147318 (Sub-8), filed May 4, 1981. Applicant: DEEP SOUTH TRUCKING, INC., P.O. Box 304, Purvis, MS 39475. Representative: Kent F. Hudson, P.O. Box 696, Purvis, MS 39475, (601) 794–8003. Transporting *chemicals and related products*, between points in Harrison County, MS on the one hand, and, on the other, points in Panama City, FL.

MC 150048, filed April 29, 1981. Applicant: LEE AND ED VAN WINKLE, d.b.a. ED VAN WINKLE, P.O. Box 426, Junction, TX 76849. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103, (817) 332–4718. Transporting *such commodities* as are dealt in or used by the manufacturers and distributors of drilling muds and additivies, between points in the U.S., under continuing contract(s) with Cedar Fibers, Inc., of Junction, TX.

MC 150578 (Sub-18), filed April 28, 1981. Applicant: STEVENS TRANSPORT, a Division of STEVENS FOODS, INC., 2944 Motley Drive, Suite 302, Mesquite, TX 75150. Representative: Michael Richey (same address as applicant), (214) 681–0454. Transporting *food and related products*, between Chicago, IL, Denver, CO, and Los Angeles, CA, points in Santa Clara County, CA, on the one hand, and, on the other, points in the U.S.

MC 150579, filed April 28, 1981. Applicant: WASCHER'S TRUCKING, INC., 201 Elm St., Box 88, Greenland, MI 49929. Representative: Agnes J. Hautamaki (same address as applicant), (906) 883–3342. Transporting (1) *lumber and wood products*, between points in the U.S., under continuing contract(s) with (a) Northern Hardwoods Division/ Copper Range Company, of Houghton, MI, (b) Maple Lumber, Inc., of Kenton, MI, (c) Ahonen Lumber Company, of Ironwood, MI, (d) Silver Forest Products, Inc., of Lake Linden, MI, and (e) Marquette Timber Co., of Marquette and L'anse, MI, and (2) *forest products*, between points in the U.S., under continuing contract(s) with Maple Lumber, Inc., of Kenton, MI.

MC 150798 (Sub-4), filed April 28, 1981. Applicant: CKR TRANSPORT, LTD., P.O. Box 599, Elmhurst, IL 60126. Representative: D. R. Beeler, 1261 Columbia Ave., Franklin, TN 37064, (615) 790–2510. Transporting *food and related products*, between Denver, CO, Atlanta, GA, Boston, MA, Detroit, MI, Philadelphia, PA, points in Fresno County, CA, Morgan County, IL, Dade County, FL, Mecklenburg County, NC, Hudson County, NJ, Hamilton and Cuyahoga Counties, OH, Multnomah County, OR, Gibson and Shelby Counties, TN, Grayson County, TX, and Dodge County, WI, on the one hand, and, on the other, points in the U.S.

MC 151009 (Sub-2), filed May 1, 1981. Applicant: ATLANTA CARRIERS, INC., 1260 Southern Rd., Morrow, GA 30260. Representative: Bruce E. Mitchell, Fifth Floor, Lenox Towers South, 3390 Peachtree Rd., NE, Atlanta, GA 330326, (404) 262–7855. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with PPG Industries, Inc., of East Point, GA.

MC 151009 (Sub-3), filed May 1, 1981. Applicant: ATLANTA CARRIERS, INC., 1260 Southern Rd., Morrow, GA 30260. Representative: Bruce E. Mitchell, Fifth Floor, Lenox Towers South, 3390 Peachtree Rd., NE., Atlanta, GA 30326, (404) 262–7855. Transporting *such commodities* as are dealt in by wholesale or retail grocery stores, between points in Duval County, FL, on the one hand, and, on the other, points in GA, NC, SC, TN, VA, and AL.

MC 151119 (Sub-2), filed May 4, 1981. Applicant: OVERLAND TRANSPORTATION SYSTEM, INC., 2025 English Ave., Indianapolis, IN 46206. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204, 317–638–1301. Transporting *general commodities* (except classes A and B explosives), between points in IL, IN, KY, OH, and TN.

MC 152109 (Sub-3), filed April 30, 1981. Applicant: KAIBAB TRANSPORTATION, INC., P.O. Box 220506, Phoenix, AZ 85036. Representative: Michael F. Morrone, 1150 17th St., NW., Suite 1000, Washington, DC 20036, (202) 457–1124. Transporting (1) *salt and salt products*, and (2) *food seasoning compounds*, between points in the U.S., under continuing contract(s) with Morton Salt Division, Morton Norwich Products, Inc., of Chicago, IL.

MC 152109 (Sub-4), filed April 30, 1981. Applicant: KAIBAB TRANSPORTATION, INC., P.O. Box 20506, Phoenix, AZ 85036. Representative: Michael F. Morrone, 1150 17th St., NW, Suite 1000, Washington, DC 20036 (202) 457–1124. Transporting *building materials*, between points in the U.S., under continuing contract(s) with The Flintkote Company, of Los Angeles, CA.

MC 153048, filed May 1, 1981. Applicant: DORSEY DELIVERY CORP., P.O. Box 3587, Wlimington, DE 19807. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036 (202) 463–6044. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with J. A. Tucker Co., of Westville, NJ.

MC 153938 (Sub-2), filed May 4, 1981. Applicant: ENERGY EXPRESS, INC., P.O. Box 27605, Salt Lake City, UT 84127. Representative: Norval Millsap (same address as applicant), (801) 364–4532. Transporting (1) *waste or scrap materials not identified by industry producing*, and (2) *petroleum, natural gas and their products*, between points in the U.S., under continuing contract(s) with Phillips Petroleum Company and Elgin Petroleum Company, Ltd. of Englewood, CO, Husky Oil Company, of Denver, CO, Great Salt Lake Minerals & Chemicals Corporation, of Little Mountain, UT, and Morrison petroleum Co., Inc., of Woods Cross, UT.

MC 154858 (Sub-9), filed April 27, 1981. Applicant: MILNER SUPER GAS,

INC., 930 Richland Ave., West, Aiken, SC 29801. Representative: C. Wesley Smith, P.O. Box 2730, 127 Greenville St., NW, Aiken, SC 29801 (803) 648–4239. Transporting (1) *petroleum, natural gas and their products,* and (2) *chemicals and related products,* between points in SC, on the one hand, and, on the other, points in GA.

MC 155658, filed April 30, 1981. Applicant: D. F. SYSTEM, INC., 875 Providence Hwy (P.O. Box 242), Dedham, MA 02026. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181 (617) 235–5571.Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Grossman's Division of Evans Products, of Braintree, MA. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(b) or submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 5 Room 6370.

MC 155659, filed April 30, 1981. Applicant: CRANBROOK PARCEL AND DELIVERY, LTD., 812 30th Ave., South, Cranbrook, BC, Canada V1C 4Y9. Representative: Clyde H. MacIver, 1415 Fifth Ave., Suite 1900, Seattle, WA 98171, (206) 344–2160. Transporting *lumber and wood products,* between the ports of entry on the international boundary line between the United States and Canada at points in WA, ID, and MT, on the one hand, and, on the other, points in WA, ID, and MT.

MC 155669, filed April 30, 1981. Applicant: RAV'S EXPRESS CO., INC., 23 Hearthstone Circle, Natick, MA 01760. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *general commodiites,* (except classes A and B explosives) (1) between points in MA, ME, NH, VT, CT, RI, NY, and NJ, and (2) between points in MA, on the one hand, and, on the other, points in AL, DE, FL, GA, IL, IN, KS, KY, LA, MD, MI, MN, MO, NC, OH, PA, SC, TN, TX, VA, WV, WI, and DC.

MC 155689, filed May 1, 1981. Applicant: BOB'S HOME SERVICE, INC., d.b.a. B.H.S., INC., Rt. 1, Box 116–F, Wright City, MO 63390. Representative: B.W. La Tourette, Jr., 11 S. Maramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *hazardous and non-hazardous industrial waste* between points in Linn County, IA, Lancaster County, NE, and Madison County, IL, on the one hand, and, on the other, points in Warren County, MO.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–15156 Filed 5–20–81; 8:45 am]

BILLING CODE 7035–01–M

[Disaster Relief Decision No. 16 (Sub-No. 1)]

Southern Pacific Transportation Co.; Disaster Relief Application

Decided: May 14, 1981.

Southern Pacific Transportation Company (SP) has filed an application requesting authority to continue relief under 49 U.S.C. 10724, as afforded by Disaster Relief Order No. 16. Petitioner seeks to maintain allowances to provide reduced rates for persons who normally ship via SP but who cannot do so because of a tunnel fire on the SP at mile post 427 between Searles and Mojave, CA. Petitioner requests that the relief be extended for a period of 6 months, or until December 4, 1981. Additionally, petitioner requests that said allowances be made available at Lancaser, CA, in lieu of Mojave, CA, since the latter station cannot handle the shippers/receivers needs because of the limited facilities available.

Petitioner states that the tunnel is still sealed, and construction cannot begin until such time as the fire is completely extinguished. It is estimated that reconstruction of the tunnel will take approximately six months.

It is Ordered

Authority to extend the expiration date of Disaster Relief Order No. 16 from June 4, 1981, to and including December 4, 1981, and to substitute Lancaster, CA, in lieu of Mohave, CA, is granted, including authority to make publication upon not less than one day's notice to the Commission and the public. The terms of rule 9(e) of the Commission's Tariff Circular 20 (49 CFR 1300.9) are waived. In all other respects, the original terms and conditions of that decision shall remain the same.

Any tariffs or tariff provisions published under this authority shall make reference to this decision by number and date.

Notice to the affected railroads and the general public shall be given by depositing a copy of this decision in the Office of the Secretary of the Commission and by filing a copy with the Director, Office of the Federal Register. Copies will be mailed to the Chairman of the Traffic Executive Association—Eastern Railroads, New York, NY; the Chairman of the Southern Freight Association, Atlanta, GA; the Chairman of the Executive Committee, Western Railroad Traffic Association, Chicago, IL; and the Vice President, Economics and Finance Department of the Association of American Railroads, Washington, D.C.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

By the Commission, Special Docket Board; Members Llewellyn, Walker, and Cheslock.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–15160 Filed 5–20–81; 8:45 am]

BILLING CODE 7035–01–M

Commission Issuance; Listing of Board and Committee Members

AGENCY: Interstate Commerce Commission.

ACTION: Current listing of board and committee members.

SUMMARY: This Notice contains an announcement of the current members of the Employee Board on Education and Practice and the new members of the Committee of Examiners which grades the Commission's Practitioners' Exam. The latter committee members have been appointed for a 1 year term. Since this announcement concerns internal Commission procedures, no public comment will be required.

EFFECTIVE DATE: May 21, 1981.

FOR FURTHER INFORMATION CONTACT: James H. Bayne (202) 275–7646.

SUPPLEMENTARY INFORMATION: The following is the current list of members of the Employee Board on Education and Practice and the Committee of Examiners:

Employee Board on Education and Practice

Roy P. Liberman, Chairman, John L. Mondi, Bryan Brown, Jr.

Committee of Examiners

Tom Barry, Carol Brooks, Merry Lymn, James E. Manning, Allan Rothenberg, Gerald C. Wegznek, David B. Wuehrmann.

Decided: April 28, 1981.

By the Commission, Marcus Alexis, Acting Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–15195 Filed 5–20–81; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, 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.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisifed before the authority will be issued. Once this compliance is met, the authority be issued.

Within 60 days after publication an applicant may file a verified statment in rebuttal to any statement in opposition.

The extent that any of the authority granted may duplicate an applicant's other athority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPI–143

Decided: May 13, 1981.

By The Commission Review Board No. 1. Members Parker, Chandler and Fortier (Parker participating in part).

FF–81 (Sub-8), filed April 28, 1981. Applicant: CALIFORNIA WESTERN FREIGHT ASSOCIATION, d.b.a. WESTERN FREIGHT ASSOCIATION, 3336 San Fernando Road, Los Angeles, CA 90065. Representative: S. S. Eisen, 370 Lexington Ave. New York, NY 10017, (212) 532–5100. As a *Freight forwarder* in connection with the transportation of *general commodities* (except classes A and B explosives), between points in NH, AL, AR, GA, NC, SC, FL, MS, MO, WI, and LA, on the one hand, and, on the other, points in MT, WY, CO, TX, NM, AZ, NV, UT, ID, WA, and OR.

MC 441 (Sub-8), filed April 28, 1981. Applicant: HINTON MOTOR SERVICE, INC., 1410 Gardner Expressway, Quincy, IL 62301. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting (a) *food and related products*, and (b) *pulp, paper and related products*, between points in the U.S., under continuing contract(s) with Rinella Company, Inc., in (a) above, and Quincy Paper Box Company in (b) above, both of Quincy, IL.

MC 1830 (Sub-2), filed May 1, 1981. Applicant: TARANTOLA TRUCKING CO., INC., P.O. Box 192, Route 12, Flemington, NJ 08822. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *general commodities* (except classes A and B explosives), between Philadelphia, PA, and points in NJ, on the one hand, and, on the other, points in DE, MD, NJ, and DC, those in Fairfield, Hartford, Litchfield, Middlesex and New Haven Counties, CT, those in NY in and south of Sullivan, Ulster and Dutchess Counties, and those in PA in and east of Susquehanna, Wyoming, Luzerne, Columbia, Northumberland, Dauphin, and York Counties.

MC 33641 (Sub-166), filed May 4, 1981. Applicant: IML FREIGHT, INC., P.O. Box 30277, Salt Lake City, UT 84130. Representative: Eldon E. Bresee (same address as applicant), (801) 972–7263. Over regular routes, transporting *general commodities* (except classes A and B explosives), (1) between Chicago, IL, and Spokane, WA, serving points in Ozaukee, Racine, Washington and Waukesha Counties, WI as off-route points, and serving junction Interstate Hwys 35E and 94 for purposes of joinder only, from Chicago over Interstate Hwy 94 to junction Interstate Hwy 90, then over combined Interstate Hwys 94 and 90 to junction Interstate Hwy 94 near Tomah, WI, then over Interstate Hwy 94 to junction Interstate Hwy 90, near Billings, MT, and then over Interstate Hwy 90 to Spokane, and return over the same route, and (2) between junction IL Hwy 38 and Interstate Hwy 90, and junction Interstate Hwy 90 and 94 near Billings, MT, serving junction Interstate Hwys 90 and 94 for purposes of joinder only, over Interstate Hwy 90, serving all intermediate points in connection with routes (1) and (2) above.

Note.—Applicant intends to tack the rights sought to its existing regular-route authority.

MC 46421 (Sub-18), filed May 5, 1981. Applicant: ESCRO TRANSPORT, LTD., 275 Mayville Ave., Buffalo, NY 14217. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200–A, Park Ridge, IL 60068, (312) 698–2235. Transporting *general commodities* (except classes A and B explosives), between Tampa, FL, on the one hand, and, on the other, those points in FL on, east, and south of U.S. Hwy 319.

MC 59150 (Sub-193), filed April 30, 1981. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval St., Jacksonville, FL 32202, (904) 353–9707. Transporting *general commodities* (except classes A and B explosives), between the facilities of CertainTeed Corporation in the U.S., on the one hand, and, on the other, points in the U.S.

MC 75471 (Sub-6), filed May 5, 1981. Applicant: ELSTON RICHARDS STORAGE CO., a corporation, 3739 Patterson SE, Grand Rapids, MI 49508. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *appliances*, between the facilities of White Consolidated Industries, Inc., and Frigidaire Co., a Division of White Consolidated Industries, Inc., at points in the U.S. on and east of a line beginning at the mouth of the

Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada, on the one hand, and, on the other, those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence norward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line betwen the U.S. and Canada.

MC 102181 (Sub-12), filed May 7, 1981. Applicant: O. H. & F., INC., Box 129, R.R. #1 North, Grayville, IL 62844. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224–3161. Transporting *mercer commodities,* between points in IL, IN, KY, MI, MO, MS, OH, PA, TN, and WV, on the one hand, and, on the other, points in AR, KS, LA, NM, OK, and TX.

MC 110581 (Sub-8), filed May 1, 1981. Applicant: G & H MOTOR FREIGHT LINES, INC., 118 S.E. Jackson St., Greenfield, IA 50849. Representative: 7363 Pacific St., Oak Park Office Bldg., Suite 210B, Omaha, NE 68114, (402) 397.9900. Transporting *such commodites* as are dealt in, or used in the construction, operation, and maintenance of railroads, between points in NE, on the one hand, and, on the other, points in MN, IA, MO, and Madison, St. Clair and Monroe Counties, IL.

MC 110740 (Sub-3), filed May 6, 1981. Applicant: A. A. ROCCO TRUCKING CORPORATION, 5915 Schaaf Rd., Cleveland, OH 44131. Representative: Peter A. Greene, 1920 N Street NW., Washington, DC 20036, (202) 331–8800. Transporting *dry commodites in bulk,* (1) between points in IL, IN, KY, MI, NY, OH, PA and WV, and (2) between points in Cuyahoga, Geauga, Portage, and Lorain Counties, OH, on the one hand, and, on the other, points in the U.S.

MC 111310 (Sub-66), filed May 4, 1981. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *clay, concrete, glass or stone produces,* between points in Hawkins and Sullivan Counties, TN, on the one hand, and, on the other, points in AR, IA, IL, IN, KS, MI, MN, MO, ND, NE, OK, SD, and WI.

MC 111401 (Sub-617), filed April 28, 1981. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., PO Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant), (405) 234–4663. Transporting *Petroleum, natural gas and their products,* between points in Wyandotte County, KS, on the one hand, and, on the other, points in ID, MN, and WV.

Note.—To the extent that any certificate issued in this proceeding authorizes the transportation of liquefied petroleum gas, it shall expire 5 years from its date of issuance.

MC 113751 (Sub-45), filed May 4, 1981. Applicant: HAROLD F. DUSHEK, INC., 10th & Columbia Sts., Waupaca, WI 54981. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719, (608) 273–1003. Transporting *pulp, paper and related products,* between points in Waupaca County, WI, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 115180 (Sub-105), filed April 30, 1981. Applicant: ONLEY REFRIGERATED TRANSPORTATION, INC., 265 West 14th St., New York, NY 10011. Representative: George A. Olsen, PO Box 357, Gladstone, NJ 07934, (201) 435–7140. Transporting *food and related products,* between points in the U.S.

MC 115841 (Sub-784), filed May 5, 1981. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Richard L. Hollow (same address as applicant), (615) 966–9711. Transporting *general commodities* except classes A and B explosives), between points in the U.S.

MC 116260 (Sub-12), filed May 5, 1981. Applicant: PASHA TRUCKAWAY, a corporation, 1301 canal Blvd., Richmond, CA 94804. Representative: Ann M. Pougiales, 100 Bush St., 21st Floor, San Francisco, CA 94104, (415) 986–5778. Transporting *transportation equipment,* between points in the U.S.

MC 116380 (Sub-26), filed May 4, 1981. Applicant: W. C. McQUAIDE, INC., 153 Macridge Ave., Johnstown, PA 15904. Representative: Robert E. McFarland, 2855 Coolidge, Suite 201A, Troy, MI 48084, (313) 649–6650. Transporting *such commodities* as are dealt in by retail department stores, between points in Allegheny and Cambria Counties, PA, on the one hand, and, on the other, points in AL, GA, IN, KY, MD, NC, NU, NY, OH, TN, VA, and WV.

MC 118341 (Sub-5), filed May 1, 1981. Applicant: VALLEY TRUCKING CO., INC., P.O. Box 2298, Brownsville, TX 78520. Representative: Billy R. Reid, 1721 Carl St., Fort Worth TX 76103, (817) 332–4718. Transporting *food and related products,* between points in TX, on the one hand, and, on the other, points in the U.S.

MC 119631 (Sub-44), filed May 5, 1981. Applicant: DEIOMA TRUCKING COMPANY, a corporation, P.O. Box 335, East Sparta, OH 44626. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th Street NW., Washington, DC 20004. Transporting *general commodities* (except classes A and B explosives), between points in Summit County, OH, on the one hand, and, on the other, points in the U.S.

MC 123640 (Sub-35), filed May 4, 1981. Applicant: SUMMIT CITY ENTERPRISES, INC., 3200 Maumee Ave., Ft. Wayne, In 46803. Representative: Irving Klein, 371 Seventh Ave., New York, NY 10001, (212) 279–3050.Transporting *such commodities* as are dealt in by a distributor of hardware stores, between points in the U.S., under continuing contract(s) with Hardware Wholesalers, Inc., of Dixon, IL.

MC 123660 (Sub-1), filed May 1, 1981. Applicant: K-C REFRIGERATION TRANSPORT CO., INC., P.O. Box 545, Adam St., Troy, NY 12181. Representative: Daniel O. Hands, 205 W. Touhy Ave., Suite 200–A, Park Ridge, IL 60068 (312) 698–2235. Transporting *food and related products,* between points in Albany County, NY, on the one hand, and, on the other, points in CT, MA, NY, and VT.

MC 124511 (Sub-72), filed May 1, 1981. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, East Highway 54, Mexico, MO 65265. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603, (312) 236–9375. Transporting *clay, concrete, glass or stone products,* between points in the U.S.

MC 135691 (Sub-64), filed May 1, 1981. Applicant: DALLAS CARRIER CORP., 12661 Perimeter Dr., Dallas, TX 75228. Representative: J. Max Harding, P.O. Box 6645 Lincoln, NE 68506, (402) 489–3585. Transporting *disposable health care products,* between points in Dallas County, TX, on the one hand, and, on the other, points in the U.S.

MC 138900 (Sub-5), filed May 4, 1981. Applicant: REID J. CAVANAUGH, R.D. No. 1, Box 27, Connellsville, PA 15425. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *food and related products,* between points in Northampton, Lehigh, and Fayette Counties, PA, on the one hand, and, on the other, points in CT, DE, IL, IN, KY,

MA, MD, ME, MI, NC, NH, NJ, NY, OH, PA, RI, TN, VA, VT, WV, and DC.

MC 138950 (Sub-2), filed May 4, 1981. Applicant: FOR-TRUCKS, INC., P.O. Box 297, Henniker, NH 03242. Representative: John F. O'Donnell, 60 Adams St., P.O. Box 238, Milton, MA 02187, (617) 696-7610. Transporting (1) *lumber and wood products*, (2) *machinery*, and (3) *metal products*, between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 140101 (Sub-10), filed April 28, 1981. Applicant: I. T. A. TRUCKING, INC., P.O. Box 219, Amherst, WI 54406. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, (608) 256-7444. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Great Lakes Food Brokers, Inc., of Pewaukee, WI.

MC 141620 (Sub-3), filed April 30, 1981. Applicant: VAN BUS DELIVERY COMPANY, d.b.a., UNITED VAN BUS DELIVERY, 2601-32nd Ave., South, Minneapolis, MN 55405. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137, (901) 767-5600. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Panasonic Co. of Secaucus, NJ.

MC 142081 (Sub-1), filed May 4, 1981. Applicant: ETHLAR T. SMALL, JULIA T. SMALL, ERIC T. SMALL, AND CRAG T. SMALL, d.b.a. SMALL'S LP-GAS CO., P. O. Box 397, Wyatt, MO 63882. Representative: Michael O'N. Barron, P.O. Box 338, Wyatt, MO 63882, (314)675-3261. Transporting *chemicals and related products*, between points in Mississippi County, AR, and those in Jefferson County, MO, on the one hand, and, on the other, points in AR, IL, KS, KY, MO, and TN.

MC 142891 (Sub-10), filed May 7, 1981. Applicant: A&H, INC., P.O. Box 346, Footville, WI 53537. Representative: Thomas J. Beener, 67 Wall St., New York, NY 10005, (212) 269-2540. Transporting *food and related products*, between points in WI, those in Bergen and Essex Counties, NJ, and Montgomery County, OH, on the one hand, and, on the other, points in OH, PA, NY, MD, NJ, CT, MA, RI, VA, WV, KY, NC, SC, MI, AZ, IN, IL, MN, MO, FL, TX, NE, MS, AL, GA, CA, NV, UT, ME, ND, SD, TN, VT, KS, IA, WI, NH, and DC.

MC 143061 (Sub-15), filed April 28, 1981. Applicant: ELECTRIC TRANSPORT, INC., P.O. Box 528, Eden, NC 27288. Representative: Archie W. Andrews, (same address as applicant), (919) 623-9106. Transporting *general commodities* (except classes A and B explosives) between points in the U.S.

MC 143280 (Sub-26), filed May 4, 1981. Applicant: SAFE TRANSPORTATION COMPANY, 6834 Washington Ave. South, Eden Prairie, MN 55344. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul MN 55118, (612) 457-6889. Transporting *food and related products*, between Minneapolis, MN, on the one hand, and, on the other, points in IA, IL, IN, MI, MT, ND, SD, WI.

MC 143500 (Sub-16), filed May 7, 1981. Applicant: R. B. CARRIERS, INC., P.O. Box 92, Jeffersonville, IN 47130. Representative: Dean N. Wolfe, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760 (301) 840-8565. Transporting *chemicals and related products*, between points in the U.S., under continuing contract(s) with Chou Chen Chemicals, Inc., of Louisville, KY.

MC 143730 (Sub-6), filed May 4, 1981. Applicant: PENINSULA TRUCKING CO., INC., 705 Morehouse Dr., New Castle, DE 19720. Representative: Richard M. Ochroch, 316 South 16th St., Philadelphia, PA 19102 (215) 735-2707. Transporting *such commodities* as are dealt in or used by drug and pharmaceutical business houses, between points in the U.S., under continuing contract(s) with Barre-National, Inc., of Hunt Valley, MD.

MC 145240 (Sub-10), filed May 1, 1981. Applicant: L. D. BRINKMAN TRUCKING CORPORATION, 520 N. Wildwood, Irving, TX 75060. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245 (214) 358-3341. Transporting *such commodities* as are dealt in by grocery stores, food business houses, department stores, and variety stores, between points in the U.S., under continuing contract(s) with Safeway Stores, Inc., of Oakland, CA.

MC 146890 (Sub-37), filed May 5, 1981. Applicant: C & E TRANSPORT, INC., d.b.a. C. E. ZUMSTEIN CO., P.O. Box 37, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001 (202) 628-9243. Transporting *general commodities* (except classes A and B explosives), between the facilities used by Dayco Corporation in the U.S., on the one hand, and, on the other, points in the U.S.

MC 147870 (Sub-2), filed April 28, 1981. Applicant: MEMPHIS LEASING COMPANY, INC., 814 Florida St., Memphis, TN 38101. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701 (601) 335-3576. Transporting *metal products*, between the facilities used by Waterloo Industries, Inc., in TN, on the one hand, and, on the other, points in AL, AR, IA, IL, IN, KY, LA, MS, MO, and TN.

MC 148380 (Sub-14), filed May 1, 1981. Applicant: CRESCO LINES, INC., 13900 South Keeler Ave., Crestwood, IL 60445. Representative: Edward G. Bazelon, 39 South La Salle St., Chicago, IL 60603 (312) 236-9375. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under a continuing contract(s) with Duquesne Light Company, of Pittsburgh, PA.

MC 148400 (Sub-6), filed May 4, 1981. Applicant: SUN VALLEY TANK LINES, INC., 64 LaPorte Dr., Mars, PA 16046. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219 (412) 471-1800. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Church & Dwight Co., Inc., of Piscataway, NJ.

MC 148431 (sub-1), filed May 1, 1981. Applicant: WESTCHESTER FURNITURE DELIVERY, INC., P.O. Box 392, Milford, CT 06460. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005. Transporting *furniture and fixtures*, between points in CT, DC, DE, IL, IN, MA, MD, ME, MI, NJ, NY, OH, PA, RI and VT.

MC 148930 (Sub-6), filed April 29, 1981. Applicant: AERO DELIVERIES, INC., 529 Gidley Dr., Grand Haven, MI 49417. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503 (616) 459-6121. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Encylcopaedia Britannica, Inc., of Chicago, IL.

MC 150330 (Sub-2), filed May 5, 1981. Applicant: BELCO, INC., 2101 West Main St., Jacksonville, AR 72076. Representative: Ron Harvey (same address as applicant) (501) 982-6511. Transporting *machinery* and *air conditioners*, between points in the U.S., under continuing contract(s) with General Electric Company of Louisville, KY.

MC 150981 (Sub-2), filed April 29, 1981. Applicant: EDWARD L. PARKER, d.b.a. ED PARKER TRUCKING, Box 388, Monona, IA 52159. Representative: Carl E. Munson, 469 Fischer Bldg., P.O. Box 796, Dubuque, IA 52001 (319) 557-1320. Transporting *food and related products*, between points in IA and WI, on the one hand, and, on the other, Detroit, MI, and

points in IA, UT, and WI, Lake County, IL, Lancaster County, NE, and Olmsted and Dakota Counties, MN.

MC 151040 (Sub-2), filed May 4, 1981. Applicant: RTL HOLDINGS, INC., 2050 Kings Road, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant) (904) 353–3111. Transporting *such commodities* as are dealt in or used by wholesale and retail food stores, between points in the U.S., under continuing contract(s) with Heinz USA, Div. of H. J. Heinz Co. of Pittsburgh, PA.

MC 151620, filed May 6, 1981. Applicant: COBRA TRUCKING SERVICE, INC., 4012 N. 85th Ave. Phoenix, AZ 85037. Representative: Lawrence J. Exe, 10803 Los Jardines E., Fountain Valley, CA 92708 (714) 963–7706. Transporting (1) *general commodities* (except classes A and B explosives), and (2) *textile mill products*, between points in the U.S., under continuing contract(s) in (1) with LAWI/CSA Consolidators, Inc., of Huntington Park, CA, and in (2) with K-Mart Apparel Corporation of Carson, CA.

MC 151681, filed April 29, 1981. Applicant: WREDCO, INC., Country Club Rd., Gillette, WY 82716. Representative: Bill Wright (same address as applicant) (307) 686–2907. Transporting *petroleum and petroleum products*, and *synthetic oil*, between Kansas City, MO, Minneapolis, MN, and points in Kay County, OK, and Douglas County, NE, on the one hand, and, on the other, points in Johnson, Natrona, Campbell, Big Horn, Sheridan and Washakie Counties, WY.

MC 151800, filed May 4, 1981. Applicant: JAMES A. DAVIS, d.b.a. JADCO TRANSPORTATION, 2312 Bledsoe, Las Vegas, NV 89110. Representative: Alki E. Scopelitis 1301 Merchants Plaza, Indianapolis, IN 46204 (317) 638–1301. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Luria Brothers & Co., Inc., of Shaker Heights, OH, and Las Vegas Color Rock and Allied Building Materials, Inc., both of Las Vegas, NV.

MC 152381, filed May 4, 1981. Applicant: CHARLES B. GEIER, 1900 Grant, Helena, MT 59601. Representative: John H. Grant, 203 North Ewing St., Helena, MT 59601, (406) 442–1300. Transporting *building materials*, and *lumber and wood products*, between points in the U.S., under continuing contract(s) with Missoula Forest Products, Inc., of Missoula, MT.

MC 154460, filed May 4, 1981. Applicant: Q CARRIERS INC., 14086 Rutgers St., N.E., Prior Lake, MN 55372. Representative: Randall D. Quiring (same address as applicant), (612) 445–8718. Transporting *such commodities* as are dealt in or used by fabric and home sewing stores, between points in the U.S., under continuing contract(s) with Minnesota Fabrics, Inc., of Charlotte, NC.

MC 154510, filed May 5, 1981. Applicant: INLAND CORPORATION, P.O. Box 1528, Farmington, NM 87401. Representative: Dale E. Isley, 50 S. Steele St., Suite 330, Denver, CO 80209, (303) 320–6100. Transporting *commodities in bulk*, between points in La Plata and Montezuma Counties, CO, on the one hand, and, on the other, points in San Juan County, NM.

MC 154541, filed May 4, 1981. Applicant: SEA ISLAND STAGES OF BEAUFORT/HILTON HEAD, P.O. Box 4031, Beaufort, SC 29902. Representative: D. R. Wismer, 605 Broad River Dr., Beaufort, SC 29902, (803) 524–0393. Transporting *passengers and their baggage*, in special and charter operations, beginning and ending at Hilton Head, SC, and extending to points in FL, GA, LA, MD, NC, TN, and VA.

MC 154621, filed May 4, 1981. Applicant: MONROE WAREHOUSE COMPANY, INC., P.O. Box 2525, Monroe, LA 71207. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Howard Bros. Discount Stores, Inc., of Monroe, LA. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 6358.

MC 154780 (Sub-1), filed April 27, 1981. Applicant: ATLANTIC TRANSPORT SERVICE, INC., 1300 South French Ave., Box 257, Sanford, FL 32771. Representative: Kim D. Mann, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20014 (301) 986–1410. Transporting *general commodities* (except classes A and B explosives), between points in SC, on the one hand, and, on the other, points in the U.S.

MC 155561, filed May 7, 1981. Applicant: OLD MAIN TRANSPORT, INC., P.O. Box 436, Winfield, IL 60190. Representative: Stephen C. Herman, 20 North Wacker Drive, Chicago, IL 60606 (312) 231–9209. Transporting *fertilizer and fertilizer ingredients*, between points in IL and IN, on the one hand, and, on the other, points in IL, IN, IA, MI, MO, OH, and WI.

MC 155581, filed April 28, 1981. Applicant: VESELKO, INC., 26 Azalea Lane, Mentor, OH 44060. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956 (414) 722–2848. Transporting (1) *machinery*, (2) *textile mill products and automotive products*, and (3) *rubber and plastic products*, between points in the U.S., under coninuing contract(s) in (1) with (a) Allis Chalmers of Euclid, OH, (b) Hydraulic Equipment Service, Co., of Eastlake, OH, and (c) Pent House Engineering Corp. of Kirtland, OH, in (2) with The Gemini Products Corporation of Chagrin Falls, OH, and in (3) with Plexpro Plastics of Middlefield, OH.

MC 155670, filed April 30, 1981. Applicant: ROBERT PLANTE, TRUCKING, 7 Wayne St., Hudson, NH 03051. Representative: Robert Plante (same address as applicant) (603) 889–4908. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Bemis Company, Inc., of Minneapolis, MN.

MC 155731, filed May 4, 1981. Applicant: WILLIAM J. NOLL, JR. d.b.a. SEA N AIR TRANSPORT, RD #3 Ohara Drive, Box 257, Moscow, PA 18444. Representative: Edward F.V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507 (717) 343–2126. Transporting *general commodities* (except classes A and B explosives) between points in Lackawanna County, PA, on the one hand, and, on the other, points in NY, PA, MD, and DE.

MC 155750, filed May 4, 1981. Applicant: THE ZAMOISKI CO., 8201 Ardwick-Ardmore Rd. Landover, MD 20785. Representative: William C. Camp, 1101 DeSoto Rd., Baltimore, MD 21223, (301) 644–2900. Transporting *household goods* between points in the U.S., under continuing contract(s) with F. W Woolworth Co., of New York, NY.

MC 155751, filed May 5, 1981. Applicant: JEFFERY & RICHARD HALSTROM d.b.a. HALSTROM BROTHERS TRUCKING, Paullina, IA 51046. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104 (712) 255–3127. Transporting *food and related products*, between Sioux City, IA, and points in Buena Vista,

Cherokee, O'Brien and Webster Counties, IA, on the one hand, and, on the other, points in the U.S.

MC 155780, filed May 4, 1981. Applicant: STADLER PACKING COMPANY, d.b.a. STADLER TRUCKING, P.O. Box 347, Columbus, IN 47201. Representative: Joseph P. Murdock, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *chemicals and related products,* between points in the U.S., under continuing contract(s) with Central Indiana Supply Company, of Indianapolis, IN.

MC 155800, filed May 5, 1981. Applicant: SPECIALTY GROUP TOURS, INCORPORATED, 5904 Irish Town Rd., Bethel Park, PA 15102. Representative: Paul L. Jablonski (same address as applicant). As a *broker,* at Pittsburgh, PA, in arranging for the transportation of *passengers and their baggage,* between points in the U.S.

MC 155810, filed May 7, 1981. Applicant: COMMERCE FREIGHT TERMINALS, INC., 2500 Kennedy St., N.E., Minneapolis, MN 55413. Representative: Robert L. Cope, 1730 M Street, N.W., Suite 501, Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Transportation Systems International, Inc., of Bloomington, MN.

Volume No. OPI–146

Decided: May 15, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 45721 (Sub-10), filed May 6, 1981. Applicant: WHITE BUS COMPANY, INC., 907 South Orange Ave., East Orange, NJ. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022, (212) 838–0600. Transporting *passengers and their baggage,* between New York, NY, and points in Nassau and Suffolk Counties, NY and Bergen and Somerset Counties, NJ, on the one hand, and, on the other, Atlantic City, NJ, under continuing contract(s) with Alexander's Travel Service, Inc., of New York, NY.

MC 75840 (Sub-162), filed May 4, 1981. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Transporting *general commodities* (except classes A and B explosives), between points in AL, AR, CT, DE, FL, GA, KY, LA, MA, MD, MS, NC, NJ, NY, OH, PA, RI, SC, TN, TX, VA, WV and DC. Condition: Issuance of a certificate in this proceeding is conditioned upon coincidental cancellation, at applicant's written request, of those certificates which duplicate the above authority.

MC 111231 (Sub-366), filed May 8, 1981. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902, (501) 782–1001. Transporting *general commodities* (except classes A and B explosives), between points in Navarro County, TX, on the one hand, and, on the other, points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MO, MS, NE, TN, and WI.

MC 113751 (Sub-46), filed May 5, 1981. Applicant: HAROLD F. DUSHEK, INC., 10th & Columbia Sts., Waupaca, WI 54981. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *food and related products,* between points in WI, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 116280 (Sub-27), filed May 8, 1981. Applicant: W. C. MCQUAIDE, INC., 153 Macridge Ave., Johnstown, PA 15904. Representative: Robert E. McFarland, 2855 Coolidge, Suite 201A, Troy, MI 48084, (313) 649–6650. Transporting *general commodities* (except classes A and B explosives), between points in Cambria and Allegheny Counties, PA, on the one hand, and, on the other, points in PA.

MC 127030 (Sub-8), filed May 8, 1981. Applicant: MATTHEW J. DEPALMA, INC., 1700 Orthodox St., Philadelphia, PA 19124. Representative: Leonard W. Becher (same address as applicant), (215) 535–3737. Transporting *clay, concrete, glass or stone products, insulating materials, coal and coal products, and metal products,* between points in DE, MD, NJ, NY, NC, OH, and PA.

MC 133920 (Sub-29), filed May 8, 1981. Applicant: HOWARD SHEPPARD, INC., P.O. Box 755, Sandersville, GA 31082. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349, (404) 996–6266. Transporting *chemicals,* between points in AL, FL, GA, KY, LA, MS, NC, SC, TN, VA, and WV.

MC 135691 (Sub-61), filed April 7, 1981, and previously noticed in the **Federal Register** issue of April 23, 1981. Applicant: DALLAS CARRIERS CORP., 12661 Perimeter Drive, Dallas, TX 75228. Representative: J. Max Harding, P.O. Box 6645, Lincoln, NE 68506, (402) 489–3585. Transporting *such commodities* as are dealt in by home improvement centers, between points in the U.S.

Note.—This republication shows common carrier authority in lieu of contract carrier authority.

MC 138000 (Sub-89), filed May 8, 1981. Applicant: ARTHUR H. FULTON, INC., P.O. Box 99, Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *rayon staple fibers,* and *synthetic yarn,* between points in Warren County, VA, and those in Crawford and Mifflin Counties, PA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, KS, OK, and TX.

MC 138790 (Sub-1), filed May 7, 1981. Applicant: TRANSPORT EXPRESS, INC., 540 E. Rosecrans, Gardena, CA 90248. Representative: Steven L. Senecal (same address as applicant), (213) 770–2963. Transporting *general commodities* (except classes A and B explosives), between points in CA.

MC 139420 (Sub-49), filed May 6, 1981. Applicant: GLACIER TRANSPORT, INC., P.O. Box 428, Grand Forks, ND 58201. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Ten South Fifth St., Minneapolis, MN 55402, (612) 340–0808. Transporting *general commodities* (except classes A and B explosives), between points in MN, ND, SD, MT, WY, WI and IA, on the one hand, and, on the other, points in the U.S.

MC 140040 (Sub-13), filed May 8, 1981. Applicant: WILLIE E. PETTY, d.b.a. PETTY TRUCKING, Rt. No. 2, Lafayette, TN 37083. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219, 1–615–244–8100. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Central Soya Company, Inc., of Fort Wayne, IN.

MC 142891 (Sub-11), filed May 8, 1981. Applicant: A&H, INC., P.O. Box 346, Footville, WI 53537. Representative: Thomas J. Beener, 67 Wall Street, New York, NY 10005, (212) 269–2540. Transporting *rubber and plastic products, and chemicals and related products,* between points in Dane County, WI, on the one hand, and, on the other, points in the U.S.

MC 143130 (Sub-2), filed May 8, 1981. Applicant: RITCHIE BUS LINES, INC., 257 West Main Street, Northboro, MA 01530. Representative: Thomas N. Willess, 1000 Sixteenth St., NW., Suite 502, Solar Bldg., Washington, DC 20036, (202) 783–8131. Transporting *passengers and their baggage,* in the same vehicle

with passengers, between point in MA and RI, and those in Windham, Tolland, Hartford, New Haven, Middlesex, and New London Counties, CT, Merrimack, Rockingham, Hillsborough, and Cheshire Counties, NH, York County, ME, and Windham County, VT, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI).

MC 144061 (Sub-22), filed May 4, 1981. Applicant: SICOMAC CARRIERS, INC., 1107 Goffle Road, Hawthrone, NJ 07506. Representative: Jack L. Schiller, 502 Flatbush Ave., Brooklyn, NY 11225, (212) 941–9291. Transporting *commodities in bulk*, between points in the U.S., under continuing contract(s) with Mobil Oil Corporation, of Fairfax, VA, Lamtac Corporation, of Denville, NJ, and J. L. Prescott Co., of Passaic, NJ.

MC 144121 (Sub-10), filed May 4, 1981. Applicant: LARRY'S EXPRESS, INC., 720 Lake St., Tomah, WI 54660. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719, (608) 273–1003. Transporting *metal products*, between points in Waupaga, Outagamie and Portage Counties, WI, on the one hand, and, on the other, points in the U.S.

MC 144401 (Sub-1), filed May 6, 1981. Applicant: GENERAL OILFIELD TRUCKING, INC., P.O. Box 943, Morgan City, LA 70380. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Transporting *Mercer commodities*, (1) between points in AL, AR, FL, LA, MS, OK, and TX, and (2) between points in St. Mary Parish, LA, on the one hand, and, on the other, Portland, OR, Providence and Johnston, RI, Seattle, WA, and points in CA, CO, MI, NM, ND, OH, UT, and WY.

MC 144510 (Sub-4), filed May 5, 1981. Applicant: JERRY J. KOBS, INC., 131 Bridge Ct., Sgt. Bluff, IA 51054. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, (712) 255–3127. Transporting *food and related products*, between points in Cumming and Dakota Counties, NE, Crawford, Emmet, Webster and Woodbury Counties, IA, Martin, Nobles and Rock Counties, MN, and Minnehaha County, SD, on the one hand, and, on the other, those points in the U.S. in and east of AL, TN, KY, and OH.

MC 147771 (Sub-2), filed May 7, 1981. Applicant: RALPH J. MARQUARDT & SONS, INC., P.O. Box 1040, Yankton, SD 57078. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102, (402) 348–0832. Transporting *fertilizer*, between points in the U.S., under continuing contract(s) with Chevron Chemical Company of Fort Madison, IA.

MC 149511 (Sub-3), filed May 6, 1981. Applicant: COASTAL REFRIGERATION, INC., 27 Lillibridge Drive, East Greenwich, RI 02818. Representative: Mary E. Kelley, 22 Stearns Ave., Medford, MA 02155, (617) 396–4090. Transporting (1) *general commodities* (except classes A and B explosives), between Baltimore, MD, and points in MA, RI, NY, and NJ, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, NY, NJ, and PA, and (2) *food and related products and rubber and plastic products*, between Philadelphia, PA, points in Queens County, NY, Lincoln County, WI, Hudson County, NJ, and Elkhart County, IN, and those in ME, NH, VT, MA, RI, and CT, on the one hand, and, on the other, points in DE, MD, OH, KY, VA, WV, NC, SC, GA, FL, AL, IL, TN, TX, OK, KS, NE, IA, WI, NM, AR, MS, MI, MN, and DC.

MC 150341 (Sub-2), filed April 17, 1981, and previously noticed in FR issue of May 5, 1981. Applicant: HOOVESTOL, INC., 3110 Mike Collins Drive, St. Paul, MN 55121. Representative: Charles E. Johnson, P.O. Box 2578, Bismarck, ND 58502, (701) 328–0242. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with (1) Malt-O-Meal of Northfield, MN, (2) James Refrigeration Company, of Edina, MN, (3) Plastronic Packaging Corporation, of St. Louis Park, MN, (4) Sonford Products Corp. of St. Paul Park, MN, and (5) Schloff Chemcial & Supply Company of St. Louis Park, MN. Note: The purpose of this republication is to reflect Schloff Chemical & Supply Company of St. Louis Park, MN, as a supporting shipper to be served.

MC 150641 (Sub-1), filed May 4, 1981. Applicant: D & R CARTAGE, INC., 1840 Carter Road, Cleveland, OH 44113. Representative: Ruth Ann Parks (same address as applicant), (216) 566–7337. Transporting *general commodities* (except classes A and B explosives), between points in IL, IN, MI, OH, and PA.

MC 151751 (Sub-2), filed May 4, 1981. Applicant: DOYAL W. BRUNSON d.b.a. BRUNSON, P.O. Box 489, Ft. Dodge Rd., Dodge City, KS 67801. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612, (913) 233–9629. Transporting *transportation equipment*, (1) between points in Douglas County, NE, on the one hand, and, on the other, points in KS, OK and MO, and (2) between points in Ford County, KS, on the one hand, and, on the other, points in CO, IN, MO, IL, OK and NE.

MC 153751, filed May 5, 1981. Applicant: LITTLE SHIRLEY'S TRANSPORTATION, INC., 2821 9th St. NE., Puyallup, WA 98371. Representative: George LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055, (206) 228–3807. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of concrete products, between points in the U.S., under continuing contract(s) with Graystone Corporation of Seattle, WA, and Oregon Portland Cement Company and R. B. Pamplin, both of Portland, OR.

MC 154310, filed May 8, 1981. Applicant: CERCO ENTERPRISES, INC., 175 Railroad Ave., Trussville, AL 35173. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209 (205) 942–9116. Transporting *food and related products*, between points in the U.S.

MC 155091 (Sub-1), filed May 4, 1981. Applicant: CARL WILLIAM CLEMSON, d.b.a. CLEMSON TRUCKING, 9954 Old State Rd., Chardon, OH 44024. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *sand*, between points in Geauga County, OH, on the one hand, and, on the other, points in PA, NY WV, KY, IN, IL and MI.

MC 15520, filed May 7, 1981. Applicant: BLIEK TRANSPORT, INC., 4781 Steel Point Rd., Marion, NY 14505. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202, (315) 472–8845. Transporting *food and related products*, between points in Cayuga, Ontario, Wayne and Yates Counties, NY, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 155600, filed April 24, 1981. Applicant: CONTRACT DELIVERY, INC., 118 West Clarkson St., Philadelphia, PA 19108. Representative: Harry J. Liederbach, 892 Second Street Pike, Richboro, PA 18954, (215) 322–8300. Transporting *general commodities* (except classes A and B explosives), between points in PA, NY, NJ, MD, and DE.

MC 155771, filed May 4, 1981. Applicant: P & S TRUCKING, INC., P.O. Box 112, Millport, AL 35576. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting (1) *forest products*, (2) *lumber and wood products*, and (3) *pulp, paper and related products*, between points in the U.S., under continuing contract(s) with Weyerhaeuser Company of Columbus, MS.

MC 155831, filed May 8, 1981. Applicant: CAL-INLAND, INC., 135

South 13th St., Tekameh, NE 68061. Representative: A. J. Swanson, P.O. Box 1103, 226 North Phillips Ave., Sioux Falls, SD 57101, (605) 335–1777. Transporting *food and related products*, between Minneapolis, MN, on the one hand, and, on the other, points in the U.S.

Volume No. OP1–148.

Decided May 18 1981.

By The Commission, Review Board No. 1, Members Parker, Chandler and Foitier.

MC 33641 (Sub-167), filed May 8, 1981. Applicant: IML FREIGHT, INC., P.O. Box 30277, Salt Lake City, UT 84130. Representative: Eldon E. Bresee (same address as applicant), (801) 972–7263. Transporting *general commodities*, (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Port of Seattle, Seattle, WA.

MC 101280 (Sub-13), filed May 8, 1981. Applicant: PARIS TRANSPORTS, INC., 500 West Monroe St., Paris, IL 61944. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *food and related products*, between points in the U.S.

MC 125440 (Sub-14), filed May 7, 1981. Applicant: CONCRETE TRUCKING SERVICE, INC., 50 James Street, Somerville, NJ 08876. Representative: Raymond P. Keigher, 401 E. Jefferson St., Suite 102, Rockville, MD 20850, (301) 424–2420. Transporting (1) *clay, concrete, glass or stone products*, and (2) *building materials*, between points in the U.S., under continuing contract(s) with Strescon Industries, Inc., of Baltimore, MD.

MC 128220 (Sub-34), filed May 11, 1981. Applicant: RALPH LATHAM, d.b.a. LATHAM TRUCKING COMPANY, P.O. Box 596, Burnside, KY 42519. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602. Transporting *such commodities* as are dealt in by hardware stores, drug stores, discount stores, grocery stores, and food business houses, between points in the U.S.

MC 128521 (Sub-14), filed May 7, 1981. Applicant: BIRMINGHAM-NASHVILLE EXPRESS, INC., P.O. Box 100417, Nashville, TN 37210. Representative: H. E. Miller, Jr., 806 Nashville Bank & Trust Bldg., 315 Union Street, Nashville, TN 37201, (615) 244–2926. Transporting *general commodities* (except classes A and B explosives), between points in Cullman, Limestone, and Morgan Counties, AL, on the one hand, and, on the other, points in the U.S.

MC 140440 (Sub-2), filed May 7, 1981. Applicant: DAVIS TRUCK SERVICE, INC., Route 2, Box 43, Jeanerette, LA 70544. Representative: Leroy Hallman, 4555 First National Bank Bldg., Dallas, TX 75202, (214) 741–6263. Transporting (1) *mercer commodities*, (2) *chemicals and related products*, (3) *metal products*, (4) *petroleum, natural gas and their products*, and (5) *those commodities which because of their size or weight require the use of special handling or equipment*, between points in AL, AR, FL, GA, LA, MS, OK and TX.

MC 143280 (Sub-25), filed May 4, 1981. Applicant: SAFE TRANSPORTATION COMPANY, 6834 Washington Ave. South, Eden Prairie, MN 55344. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118, (612) 457–6889. Transporting *food and related products*, between points in CA and WI, on the one hand, and, on the other, points in the U.S.

MC 145471 (Sub-4), filed May 11, 1981. Applicant: JOHN K. GRAY TRUCKING, 30 South "G" St., Arcata, CA 95521. Representative: John K. Gray (same address as applicant), (707) 822–5161. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Louisiana-Pacific Corporation, of Samoa, CA.

MC 148951 (Sub-3), filed May 8, 1981. Applicant: YANKEE TRANSPORT, INC., R.F.D. #2, New Road, Goffstown, NH 03045. Representative: Elliott Bunce, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522.0900. Transporting *furniture and fixtures*, between points in the U.S., under continuing contract(s) with Hermsdorf Fixture Mfg. Co. of Manchester, NH.

MC 155551, filed April 28, 1981. Applicant: "R" "B" & TONY McCARTNEY, d.b.a. McCARTNEY & SONS TRUCKING, 702 E. Vista Del Gaviota, Orange, CA 92665. Representative: "R" "B" McCartney (same address as applicant), (714) 637–2273. Transporting (1) *chemicals and related products*, between points in the U.S., under continuing contract(s) with Desoto, Inc., of Des Plaines, IL, and (2) *shingles*, between points in the U.S., under continuing contract(s) with Wesco Cedar, Inc., of Eugene, OR.

MC 155730, filed May 4, 1981. Applicant: PHILLIP N. MACARONIS AND NICHOLAS M. MACARONIS, d.b.a. NICK MACARONIS TRAVEL, 555 Penn Ave., West Reading, PA 19611. Representative: Michael J. Cammarano, 522–24 Court St., P.O. Box 677, Reading, PA 19603, (215) 376–7466. As a *broker*, at West Reading, PA, in arranging for the transportation of *passengers and their baggage*, between points in the U.S.

MC 155880, filed May 11, 1981. Applicant: RICHARD D. WILSON, d.b.a. DICK WILSON TRUCKING, Route #1, P.O. Box 264, Stevensville, MT 59870. Representative: William E. Seliski, Nr. 2 Commerce St., P.O. Box 825, Missoula, MT 59807. Transporting *such commodities* as are dealt in by manufacturers and distributors of lumber yards and farm supply stores, between points in ID, MT, OR, and WA, on the one hand, and, on the other, points in IA, IL, MN, ND, NE, SD, UT, and WI.

Volume No. OPY–2–077

Decided May 14, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 46823 (Sub-3), filed May 4, 1981. Applicant: WOODLAND MOVING & WAREHOUSE, INCORPORATED, 426 Woodland St. Hartford, CT 06112. Representative: John E. Silliman, 101 Pearl St., P.O. Box 3197, Hartford, CT 06103, 203–549–4500. Transporting *household goods*, between points in the U.S.

MC 107012 (Sub-710), filed May 6, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, (same as applicant), (219) 429–2110. Transporting *general commodities* (except classes A and B explosives), between the facilities of Roper Corporation at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 139972 (Sub-89), filed May 6, 1981. Applicant: J. H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, MO 65251. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *general commodities* (except classes A and B explosives), between the facilities of ITOFCA, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 142703 (Sub-34), filed May 5, 1981. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., P.O. Box 14072, Cincinnati, OH 45214. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215, 614–228–8575. Transporting *general commodities* (except classes A and B explosives), between points in CT, DE, IL, IN, IA, KS, KY, MD, MA, MI, MN, MO, NJ, NY, OH, PA, RI, VA, WV, WI, and DC, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, and TX.

MC 145102 (Sub-74), filed April 30, 1981. Applicant: FREYMILLER TRUCKING, INC., 1400 S. Union Ave., Bakersfield, CA 93307. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, 608–256–7444. Transporting *pulp, paper and related products, rubber and plastic products, metal products, and such commodities* as are dealt in or used by manufacturers and distributors of non-wovens and non-woven products, between points in the U.S.

MC 145102 (Sub-75), filed April 30, 1981. Applicant: FREYMILLER TRUCKING, INC., 1400 S. Union Ave., Bakersfield, CA 93307. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting *food and related products* between points in the U.S. under a continuing contract(s) with Swift Independent Packing Company of Chicago, IL.

MC 150432 (Sub-15), filed May 5, 1981. Applicant: H & M TRANSPORTATION, INC., U.S. 42 and 70, London, OH 43140. Representative: Owen B. Katzman, 1828 L Street NW., Suite 1111, Washington, DC 20036, 202–296–2728. Transporting *general commodities* (except classes A and B explosives), between points in AL, AZ, AR, CA, FL, GA, IL, IN, KS, KY, LA, MS, NY, NC, OH, OK, PA, SC, TN, TX, VA, and WV.

MC 150992, filed May 5, 1981. Applicant: H. O. ENGEN, INC., P.O. Box 249, Sterling, VA 22170. Representative: J. Curtis Bradley, III, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, 703–522–0900. Transporting *general commodities,* (except classes A and B explosives) between points in Arlington, Clarke, Fairfax, Frederick, Loudoun, Prince William, and Warren Counties, VA, on the one hand, and, on the other, points in DE, MD, NJ, PA, SC, VA, WV, and DC.

MC 151093, filed April 6, 1981. Applicant: LUTHER E. SPOONER, JR., d.b.a. LUKE SPOONER TRUCKING CO., Rte. 1, Box 4B, Donalsonville, GA 31745. Representative: Billy M. Grantham, 218 W. Second St., Donalsonville, GA 31745, 912–524–5107. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of dry fertilizer, lime, and land plaster, between points in Seminole County, GA, on the one hand, and, on the other, points in GA, FL, AL, and TN.

MC 151723 (Sub-2), filed May 1, 1981. Applicant: SIMMCO CARRIERS, 8704 S. Olie, Oklahoma City, OK 73139. Representative: G. A. Simms (same address as applicant), 405–631–1963. Transporting *machinery and metal products,* between points in Cleveland, Canadian, Oklahoma, and McClain Counties, OK, on the one hand, and, on the other, points in the U.S.

MC 151862 (Sub-1), filed May 5, 1981. Applicant: SCOTTISH EXPRESS LIMITED, d.b.a. SCOTTISH EXPRESS INTERNATIONAL, 16737 Porter Road, Jamaica, NY. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103, 413–781–8205. Transporting *general commodities* (except classes A and B explosives), between points in CT, MA, NJ, NY, and RI.

MC 153422 (Sub-1), filed May 1, 1981. Applicant: CFR AIR CARGO, INC., 7460 Tidewater Drive, Norfolk, VA 23505. Representative: Blair P. Wakefield, Esq., Suite 1001, First and Merchants National Bank Bldg., Norfolk, VA 23510, 804–627–0070. Transporting, *hazardous materials* (except classes A and B explosives) between points in the U.S.

MC 155662F, filed April 30, 1981. Applicant: McMAHAN TRANSPORTATION CO., INC., P.O. Box 1519, Gainesville, GA 30501. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106, (402) 392–1220. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Campbell Soup Company, of Camden, NJ.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-15193 Filed 5-20-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 84]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: May 15, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restrictions removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 2153 (Sub-52)X, filed April 6, 1981, previously noted in the **Federal Register** of April 30, 1981, republished as corrected this issue. Applicant: MIDWEST MOTOR EXPRESS, INC., 5015 East Main, P.O. Box 1058, Bismarck, ND 58501. Representative: James L. Nelsen, 1241 Pierce Butler Route, St. Paul, MN 55104. Applicant seeks to remove restrictions in its lead and Sub-nos. 13, 19, 21, 23, 29, 33, 37, 41, 42, 47, 49, and 50 certificates to (1) broaden the commodity descriptions from general commodities (with exceptions) to "general commodities (except classes A and B explosives)"; (2) to change one-way to radial authority in the lead between Bismarck, ND, and points within 100 miles thereof (with exceptions); (3) to authorize service at all intermediate points in place of authority to serve or no intermediate points or restricted service to intermediate points on described regular routes in the lead between St. Paul, MN, and Mandan, ND; in Sub-No. 21 between Duluth, MN, and West Fargo, ND; in Sub-No. 29 between Bismarck, ND, and Minot, ND; in Sub-No. 33 between Ashley, ND, and Hague, ND; in Sub-No. 37 between Fargo, ND, and Grand Forks, ND, and between Moorhead, MN, and Grand Forks, ND; in Sub-No. 42 between St. Paul, MN, and McGregor, MN; in Sub-No. 47 between Portal, ND, and South St. Paul, MN, and between Detroit Lakes, MN, and Crookston, MN; and in Sub-No. 49 between Glendive, MT, and Billings, MT; (4) remove restriction against tacking its regular route authority in Sub-No. 42; (5) to remove restriction to the transportation of traffic moving in interstate commerce in Sub-No. 47 and (6) remove the restriction limiting service at the off-route points of Sartell, MN, pickup of paper moving to Bismarck, ND in the lead. The purpose of this republication is to indicate that the commodity description should also be broadened in Sub-No. 47.

MC 8535 (Sub-127)X, filed April 30, 1981. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth St., NW., Washington, DC 20036. Applicant seeks to remove restrictions in its certificate Sub-Nos. 82F, 88F, 90F, 92F, 97F, 102F, 108F, 113F, 117F, and 118F, to(1) broaden the commodity descriptions, (a) in Sub-Nos. 82F, 88F, 90F, 92F, 102F, 108F, 113F, 117F to "metal products" from iron and steel articles; (b) in Sub-No. 97F to "metal product" from iron and steel pipe and (c) in Sub-No. 118F to "metal products" from aluminum and aluminum articles; (2) in Sub-Nos. 108F and 118F remove the dump vehicle restriction; (3) in Sub-Nos. 82F, 88F, 90F, 92F, 97F, 102F, 113F, 117F and 118F remove facilities limitations; (4) in Sub-No. 92F to remove the restriction to the transportation of traffic originating at the named origin (5) in Sub-No. 82F to substitute Boyd County, KY, for City of Coalton, KY; (6) in Sub-No. 88F to substitute New Castle County, DE and Chester County, PA for Claymont, DE and Phoenixville, PA; (7) in Sub-No. 90F to substitute Boyd County, KY, Butler and Muskingum Counties, OH and Butler County, PA for Ashland, KY, Middletown and Zanesville, OH and Butler, PA; (8) in Sub-No. 97F to substitute Lorain County, OH for Lorain, OH; (9) in Sub-No. 113F to substitute Bucks County, PA, for Fairless, PA; (10) in Sub-No. 117F to substitute Dauphin County, PA, for Harrisburg, PA; (11) in Sub-No. 117F to delete spring accessories; (12) replace one-way with radial authority between Boyd County, KY, and IL, IN, IA, and TN, in Sub-No. 82F; between New Castle County, DE and Chester County, PA, and, IL and IN in Sub-No. 88F; between (a) Boyd County, KY, (b) Butler and Muskingum Counties, OH, and (c) Butler County, PA and IL, IN, MI and TN in Sub-No. 90F; between Roanoke, VA, and IL, IN, and TN, in Sub-No. 92F; between points in Lorain County, OH, and IL, IN, and TN, in Sub-No. 97F; between Morrisville, PA, and CT, MA, and RI, in Sub-No. 102F; between Youngstown, OH and IL and IN, in Sub-No. 108F; between Bucks County, PA, and CT, MA and RI in Sub-No. 113F; between Dauphin County, PA, and the United States in Sub-No. 117F; and between Warrick County, IN, and MD, ME, NC, NJ, NY, PA and VA, in Sub-No. 118F; and (13) remove exceptions of AK and HI in Sub-No. 117F.

MC 11185 (Sub-132)X, filed April 29, 1981. Applicant: J-T TRANSPORT COMPANY, INC., 3501 Manchester Trafficway, Kansas City, MO 64129. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Applicant seeks to remove restrictions in its Sub-Nos. 37, 61, 64, 69, 72, 73, 76, 79, 80, 82, 84, 85, 88, 91, 94, and 99 permits to (A) broaden the commodity descriptions in each to "transportation equipment" from airplanes and airplane parts and equipment (except airplane engines), unassembled, uncrated, requiring the use of special equipment; and (B) broaden the territorial description in all permits to authorize service between points in the U.S., under continuing contract(s) with unnamed shippers.

MC 35320 (Sub-656)X, filed May 5, 1981. Applicant: T.I.M.E.—DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same as above). Applicant seeks to remove restrictions in its Sub-No. 107 certificates to (1) broaden the commodity descriptions to (a) "general commodities (except classes A and B explosives)", where applicable from general commodities (with exceptions); (b) "metal products and materials, equipment, and supplies used in their manufacture and processing," from iron and steel articles, and materials, equipment, and supplies used in the manufacture and processing of iron and steel articles (except commodities in bulk and mercer commodities), sheet 4; (c) "food and related products" from specified commodities such as, fish, including shell fish, and frozen fruits and vegetables, meat, meat products, an meat by-products, and articles distributed by meat packinghouses, and frozen foods and potato products, not frozen, sheets 5, 15, 17, 23, 30, 32, 37, 38 and 39; (d) "clay, concrete, glass or stone products" from tile and clay products and materials uses in the manufacture and packaging of tile and clay products, sheet 14; (e) "rubber and plastic products" from crude rubber, sheet 30; and (f) "chemicals and related products" from liquid floor waxes, liquid disinfectants, liquid cleaners and detergents, and liquid soap, in collapsible tanks, drums, or bins, sheet 34; (2) remove restrictions such as originating at and/or destined to, pickup and delivery, and joinder only; (3) allow service at all intermediate points; (4) remove plantsite limitations and replace with authority to serve the county or city; (5) replace off-route points with counties as follows: Phoenix with Maricapia County, AZ; Chicago Heights and Carol Stream with Cook County, IL; Waterton and Marshall with Jefferson and Boulder Counties, CO; Cheyenne with Laramie County, WY; Lewisport, Doe Run, and Elizabethtown with Hancock, Mead and Hardin Counties, KY; Bridgeton, Robertson, and Ferguson with St. Louis County, MO; Everett with Smohomish County, WA; Portland with Multnomah, and Clackamus Counties, OR; Twinsburg with Summit County, OH; points with 35 miles of Phoenix, those in AZ and CA within 20 miles of Yuma with Yavapai, Marcopia, Penal and Yuma Counties, AZ and Imperial County, CA; and points in MI within 20 miles of the intersection of Woodward and Gratiot Anes, Detroit, MI with St. Clair, MaComb, Oakland, Livingston, Washenaw and Monroe Counties, MI, and (6) change its one way regular route authority to two-way authority and its one-way irregular route authorities to radial authorities between points in the U.S.

Note.—Carrier's ability to tack will be governed by 49 CFR 1042.10(b). Applicant intends to tack and interline in connection with its regular route operations.

MC 41136 (Sub-32)X, filed April 24, 1981. Applicant: FLEET CARRIER CORPORATION, P.O. Box 568, Pontiac, MI 48056. Representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in the lead and Sub-Nos. 10, 14, 17, 20, 23, 24, 25, and 27 to (1) broaden the commodity descriptions to "transportation equipment" in its lead certificate from new automobiles, new trucks, new trailers, new chassis, and other new automotive vehicles; new commercial motor vehicles, new chassis, and part thereof; new trucks, new tractors, new trailers, new chassis, and other automotive vehicles, except passenger automobiles; new buses, and bus chassis; buses, and bus chassis; trucks, truck tractors, buses, chassis, and vehicles designed to be used alternatively for the transportation of passengers or property, and parts and accessories for, and moving in the same shipments with the vehicles to be transported; cabs and bodies; automobiles, trucks, trailers, chassis and other automotive vehicles, new, used, unfinished, and/or wrecked; in Sub-No. 10 from new trucks, new tractors, new trailers, new chassis, and other automotive vehicles, except passenger automobiles; in Sub-No. 14 from buses, bus chassis and parts thereof; in Sub-No. 17 from buses and bus chassis; in Sub-No. 20 from trucks, truck tractors, buses, chassis, and vehicles designed to be used alternatively for the transportation of passengers or property, and parts and accessories for, and moving in the same vehicle with the vehicles to be transported: cabs and bodies; in Sub-No. 22 from commercial automotive vehicles, new trucks, new

buses, new trailers, and new chassis; new bodies and new cabs; and parts of the above-specified commodities; new chassis, and parts of the above-specified commodities; commercial automotive vehicles, trucks, buses, trailers, and chassis, new, used, and unfinished; bodies and cabs, new, used, and unfinished; trucks, truck tractors, buses, chassis, and vehicles designed to be used alternatively for the transportation of passenger or property; cabs and bodies; trailers; in Sub-No. 23 from motor homes; in Sub-No. 24 from motor vehicles (except passenger automobiles); in Sub-No. 25 from motor vehicles (except motor homes); and in Sub-No. 27 from motor vehicles, (2) remove restrictions limiting service to transportation from named places of manufacture and assembly in the lead and Sub-No. 22; (3) remove facilities limitations in the lead and Sub-Nos. 20, 22, and 25, (4) remove restrictions to initial movements in the lead and Sub-Nos. 10, 14, 17, 20, 22, and 25, (5) remove restrictions to secondary movements in the lead and Sub-Nos. 20, 22, 23 and 24, (6) remove restrictions limiting operations to driveway or truckaway service in the lead and Sub-Nos. 10, 14, 17, 20, 22, 23, and 24, (7) remove ex-rail restrictions in Sub-Nos. 23 and 24, (8) remove restrictions to the transportation of commodities originally manufactured at and shipped from named plantsites in Sub-Nos. 23 and 24, and (9) change one-way to radial authority between various combinations of points throughout the U.S.

MC 53908 (Sub-3)X, filed May 11, 1981. Applicant: E. B. LIBE, INC., 160 Broad St., Phillipsburg, NJ 18865. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave. NW., Washington, DC 20036. Applicant seeks removal of restrictions in its lead certificate to (1) broaden the commodity description from general commodities (with exceptions not including classes A and B explosives) to "general commodities", (2) remove the restriction against the transportation of boats, (3) broaden the irregular route portion of the territorial description from one-way to radial authority to authorize service between Phillipsburg, NJ, and, points in PA, NY, VA, RI, TN, MD, MA, CT and DC, and (4) broaden the commodity description from steel, pipe, rope, paint materials, to "metal products, textile mill products, chemicals and related materials", and paper and paper products to "pulp, paper and related products".

MC 67866 (Sub-41)X, filed May 4, 1981. Applicant: FILM TRANSIT, INC., 3931 Homewood Road, Memphis, TN 38118. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Popular Ave., Memphis, TN 31837. Applicant seeks to remove restrictions in its lead and Sub-Nos. 6, 8, 9, 10, 11, 13, 16, 36F, and 37F certificates to (1) broaden the commodity descriptions from (a) general commodities, with exceptions to "general commodities (except classes A and B explosives)" in the lead and Sub-Nos. 13, 36F and 37F; (b) dated publications in the lead and Sub-Nos. 6 and 8, newspapers in Sub-No. 10, and commercial papers and documents (except cash letters), payroll and data processing and accounting information and forms and electro-magnetically coded or impregnated bank forms and documents, in Sub-No. 10 to "printed matter"; (c) exposed and developed photographic film and plates and prints to "instruments or photographic goods, including optical goods, watches and clocks" in Sub-Nos. 9 and 11; and (d) newspaper, theatre films, magazines, and ice cream to "printed matter, theatre films, and food and related products" in Sub-No. 13 (page 2); (2) authorize service at all intermediate points between Menard, IL, and St. Louis, MO; St. Louis, MO, and Chester, IL; and Ruma, IL, and Prairie du Rocher, IL, in Sub-No. 13; (3) change city to county-wide authority from Lilbourn to New Madrid County, MO, in Sub-Nos. 36F and 37F; (4) remove the restrictions against the transportation of (a) shipments for any bank or banking institution in Sub-No 16; and (b) size and weight commodities in Sub-Nos. 13, 36F and 37F and (5) remove the in packages requirement in Sub-No. 13.

MC 69376 (Sub–1)X, filed May 11, 1981. Applicant: ALL-AMERICAN MOVING SYSTEMS INC., 58 Hubbard Rd., Youngtown, OH 44505. Representative: James Duvall, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Applicant seeks to remove restrictions in its lead certificate authorizing service between points in Mahoning County, OH, on the one hand, and, on the other, points in NY, PA, WV and the Lower Peninsula of MI, by broadening the commodity description from household goods as defined by the Commission to "household goods, furniture and fixtures."

MC 69901 (Sub-43)X, filed April 13, 1981. Applicant: COURIER-NEWSOME EXPRESS, INC., P.O. Box 270, Columbus, IN 47201. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its lead and Sub-Nos. 11, 17, 25, 29, 31, 36, and 39 certificates to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)", in part of the lead and Sub-Nos. 11, 25, 29, 31 and 36; from automotive parts, automotive accessories, automotive accessory parts, advertising materials, acetylene gas, acid, bolts, brass, copper, cleaning fluids, chemicals, cartons, carbide, castings, electric motors, electrical appliances, electrical appliance parts, empty carboys, gas cylinders, and steel drums, excelsior wood, glass insulated wire, iron or steel articles, lumber, machinery, machinery parts, metal furniture, metal stampings, metal tubes, metal tubing, nuts, oxygen gas, paint, platforms or skid, petroleum products (in containers), radios, radio parts, radio cabinets, rubber hose, solder, steel, steel folding ironing boards, steel laundry tubs, and welding rods, to "general commodities (except classess A and B explosives)", in part of the lead; from metal furniture, metal articles, automotive parts, accessories, and accessory parts, house radios, electric house heaters, advertising materials, paint, machinery, machinery parts, and materials and supplies used in or incidental to the manufacture of the above-specified commodities to "general commodities (except classes A and B explosives)", in part of the lead; automotive parts, automotive accessories, automotive accessory parts, advertising materials, electrical applicances, empty carboys, gas cylinders, and steel drum, metal furniture, platforms or skids, radios, radio parts, rubber hose, steel folding ironing boards, and steel laundry tubs, to "general commodities (except classes A and B explosives)", in part of the lead; from automotive accessory parts, advertising materials, acetylene gas, acid, bolts, brass, copper, cleaning fluids, chemicals, cartons, carbide, castings, electric motors, electrical appliance parts, excelsior wood, glass, insulated wire, iron or steel articles, lumber, machinery, machinery parts, metal stampings, metal tubes, metal tubing, nuts, oxygen gas, paint, petroleum products (in containers), platforms or skids, radio parts, radio cabinets, rubber hose, solder, steel, and welding rods, to "general commodities (except classes A and B explosives)", in part of the lead; from paper and paper products to "pulp, paper and paper products", in Sub-No. 17 and from automotive parts and accessories, parts for automotive accessories, advertising materials, electrical appliances, empty carboys, gas cylinders, steel drums, metal furniture, platforms and skids, radios, radio parts, rubber hose, steel

folding ironing boards, and steel laundry tubs, and parts for automotive accessories, advertising materials, acetylene gas, acids, bolts, brass, cooper, cleaning fluids, chemicals, cartons, carbide, castings, electric motors, electrical appliance parts, excelsior wood, glass, insulated wire, iron and steel articles, lumber, machinery parts, metal stampings, metal tubing, nuts, platforms and skids, radio parts, radio cabinets, rubber hose, solder, and welding rods; and petroleum products, in containers, to "general commodities (except classess A and B explosives)", in Sub-No. 39, (2) authorize service to all intermediate points along described regular routes in the states of Illinois, Indiana, Kentucky, Michigan, Ohio and Tennessee, in the lead and Sub-Nos. 11, 25, 29 and 36, (3) to replace one-way authority with radial authority, in the lead and Sub-Nos. 17 and 39, (4) remove the originating at and destined to restriction in Sub-No. 31 and (5) replace specified plan site with county-wide authority to authorize service between points in Bartholomew County, IN (for Columbus, IN) and points in Illinois, Kentucky, Missouri, Ohio and Wisconsine, in Sub-No. 17.

MC 96324 (Sub-45)X, filed April 30, 1981. Applicant: GENERAL DELIVERY, INC., P.O. Box 1816, Fairmont, WV 26554. Representative: Mel P. Booker, Jr., P.O. Box 1281, Alexandria, VA 22313. Applicant seeks to remove restricitons in its Sub-No. 25 certificate to (1) broaden the commodity description to "glassware, containers and closures" from glassware, plastic containers, closures for glass and plastic containers, and to "clay, concrete, glass or stone products" from glass containers in the section authorizing tacking, (2) change city to county-wide authority, from Freehold, NJ, Brockway and Washington, PA and Zanesville, OH to Monmouth County, NJ, Jefferson and Washinton Counties, PA and Muskingum County, OH in part (2), from Huntington, WV to Cabell County, WV in part (3), from Fairmont, WV to Marion County, WV in part (4), (3) change city to county-wide authority in applicants tacking authorization from Huntington, WV to Cabell County, WV; from Clarksburg, WV to Harrison County, WV; from Fairmont, WV to Marion County, WV; from Brockway and Washington, PA to Jefferson and Washington Counties, PA; and from Zanesville, OH to Muskingham County, OH, and (4) change one-way to radial authority between points in GA, NC and TN and points applicant presently is authorized to serve in a described portion of the US in connection with clay, concrete, glass or stone products movements in applicants tacking authority.

MC 96448 (Sub-9) X, filed April 30, 1981. Applicant: BROOK LEDGE, INC., R.D. No. 1, Box 56, Oley, PA 19547. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. Applicant seeks to remove restrictions from its Sub-Nos. 6, 7, and 8 certificates to (1) broaden the commodity description from horses, and equipment and paraphernalia incidental to the transportation, care and display of such horses, to "farm products, leather and leather products, metal products, textile mill products, chemicals and related products, rubber and plastic products, food and related products, clay, concrete, glass or stone products, and transportation equipment:, (2) eliminate the restriction against transportation of ordinary livestock in Sub-No. 6, 7 and 8, and (3) replace city wide authority with countywide authority in Sub-No. 7, Maricopa and Pinal Counties, AZ for Phoenix, AZ and points within 15 miles thereof.

MC 106223 (Sub-76) X, filed May 11, 1981. Applicant: GREENLEAF MOTOR EXPRESS, INC., 4606 State Rd., P.O. Box 667, Ashtabula, OH 44004. Representative: James R. Stiverson, 1396 W. Fifth Ave., Columbus, OH 43212. Applicant seeks to remove restrictions in its Sub-Nos. 65, 68, and 74F certificates to (1) broaden the commodity descriptions to "chemicals and commodities in bulk" from toluene di-isocyanate, in bulk, in tank vehicles, in Sub-No. 65, liquid chemicals (except toluene di-isocyanate, cryogenic liquids, and petrochemicals), in bulk, in tank vehicles, in Sub-No. 68, and chemicals, in bulk, in tank vehicles, in Sub-No. 74F; (2) remove the facilities limitation at Ashtabula, OH and replace with Ashtabula County, in Sub-Nos. 68 and 74F and replace Ashtabula, OH with Ashtabula County, in Sub-No. 65; and (3) change its one-way authorities to radial authorities between points in the eastern part of the U.S.

MC 109094 (Sub-19)X, filed May 6, 1981. Applicant: GAULT TRANSPORTATION, INC., 2381 Cranberry Highway, Wareham, MA 02571. Representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Applicant seeks to remove restrictions in its Sub-Nos. 3, 7, 8, 10, 13, 14, 15, 16, 18F certificates and E–1 letter notice to (1) broaden the commodity description to "commodities in bulk" from various bulk commodities: (a) petroleum products, in Sub-Nos. 3, 7, 8, 10, 14, 15 and E–1 letter notice, (b) corn and soybean products, in Sub-No. 13, (c) liquid chemicals, in Sub-No. 16, and (d) odophos, in Sub-No. 18F; (2) remove the (a) "in tank truck" or "in tank vehicle" restrictions, in Sub-Nos. 7, 8, 10 and 14 and E–1 letter notice, (b) "seasonal" restriction, in Sub-No. 7 and 8 and (c) the "originating at and destined to" restriction in Sub-No. 16; (3) authorize county-wide authority to replace existing facility or city-wide authority: (a) Newport County, RI, for Tiverton, RI, Plymouth County, MA for Duxbury, Bridgewater and Plymouth, MA, in Sub-No. 3; (b) Bristol County, MA, for Fall River, MA, in Sub-No. 7; (c) Newport County, RI, for Tiverton, RI, Bristol County, MA, for Fall River, MA, and Windham County, CT, for Putnam, CT, in Sub-No. 8; (d) Norfolk County, MA, for Braintree, MA, Cheshire and Hillsboro Counties, NH, for Keens and Manchester, NH, New London County, CT, for Norwich, CT, and Newport County, RI, for Tiverton, RI, in Sub-No. 10; (e) Essex County, MA, for Beverly and Salem, MA, in Sub-No. 13; (f) Franklin County, MA, for Greenfield, MA, New London and Fairfield Counties, CT, for New London and Bridgeport, CT, New Haven and Hartford Counties, CT, for New Haven and East Hartford, CT, and Hampshire County, MA, for Northampton and Amherst, MA, in Sub-No. 14; (g) Middlesex County, MA, for Everett, MA, in Sub-No. 16; (h) Middlesex County, NJ, for Sayreville, NJ, in Sub-No. 18F; (i) Newport County, RI, for Newport and Tiverton, RI, and Bristol County, MA, for Fall River, MA, in E–1 letter notice; and (4) authorize radial authority to replace existing one-way service between points generally in the New England States, in all certificates and E–1 letter notice.

MC 111401 (Sub-618)X, filed April 30, 1981. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Alvin J. Meikejohn, Jr., 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Applicant seeks to remove restrictions in its Sub-Nos. 202, 205, 211, 215, 221, 226, 227, 228, 230, 237, 246, 250, 254, 255, and 256 certificates to (1) broaden the commodity descriptions from (a) meats, meat products, meat by-products, articles distributed by meat packinghouses, offal, blood meal, meat scraps and fresh meats to "food and related products" in Sub-Nos. 202 and 250; (b) dry fertilizer, fertilizer, fertilizer compounds, fertilizer materials, fertilizer ingredients, boron compounds, potash, and anhydrous ammonia to "commodities in bulk and chemicals and related products" in Sub-Nos. 205, 221, 226, 227, and 247; (c) anhydrous ammonia, liquid fertilizer materials,

chemicals, fertilizer solutions and materials, fungicides, herbicides, insecticides, lubricating oil, petroleum oils, and solium silicate to "commodities in bulk" in Sub-Nos. 211, 215, 228, 230, 254, and 256; (d) truck bodies to "metal products" in Sub-Nos. 237; (e) meats, meat products and meat by-products, and articles distributed by meat packinghouses, and commodities in bulk to "food and related products and commodities in bulk" in Sub-Nos. 246; and (f) liquid animal feed supplements to "food and related products, chemicals and related products, and commodities in bulk" in Sub-Nos. 255; (2) remove the restrictions in tank vehicles in Sub-Nos. 202 and 211; except liquid nitrogen, liquid hydrogen, and liquid oxygen in Sub-No. 215; seasonal in Sub-No. 221; in dump or hopper-type vehicles in Sub-No. 226; in bulk in Sub-Nos. 211, 215, 226, 228, 230, 237, 254, and 256; except animal fats, greases, and blends in Sub-No. 246; and except molasses and liquid feed grade urea in Sub-No. 255; (3) eliminate the facilities limitations in Sub-Nos. 205, 211, 226, 228, 230, 237, 246, 247, and 256; (4) expand city to county-wide authority from Guymon to Texas County, OK, in Sub-No. 202; Enid, OK to Garfield County, OK and Altus, OK to Jackson County, OK in Sub-Nos. 205 and 255; Meredosia, IL to Morgan County, IL in Sub-No. 211; Augusta, GA to Richmond County, GA, in Sub-No. 215; Wichita, KS to Sedgwick County, KS in Sub-No. 221; Donaldsville, LA to Ascension Parish, LA in Sub-No. 228; Wood River, IL to Madison County, IL in Sub-No. 230; Liberal, KS to Seward County, KS in Sub-No. 237; Dodge City, KS to Ford County, KS in Sub-Nos. 246 and 247; Pratt, KS to Pratt County, KS in Sub-No. 250; Franklin, PA to Venango County, PA in Sub-No. 254; Arkansas City, KS to Crowley County, KS in Sub-No. 255; and Pineville, LA to Rapides Parish, LA, in Sub-No. 256; (5) change one-way to radial authority between points throughout the U.S.; and (6) remove the "originating at and destined to" restriction in Sub-Nos. 202, 211, 226, 228, 246, 247, and 250.

MC 115078 (Sub-10)X, filed May 4, 1981. Applicant: SINDALL TRANSPORT, INC., 102 N. Custer Ave., New Holland, PA 17557. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K Street NW., Washington, D.C. 20005. Applicant seeks to remove restrictions in its lead and Sub-Nos. 7F and 8 certificates to (1) broaden its commodity descriptions: in the lead and Sub-No. 7F, to "machinery" from agricultural machinery, implements, and parts, other than hand (with exceptions), and agricultural, industrial, and construction machinery and equipment, attachments, and materials and supplies used in the manufacture, repair, assembly, and distribution of agricultural machinery and implements (with exceptions); and in the lead, to "lumber and wood products," from rough sawed lumber; (2) replace facilities and cities with county-wide authority, expand specified ports of entry, and change its one-way to radial authority: in the lead, between Lancaster and Mifflin Counties, PA (for new Holland, Mountville, Belleville, Intercourse, and Lancaster), and the ports of entry on the US-Canada Boundary line in NY, NH, and VT; between US-Canada Boundary line, in NY (for Buffalo and Niagara Falls), and points in NY and PA; between Lancaster and Mifflin Counties, PA (for facilities at New Holland, Mountville, and Belleville, PA, and ports of entry on the US-Canada Boundary line, at points in NY, NH, and VT; and in Sub-No. 7F, between points in PA (for facilities in PA), and ports of entry on the US-Canada Boundary line in NY; and (3) eliminate: in the lead, the restriction against the transportation of commodities which because of their size and weight require the use of special equipment; and in the lead and Sub-No. 7F, the restriction limiting the transportation of traffic in foreign commerce.

MC 117765 (Sub-318)X, filed April 24, 1981. Applicant: HAHN TRUCK LINE, INC., 1100 South MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., Oklahoma City, OK 73106. Applicant seeks to remove restrictions in its Sub-Nos. 51, 83, 123(part), 176, 211, 224, 243F, 280F(part), and 294F certificates to (A) broaden the commodity description in each to "pulp, paper and related products" from pitch, lignin, dry, in bags, barrels, or containers, newsprint and groundwood paper, scrap and waste paper, paper and paper products; and Sub-No. 224, remove the exclusion of "bulk" and "size or weight" commodities from materials, supples and equipment used in the manufacture and distribution of paper and paper products; (B) remove restrictions limiting service to that originating at or destined to the facilities of named shippers in Sub-Nos. 224 and 243; (C) change one-way service to radial service; and (D) expand the facilities and cities to county-wide authority to serve between: Sub-No. 51, Outagamie and Calument Counties, WI (facilities near Appleton, WI), and, points in five States; Sub-No. 83, Brown and Marathon Counties, WI (Green Bay and Rothschild, WI), and, points in six States and MO (except the St. Louis, MO commercial zone); Sub-No. 123, Rogers and Tulsa Counties, OK (Port of Tulsa, Rogers County, OK), and, Ford County, KS (Dodge City, KS), Lubbock and Hockley Counties, TX (Lubbock, TX), and Woods, Harper, Jackson and Kiowa Counties, Ok (Alva, Buffalo, Eldorado, and Hobart, OK); Sub-No. 176, Oneida County, WI (facilities at Rhinelander, WI), and, points in six States; Sub-No. 211, Clay and Jackson Counties, MO (facilities at North Kansas City, MO), and, points in two States; Sub-No. 224, Muskogee County, OK (facilities near Muskogee, OK), and, points in 17 States; Sub-No. 243, McMinn County, TN (facilities near Calhoun, TN), and, points in nine States; and Sub-Nos. 280 and 294, Outagamie and Calumet Counties, WI (Appleton, WI), and, points in two States.

MC 117816 (Sub-5)X, filed May 7, 1981. Applicant: BERWICK & SONS, INC., Plainfied Road, West Lebanon, NH 03784. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Applicant seeks to remove restrictions in the lead and Sub-No. 3F and 4F permits to (1) broaden the commodity description to (a) "Metal products, lumber and wood products, rubber and plastic products and pulp, paper and related products" from empty steel barrels, drums and pails in part (1) of the lead and Sub-No. 4F and from new empty steel barrels, drums, and containers in part (2) of the lead and (b) to "rubber and plastic products and materials, equipment and supplies" from plastic articles and materials, equipment and supplies (except in bulk, in tank vehicles) in Sub-No. 3F; (2) broaden the territorial description to between points in the U.S. under continuing contracts with named shipper in each permit.

MC 119656 (Sub-83)X, filed May 12, 1981. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, IN 46996. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Applicant seeks to remove restrictions in its Sub-Nos. 35, 55F, 61F, 62, and 63F certificates to (1) broaden its commodity descriptions: in Sub-No. 35, to "metal products, construction materials, and materials equipment and supplies used in the manufacture and distribution thereof", from iron, steel, zinc, lead, and articles or products thereof (except in bulk), springs, and construction materials, supplies and equipment (except in bulk), in Sub-No. 55F, to "metal products, and materials, equipment and supplies used in the manufacture and distribution thereof", from steel pipe, pipe fittings, beams,

piling, rails, railway track accessories, etc., and parts, materials, equipment and supplies used in the manufacture, installation, dismantling, and distribution, ther of (except commodities in bulk); and in Sub-Nos. 61F, 62, and 63F, to "metal products", from iron and steel articles and aluminum; (2) replace facilities and cities with county-wide authority: in Sub-No. 35, facilities at or near Blue Island and Joliet, IL, Cicero, Elkhart, and Kokomo, IN, Centerville, IA, Grand Rapids and Lansing, MI, Jackson, MS, Columbus and Toledo, OH, with Cook and Will Counties, IL, Hamilton, Elkhart, and Howard Counties, IN, Appanoose County, IA, Kent and Ingham Counties, MI, Hinds County, MS, and Franklin and Lucas Counties, OH; in Sub-No. 55F, facilities at Parkersburg and Washington, WV, with Wood County, WV; and inSub-No. 61F, facilities at Lackawanna, NY, with Erie County, NY; (3) change one-way to radial authority, in Sub-No. 35 between the above-named counties and points in the U.S.; and in Sub-No. 61, between points in Erie County, NY, and points in CO, IA, KS, MN, MO, MT, NE, ND, and SD; and (4) eliminate: in Sub-No. 35, the AK and HI exception; in Sub-Nos. 35 and 61, the originating at and/or destined to restrictions.

MC 119944 (Sub-15)X, filed April 21, 1981. Applicant: BROCKWAY FAST MOTOR FREIGHT, INC., 568 Central Avenue, Bridgewater, NJ 08807. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. Appliant seeks to remove restrictions in its lead, and Sub-Nos. 1, 6, 10, 11, 13, and 14 certificates and E–1 gateway elimination notice to (A) broaden the commodity descriptions to: lead certificate, "building materials, lumber and wood products, clay, concrete, glass or stone products, pulp, paper and related products, metal products, and textile mill products" from roofing and building materials, "petroleum, natural gas and their products" from oils and solvents, "rubber and plastic products," from rubber, and "chemicals and related products" from glycerine, soap, paints, acids, disinfectants, insecticides, and aluminum sulphate; Sub-No. 1, "clay, concrete, glass or stone products" from brick (except fire brick); Sub-No. 4, "chemicals and related products" from polyethylene, polypropylene and silica gel catalyst; Sub-No. 6, "ores and minerals, and clay, concrete, glass or stone products" from talc; Sub-No. 10, "rubber and plastic products" from dry plastic; Sub-Nos. 11 and E–1, "clay, concrete, glass or stone products" from brick, crushed stone, and gravel, and "ores and minerals" from sand, and remove the exclusion of lumber from building materials; Sub-No. 13, "chemicals and related products" from dry adipic acid; and Sub-No. 14, "rubber and plastic products" from plastic pipe, ducts, and tubes, "metal products" from related fittings and attachments, and "chemicals and related products" from materials and supplies used in their installation; and remove the "in bulk" and vehicle and container restrictions in the lead, and Sub-Nos. 4, 6, 10, 11, 13, and E–1; (B) delete the restrictions to shipments having a prior movement by rail and water in Sub-Nos. 4, 10, and 13; (C) substitute radial authority in lieu of existing one-way authority; and (D) broaden the territorial descriptions from plantsites and towns to city or county-wide authority, as follows: lead certificate, Morris Count, NJ (Boonton, NJ), New Castle County, DE (Claymont, DE), Delaware County, PA (Marcus Hook, PA), and Westchester County, NY (Pleasantville, NY); Sub-No. 1, Middlesex County, NJ (plantsite at Sayreville, NJ); Sugb-Nos. 4 and 10, Newark, NJ (Port Newark, NJ), Elizabeth, NJ (Port Elizabeth, NJ), and Somerset County, NJ (Bridgewater Township, NJ); Sub-No. 6 Windsor County, VT (West Windsor, VT); Sub-No. 11, Monmouth County, NJ (Cliffwood, NJ); Sub-No. 13, Somerset County, NJ, (Somerville, NJ), and Kent County, MD (Chestertown, MD); and Sub-No. 14, Northampton County, PA (Nazareth, PA).

MC 120257 (Sub-61)X, filed May 4, 1981. Applicant: K. L. BREEDEN & SONS, INC., P.O. Box 4267, Lone Star, TX 75668. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Applicant seeks to remove restrictions in its Sub-Nos. 1, 8, 9, 10, 12, 19, 21, 23, 24, 27, 32, 38, 40, 42, 44F, 48F, 49F, 50F, 52, and 53F certificates to (A) broaden the commodity descriptions to (1) "metal products" from (a) iron and steel articles, in Sub-Nos. 9, 10, 19, 24, and 49F, (b) cast iron pipe and fittings, in Sub-Nos. 12, 21, 23, 27, 40, 42, 48F, and 53F, (c) pipe, in Sub-Nos. 1, 8, 32 and 50F, (2) "waste or scrap materials not identified by industry producing" from iron and steel scrap, in Sub-No. 38, (3) "rubber and plastic products" from plastic pipe and fittings, in Sub-No. 44F, and (4) "machinery and metal products" from cooling equipment, materials and supplies, in Sub-No. 52; (B) remove the (1) "except commodities in bulk" and "size or weight" restrictions, in Sub-No. 44F, and (2) "except commodities in bulk" restrictions, in Sub-No. 52 and 53F (C) eliminate the facilities restrictions, in Sub-Nos. 8, 9, 10, 12, 19, 21, 23, 24, 27, 32, 38, 40, 42, 44F, 49F, 52 and 53F; (D) remove the restriction limiting service to the transportation of traffic originating at and/or destined to named points, in Sub-Nos. 8, 9, 21, 23, 24, 27, 38 and 42; (E) eliminate the restriction prohibiting service to (1) AK and HI, in Sub-Nos. 9, 10, 21, 49, 50F, 52 and 53F, and (2) the origin state of TX, in Sub-No. 50F; (F) replace city-wide service with county-wide authority: (1) in Sub-Nos. 1, 9, 23, 38, Lone Star, TX with Morris County, TX; (2) in Sub-No. 8, Gainesville, TX with Cooke County, TX; (3) in Sub-No. 10, Fort Collins, CO with Larimer County, CO; (4) in Sub-No. 12, Birmingham, AL with Jefferson County, AL; (5) in Sub-No. 19, Midlothian, TX with Ellis County, TX; (6) in Sub-No. 21, Albertville, AL with Marshall County, AL; (7) in Sub-No. 23, Beaumont, TX with Jefferson County, TX; (8) in Sub-No. 27, Chattanooga, TN with Hamilton County, TN; (9) in Sub-No. 40, Louisville, KY with Jefferson County, KY; (10) in Sub-No. 42, Birmingham and Bessemer, AL with Jefferson County, AL; (11) in Sub-No. 48F, Little Rock, AR with Pulaski County, AR, and Lufkin, TX with Angelina County, TX; and (12) in Sub-No. 49F, Conroe, TX with Montgomery County, TX; and (G) authorize radial authority to replace existing one-way service between cities and counties in various combinations of States throughout the U.S., in Sub-Nos. 1, 8, 9, 10, 12, 19, 21, 23, 24, 27, 32, 38, 40, 42, 44F, 48F, 49F, and 50F.

MC 120631 (Sub-8)X, filed May 8, 1981. Applicant: STEPHENS TRUCK LINE, P.O. Box 489, Dickson, TN 37055. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Applicant seeks to remove restrictions from its Sub-No. 5F and 6F certificates to: (1) in Sub-No. 6F, remvoe all exceptions from its general commodities authority, except "Classes A and B explosives"; authorize service at all intermediate points on its regular routes; and, remove the restriction against traffic moving between points in Davidson County, TN, on the one hand, and, on the other, points in Shelby County, TN (2) in Sub-No. 5F, broaden the commodity descriptions from pneumatic tire valves to "rubber and plastic articles"; from parts for pneumatic tire valves to "metal products"; and from poly film and poly bags to "rubber and plastic articles" and replace authority to serve named points or facilities with county-wide authority as follows: Dickson County, TN for facilities at Dickson, TN; Etowah County for facilities at Gadsen, AL; and Troup County, GA for LaGrange, GA. Applicant intends to tack its irregular

route authority herein, as modified, to the existing regular route authority.

MC 121450 (Sub-15)X, filed April 24, 1981. Applicant: McCOMAS TRUCK LINES, INC., P.O. Box 939, Chickasha, OK 73034. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034. Applicant seeks to remove restriction in its Sub-Nos. 8, 9, 10, and 11 certificates to broaden the commodity description from general commodities with exceptions to *General commodities* (except classes A and B explosives); (2) in its Sub 8, 9, 10, and 11 to serve all intermediate points on its regular routes in OK, and TX; points; and (3) in its Sub 9 to remove restrictions against service to Wilson, Lone Grove, Healdton, Fox, Ringling, Clemscot, Ratliff City, and Lawton, OK; and to remove restrictions against the transportation of traffic between Ardmore, OK on the one hand, and, on the other, Oklahoma City, Moore, Norman, Noble, Lexington, Purcell, and Wayne, OK.

MC 127135 (Sub-5)X, filed May 8, 1981. Applicant: HERBERT O. KINDRICK, d.b.a. KINDRICK TRUCKING CO., Route 8, Box 342, Harriman, TN 37748. Representative: J. Greg Hardeman, 618 United American Bank Bldg., Nashville, TN 37219. Applicant seeks to remove restrictions in its lead and Sub-No. 3F permits to (1) broaden its commodity descriptions from ferro alloys, in bulk, in dump vehicles, to "metal products, and clay, concrete, glass or stone products", in both permits; and (2) broaden its territorial authority to between points in the U.S., under continuing contract(s) with a named shipper, in both permits.

MC 124774 (Sub-140)X, filed April 21, 1981. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Avenue, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114. Applicant seeks to remove restrictions in its Sub-Nos. 73, 78, 81, 82, 83, 88, 91, 96, 97, 98, 100, 111F, and 127F certificates and E1 and E2 letter-notices to (1) broaden the commodity descriptions to "food and related products" from meats, meat products, and 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, in Sub-Nos. 73, 78, 81, 83, 88, 91, 96, 97, 98, 100, 111, E–1 and E–2; from dairy products, in Sub-No. 82; and from canned and cooked fish, and exempt commodities when moving in mixed loads with canned and cooked fish, in Sub-No. 127F, (2) remove the "in bulk, except hides, in tank vehicles" restrictions, in all subs, and (3) broaden the territorial description from one-way authority to radial authority and replace specified plantsites and cities with city or county-wide authority: Plymouth County, IA (for Le Mars, IA), in Sub-No. 73; Seward County, KS (for Liberal, KS), in Sub-No. 78; York County, NE (for York, NE), in Sub-No. 81; Nemaha County, KS (for Sabetha, KS), in Sub-No. 82; Plymouth, Crawford, Webster, and Cerro Gordo Counties, IA (for LeMars, Denison, Fort Dodge and Mason City, IA), Lyon County, KS (for Emporia, KS), Rock County, MN (for Luverne, MN), and Dakota and Cuming Counties, NE (for Dakota City and West Point, NE), in Sub-No. 83; Madison County, NE (for Madison, NE), in Sub-No. 88; Moore County, TX (for Cactus, TX), in Sub-No. 91; Finney County, KS (for Garden City, KS), in Sub-No. 96; Mills and Marshall Counties, IA (for Glenwood and Marshalltown, IA), and Hall County, NE (for Grand Island, NE), in Sub-100; Clay County, IA (for Spencer, IA), in Sub-111 and Sagadahoe, Waldo, Hancock and Knox Counties, ME (for Bath, Belfast, Prospect Harbor, Rockland and Southwest Harbor, ME).

MC 124813 (Sub-237)X, filed May 11, 1981. Applicant: UMTHUN TRUCKING CO., 910 South Jackson St., Eagle Grove, IA 50533. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. Applicant seeks to remove restrictions in its Sub-No. 162 certificate to (1) broaden its commodity descriptions: in part (1), to "food and related products, trace minerals, and animal and poultry health aid products", from feed, feed ingredients and supplements, trace minerals, and animal and poultry health aid products (except salt and liquids in bulk); and in part (2), to "clay, concrete, glass or stone products", from lime and limestone products; and (2) remove the exception of Superior, WI, and authorize radial authority between points in WI, and, points in CO, IL, IN, IA, KS, MN, MO, NE, ND, and SD.

MC 125254 (Sub-80)X, filed May 6, 1981. Applicant: MORGAN TRUCKING CO., 1201 E. 5th Street, P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Applicant seeks to remove restrictions in its Sub-Nos. 26, 49F, 60F and 77F certificates to (1) remove the in bulk restriction in all certificates; (2) eliminate the facilities limitation at Mt. Olive, in Sub-No.49F; (3) expend city to county-wide authority from Iowa City to Johnson County, IA, in Sub-No. 26; Muscatine to Muscatine County, IA, in Sub-Nos. 26 and 60F; and Mt. Olive to Macoupin County, IL, in Sub-No. 49F; (4) change one-way to radial authority between (a) Johnson and Muscatine Counties, IA, and points in WI, in Sub-No. 26; (b) Macoupin County, IL, and, points in IA and MO, in Sub-No. 49F; and (c) Muscatine County, IA, and points in the U.S., in Sub-No. 60F; and (5) remove the "originating at and destined to" restrictions in Sub-Nos. 26 and 60F, and "except AK and HI" in Sub-No. 60F.

MC 126327 (Sub-19)X, filed May 4, 1981. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Ste. 11, Santa Clara, CA 95050. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Applicant seeks to remove restrictions in its MC–126327 Sub-Nos. 1, 5F, 9F, 11F, 12F, 13F, 14, 15F, and 16F certificates and MC–138299 Sub-Nos. 5, 8, 12F, 13F, and 16F permits to (A) broaden the commodity descriptions, in its MC–126327 certificates, to (1) "food and related products" from (a) bakery products, potato chips, corn chips, and puff chips, in Sub-No. 1, (b) bakery products, in Sub-No. 5F, and (c) foodstuffs, in Sub-No. 11F, (2) "chemicals and related products, food and related products, and machinery" from toilet preparations, health and beauty aid products, buffing, polishing and cleaning compounds, chemicals, foodstuffs, and equipment and appliances used in health and beauty care, in Sub-No. 12F, (3) "lumber and wood products" from wooden shakes, shingles, and trim, in Sub-No. 14, (4) "ores and minerals, and clay, concrete, glass, or stone products" from clay and clay products, in Sub-No. 15F, and (5) "pulp, paper, and related products, and printed matter" from (a) paper, paper products, and wood pulp, in Sub-No. 9F, (b) paper and paper products, in Sub-No. 13F, and (c) paper and paper products and materials, equipment, and supplies used in the manufacture and distribution of the named commodities, in Sub-No. 16F; (B) broaden the commodity descriptions in MC–138299 permits to (1) "such commodities as are dealt in by manufacturers of insulation and insulating products" from mineral wool and mineral wool products, insulating material, insulated air duct, and products utilized in the installation of the above-described commodities, in Sub-No. 5, (2) "such commodities as are dealt in by manufacturers of insulating, roofing, fibreboard, and fiberglass materials and products" from fiberglass materials and fiberglass products, fibrousglass, mineral wool products, fibrous glass textile materials, fibrousglass textile products and roofing materials, and fibreboard building boards, in Sub-Nos. 8 and 12F, (3) "such

commodities as are dealt in by manufacturers of plumbing goods" from fiberglass bathtubs and shower stalls, cultured marble lavatories, bathtubs, and wall surrounds and chinaware, toilets and lavatories, in Sub-No. 13F, and, (4) "such commodities as are dealt in by manufacturers of insulation and plastic bottles" from insulation and plastic bottles, in Sub-No. 16F; (C) in its MC–126327 certificates, remove the restriction (1) prohibiting the transportation of frozen products, in Sub-Nos. 5F and 11F, (2) limiting service to the transportation of traffic originating at named facilities in Sub-Nos. 5F, 11F, 12F, and 13F, (3) except commodities (a) in bulk, in Sub-Nos. 11F, 12F, 15F and 161 and (b) frozen, in Sub-No. 11F, (D) in its MC–126327 certificates, authorize county-wide authority to replace existing city-wide service: (1) Phoenix and Tucson, AZ, to Maricopa and Pima Counties, AZ, in Sub-No. 1 (2) Buena Park, CA, to Orange County, CA, in Sub-Nos. 5F and 11F, and (3) Sparks, NV, to Washoe County, NV, and Emeryville, CA, to Alameda County, CA, in Sub-No. 12F; (E) in its MC–126327 certificates, authorize radial authority to replace existing one-way service between cities and counties in numerous western States, in Sub-Nos. 1, 5F, 12F, 14, and 15F; (F) in all its MC–138299 permits, broaden the territorial description to between points in the U.S., under continuing contract(s) with named shippers.

MC 127848 (Sub-12)X, filed May 5, 1981. Applicant: WAYNE W. SELL CORPORATION, 236 Winfield Road, Sarver, PA 16055. Representative: Thomas M. Mulroy, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity description from lime, lime products, limestone and limestone products to "clay, concrete, glass or stone products"; and (2) replace Leetsdale, PA, with Allegheny and Beaver Counties, PA and authorize radial operations between those counties and points in OH and WV.

MC 129572 (Sub-7)X, filed May 8, 1981. Applicant: ANDICO, INC., P.O. Box 1463, Provo, UT 84601. Representative: Irene Warr, Suite 280, Western Home Bank Bldg., 311 S State Street, Salt Lake City, UT 84111. Applicant seeks to remove restrictions in its Sub-No. 4F permit to (1) broaden its commodity description to "metal products", from pipe, pipe valves and fittings, beams, bar stock, sheet and plate metals (with exceptions), and equipment, materials and supplies used in the machining or installation thereof; and (2) broaden its territorial authority to between points in the U.S., under continuing contract(s) with a named shipper.

MC 129601 (Sub-2)X, filed May 4, 1981. Applicant: MID-OHIO VALLEY LEASING, INC. d.b.a. DOMESTIC AND INTERNATIONAL AIRFREIGHT LINES, P.O. Box 776, Washington, PA 15301. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity description from general commodities (with exception) to general commodities, except class A and B explosives; (2) remove the prior or subsequent movement by air restriction and (3) remove the airport facilities to limitations at Moon Township (Allegheny County), PA, Arlington County, Fairfax and Loudown Counties, VA, Anne Arundel County, MD, Hamilton County, OH, Boone County, KY, Franklin County, OH, and Charleston, WV, to authorize service at Pittsburgh, PA, the District of Columbia, Fairfax and Loudoun Counties, VA, Baltimore, MD, Cincinnati, Columbus, OH and Charleston, WV; and at Parkersburg, WV to authorize service at Wood County, WV.

MC 133175 (Sub-10)X, filed May 4, 1981. Applicant: METALS TRANSPORT CO., 1140 Poland Ave., Youngstown, OH 44502. Representative: James Duvall, P.O. Box 97, Dublin, OH 43017. Applicant seeks to remove restrictions in the lead and Sub-Nos. 2, 3, 6, 7 and 9 permits to (1) broaden the commodity description (a) to "such commodities as are dealt in or used by the manufacturers of metal products" from pallet racks and parts of pallet racks in Sub-Nos. 2 and 7 and from pipe and accessories for pipe in Sub-No. 9, (b) to "such commodities as are dealt in or used by manufacturers of buildings" from steel buildings, building sections, panels, materials, part and accessories in the lead and Sub-Nos. 3 and 6, and (2) broaden the territorial description to between points in the U.S., under continuing contract(s) with named shipper in the lead and all subs.

MC 134064 (Sub-51)X, filed March 27, 1981, and noticed in the FR of April 15, 1981, republished as corrected this issue. Applicant: INTERSTATE TRANSPORT, INC., 1600 Highway 129 South, Gainesville, GA 30505. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Applicant seeks to remove restrictions in its Sub-Nos. 2, 3, 5, 7, 8, 10F, 12F, 16F, 17F, 19F, 21F, 22F, 23F, 24F, 25F, 28F, 31F, 36F, 37F, 38F, 43F, 44F, 45F, 46F certificates to (1) broaden the commodity description to "food and related products" from animal and poultry feed in Sub-No. 2, from salt and salt products, pepper in packages, animal and poultry minerals feed mixtures, in packages in Sub-No. 3; from prepared flour mixes, and frosting mixes in Sub-No. 5; from canned and preserved foodstuffs in Sub-No. 16F; from foodstuffs (except commodities in bulk) and confectionery products (except in bulk, and except foodstuffs) in Sub-No. 17F; from foodstuffs (except in bulk) in Sub-Nos. 21F, 24F, 36F part (2) of Sub-No. 46F and part (1) of Sub-No. 45; from frozen foods in Sub-No. 23F; from meat, meat products, meat by-products, and articles distributed by meat-packing houses (except hides and commodities in bulk) in Sub-Nos. 25F and part (1) of 46F; from canned goods, unfrozen in Sub-No. 43F; to "petroleum, natural gas and their products" from packaged petroleum products in Sub-No. 7; from petroleum and/or petroleum products, in Sub-Nos. 8, 10F, 12F, 19F and 22F; and to "chemicals and related products" from chemicals (except in bulk) in Sub-No. 37F, (2) remove the mixed loads restriction in Sub-No. 3, (3) remove the "in bulk" restrictions in Sub-Nos. 8, 10F, 12F, 17F, 19F, 21F, 22F, 24F, 25F, 28F, 31F, 36F, 37F, 38F, 44F, 45F and 46F, (4) remove the restriction to AK and HI in Sub-No. 44F, (5) remove the restrictions "in tank vehicles" in Sub-No. 19F, (6) remove the "originating at and/or destined to" restrictions in Sub-Nos. 7, 8, 12F, 17F, 19F, 23F, 24F, 25F, and 46F, (7) remove the facilities limitation: (a) in Sub-No. 5 and replace Chelsea, MI with Washtenaw County, WI, (b) in Sub-No. 10F and part (1) of Sub-No. 12 and replace St. Marys and Congo, WV with Pleasants and Hancock Counties, WV, (c) in part (2) of Sub-No. 12F and replace Buffalo, NY and Emlenton, Farmers Valley and North Warren, PA with Erie County, NY, and Venango, McKean and Warren Counties, PA, (d) in Sub-No. 16F, 19F, 21F, and 36F (e) in Sub-No. 17F and replace Burlington, WI with Racine County, WI, (f) in Sub-No. 22F and replace Bradford, PA with McKean County, PA, (g) in Sub-No. 23F and replace Wethersfield and Harford, CT with Hartford County, CT (h) in Sub-No. 24F and replace Archbold, OH with Fulton County, OH, (i) in Sub-No. 25F and replace Augusta, GA with Richmond County, GA, (j) in Sub-No. 28F and 38F and replace Bentonville, Searcy, and Ft. Smith with Benton and White Counties, AR and Ft. Smith, AR, (k) in Sub-No. 43F and replace Hoopeston and Princeville, IL and Mayville, WI with Vermilion and Peoria Counties, IL and Dodge County, WI and

(l) in Sub-No. 44F and replace Lenexa, KS and Victory Garders, NJ with Johnson County, KS and Morris County, NJ, (8) change city to county-wide authority (a) in Sub-No. 2 from Delmar, DE and Salisbury MD to Sussex County, DE and Wicomico County, MD, (b) in Sub-No. 3 from Marysville and St. Clair, MI and Rittman and Akron, OH to St. Clair County, MI and Wayne and Summit Counties, OH, (c) in Sub-No. 7 from New Kensington, PA to Westmoreland and Allegheny Counties, PA, (d) in Sub-No. 8 Jasper, TN to Marion County, TN (e) in Sub-No. 31F from Jackson, MI to Jackson County, MI, and (f) in Sub-No. 46 F Metairie, LA to Jefferson Parish, LA (9) change one-way to radial authority between (a) points in named DE and MD counties, and, points in 6 states in Sub-No. 2, (b) points in a MI county and 2 OH counties, and, points in 3 states, and points in described portions of 2 states in Sub-No. 3, (c) points in 1 WI county, and, points in 6 states in Sub-No. 5, (d) points in 1 PA county, and, points in 4 states in Sub-No. 7, (e) points in 1 TN county, and various destination states in Sub-No. 8, (f) points in 2 WV counties, and, points in 4 states in Sub-No. 10F, (g) points in 2 WV counties, and points in 2 states, and, points in 1 NY and 3 PA counties, and, points in 6 states in Sub-No. 12F, (h) points in Pittsburgh, PA commercial zone, and points in 4 states in Sub-No. 16F (i) points in Racine County, WI, and, Memphis, TN, Jacksonville, FL, and Charlotte, NC in Sub-No. 17F, (j) points in Warren County, MS, and, a described portion of the U.S., and, points in 13 states, and points in Warren County, MS in Sub-No. 19F, (k) Clifton, NJ commercial zone, and, points in 8 states in Sub-No. 21F, (l) points in McKean County, PA and, points in 6 states in Sub-No. 22F, (m) points in 1 CT county, and, points in 12 states and DC in Sub-No. 23F, (n) points in 1 OH county, and, points in 7 states in Sub-No. 24F, (o) points in 1 GA county, and, a described portion of the U.S. in Sub-No. 25F, (p) points in 9 states, and, 2 AR counties and Ft. Smith, AR commercial zone in Sub-No. 28F, (q) points in Jackson County, MI, and, points in 8 states in Sub-No. 31F (r) points in Baltimore, MD and 4 MD counties, and, points in 29 states in Sub-No. 36F (s) Cincinnati, OH, and, points in 10 states in Sub-No. 37F, (t) points in 7 states, and, 2 AR counties, and Ft. Smith, AR commercial zone in Sub-No. 38F, and (u) points in 2 IL counties and 1 WI county, and points in 11 states in Sub-No. 43F and (10) to expand its territorial authority from a restriction to traffic destined to unlocated facilities of a named shipper to a restriction to traffic originating at or destined to the facilities, in Sub-No. 45F. The purpose of this republication is to indicate the proper county expansion for Farmers Valley, PA and New Kensington, PA; to correct the scope of certain commodity expansions and to add Item (10).

MC 134601 (Sub-14)X, filed May 4, 1981. Applicant: GOOSE CREEK TRANSPORT, INC., R.D. 1, Ashville, NY 14710. Representative: Kenneth T. Johnson, Bankers Trust Bldg., 4th Fl., Jamestown, NY 14701. Application seeks to remove restrictions from its lead and Sub-Nos. 1, 4, 8, 10 and 13 permits to (1) broaden the commodity descriptions contained in the above permits from specified meats, meat products, meat by-products, dairy products and articles distributed by meat packing houses, (except hides and commodities in bulk, to "meats, packing-house products and commodities used by packing houses, as described in Sections A, B, C and D of Appendix I to the Report in *Description in Motor Carrier Certificates*, 61 MCC and 766"; and (2) to broaden the territorial descriptions contained in the above permits to between points in the US, under continuing contract(s) with a named shipper.

MC 141964 (Sub-1)X, filed May 8, 1981. Applicant: AMERICAN INTERSTATE MOTOR FREIGHT, Box 211, West Paterson, NJ 07425. Representative: Harold L. Reckson, 33–38 Halsey Rd., Fair Lawn, NJ 07410. Applicants seeks to remove restrictions in its lead permit to (1) broaden the commodity description to "metal products and waste or scrap materials" from metal stampings and scrap materials and materials, supplies, and equipment used in the manufacturing of metal stampings (except in bulk); and (2) broaden its territorial authority to between points in the U.S., under continuing contract(s) with a named shipper.

MC 143059 (Sub-176)X, filed May 7, 1981. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: Kenneth W. Kilgore (same as applicant). Applicant seeks to remove restrictions in Sub-No. 140F to broaden the commodity description to "metal products", from iron and steel articles.

MC 145122 (Sub-5)X, filed May 4, 1981. Applicant: SKYLAND, INC., 256 Celia Street, S.W., Wyoming MI 49508. Representative: William H. Towle, 180 North La Salle St., Chicago, IL 60601. Applicant seeks to remove restrictions in its Sub-No. 2F certificate to broaden its territorial authority by replacing airports with city or county-wide authority: Detroit Metropolitan, Willow Run, and Chicago O'Hare Airports, to Wayne and Washtenaw Counties, MI, and Chicago, IL, respectively.

MC 145441 (Sub-149)X, filed April 20, 1981. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address). Applicant seeks in its Sub-No. 74F certificate, which authorizes the transportation of general commodities, with exceptions, between points in the U.S., to remove the restriction limiting transportation of traffic originating at or destined to named facilities at Houston, TX, and replace such facility limitations with county-wide authority to authorize radial service between points in Harris, Brazoria, Fort Bend, Montgomery, Chambers and Waller Counties, TX, and, points in the U.S.

MC 145559 (Sub-10)X, filed May 11, 1981. Applicant: NORTH ALABAMA TRANSPORTATION, INC., P.O. Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Applicant seeks to remove restrictions in No. MC–145560F and Sub-Nos. 2F, 3F, 6F, 10F, 12F and 13F permits to (1) broaden its commodity descriptions: in the lead part (1), and Sub-Nos. 2F, 3F, 12F, and 13F, to "textile mill products", from bathroom rug sets, bedspreads, drapes, carpet backing, bagging, synthetic yarn, industrial fabrics, and carpeting; in Sub-No. 6F, to "textile mill products, and building materials" from carpeting and flooring; and in the lead and Sub-No. 10F, remove the commodities in bulk exceptions; and (2) broaden its territorial authority to between points in the U.S., under continuing contract(s) with a named shipper, in all of the above-named permits.

MC 147386 (Sub-3)X, filed May 8, 1981. Applicant: BAER'S TRANSIT, INC., 754 Airport Road, Menasha, WI 54952. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. Applicant seeks to remove restrictions in its Sub-Nos. 2F and 4F permits to (1) broaden the commodity description from (a) in Sub-No. 2F, malt beverages to "malt beverages, carbonated beverages, and materials, equipment and supplies used in the sale and distribution of such commodities," and (b) in Sub-No. 4F, wire products, fan guards, grills and bolts, to "metal products"; (2) broaden the territorial authority to between points in the U.S., under continuing contract(s) with named shippers, in both permits.

MC 148390 (Sub-6)X, filed May 12, 1981. Applicant: TRIWAYS, INC., 12302 Wardman Ave., Whittier, CA 90602. Representative: William Davidson, 5501 Pacific Blvd., Huntington Park, CA 90255. Applicant seeks to remove restrictions in its No. MC–147315 Sub-Nos. 3F and 4F permits to broaden its territorial authority to between points in the U.S., under continuing contract(s) with a named shipper, in both permits.

MC 148518 (Sub-5)X, filed April 23, 1980. Applicant: JUR CORPORATION, d.b.a. RAJOR, INC., P.O. Box 756, Franklin, TN 37064. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Applicant seeks to remove restrictions in its MC–129862 Sub-Nos. 1, 2, 3, 4, 5, 11, 12, 15, 17F and 19F permits and in its MC–145392 Sub-Nos. 1F, 2F, and 3F certificates, (acquired in MC–FC–78394) to (A) in its permits, (1) broaden the commodity descriptions from (a) plumbing fixtures and supplies and air conditioning and heating units to "clay, concrete, glass, or stone products, metal products, and machinery," in Sub-Nos. 1, 4, 12, and 17F; (b) air conditioning and heating units to "metal products and machinery," in Sub-No. 19F; (c) electronic instruments and components, tables and stands for electronic instruments and components, and toys and games other than coin-operated, and equipment, materials, and supplies used in the manufacture of those commodities to "furniture and fixtures and machinery," in Sub-Nos. 2 and 15; (d) running gears, hitches, and fenders used for mobile homes, motor homes, trailers, and recreational vehicles, electric and gas refrigerators for mobile homes, motor homes, and trailers, and parts for such refrigerators, outdoor advertising metal poster panels, school furniture, lockers, portable filing cabinets, crane cabs, crane cab components, farm and construction machinery cabs and components for farm and construction machinery cabs, concrete mixers, mortar mixers, machines used for applying concrete, mortar, plaster, fireproofing, and similar materials, road rollers, saws, motors, commercial air cooling systems and their pads, and air make-up heating and cooling equipment, air coolers and air make-up heating and cooling equipment, machinery parts, fire extinguishers (charged and not charged), portable hand and wheeled, fire extinguisher compounds, brass fire hose nozzles, brass fire hose couplings, brass valves and fittings, brass castings, brass fire engine accessories and equipment, and fire hose, and components, materials, and supplies used in the manufacture, production, and assembly of the named commodities to "furniture and fixtures, metal products, machinery, transportation equipment, and miscellaneous products of manufacturing," in Sub-No. 3; (e) athletic, gymnastic, aquatic, and sporting goods, parts and accessories of the foregoing commodities, adhesives, rubber tire treads, hardware, advertising material, and materials, equipment, and supplies utilized in the manufacture, sale, and distribution of the described commodities to "printed matter, chemicals and related products, rubber and plastic products, metal products, and miscellaneous products of manufacturing," in Sub-Nos. 5 and 11; (2) remove size and weight restrictions, in Sub-Nos. 1, 4, 5, 12, and 17F; (3) remove bulk commodity restrictions in Sub-Nos. 2, 3, 4, and 5; (4) remove the foreign commerce restriction, in Sub-No. 2; and (5) broaden the territorial description to between points in the U.S., under continuing contract(s) with named shippers; and (B) in its certificates (1) broaden the commodity descriptions from (a) plastic pipe fittings, plastic connectors, and plastic valves to "rubber and plastic products," in Sub-No. 1F; and, (b) fireplaces and chimneys to "metal products," in Sub-Nos. 2F and 3F; (2) authorize county-wide authority to replace existing city-wide service: (a) Sun Valley, Santa Ana, and Bakersfield, CA, and Cleveland, OH, to Los Angeles, Orange, and Kern Counties, CA, and Cuyahoga County, OH, respectively, in Sub-No. 1F; (b) Lynwood, CA, to Los Angeles County, CA, in Sub-No. 2F, and (c) Louisville, KY, to Jefferson County, KY, in Sub-No. 3F; and (3) broaden the territorial description to authorize radial authority to replace existing one-way service between specified points in the U.S. and counties in (a) CA and OH, in Sub-No. 1F, (b) CA, in Sub-No. 2F, and (c) KY, in Sub-No. 3F.

MC 149351 (Sub-4)X, filed May 11, 1981. Applicant: HEYMAN TRUCKING, INC., Box 97, 212 Mulberry St., Stephens City, VA 22655. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Applicant seeks to remove restrictions in its Sub-No. 1F permit to (1) broaden its commodity description from plastic articles, to "rubber and plastic products"; and (2) broaden its territorial authority to between points in the U.S., under continuing contract(s) with a named shipper.

MC 152231 (Sub-3)X, filed May 8, 1981. Applicant: EME TRANSPORT CORP., 275 Westervelt Ave., Hawthorne, NJ 07506. Representative: Harold L. Reckson, 3328 Halsey Rd., Fair Lawn, NJ 07410. Applicant seeks to remove restrictions in its lead certificate to broaden the commodity description from paperboard to "pulp, paper and related products" in part (1) and from paper, paper products, and magnetic tape and materials, equipment and supplies to "pulp, paper and related products, machinery and materials, equipment and supplies" in part (2).

[FR Doc. 81-15194 Filed 5-20-81; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP2-063]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: May 12, 1981.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, 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.

In the absence of legally sufficient interest in the form of verified statements filed on or before 45 days

from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

MC 151162 (Sub-6), filed January 12, 1981. Applicant: LOWELL E. CAWOOD, d.b.a., L. E. CAWOOD PRODUCE, P.O. Box 83, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting *food and related products*, between points in Washington County, AR, on the one hand, and, on the other, points in the U.S.

[FR Doc. 81-15196 Filed 5-20-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions, Volume No. OP1-147 Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule 251 of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where noted, 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.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPI-147

Decided: May 15, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 155820, filed May 7, 1981. Applicant: D. J. POWERS CO., INC., 23 East Bay St., Savannah, GA 31402. Representative: Richard E. Carter (same address as applicant), (912) 234-7241. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OPY-2-076

Decided: May 14, 1981.

By the Commission, Review Board No. 1 Members Parker, Chandler and Fortier.

MC 155602, filed April 28, 1981. Applicant: Winkel Wheels, Inc., 1585 Holcomb Bridge Road, Roswell, GA 30076. Representative: J. L. Fant, P.O. Box 577, Jonesboro, Ga 30237, 404-477-1525. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-15197 Filed 5-20-81; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 5.21.1; Also filed as Redelegation Nos. 23.6.1, 26.2.1, 38.19.1, 40.11.1, 41.5.1, 75.3.1, 99.15.1, and 100.4.1]

Redelegation of Authority to Director, Office of Development Resources, Bureau for Latin America and the Caribbean

I. Pursuant to the authorities delegated to me as Acting Assistant Administrator for Latin America and the Caribbean, I hereby redelegate to the Director, Office of Development Resources, Bureau for Latin America and the Caribbean, with respect to Regional projects in the Latin American and the Caribbean region, the following authorities.

A. Implementing Authorities

Authority to implement, in accordance with the terms of the authorization thereof and in accordance with the applicable statutes and regulations, all loan, grant and guaranty agreements, and amendments thereto, whether heretofore or hereafter authorized, including authority:

1. To sign Project Implementation Orders (PIO's);

2. To approve contractors, review and approve all borrower/grantee contracts financed in whole or in part by an AID loan or grant and review and approve requests for proposals and invitations for bids with respect to such contracts;

3. To prepare, sign and deliver Project Implementation Letters; and

4. To review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent under such loan, grant or guaranty agreements.

B. Extension of Terminal Dates

In accordance with AIDTO Circular A-24, dated December 16, 1977, and any amendments thereto, authority to extend:

1. The terminal date for meeting initial conditions precedent for a cumulative period of not to exceed six months;

2. The terminal date for requesting disbursement authorizations for a cumulative period of not to exceed one year; and

3. The terminal date for completion of performing services and furnishing goods (PACD) for a cumulative period of not to exceed one year.

II. The authorities hereby redelegated may not be further redelegated, but may be exercised by persons who are performing the functions of the Director, Office of Development Resources, Bureau for Latin America and the Caribbean, in an "acting" capacity.

III. Actions within the scope of this redelegation heretofore taken by the Director, Office of Development Resources, Bureau for Latin America and the Caribbean, are hereby ratified and confirmed.

IV. This redelegation of authority is effective immediately.

Dated: February 17, 1981.

Edward W. Coy,

Acting Assistant Administrator, Bureau for Latin America and the Caribbean.

[FR Doc. 81-15229 Filed 5-20-81; 8:45 am]

BILLING CODE 4710-02-M

[Redelegation of Authority No. 5.21 Rev.; Also filed as Redelegation Nos. 23.6, 26.2, 38.19, 40.11, 41.5, 75.3, 99.15, and 100.4]

Redelegation of Authorities to the Field Latin America and the Caribbean Region

Section I. Definition

AID Missions

AID Missions subject to this redelegation of authorities shall be the AID Missions to Bolivia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Paraguay and Peru, and the Regional Office for Central American Programs (ROCAP) and the Regional Development Office for the Caribbean (RDO/C).

Section II. Authorities

A. Implementing Authorities

Authority to negotiate, execute, and implement, in accordance with the terms of the authorization thereof and in accordance with applicable statutes and regulations, loan, grant and guaranty agreements, and amendments thereto, to their respective countries or regions, whether heretofore or hereafter authorized, including, but not limited to, authority:

1. To sign project grant agreements with foreign governments, foreign government agencies, and international organizations having a membership consisting primarily of such foreign governments; and to sign all project loan and guaranty agreements and trust fund agreements;

2. To sign Project Implementation Orders (PIO's or PIPA's);

3. To approve contractors, review and approve all borrower/grantee contracts financed in whole or in part by an AID loan or grant and review and approve requests for proposals and invitations for bids with respect to such contracts;

4. To prepare, negotiate, sign and deliver Project Implementation Letters; and

5. To review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent under such loan, grant or guaranty agreements.

(See Delegation Nos. 5, 38)

B. Waiver Authorities for Source, Origin and Nationality

1. *Normal Procurement.* Authority to waive, in accordance with the applicable statutes and regulations, including the terms of Delegation of Authority No. 40 (AID Handbook 5) and the criteria prescribed by Supplement B of AID Handbook 1:

(a) *Selected Free World.* U.S. source, origin or nationality requirements, to permit procurement of goods and services, other than transportation services, in countries included in AID Geographic Code 941 (Selected Free World) and the cooperating country, when the cost of goods and services does not exceed $50,000 (exclusive of transportation costs) of funds made available under the Foreign Assistance Act of 1961, as amended (the "Act"); *Provided, however,* that any waiver of the United States source and origin requirements for motor vehicle procurement shall not exceed $25,000 for any one transaction; and

(b) *Free World.* U.S. or AID Geographic Code 941 source, origin or nationality requirements, to permit procurement of goods and services, other than transportation services, in any country included in AID Geographic Code 899 (Free World), when the cost of goods and services does not exceed $50,000 (exclusive of transportation costs) of funds made available under the Act: *Provided, however,* That any waiver of the United States source and origin requirements for motor vehicle procurement shall not exceed $25,000 for any one transaction; provided, however, that each waiver hereunder shall contain the appropriate certification, as set forth in Delegation of Authority No. 40.

2. *Emergency Procurement.* Authority to approve waivers of source, origin and nationality requirements in accordance with applicable statutes and regulations, in situations involving emergency or disaster relief, for procurement not in excess of $100,000 per transaction, from countries included in AID Geographic Code 941 and 899.

(See Delegation No. 40)

C. Excess Property

In accordance with the provisions of Section 607 of the Act and of AID Handbook 16, and subsequent to my authorizing such assistance, authority to execute transfer or transfer/trust agreements with friendly countries or with international organizations having a membership primarily of foreign governments.

(See Delegation No. 41).

D. Special Development Activities

Authority to use a total of $50,000 annually in Development Grant funds for Special Development Activities undertaken pursuant to the provisions of AID Manual Order 1323.1.1 or such other amount as may be authorized by AID/W.

E. Extension of Terminal Dates

In accordance with AIDTO Circular A–24, dated December 16, 1977, and any amendments thereto, authority to extend:

1. The terminal date for meeting initial conditions precedent for a cumulative period of not to exceed six months;

2. The terminal date for requesting disbursement authorizations for a cumulative period of not to exceed one year; and

3. The terminal date for completion of performing services and furnishing goods (PACD) for a cumulative period of not to exceed one year;

Provided, however, That this authority shall be exercised in writing, including a justification therefor, and a copy shall be forwarded to the Director, LAC/DR.

F. Project Approval and Host Country Assurances of Counterpart Contributions

Authority to approve projects, including operational program grants to private voluntary organizations; *Provided,* That the life-of-project funding does not exceed $500,000, and the authority to receive and determine the adequacy of assurances with respect to counterpart contributions for such projects required under Section 110(a) of the Act.

See State 141397 (1977) and State 241711 (1977))

G. Waiver Authorities for Competition

Authority to waive, in accordance with the terms and provisions of chapter 12C4c of Supplement B of AID Handbook 1, competition in the procurement of goods and services and to authorize a single-source negotiated contract; *Provided,* That the estimated procurement does not exceed $100,000 for services or $25,000 (exclusive of transportation) for commodities.

Section III. Redelegation of Authorities

Pursuant to the authorities delegated to me as Acting Assistant Administrator for Latin America and the Caribbean, I hereby delegate all of the authorities set forth in Section II hereof, retaining for myself concurrent authority to exercise any of the functions herein redelegated, to the Director of each Mission included in Section I.

Section IV. Miscellaneous

A. The authorities redelegated pursuant to Section III hereof shall be exercised after consultation with a Regional Legal Advisor or GC/LAC, as appropriate, and any other appropriate support office (e.g., Contract Management, Commodity Management).

B. The authorities redelegated pursuant to Section III hereof (other than those set for in Section II.G) may, in the descretion of the Mission Director, be further redelegated to one additional officer or may be exercised by the person acting in the capacity of the Mission Director while the latter is out of the country (with my prior approval).

C. This redelegation of authorities shall become effective on the date of my execution of this document and shall supersede on that date all delegations of authority previously issued to the affected AID Missions by the Assistant Administrator for Latin America and the Caribbean and/or the Deputy U.S. Coordinator of the Alliance for Progress; *Provided, however,* That all actions taken under the delegations of authority which are hereby superseded shall remain valid and are hereby reaffirmed.

Dated: April 21, 1981.

Edward W. Coz,

Acting Assistant Administrator, Bureau for Latin America and the Caribbean.

[FR Doc. 81–15230 Filed 5–20–81; 8:45 am]

BILLING CODE 4710–02–M

DEPARTMENT OF JUSTICE

National Institute of Justice

Notice of Solicitation; Preliminary Proposals

The National Institute of Justice is attempting to expand its research interests in the law enforcement area beyond its traditional concern for the operational efficiency of police agencies by including and emphasizing the issue of the effectiveness (quality) of the police response to the range of problems that constitute their responsibility. An emphasis on the effectiveness of the police response reflects the Institute's perception of a growing concern among observers of the police field that if departments are to realize the greatest return on the investments already expended in improving general efficiency, they must concentrate on attaining the most appropriate end results in the incidents handled by their officers on the street.

Although there has been little effort to document and analyze the expertise and procedures of individual patrol officers, these matters are of critical importance to the issue of police effectiveness. The quality of police service ultimately depends upon dthe manner in which it is delivered, and the delivery of this service is the main responsibility of the routine patrol officer. The solicitation is based on the assumption that the traditional circumstances in which an individual officer works fosters much in the way of expertise and techniques for handling substantive problems that are worth both formalization and transfer to other officers and departments. Consequently, our intention is to undertake an effort to document and systematically assess the techniques and knowledge routinely used by patrol officers.

This competitive solicitation entitled "Police Effectiveness as a Function of Individual Officer Activity" asks for the submission of preliminary proposals rather than concept papers or full proposals. Formal proposals will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be postmarked no later than July 3, 1981. The award of 3 to 5 grants is planned for August 1981 with funding support for each not to exceed $100,000 and a grant period of 18 months in duration.

Copies of the solicitation may be obtained by sending a mailing label to: Solicitation Request, "Police Effectiveness as a Function of Individual Officer Activity", National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Further information regarding the solicitation can be obtained by contacting William E. Saulsbury or Joseph Kochanski, Office of Research Programs, National Institute of Justice, 633 Indiana Avenue, N.W., Washington, D.C. 20531 (301/492–9110).

Dated: May 8, 1981.

Harry M. Bratt,

Acting Director, NIJ.

[FR Doc. 81–15265 Filed 5–20–81; 8:45 am]

BILLING CODE 4410–18–M

LEGAL SERVICES CORPORATION

Grants and Contracts

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Puerto Rico Legal Services, Inc., in Santurce, Puerto Rico, to serve the Municipality of San Juan.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, New York Regional Office, 120 Broadway, Suite 1034, New York, N.Y. 10005.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 81-15125 Filed 5-20-81; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

San Juan Community Law Office in Santurce, Puerto Rico, to serve the Municipality of San Juan.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, New York Regional Office, 120 Broadway, Suite 1034, New York, N.Y. 10005.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 81-15126 Filed 5-20-81; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 81-21]

Reports, Recommendations, Responses; Availability

• *Aircraft Accident Reports—Brief Format, U.S. Civil Aviation, Issue No. 13, 1979 Accidents (NTSB-BA-81-1).*

• *Marine Accident Report—U.S. Tankship S/S Texaco North Dakota and Artificial Island EI-361-A, Collision and Fire, Gulf of Mexico, August 21, 1980 (NTSB-MAR-81-4).*—As a result of its investigation, the Board on April 22 recommended that—

U.S. Coast Guard: Include in Local Notices to Mariners information about when construction of an offshore structure is first started, before its aids to navigation are placed in operation, so that mariners are made aware of an obstruction to navigation as early as possible. (M-81-27)

Amend 46 CFR 97.05, Notice to Mariners and Aids to Navigation, to include a requirement that masters of vessels ensure that Local Notices to Mariners are obtained from the appropriate Coast Guard District Office in their trading areas and are given the same priority as Weekly Notices to Mariners in the requirement for licensed deck officers to acquaint themselves with the latest marine information available to correct charts and publications promptly. (M-81-28)

Amend 33 CFR Part 67, Aids to Navigation on Artificial Islands and Fixed Structures, to include a requirement that radar reflectors be included in the aids to navigation requirements for offshore structures during the periods of construction when the structure presents a low profile and attending vessels are not present. (M-81-29)

Defense Mapping Agency: Include in the regularly published Weekly Notices to Mariners a cautionary note to those mariners who frequently transit the area of offshore structures to consult the Local Notices to Mariners for the most current information on structures and aids established, changed, or discontinued. (M-81-30)

Marine Department, Texaco, Inc., Port Arthur, Texas: Provide masters of vessels or their assigned representatives with logistic support to enable them to secure from the closest U.S. Customs House or Coast Guard Office the latest available Local and Weekly Notices to Mariners that a vessel may not have received by regular mail before the vessel sail from any U.S. port. (M-81-31)

• *Safety Recommendation Letters to the Federal Aviation Administration—*

A-81-49 through-53; A-75-64 reiterated (May 7): Require that a placard be installed in all Beech Baron/Travel Air Aircraft warning of the dangers of and prohibiting intentional single-engine stalls. (A-81-49)

Amend 14 CFR 23.205, "Critical Engine Inoperative Stalls," to make the test requirements more rigorous with regard to the potential detection of an airplane's propensity to display any undue spinning tendency. (A-81-50)

Require Beech Aircraft Corporation to disseminate information relating to Beech Baron/Travel Air single-engine stall speeds, including graphical or other information showing the operational conditions and limits wherein flight at the published value of V_{mc} is not possible. (A-81-51)

Convene a special certification review team to explore and evaluate the relative margins of safety of the Beech Baron in low-speed, high-power, single-engine operations for all conditions which may be realistically anticipated in a multiengine, pilot-training environment. (A-81-52)

Require that all Beech Baron/Travel Air aircraft be retrofitted with aerodynamic air flow kits or components designed to alleviate their hazardous single-engine stall characteristics. Relative to the retrofit, Beech Aircraft's stall research program should provide for prompt development of appropriate hardware, rigging of controls, and/or other necessary modifications. (A-81-53)

Issue an Advisory Circular dealing solely with simulated and actual engine-out emergencies in typical high performance, multiengine general aviation airplanes. (A-75-64)

A-81-54 through -56 (May 8): Revise Airworthiness Directive 78-25-05, Brackett Specialties Company, to include all aircraft listed in Brackett Aircraft Company, Inc., Service Bulletin Nos. 3 and 4. (A-81-54)

Issue an Airworthiness Directive which would require compliance with Brackett Aircraft Company, Inc., Service Bulleting No. 5, dated July 28, 1980. (A-81-55)

Issue a General Aviation Airworthiness Alert to inform all users of Brackett Aircraft Company, Inc., air filter assemblies of the requirements of AD 78-25-05, Brackett Specialities Company, as amended, and of the need to comply with Brackett Aircraft Company, Inc., Service Bulletin Nos. 3, 4, and 5. (A-81-56)

A-81-57 and -58 (May 13): Amend 14 CFR 121.343 to allow use of digital flight data recorders (DFDR) which employ some form of data compression if the manufacturer can demonstrate during aircraft certification that upon recorder readout the required parameters can be reconstructed to the accuracy and ranges specified in Part 121, appendix B, and that the recorded data are adequate for accident investigation purposes. (A-81-57).

Amend column 4, "Recording Interval Maximum (Seconds)," appendix B, 14 CFR Part 121 so that it applies to: (1) the *recording* interval of continuously recording machines, such as the currently used magnetic tape digital flight data recorder and (2) the *data sampling* intervals of DFDR's employing data compression. (A-81-58)

Each of the above-noted recommendations is designated "Class II, Priority Action."

• *Responses to Safety Recommendations—*

A-81-23, from the Federal Aviation Administration (May 1).—FAA and National Weather Service will meet soon to determine "official" status, future role of Center Weather Advisories in aviation weather and will publish procedures in air traffic directives. (Ref. 46 FR 16366, Mar. 12, 1981.)

P-80-1, from the American Gas Association (May 7).—AGA has distributed to Member Company Delegates copies of Safety Board letter of May 1, 1981, concerning adequacy of original burial depths of pipelines. (Board advised that this recommendation to AGA would be closed upon receipt of notification of final mailing.) (Ref. 45 FR 41555, June 19, 1980.)

R-80-36, from the Federal Railroad Administration (May 6).—Cost of installation and maintenance of mechanism in automatic block system to indicate bridge displacement

would far outweigh benefits. (Ref. 45 FR 63583, Sept. 25, 1980.)

Note.—Single copies of Board reports are available without charge as long as limited supplies last. Copies of recommendation letters, responses and related correspondence are also free of charge. All requests must be in writing, identified by recommendation or report number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

[FR Doc. 81-15151 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on June 4–6, 1981, in Room 1046, 1717 H Street, NW., Washington, DC. Notice of this meeting was published in the **Federal Register** on May 20, 1981.

The agenda for the subject meeting will be as follows:

Thursday, June 4, 1981

8:30 a.m.–8:45 a.m.: Opening Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

8:45 a.m.–12:00 Noon: Nuclear Power Plant Siting Criteria (Open)—The Committee will hear the report of its Subcommittee and consultants who may be present regarding proposed changes in NRC criteria for the citing of nuclear power plants. The Committee will also meet with and discuss these proposed criteria with members of the NRC Staff and representatives of the nuclear industry who may be present.

1:00 p.m.–3:30 p.m.: Consideration of Class-9 Accidents (Open)—The Committee will hear the report of its Subcommittee and consultants who may be present regarding activities related to proposed NRC rulemaking to consider degraded core conditions and Class-9 accidents in the design and operation of nuclear power plants. The Committee will also meet with and discuss related activities with members of the NRC Staff and representatives of the nuclear industry who may be present.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter and to discuss information which is to be involved in an adjudicatory proceeding.

3:30 p.m.–4:15 p.m: Standardization of Nuclear Power Plant Design (Open)—The Committee will hear a report from representatives of the Office of Technology Assessment regarding the benefits and disadvantages of nuclear power plant standardization.

4:15 p.m.–5:30 p.m. Integrity of Primary Cooling System Piping (Open)—The Committee will hear and discuss a report from members of the NRC Staff regarding proposed changes in regulatory criteria regarding the nature of primary system pipe failures.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

5:30 p.m.–6:30 p.m.: ACRS Comments Regarding NRC Safety Research Program (Open)—The Committee members will discuss a proposed reply to questions from Senator Alan K. Simpson, Chairman, U.S. Senate Subcommittee on Nuclear Regulation regarding the NRC Safety Research Program.

Friday, June 5, 1981

8:30 a.m.–12:30 p.m.: NRC Safety Research Program Budget (Open)—The Committee will hear and discuss the reports of designated Subcommittees and related comments from members of the NRC Staff who may be present in connection with preparation of its report to the NRC regarding the proposed NRC Safety Research Program budget for Fiscal Year 1983.

Portions of this session will be closed as necessary to discuss information the premature disclosure of which is likely to significantly frustrate the Committee in its statutory function.

1:30 p.m.–2:30 p.m.: Department of Energy Nuclear Reactors (Open)—The Committee will hear and discuss a report from representatives of the Department of Energy regarding A Safety Assessment of Department of Energy Nuclear Reactors (DOE/US–0005, dated March 1981).

2:30 p.m.–3:00 p.m.: ACRS Discussion (Open)—The Committee will discuss items related to nuclear plant safety and regulation in preparation for its meeting with the NRC Chairman and other Commissioners who may be present.

3:00 p.m.–4:00 p.m.: Meeting with NRC Chairman and Other Commissioners (Open)—The Committee will meet with the NRC Chairman and other Commissioners who may have an interest to discuss items noted above.

4:00 p.m.–5:00 p.m.: Integrity of Reactor Pressure Vessels and Other Components (Open)—The Committee will hear and discuss a report from its Subcommittee and consultants who may be present regarding the characteristics of bolting and foundation materials in nuclear power plants and the integrity of reactor pressure vessels during rapid cooling transients. The Committee will also hear and discuss a report from members of the NRC Staff regarding the probability and consequences of rapid temperature reduction in reactor pressure vessels which result from overcooling transients.

5:00 p.m.–5:15 p.m.: Future Schedule (Open)—The Committee will discuss anticipated activities for ACRS Subcommittee and full committee meetings.

5:15 p.m.–6:00 p.m.: Siting of Nuclear Facilities (Open)—The members will discuss a proposed Committee report and/or comments to the NRC regarding proposed changes in the NRC criteria for siting of nuclear power plants.

6:00 p.m.–6:30 p.m.: Appointment of New ACRS Members (Closed)—The Committee will discuss the qualifications of candidates recommended for appointment to the Committee. Arrangements for the appointment of members will also be discussed.

This session will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

Saturday, June 6, 1981

8:30 a.m.–11:30 a.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will discuss proposed reports to the NRC regarding items discussed during this meeting and will complete its reply to questions from the U.S. Senate Subcommittee on Nuclear Regulation regarding the NRC Safety Research Program.

11:30 a.m.–12:30 p.m.: Concluding Session (Open/Closed)—The Committee will discuss proposed comments and/or other action regarding items considered during this meeting including primary system piping and reactor pressure vessel integrity, proposed criteria regarding degraded core conditions and Class-9 accidents and the characteristics of safety related bolting and foundation materials.

The Committee will also her and discuss the reports of ACRS Subcommittees regarding safety related items including discussion with the Advisory Committee on Radiological Protection of Canada and review of

selected nuclear power plant instrumentation.

Portions of the sessions noted above will be closed as necessary to discuss Proprietary Information relating to the matters being discussed, information the premature release of which is likely to significantly frustrate the Committee in its statutory function, and information which will be involved in an adjudicatory proceeding.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 7, 1980 (45 FR 66535). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)), information of a personal nature where disclosure would represent a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6), information the premature release of which is likely to significantly frustrate the Committee in its statutory function (5 U.S.C. 552b(c)(9)), and information which will be involved in an adjudicatory proceeding (5 U.S.C. 552b(c)(7)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained bvy a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 a.m. and 5:00 p.m. EDT.

Dated: May 18, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-15187 Filed 5-20-81; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

May 18, 1981.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;
Whether small businesses or organizations are affected;
A description of the Federal budget functional category that covers the information collection;
An estimate of the number of responses;
An estimate of the total number of hours needed to fill out the form;
An estimate of the cost to the Federal Government;
An estimate of the cost to the public;
The number of forms in the request for approval;
An indication of whether Section 3504(h) of Pub. L. 96–511 applies;
the name and telephone number of the person or office responsible for OMB review; and
an abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201

New

• Agricultural Stabilization and Conservation Service
Questionnaire on Use of Maleic Hydrazide (MH)
Nonrecurring
Farms
Flue-cured tobacco producers
SIC: 013
Farm Income Stabilization, 78,000 responses, $64,000 Federal cost, 1 form; not applicable under 3504(H)
Charles A. Ellett, 202–395–7340

All flue-cured tobacco producers upon written request may voluntarily furnish the Secretary of Agriculture a report of the use of the plant growth inhibitor maleic hydrazide (MH–30). The Secretary has directed the survey because of the concern over the possible loss of important U.S. tobacco markets. See attached news release.

• Agricultural Cooperatives Service
Agricultural Exporters by Cooperatives, 1980
Nonrecurring
Businesses or other institutions
Farmer-owned agricultural cooperatives
SIC: 011 013 016
Small businesses or organizations
Agricultural research and services, 85 responses, 21 hours; $18,000 Federal cost, 1 form; not applicable under 3504 (H)
Charles A. Ellett, 202–395–7340

The data generated in this survey will continue a time-series data base that will be used by cooperative leaders, government decisionmakers and researchers to develop programs, policies and projects that will improve the export capabilities of U.S. cooperatives

• Forest Service
Pine Reforestation Study
Nonrecurring
Individuals or households
South. Pr. for. Landown. Who have har. timber in past 10 yrs
Conservation and land management, 1,300 responses, 650 hours; $185,000 Federal cost, 1 form; not applicable under 3504(H)
Charles A. Ellett, 202–395–7340

To meet projected demands for timber in the U.S. timber supplied from nonindustrial private lands in the South must be increased. However, less than one-third of this land being harvested is adequately being reforested. The goal of this survey is to determine why two-thirds of the nonindustrial private lands in the South are not being reforested and what methods can be used to stimulate reforestation investments.

• Animal and Plant Health Inspection Service
Viruses-Serums-Toxins Regulations—Recordkeeping
On occasion
Businesses or other institutions
Producers of veterinary biological products
SIC: 283
Agricultural research and services, 853 responses, 414 hours, 1 form; not applicable under 3504(H)
Charles A. Ellett, 202–395–7340

Producersof veterinary biological products are required to maintain records so that biologics inspectors will be able to document company testing and production procedures. This is necessarly to assure that products being marketed are pure, safe, potent and efficacious.

• Animal and Plant Health Inspection Service
Daily Log for Birds—Quarantine Facility—recordkeeping
VS 17–12
On occasion
Businesses or other institutions
Commercial bird quarantine facility
SIC: 075
Small businesses or organizations
Agricultural research and services, 750 responses, 120 hours; 1 form; not applicable under 3504(H)
Charles A. Ellett, 202–395–7340

The records lists all daaths that occur within the quarantine period on a daily basis as well as any visible conditions not normal. An exact accountability is required for each quarantine lot.

Reinstatements

• Food Safety and Quality Service
Regulations Governing the Inspection of Eggs and Egg Products
PY 155 & PY 222
On occasion
Businesses or other institutions
Egg products processors, shell egg handlers
SIC: 964,201
Consumer and occupational health and safety, 56,292 responses, 4,843 hours; $18,550 Federal cost, 2 forms; not applicable under 3504 (H)
Charles A. Ellett, 202–395–7340

These regulations provide for inspection services pursuant to the Egg Products Inspection Act. Eggs and egg products shall be inspected in accordance with the standards, methods, and instructions issued or approved by the administration of FSQS.

DEPARTMENT OF COMMERCE

Agency clearance officer—Edward Michals—202–377–3627

New

• National Oceanic and Atmospheric Administration
Incidental taking of Marine Mammals in the Japan High Seas Salmon Fishery
Other—see SF83
Businesses or other institutions
Applies exclusively to a single foreign (Japanese) Fishing
Other advancement and regulation of commerce, 23,856 responses, 5,964 hours; 4 forms; not applicable under 3504 (H)
William T. Adams, 202–395–4814

The Marine Mammal Protection Act mandates that incidental taking of marine mammals during commercial fishing operations be reduced to insignificant levels approaching a zero mortality rate. In order to reduce this taking, NMFS must (1) assess how many mammals are taken annually, and (2) through research find methods to reduce this taking. Therefore, regulations were promulgated requiring certificated fishermen to report all takings as condition of permit.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—703–697–1195

Extensions (Burden Change)

• Departmental and Others
Parents Dependency Affidavit
DD137–3
Annually
Individuals or households
Dependent parents of service members
Department of Defense—Military, 16,000 responses, 24,000 hours; 1 form; not applicable under 3504 (H)
Kenneth B. Allen, 202–395–3785

In compliance with Dependence Act of 1950, financial information is needed to screen applicants for dependent assistance. If the applicant meets the requirement of the act, assistance is provided.

DEPARTMENT OF EDUCATION

Agency Clearance Officer—Wallace McPherson—202–426–5030

New

• Office of Postsecondary Education
Call Report—Lender's Annual Report on Guaranteed Student Loans and Parent Loans for undergraduate Students Outstanding—Pub. L. 329
ED 799–1
Annually
Businesses or other institutions

Instit. of higher ed., prof. schools, banks, trust companies
SIC: 822, 601, 602, 603, 604, 605
Small Businesses or organizations
Higher education, 12,000 responses, 24,000 hours; $20,000 Federal cost, 1 form; not applicable under 3504 (H)
Federal Education Data Acquistion Council, 202-426-5030

This form is completed by the lender and provides the GSLB updated information of the lender loan portfolio. It is also used to determine the amount that the lender can bill for interest in the next quarter.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202-245-7488

New

• National Institutes of Health
Document Delivery Data Collection Form
Semiannually
State or local governments/businesses or other institutions
Medical librarians in academic medical schools throughout
SIC: 822,823
Health, 220 responses, 1,000 Hours; $350 Federal cost, 1 form; not applicable under 3504 (H)
Gwendolyn PLA, 202-395-6880

The Regional Medical Library (RML) network is composed of eleven regional libraries and 100 resource libraries which cooperate to provide requested interlibrary loans to health science professionals.

These libraries will be required to report information on their ability and effectiveness in providing this service through the RML network.

• National Institutes of Health
Cost of Cancer Care Experiment 4
Nonrecurring
Businesses or other institutions
Medical providers in Illinois who provided care to the
SIC: 801, 802, 803, 804, 805, 806, 807, 808
Small businesses or organizations
Health, 1,000 responses, 387 hours; $175,00 Federal cost, 11 forms; not applicable under 3504 (H)
Gwendolyn PLA, 202-395-6880

The methodology developed from this pilot study will be used in a national cost of cancer care survey. National estimates of cancer incidence and provalence will be obtained, as well as estimates of medical expeditures for cancer which will be used for program planning and evaluation.

• Social Security Adminstration
Notice Requesting Employer Identification Number and Name Of Entity
SSA-4381 (3-81)
On occasion
State or local governments
State and local governmental entities
SIC: 944
General retirement and disability insurance , 80,000 responses, 4,000 hours; $49,000 Federal cost, 1 form; not applicable under 3504 (H)
Barbara F. Young, 202-395-6880

To create a file of cross-reference Federal EIN's and Governmental State and Local "69" numbers. File to be used to eliminate duplicate postings to the earnings records.

Extensions (No Change)

• Health Care Financing Administration
Survey of Municipal Hospital Billing Forms
HCFA 127 & 127A
On occasion
State or local governments
Mun. hlth. clin. in San Jose, Balt., St. Louis, Cin. & Mil.
Sic: 808
Small businesses or organizations
Health 75,000 responses, 37,500 hours; $81,900 Federal cost, 2 forms; not applicable under 3504(H)
Richard Eisinger, 202-395-6880

Because th MHSP demonstration will focus on the delivery of primary care prevention services in ambulatory clinic settings, decrease in the total cost and utilization of expensive inpatient and emergency room services is anticipated. The billing forms are needed to permit the cities to receive correct and timely reimbursements for services provided to medicare beneficiaries.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—202-755-5184

New

• Policy Development and Research
Interview Guides for Evaluation of the Section 8 Neigborhood Strategy Area (NSA) Demonstration
Nonrecurring
State or local governments/businesses or other institutions
Local NSA Staff, State and Fed. officials, developers, lenders
Sic: Multiple
Small businesses or organizations
Community development 225 responses, 150 hours; $136,745 Federal cost, 1 form; not applicable under 3504(H)
Richard Sheppard, 202-395-6880

Interview guides will be used to elicit information from individuals in local, State, and Federal agencies who have been involved with the program in 30 neighborhoods in 20 cities. These guides will enable HUD to collect detailed data on how the participating cities administer a housing and community development program under the automony provided by NSA.

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—Vivian A. Keado—202-343-6191

Extensions (Burden Change)

• United States Fish and Wildlife Service
Bird Banding Schedule
3-860
Monthly
Annually
Individuals or households/State or local governments
Bird banding schedule
Recreational resources 33,000 reponses, 6,600 hours; $13,000 Federal cost, 1 form; not applicable under 3504(H)
Constance Buckley, 202-395-7340

Form 3-860 is used by licensed bird banders to record specific information on the use of each fish and wildlife service band once it has been placed on a bird and the bird released into the wild again.

The information collected is used by Federal, State and private conservation organizations and the Canadian Wildlife Services for the proper management of migratory birds in North America.

Extensions (No Change)

• United States Fish and Wildlife Service
Notice of Transfer or Sale of Migratory Waterfowl
3-186
On occasion
Individuals or households
Migratory Waterfowl propagators and some aviculturists
Recreational resources 20,000 responses, 1,600 hours; $8,000 Federal cost, 1 form; not applicable under 3504(H)
Constance Buckley, 202-395-7340

Migratory Bird Treaty Act regulations provide for a waterfowl sale and disposal permit. Permittees complete this form at the time of sale. Original goes to buyer. Information on this form enables service agents to determine original of waterfowl bought and sold. This prevents illegal trapping and selling of wild waterfowl.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202-523-6331

Revisions

• Bureau of Labor Statistics

Local Area Unemployment Statistics Reports 6–12
LAUS 6–12
Nonrecurring
On occasion
Monthly
Annually
State or local governments
State employment security agencies
Sic: 944
Small businesses or organizations
Other labor services, 1,895 responses, 7,178 hours; $599,918 Federal cost, 7 forms; not applicable under 350(H)

Office of Federal Statistical Policy and Standard, 202–673–7974. These reports provide essential technical management information regarding (1) quality, consistency, and conformance to BLS standards of the data and procedures used in LAUS estimation, and (2) proposed contractual research in LAUS estimation and UI data analysis.

• Bureau of Labor Statistics
Manual for Developing Local Area Unemployment, BLS 3040
LAUS 1–5 BLS 3040
Monthly, annually
State or local governments
State employment security agencies
Sic: 944
Other labor services, 72,000 responses, 144,000 hours; $4,932,980 Federal cost, 5 forms; not applicable under 3504(H)

Office of Federal Statistical Policy and Standard, 202–673–7974. The manual provides the theoretical basis and essential technical instructions and guidance (including the estimating worksheet) which States require to prepare State and area unemployment estimates, while the documents, LAUS 1–5, are selected estimating worksheets and vehicles for transmitting estimates to BLS.

Extensions (Burden Change)

• Bureau of Labor Statistics
Employment Cost Index BLS 3038A–E
Quarterly
Businesses or other institutions/State or local governments
Pr. nonfarm est. exl. pr. hhlds., State and local governments
Sic: multiple
Small businesses or organizations
Other labor services, 10,432 responses, 10,282 hours; $2,689,300 Federal cost, 5 forms; not applicable under 3504(H)

Office of Federal Statistical Policy and Standard, 202–673–7974. The employment cost index is the only comprehensive and timely measure of changes in the rate of employee compensation. The survey's uses include analysis by both the private and public sector of trends in employee compensation, which is a major component of the U.S. economy.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202–426–1887

New

• Coast Guard
Crane Equipment and Operating Recordkeeping Requirements
On occasion, monthly, semiannually, annually
Businesses or other institutions
Operating fac. w/cranes on the outer cont. shelf, and others
Sic: 132 138
Water transportation, 16,600 responses, 4,150 hours; $1,245 Federal cost, 830 forms; not applicable under 3504(H)
Terry Grindstaff, 202–395–7340

Information requirements serve as a source for verification of plans approvals, maintenance, inspections, testing, and operator qualification programs for cranes on outer continental shelf, mobile offshore drilling units and a few industrial vessels. This information is needed to prove suitability of equipment for use, and to assure safe operation through designation of trained personnel.

• Federal Highway Administration
Records of Violations (ICB 306) and Annual Review of Driving Record (ICB 3–5)
Annually
Individuals or households/businesses or other institutions
Drivers and motor carriers operating in interstate commerce
Sic: 962
Small businesses or organizations
Ground transportation, 1,179,360 responses, 117,936 hours, 1 form; not applicable under 3504(H)
Terry Grindstaff, 202–395–7340

Drivers must furnish carriers a list of violations of traffic laws of which the driver was convicted (49 CFR 391.27). Carriers require to review driving record (49 CFR 391.25). Federal Highway Administration uses information to determine if driver is qualified to drive interstate or foreign commerce under 49 CFR 391.15.

• National Highway Traffic Safety Administration
Brake Hose Manufacturing Identification Standard 106
On occasion
Businesses or other institutions
Manufacturers of brake hose and brake hose assemblers
Sic: 304 306 371
Small businesses or organizations
Ground transportation, 20 responses, 30 hours; $100 Federal cost, 1 form; not applicable under 3504(H)
Corrinne Hayward, 202–395–7340

The purpose of these requirements is to ensure traceability should a noncompliance or safety related defect be discovered.

• Coast Guard
Declaration of Citizenship for Vessel Documentation and Ship Mortgage Purposes
MA–4557, 4557–A, 4558, 4559, 4560, 4560–A, 4561, 4562 and 4563
On occasion
Individuals or households/businesses or other institutions vendees, mortgagees, transferees of ves. doc. under U.S. Law
Sic: 441 442
Small businesses or organizations
Water transportation, 55,600 responses, 18,348 hours; $111,200 Federal cost, 9 forms, not applicable under 3504(H)
Terry Grindstaff, 202–395–7340

A Citizenship declaration as prescribed by the Secretary of Commerce (Delegated to the Maritime Administration) under section 40 of the Shipping Act, 1916, as amended (46 USC 838), is required from the vendee, mortgagee, or transferee when a bill of sale, mortgage, or conveyance of a vessel is presented for recording.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Ms. Joy Tucker—202–634–5394

Extensions (Burden Change)

• United States Customs Service
Request for Information
CF 28
On occasion
Businesses or other institutions
Importers
SIC: all
Small businesses or organizations
Federal law enforcement activities, 100,000 responses, 33,300 hours; $439,000 Federal cost, 1 form; not applicable under 3504 (H)
Warren Topelius, 202–395–7340

A document which obtains additional information necessary for processing of the appraisal and classification of imported merchandise.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Mr. Phillip Ross—202–287–0747

New

• Reporting Requirements for States with Pesticide use Violations [1]
Annually
State or local governments
State Depts. of Agriculture and/or State Depts. of EP.
SIC: 951

Pollution control and abatement, 0 responses, 0 hours; $106,021 Federal cost, 0 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

States with primary enforcement responsibility will keep such records and make such reports showing they have adopted adequate pesticide use laws and regulations and have adopted and are implementing adequate procedures for the enforcement of such State laws and regulations.

• Tampering and Fuel Use Surveys [1]
Nonrecurring
Individuals or households
Principal fuel purchasers for post 1974 vehicles in SMSAS
Pollution control and abatement, 2,790 responses, 506 hours; $46,249 Federal costs, 2 forms; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

EPA needs information on motivations that underline fuel switching, as well as on incidence, in order to design and evaluate strategies for efficiently attacking this problem. Fuel switching threatens the Nation's investment in catalytic converters. Phase II will pretest the methodology to be used in a larger data collection effort.

• Request for Approval of Equivalent Equipment or Procedures [1] and Requirements for Emission Testing and Formal Leak Detection Program
Nonrecurring
Businesses or other institutions
Ethylene dichloride, Vinyl chloride, and polyvinyl chl. plants
SIC: 282
Pollution control and abatement, 1 response, 12 hours; $50 Federal cost, 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

Requests for using equivalent equipment or procedures allows administrator to determine if equivalent vinyl chloride reductions will be achieved. Reporting and recordkeeping of emissions tests allows administrator to determine initial compliance. Submission of leak detection program to demonstrate effectiveness.

• Memorandum of agreement with Secretary of the Army
Nonrecurring
State or local governments
States with authorization to administer the 404 program
Pollution control and abatement, 2 responses, 320 hours; 1 form; not applicable under 3504(H)
Edward H. Clarke, 202–395–7340

This document is needed to establish an agreement between the Army Corps of Engineers and a State as to what Waters in the State will remain under the jurisdiction of the Corps and which will be regulated by the State, and to coordinate the transfer of the Federal program to the State.

• Publication of requirements for permits [1]
On occasion
State or local governments
State Government administering 404 program
Pollution control and abatement, 6 responses, 900 hours; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

The State must maintain a program to inform potential permit applicants of requirements for a State program and how to get a permit for activities in State regulated waters.

• Transmission of information to EPA and other Federal [1] agencies
On occasion
State or local governments
States who have assumed 404 permit respon. state-reg. waters
Pollution control and abatement, 4,200 responses, 2,600 hours; 1 form, not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

The State shall notify EPA (R.A.), COE, FWS, and NMFS about all complete State permit applications, notice of State action relative to each permit application, draft general permits, every issued permit.

• Vehicle information report form [1]
On occasion
Businesses or other institutions
Resp. are manufacturers of motor veh. & motor veh. engines
SIC: 371
Pollution control and abatement, 500 responses, 40 hours; $500 Federal cost, 1 form, not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

In certain cases it is not possible for EPA pers. to determine whether or not particular vehicles or engines were originally produced in compliance with Federal emission standards. In these cases we ask the manufacturer to review build data to determine conformity status at the time of manufacture.

• Guidelines for CO and NOX waiver applications [1]
On occasion
Businesses or other institutions
Mfgrs. of veh. for sale in USA desir. waivers from Fed., etc.
SIC: 371
Small businesses or organizations
Pollution control and abatement, 6 responses, 2,400 hours; $78,000 Federal cost, 1 form, not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Information submitted by vehicle manufacturers in their waiver applications is analyzed to determine whether the statutory criteria for the waiver have been met. The guidelines specify the information EPA needs to make that judgement.

• Catalyst procurement informationmerly titled Catalyst [1] Survey for ICB)
Annually
Businesses or other institutions
Used car dealers in the U.S.A.
SIC: Multiple
Small businesses or organizations
Pollution control and abatement, 48 responses, 24 hours; $143,886 Federal cost, 1 form, not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

EPA needs information on in-use catalysts, procured for a catalyst testing program. This information will be used to decide how to test the catalyst.

• Temporary exemption from aircraft emission standards [1]
Nonrecurring
Businesses or other institutions
Owners/operators of aircraft powered by JT3D jet eng., etc.
SIC: 451
Pollution control and abatement, 30 responses, 60 hours; $1,500 Federal cost, 1 form, not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Owners/operators of aircraft powered by JT3D jet engines fly this for temporary exemptions from smoke emission standards so they may continue to fly this equipment while taking steps to meet the standard. Used to grant regulatory relief, primarily to small airlines.

• Selective enforcement audit reporting requirements [1]
On occasion
Businesses or other institutions
Automobile manufacturers
SIC: 371
Pollution control and abatement, 100 responses, 3,604 hours; $1,500 Federal cost, 2 forms, not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Information collected is used to determine automobile conformity to clean air act emission standards. This information was requested of each automobile manufacturer by letter. It is also used to determine vehicle configurations to be tested for conformity to emission standards during selective enforcement audits.

• Motor vehicle certification exemption forms [1]
On occasion
Businesses or other institutions
Manufacturers of new motor vehicles & engines
SIC: 371
Small businesses or organizations
Pollution control and abatement, 1,150 responses, 1,800 hours; $20,313 Federal cost, 3 forms, not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

Information is used to evaluate test exemption request for completeness and compliance with regulations defining terms and conditions of granting of test exemption. Notification of termination of testing allows us to close our files.

• Motor vehicle emission recall reporting requirements [1]
On occasion
Businesses or other institutions
Owners of a specific model & model year of vehicles, etc.
SIC: 551
Small businesses or organizations
Pollution control and abatement, 1,708 responses, 2,338 hours; $19,555 Federal cost, 5 forms, not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

In the course of a motor vehicle recall action, EPA has a need to utilize surveys of owners or new or used car dealers to demonstrate the incidence of emission control system defects in motor vehicles that may cause the vehicles to exceed Federal emission standards established by the Clean Air Act.

• Motor vehicle importation reporting requirements [1]
Nonrecurring
Businesses or other institutions
Respondents are non-resi of the U.S. (i.e. tourists)
SIC: 371
Pollution control and abatement, 9,150 responses, 13,875 hours; $98,500 Federal cost, 3 forms, not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

The importation of motor vehicles/engines is prohibited unless they are covered by certificates of conformity with Federal emission standards. Non-residents are exempt from this prohibition provided the vehicle or engine is not sold and is exported within one year. The information gathered is used to ascertain compliance with above restrictions.

• Notification of foreign government by exporter of unregistered [1] pesticide
On occasion
Businesses or other institutions
Manufacturers, wholesalers, distributors and retailers of
SIC: Multiple
Small businesses or organizations
Pollution control and abatement, 2,500 responses, 5 hours; $27,025 Federal cost, 1 form, not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

Need to notify foreign governments that a pesticide judged hazardous to health or environment or for which no assessment has been made is being exported to their country. An acknowledgment signed by the foreign purchaser that he understands the registration status of the pesticide is sent to his government.

Affidavit [1]
3540-11
Other—see SF83
Individuals or households/businesses or other institutions
Dealer's of restricted pesticides, manufacturer of pestici
SIC: Multiple
Small businesses or organizations
Pollution control and abatement, 1,000 responses, 25 hours; $10,810 Federal cost, 1 form, not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

This form is used to record sworn statements of deponents and used as evidence in pesticide cases.

• Dealers affidavit [1]
3540-12
Other—see SF83
Businesses or other institutions
Dealer's of restricted use pesticide—pesticide manufact
SIC: 519
Small businesses or organizations
Pollution control and abatement, 1,000 responses, 5 hours; $10,000 Federal cost, 1 form, not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

Used to document the receipt of and identification of the pesticide sampled and the related records.

• Notice of Arrival of Pesticides and Devices [1]
3540-1
Other—see SF83
Businesses or other institutions
An importer desiring to import pesticides or devices into
SIC: 519
Small Businesses or organizations
Pollution control and abatement, 3,000 responses, 5 hours; $47,400 Federal cost, 1 form, not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

All imported pesticides are required to be registered under section 3 of FIFRA. An importer desiring to import pesticides or devices into the U.S. must notify EPA prior to the arrival of the shipment in the U.S.

• National Inventory Survey of Pollution Sources [1]
Nonrecurring
Businesses or other institutions
Maleic anhydride plants ethyl benzene/styrene plants benze
SIC: 286 517
Small businesses or organizations
Pollution control and abatement, 160 responses, 4 hours; $2,400 Federal cost, 0 form, not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

In FY 1982, EPA will promulgate regulations establishing benzene emission standards under section 112 of the Clean Air Act. It will be necessary to conduct a national survey of polluting sources, through section 114.

Information requests, to determine the nature of their benzene emission controls, their status of compliance with the standards, and the need for any waivers from those standards.

• State Overview Information [1]
Nonrecurring
State or local governments
33 NPDES delegated States
Pollution control and abatement, 132 responses, 132 hours; $885,762 Federal cost, 1 form, not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

EPA/State agreements sometimes contain commitments where by the State agrees to submit copies of actions relating to compliance and enforcement so that EPA may overview the State's program on a routine basis.

• Beryllium Rocket Motor Firing and Disposal of Beryllium [1]
Propellant recordkeeping & reporting
On occasion
Businesses or other institutions
Beryllium propellant disposal sites, rocket motor test site
SIC: 376
Pollution control and abatement, 10 responses, 40 hours; $166 Federal cost, 1 form, not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

Notification of emission testing, reports of emission testing, and records of tests allow administrator to schedule an observer for the test, confirm source compliance and aid program planning. Combustion products collected in a closed tank shall be sampled at their release.

• Demolition and Renovation Notification, Recordkeeping [1]
On occasion
Businesses or other institutions
Demolition and renovation contractors

SIC: 179
Small businesses or organizations
Pollution control and abatement, 7,675 responses, 3,838 hours; $15,979 Federal cost, 1 form, not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Owner or operator provides notification prior to renovation or demolition to allow administrator time for scheduling an observer, ensuring compliance, and program planning. Recordkeeping and requests for alternative procedures allow the source flexibility in operations while remaining in compliance.

• Waiver of Emission Tests [1]
Nonrecurring
Businesses or other institutions
Asbestos mills
SIC: 109 146 161 281 282 286 329 333 348 495
Small business or organizations
Pollution control and abatement, 1 response, 0 hours; 1 form not applicable under 3504 (h)
Edward H. Clarke, 202–395–7340

Owner or operator submits written application for waiver of emission tests to administrator, who determines to approve or deny the waiver if the source is in compliance, on a compliance schedule, or has requested a compliance waiver.

• Reporting and Recordkeeping of Stack Sampling and Sludge [1] Sampling
Nonrecurring
State or local governments/businesses or other institutions
Mercury ore processing facility, inorganic manufacturers
SIC: 281 109 495
Small businesses or organizations
Pollution control and abatement, 17 responses, 68 hours; $283 Federal cost, 0 form, not applicable under 3504 (h)
Edward H. Clarke, 202–395–7340

Reporting and recordkeeping of emission tests allow the administrator to schedule observing the test or to review results to assure the compliance of the source. Sludge sampling is an alternative means of demonstrating compliance to the administrator and notification, etc. are still required.

Revisions

• Pesticides Report for Pesticide-Producing Establishments [1] EPA 3540–16
Annually
State or local governments
pesticide & active ingredient producing businesses
Small businesses or organizations
Pollution control and abatement, 8,200 responses, 16,400 hours; $100,000 Federal cost, 1 form, not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

FIFRA section 7 requires production data on pesticides and active ingredients currently being produced, those produced during past year and those which were sold or distributed during the past year. Data used to develop inspection programs and for economic impact analysis in cancellation and suspension actions.

Extensions (Burden Change)

• Notice of Intent To Certify/Records [1]
On occasion
Businesses or other institutions
Notice of intent to certify/records
SIC: 371
Small businesses or organizations
Pollution control and abatement, 305 responses, 610 hours; $500 Federal cost, 3 forms, not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

This information is needed in order for EPA to become aware of which automotive aftermarket parts their manufacturer wishes to certify, and for which vehicles they are certified.

Extensions (No Change)

• Information Required From Stationary Air Sources to [1] Calculate Noncompliance Penalties
Nonrecurring
Businesses or other institutions/State or local governments
Major violators of the Clean Air Act
SIC: Multiple
Small businesses or organizations
Pollution control and abatement, 174 responses, 32 hours; $88,130 Federal cost, 0 form, not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

According to regulatory requirements of section 120 of the Clean Air Act after mid 1979, EPA must collect the information needed to calculate and collect penalties equal to the economic savings realized by major sources that are not in compliance with any emission limitations.

reinstatements

• Premanufacture Notification—Domestic Manufacturers [1]
On occasion
Businesses or other institutions
Chemical manufactuers
SIC: 147 281 282 284 285 286 289 291 386
Small businesses or organizations
Pollution control and abatement, 583 responses, 80,972 hours; 1 form, not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Under section 5 of TSCA, any person who intends to manufacture a new chemical substance for a commercial purpose must submit a notice to EPA at least ninety days before commencing manufacture. Section 5(D)(1) defines the content of a premanufacture notice. EPA is required under TSCA to review the information submitted to determine whether action under sections 5(E) or 5(F) is warranted.

FEDERAL RESERVE SYSTEM

New

Agency Clearance Officer—Carolyn B. Doying—202–452–3512

Survey of household transaction accounts
FR 3014
Nonrecurring
Individuals or households
Sample of about 5,000 households nationwide
General government, 5,000 responses, 500 hours; $62,500 Federal cost, 1 form, not applicable under 3504(h)
Warren Topelius, 202–395–7340

This information will be used by the Federal Reserve Board and that Federal open market committee to interpret developments in the area of now and other related accounts and to estimate their effect on the narrow monetary aggregates.

• Survey of Compliance and Benefits of Consumer
Protection Regulations
FR 3013E FR 3013B2
Nonrecurring
Businesses or other institutions
A sample of depository instit., mainly banks, etc.
SIC: 602 603 614
Small businesses or organizations
General government, 100 responses, 12,000 hours; $60,000 Federal cost, 2 forms, not applicable under 3504(h)
Warren Topelius, 202–395–7340

The survey provides some of the information necessary to the board to fulfill its obligations, in part statutory, to conduct reviews and studies of the costs and benefits of regulations.

INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—202–523–0267

Revisions

• Sample Producers', Sample Importers' and Sample Purchasers' Questionnaires
On occasion
Businesses of other institutions/farms
Producers, importers & purchasers of products under invest.
SIC: multiple
Small businesses or organizations
Conduct of foreign affairs, 3,400 responses, 51,000 hours; $1,800,000 federal cost, 3 forms, not applicable

under 3504(h) 202–395–4814

Phillip T. Balazs, 202–395–4814

Pursuant to the Tariff Act of 1930, the Trade Act of 1974, and the Agriculture Adjustment Act, the U.S.I.T.C. makes determinations whether or not imports are causing injury to domestic industries. Data from questionnaires sent to respondents provide part of the statistical base for such determinations. Investigations can result in imposition of import duties, quotas, or other forms of relief.

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—202–632–7737

Revisions

• Request to inspect or receive copies of SF 278, Financial Disclosure Report
OPM 1401
On occasion
Individuals or households
Individuals
Central personnel management, 1,500 responses, 75 hours; $5,000 federal cost, 1 form, not applicable under 3504(h)

Robert Veeder, 202–395–4814

The Ethics in Government Act of 1978 (Pub. L. 95–521, as amended) provides that each agency shall make the financial disclosure statements filed with it available to the public only upon written application by such person. OPM 1401 serves as the application and documents the disclosure.

SECURITIES AND EXCHANGE COMMISSION

Agency Clearance Officer—George G. Kundahl—202/272–2142

New

• Form and Content and Requirement for Financial Standards Under the Securities Act and the Energy Policy and Conservation Act of 1975
1887
On occasion, quarterly, annually, other—see SF83
Businesses or other institutions
Iss. reg. sec. for public sale under the Sec. Act of 1933
SIC: Multiple
Small Businesses or organizations
Other advancement and regulation of commerce, 1 responses, 1 hours; $323,985 Federal cost, 1 form, not applicable under 3504(h)
Robert Veeder, 202–395–4814

Investors and security holders need reasonably current financial statements in order to make considered investment and certain voting decisions. Regulation S–X, originally adopted in 1940, prescribes the form and content of and requirements for those financial statements which are included in registration statements, annual and other reports, certain proxy and information statements and certain other documents.

TENNESSEE VALLEY AUTHORITY

Agency Clearance Officer—Eugene E. Mynatt—615–857–2596

Reinstatements

• Electric Load Survey Guide
TVA 6233 TVA 6233A TVA 6233B
Annually
Individuals or households
Households serviced by TVA power
Energy supply, 3,000 responses, 1,500 hours; $89,650 Federal cost, 3 forms, not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

Information needed to evaluate the effects of demographic and other characteristics on the use patterns of electricity. This information is vital as inputs into ratemaking, cost-of-service and forecasting procedures of the agency.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—202–389–2146

Revisions

• Application for Medical Benefits
VA 10–10
On occasion
Individual or households
Veterans or their representatives
Hospital and medical care for veterans, 1,680,000 responses, 280,000 hours; $1,671,600 Federal cost, 1 form, not applicable under 3504(h)
Robert Neal, 202–395–6880

Used to determine eligibility for Veterans Administration medical beneifts and also related benefits such as travel expenses, priority of care, and other future monetary allowances.

• Comprehensive Evaluation of Health Services
10–1465 A&B
Annually
Individuals or households
VA patients
Hospital and medical care for veterans, 76,000 responses, 15,960 hours; $210,000 Federal cost, 2 forms, not applicable under 3504(h)
Robert Neal, 2022–395–6880

This survey is used to periodically obtain consumer input on satisfaction with services provided. Results are used to monitor facility performance according to (tentative) standards established within DM&S. Field Facilities are able to compare their performance longitudinally and to see their relative standing among comparable facilities.

Arnold Strasser,

Acting Assistant Administrator for Reports Management.

[FR Doc. 81–15203 Filed 5–20–81; 8:45 am]

BILLING CODE 3110–01–M

[1] Over the next several weeks, the environmental Protection Agency will be requesting clearance for several hundred reporting and recordkeeping requirements that were administered previously without OMB approval. In order to provide a thorough review without unnecessarily disrupting EPA programs, OMB may grant interim approvals for many of these requests, after an initial screening. Interim approvals would be followed by full reviews and final approval or disapproval decisions which would be announced in future editions of the **Federal Register**.

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. § 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning July 1, 1981, shall be at the rate of 14½ cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning July 1, 1981, 20.8 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 79.2 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: May 15, 1981.

By authority of the Board.

R. F. Butler,

Secretary of the Board.

[FR Doc. 81–14829 Filed 5–20–81; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 2–72048 (22–11074)]

Cable America Inc.; Application and Opportunity for Hearing

Dated: May 15, 1981.

In the Matter of Cable America, Inc., File No. 2–72048 (22–11074); Trust

Indenture Act of 1939, as amended, Section 310(b)(1)(ii).

Notice is hereby given that Cable America, Inc. (the "Applicant") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of The First National Bank of Atlanta (the "Bank") under an Indenture, dated as of June 1, 1981, among the Applicant, Cable Atlanta, Inc. and Cable DeKalb, Inc., Georgia corporations, as Guarantors, Valley Cable TV, Inc., a California corporation, as Lienor, and the Bank, as Trustee, under which % Subordinated Debentures due June 1, 1999 are to be issued by the Applicant (the "Debenture Indenture"), which is to be qualified under the Act, and an Indenture, dated as of June 1, 1981, among the Applicant, Cable Atlanta, Inc. and Cable DeKalb, Inc., as Guarantors, Valley Cable TV, Inc., as Lienor, and the Bank, as Trustee, under which Convertible Deferred Payment Notes due January 31, 1989 are to be issued by the Applicant (the "Convertible Note Indenture"), which is to be qualified under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under both the Debenture Indenture and under the Convertible Note Indenture.

Section 310(b) of the Act, which is included in Section 8.10 of both the Debenture Indenture and the Convertible Note Indenture, provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities of the same issuer are outstanding.

The present application, filed pursuant to clause (ii) of Section 310(b)(1) of the Act (as set forth in Section 8.10 of both the Debenture Indenture and the Convertible Note Indenture) seeks to exclude the Debenture Indenture and the Convertible Note Indenture from the operation of Section 310(b)(1) of the Act.

The effect of the proviso contained in clause (ii) of Section 310(b)(1) of the Act on the matter of the present application is such that the Debenture Indenture and the Convertible Note Indenture may be excluded from the operation of Section 310(b)(1) of the Act if the Applicant shall have sustained the burden of proving by its application to the Commission and after opportunity for hearing thereon that the trusteeships of the Bank under the Debenture Indenture and the Convertible Note Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under both of these indentures.

The Applicant alleges that:

(1) It, along with Cable Atlanta, Inc. and Cable DeKalb, Inc., Georgia corporations, as Guarantors, and Valley Cable TV, Inc., a California corporation, as Lienor, is filing with the Commission under the Securities Act of 1933, as amended, a registration statement on Form S–1 relating to an offering of investment units consisting of $50,000,000 aggregate principal amount of its Subordinated Debentures due June 1, 1999 (the "Debentures") to be issued pursuant to the Debenture Indenture and its Convertible Deferred Payment Notes due January 31, 1989 (the "Convertible Notes") to be issued pursuant to the Convertible Note Indenture;

(2) The provisions of the Debenture Indenture and the Convertible Note Indenture are identical, except for those sections governing and relating to payment terms and conversion provisions; for this reason, and because the Debentures and the Convertible Notes are initially to be sold in units consisting of one Debenture and one Convertible Note, administration of the Debenture Indenture and the Convertible Note Indenture will be most efficient, both for the Applicant and for the holders of Debentures and Convertible Notes, if one Trustee administers both indentures. The Bank, a corporation organized as a national banking association under the laws of the United States of America, is filing separate statements on two Form T–1's as to its eligibility and qualifications under the Act;

(3) The Debentures and Convertible Notes will rank *pari passu*, each being junior and subordinate to certain senior indebtedness, including a loan agreement between the Applicant and The Toronto-Dominion Bank, Atlanta Agency. The Debenture Indenture and the Convertible Note Indenture will be unsecured except for a security agreement, to be executed by a subsidiary of the Applicant, Valley Cable TV, Inc., giving to the Trustee under the Debenture Indenture and to the Trustee under the Convertible Note Indenture a second lien on the assets of Valley Cable TV, Inc. This lien will be junior and subordinate to a security interest in those same assets securing Valley Cable TV, Inc.'s loan agreement with the Applicant and to a security interest in those same assets securing a part of the Applicant's loan agreement with The Toronto-Dominion Bank, Atlanta Agency.

The lien on the assets of Valley Cable TV, Inc. will secure, up to a limited amount, the Applicant's obligations under the Debenture Indenture and under the Convertible Note Indenture, on substantially a pro rata basis, if and only if Valley Cable TV, Inc. is in default under its loan agreement with the Applicant, pursuant to which the Applicant will lend a part of the proceeds obtained from the sale of the Debentures and Convertible Notes to Valley Cable TV, Inc. Although the lien technically will secure both the Debenture Indenture and the Convertible Note Indenture, only a portion of the security will secure each indenture at any moment in time. This portion is determined in accordance with a ratio, provided for in each indenture, which ratio ensures that the security secures the indentures substantially on a pro rata basis. The ratios always total 100%, so that there will never be an "over-lap" in security between the indentures;

(4) Applicant is not in default under, and there exists no event which with notice or lapse of time or both would constitute a default under the Debenture Indenture or the Convertible Note Indenture (assuming they had been executed and delivered prior to the date of the Application); and

(5) It is unlikely that a material conflict would arise between the holders of Debentures and the holders of Convertible Notes because the terms of the indentures are identical, except for differences in payment terms and differences involving convertibility, the obligations rank pari passu, and the lien on the assets of Valley Cable TV, Inc. by its terms will secure the Debenture Indenture and the Convertible Note Debenture on substantially a pro rata basis. Thus, if proceeds are realized by the Trustee under its security interest, such proceeds would be applied to pay the holders of Debentures and the holders of Convertible Notes on a pro rata basis. For the foregoing reasons, there will not be such a material conflict of interest involved on the part of the

Bank, as Trustee under the Debenture Indenture and the Convertible Note Indentures, as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under both the Debenture Indenture and the Convertible Note Indenture.

The Applicant has waived notice of hearing, any right to a hearing on the issues raised by the application, and all rights to specify procedures under the Rules of Practice of the Commission with respect to its application.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission at the Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or before June 9, 1981, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended. Any interested person may, not later than June 8, 1981 at 5:30 p.m., Eastern Standard Time, in writing, submit to the Commission, his or her views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such comments or requests should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-15169 Filed 5-20-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11775; 812-4850]

Chancellor Tax-Exempt Daily Income Fund, Inc.; Filing of Application

May 13, 1981.

Notice is hereby given that Chancellor Tax-Exempt Daily Income Fund, Inc. ("Applicant"), 100 Gold Street, New York, New York 10038, an open-end, diversified, management company registered under the Investment Company Act of 1940 ("Act"), filed an application on March 25, 1981, and an amendment thereto on May 4, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is organized as a Maryland corporation and that Bache Halsey Stuart Shields Incorporated, a wholly-owned subsidiary of Bache Group, Inc., acts as its investment adviser ("Adviser"). Applicant further states that its investment objective is to attain as high a level of current income exempt from federal income taxation consistent with liquidity and the preservation of capital. According to the application, Applicant will invest in a diversified portfolio of short-term debt obligations having a remaining maturity of one year or less issued by states, territories and possessions of he United States and by the District of Columbia, and their political subdivisions, duly constituted authorities and corporations. Applicant states that it will invest in municipal bonds rated AAA or AA by Moody's Investors Service, Inc. ("Moody's") or AAA or AA by Standard & Poor's Corporation ("S&P") at time of purchase, municipal notes rated MIG-1 or MIG-2 by Moody's or, if appropriate, P-1 or P-2 by Moody's or A-1 or A-2 by S&P, or municipal bonds or notes that directly or indirectly depend on the credit of the United States Government. Applicant further states that it may also purchase the above described securities on a "when-issed" basis.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors.

Rule 22c-1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a-4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with he provisions of Rule 2a-4 for a "money market"fund to value its portfolio instruments with over 60-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicant requests an exemption from the provisions of Section 2(a)(41) of the Act, and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit it to value its portfolio securities using the amortized cost method of valuation. In support of its request, Applicant represents that its board of directors has determined that, absent unusual or extraordinary circumstances, the amortized cost method of valuation is preferable and appropriate for the Applicant and reflects the fair value of its securities. Applicant states that it has been the experience of its Adviser that in order to attract investors and retain shareholders, the Applicant must maintain a stable net asset value and a steady stream of investment income. Applicant further states that by maintaining an average portfolio maturity of 120 days and utilizing the amortized cost method of valuation it will be able to provide the above stated attributes. In addition, Applicant states that it is the Adviser's experience with respect to securities within the Applicant's investment policy, that there is a negligible discrepancy between market value and the amortized cost value of a security maturing in 120 days.

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or

provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that its application meets the standards of Section 6(c) of the Act in light of its management policies, and consents to the imposition of the following conditions to any order granting the requested relief:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors of the Applicant shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated by it.

(c) Where the board of directors believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the boards of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than June 8, 1981, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-15204 Filed 5-20-81; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 22054; 70-6451]

Columbus and Southern Ohio Electric Co.; Proposed Extension of Short-Term Borrowing Arrangements

May 15, 1981.

Columbus and Southern Ohio Electric Company ("CSOE"), 215 North Front Street, Columbus, Ohio 43215, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed with this Commission a post-effective amendment to its application previously filed and amended pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 50(a)(2) and 50(a)(5) thereunder.

By orders dated May 28, 1980, September 23, 1980 and November 18, 1980 (HCAR Nos. 21594, 21723 and 21795), CSOE was granted short-term borrowing authorization through July 1, 1981, in an aggregate principal amount not to exceed $200,000,000. CSOE's credit arrangements for such borrowings consist of (1) lines of credit with 46

banks aggregating $385,926,000; (2) a loan agreement with certain banks for up to $80,000,000 of loans for use in retiring certain of its preferred shares; (3) a credit agreement for up to $30,000,000 of fuel inventory financing; (4) arrangements for borrowing up to $23,000,000 from funds managed by certain banks' trust departments; and (5) an arrangement for the issuance and sale of commercial paper to a commercial paper dealer.

By post-effective amendment, CSOE requests authorization to extend its previously authorized short-term borrowing arrangements from July 1, 1981 through January 1, 1982, the date by which such short-term debt must mature would be extended from March 31, 1982 until June 30, 1982.

The application as amended by the post-effective amendment and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 8, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of sevice (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as amended by the post-effective amendment or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-15205 Filed 5-20-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11776; 812-4525]

Evans & Sutherland Computer Corp.; Filing of Application

May 14, 1981.

Notice is hereby given that Evans & Sutherland Computer Corporation ("Applicant"), a Utah Corporation, 580 Arapeen Drive, Salt Lake City, Utah 84108, filed an application on August 27, 1979, and an amendment thereto on January 21, 1981, for an order pursuant to Section 17(d) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder to permit Applicant to employ Mr. T. F. Walkowicz as a consultant. Mr. Walkowicz is president and a director of National Aviation and Technology Corporation ("National"), an open-end investment company registered under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicant was organized in 1968 and engages in the design, manufacture, marketing and servicing of three-dimensional, interactive graphic systems for use in pilot simulation training and in computer aided research, development, design and manufacture. When the application was initially filed, National owned 183,500 shares or 8.4 percent of Applicant's common stock. Applicant represents that as a result of two subsequent sales of Applicant's common stock, National presently owns 133,500 shares or 4.8 percent of Applicant's presently outstanding common stock.

The application states that Mr. Walkowicz is the president and a director of National. The application further states that Mr. Walkowicz is chairman of the board, president and chief executive officer of American Fund Advisors, Inc., the investment adviser to National. In addition, he is a director of Applicant and owns 3,034 shares of its common stock.

According to the application, Mr. Walkowicz has acted as an unpaid consultant to the Applicant since its inception and has assisted in arranging initial and subsequent financing for the company. The application states that on June 28, 1978, Applicant's board of directors authorized its president to negotiate a consulting agreement with Mr. Walkowicz. The term of the proposed agreement is one year, and Applicant anticipates that the agreement will be renewed from year-to-year. Applicant states that under the agreement it will pay Mr. Walkowicz $12,000 per year together with authorized expenses and will grant him a "non-qualified" stock option to purchase 20,000 shares of Applicant's common stock at an exercise price of $5.00 per share. During the first year, the option would be exercisable only as to 4,000 shares, and, if the agreement were renewed from year-to-year, the option would be exercisable in 4,000 share cumulative installments over a five year period. Applicant states that if an order of exemption is issued on the application, it will consider the compensation that would have been accrued to date under the proposed consulting agreement to have been earned because Mr. Walkowicz has performed under the agreement. According to the application as originally filed on August 27, 1979, the price of Applicant's common stock was quoted at 29½ bid and 30½ asked on August 21, 1979. The application as amended on January 21, 1979, states that Applicant's common stock was quoted at a price of 64½ bid and 66½ asked on January 19, 1981.

Section 17(d) of the Act and Rule 17d-1 thereunder provide that it shall be unlawful, with certain exceptions not here applicable, for an affiliated person of a registered investment company or any affiliated person of such person, acting as principal, to participate in, or effect any transaction in connection with, any joint enterprise or arrangement in which any such registered company is a participant unless an application for an order of exemption regarding such arrangement has been granted by the Commission, and that in passing upon such an application, the Commission shall consider whether the participation of such registered investment company in such arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Section 2(a)(3) of the Act provides in part that an affiliated person of another person means any officer or director of such person, and if such person is an investment company, any investment adviser thereof. Applicant states that as an officer and director of National, Mr. Walkowicz is an affiliated person of National. In addition, because he is an officer and director of American Fund Advisors, Inc., he is an affiliated person of an affiliated person of National.

The application states that the grant of a stock option to Mr. Walkowicz pursuant to the terms of the proposed consulting agreement might be deemed to involve indirectly National in its capacity as a shareholder of Applicant because there would be a potential dilution of National's ownership interest in Applicant by reason of the issuance and subsequent exercise of a stock option at a price per share less than the market value of the shares. Accordingly, the Applicant seeks a Commission order approving the consummation of the proposed consulting agreement, including the granting of the stock option to Mr. Walkowicz and any subsequent exercise of that stock option

by him, to remove any doubt as to the applicability of Section 17(d) and Rule 17d–1 to the proposed arrangement.

In support of the application, Applicant submits that its success is in no small part attributable to the consulting services rendered by Mr. Walkowicz. Applicant represents that it desires to continue to receive Mr. Walkowicz's services, as well as have him work more closely with its management than he has been able to do without compensation. According to the application, Applicant estimates that its projected level of operations would require the full use of its cash resources over the next few years, and has decided that the financing of Mr. Walkowicz's services primarily by the issuance of the stock option would permit it to better apply its liquid resources.

Applicant submits that the services of Mr. Walkowicz as a consultant would enhance the value of each shareholder's interest in Applicant in direct proportion to his respective holdings. Applicant also states that any dilution resulting from the granting and exercise of the option in the proposed agreement will be equal for all shareholders on a per-share basis. The application states that National's executive committee and board of directors have been informed of the proposed consulting arrangement, both at the time of the initial application and at the time it was amended, and have no objection thereto.

The application states that Mr. Walkowicz has consistently been excluded from National's investment decisions concerning its portfolio position in Applicant's common stock, because Mr. Walkowicz owned shares of Applicant at the time he became president of National. Aplicant submits that National will not be denied Mr. Walkowicz's services respecting Applicant because it has never availed itself of his advice in that regard. In this connection, Mr. Howard Buhse, chairman of the board of National, has submitted by affidavit attached as an appendix to the application that, in the absence of Mr. Walkowicz, National's board of directors has been advised by highly experienced investment analysts concerning the purchase and sale of Applicant's securities. In addition, Mr. Buhse states that on the initial and a subsequent occasion that National acquired shares of Applicant's common stock, Mr. Walkowicz had surrended to National a personal opportunity to make such acquisitions.

In connection with the application, Mr. Walkowicz has undertaken that so long as he remains affiliated with National:

(1) he will not enter into any arrangement involving the receipt of options from companies whose securities are held in National's portfolio, other than the consulting arrangement which is the subject of the application, and

(2) while National holds securities of Applicant, he will notify National's board of directors prior to making any public disposition of shares of Applicant's common stock acquired pursuant to the option relating to his consulting arrangement, and he will refrain from making such disposition if Applicant's board of directors advises him following such notification that National is then in the process of disposing of Applicant's securities or proposes to dispose of Applicant's securities within the next thirty days.

By affidavit attached as an appendix to the application, Lawrence E. Erera, Secretary and Treasurer of both National and American Fund Advisors, Inc., states that, other than Mr. Walkowicz's investment in Applicant, no officer or director of National or American Fund Advisors, Inc., owns any security held in National's portfolio which is not listed on a major stock exchange and which might be considered "thinly" traded.

Applicant further submits that the proposed consulting agreement, including the compensation provided therein, is consistent with the provisions, policies and purposes of the Act. Applicant states that National's participation in the arrangement is solely by virtue of its stock ownership in Applicant, and that National's participation is not on a basis different from or less advantageous than that of other shareholders of Applicant.

Notice is further given that any interested person may, not later, than June 8, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-15206 Filed 5-20-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17807; File No. SR-MSRB-81-2]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

May 15, 1981.

On March 19, 1981, the Municipal Securities Rulemaking Board (the "MSRB") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change which would amend MSRB rule G–3 concerning the qualification requirements for municipal securities professionals. The proposed rule change would: (1) permit persons whose activities are limited to supervising purchases and sales of municipal securities to qualify as municipal securities sales principals;[1] (2) require persons seeking to qualify as municipal securities principals or municipal securities sales principals to first qualify as municipal securities representatives; and (3) modify the two-year "grace period" for persons who seek to resume functioning as principals.[2] The proposed rule change would also clarify certain provisions of the rule and delete references to exemptive provisions and dates which are no longer relevant.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release

[1] Until such time as the MSRB institutes a separate examination procedure for municipal securities sales principals, persons acting in this capacity must be qualified as municipal securities principals.

[2] This alters the current rule, which enables a person to remain qualified for as long as he is associated with a municipal securities broker or dealer plus two years after termination of that association. The proposed rule change would, with respect to principals, limit the grace period to two years after the person ceased acting as a principal.

(Securities Exchange Act Release No. 17698 (April 9, 1981)) and by publication in the **Federal Register** (46 FR 22093 (1981)). No comments with respect to the proposed rule change were received by the Commission during the comment period.[3]

The text of rule G–3, as amended, is as follows:

Rule G–3. Classification of Principals and Representatives; Numerical Requirements; Testing

No municipal securities broker or municipal securities dealer or person who is a municipal securities principal, financial and operations principal, municipal securities representative, or municipal securities representative," and "municipal securities sales principal (as hereinafter defined) shall be qualified for purposes of rule G–2 unless such municipal securities broker or municipal securities dealer or person meets the requirements of this rule.

(a) Definitions. As used in the rules of the Board, the terms "municipal securities principal," "financial and operations principal," "municipal securities sales principal" shall have the following respective meanings:

(i) Municipal Securities Principal. The term "municipal securities principal" means a natural person associated with a municipal securities broker or municipal securities dealer, other than a municipal securities sales principal, who is directly engaged in the management, direction or supervision of one or more of the following activities:

(A) underwriting, trading or sales of municipal securities;

(B) financial advisory or consultant services for issuers in connection with the issuance of municipal securities;

(C) processing, clearance, and in the case of municipal securities brokers and municipal securities dealers other than bank dealers, safekeeping of municipal securities;

(D) research or investment advice with respect to municipal securities;

(E) any other activities which involve communication, directly or indirectly, with public investors in municipal securities;

(F) maintenance of records with respect to the activities described in subparagraphs (A) through (E); or

(G) training of municipal securities principals or municipal securities representatives;

Provided, however, that the activities enumerated in subparagraphs (D) and (E) above shall be limited to such activities as they relate to the activities enumerated in subparagraphs (A) or (B) above.

(ii) Financial and Operations Principal. The term "financial and operations principal" means a natural person associated with a municipal securities broker or municipal securities dealer (other than a bank dealer), whose duties include:

(A) approval of and responsibility for financial reports required to be filed with the Commission or any self-regulatory organization;

(B) final preparation of such reports;

(C) overall supervision of individuals who assist in the preparation of such reports;

(D) overall supervision of and responsibility for individuals who are involved in the actual maintenance of the books and records from which such reports are derived;

(E) overall supervision and performance of the responsibilities of the municipal securities broker or municipal securities dealer with which such person is associated pursuant to the financial responsibility rules under the Act;

(F) overall supervision of and responsibility for all individuals who are involved in the administration and maintenance of the processing and clearance functions of such municipal securities broker or municipal securities dealer; and

(G) overall supervision of and responsibility for all individuals who are involved in the administration and maintenance of the safekeeping functions of such municipal securities broker or municipal securities dealer.

(iii) Municipal Securities Representative. The term "municipal securities representative" means a natural person associated with a municipal securities broker or municipal securities dealer, other than a municipal securities principal, a municipal securities sales principal, or a person whose functions are solely clerical or ministerial, whose activities include one or more of the following:

(A) underwriting, trading or sales of municipal securities;

(B) financial advisory or consultant services for issuers in connection with the issuance of municipal securities;

(C) research or investment advice with respect to municipal securities; or

(D) any other activities which involve communication, directly or indirectly, with public investors in municipal securities;

Provided, however, that the activities enumerated in subparagraphs (C) and (D) above shall be limited to such activities as they relate to the activities enumerated in subparagraphs (A) and (B) above.

(iv) Municipal Securities Sales Principal. The term "municipal securities sales principal" means a natural person associated with a municipal securities broker or municipal securities dealer (other than a bank dealer) whose supervisory activities with respect to municipal securities are limited exclusively to supervising sales to and purchases from customers of municipal securities.

(b) Numerical Requirements.

(i) Municipal Securities Principals. Every municipal securities broker and municipal securities dealer shall have at least two municipal securities principals, except as follows:

(A) every municipal securities broker or municipal securities dealer which is a member of a registered securities association and which conducts a general securities business shall have at least one municipal securities principal; and

(B) every municipal securities broker or municipal securities dealer having fewer than eleven persons associated with it in whatever capacity on a full-time or full-time equivalent basis who are engaged in the performance of its municipal securities activities, or, in the case of a bank dealer, in the performance of its municipal securities dealer activities, shall have at least one municipal securities principal.

(ii) Financial and Operations Principals. Every municipal securities broker and municipal securities dealer (other than a bank dealer) shall have at least one financial and operations principal, including its chief financial officer, qualified in accordance with section (d) of this rule, provided, however, that the numerical requirements of this paragraph shall not apply to any municipal securities broker or municipal securities dealer meeting the requirements of paragraphs (a)(2) or (3) of rule 15c3–1 under the Act or exempted from the requirements of rule 15c3–1 in accordance with paragraph (b)(3) thereof.

(c) Qualification Requirements for Municipal Securities Principals.

(i) Except as otherwise provided in this section (c), every municipal securities principal shall take and pass the Municipal Securities Principal Qualification Examination prior to being qualified as a municipal securities principal. The passing grade shall be determined by the Board.

(ii) On or after (30 days after approval of these proposed amendments by the Commission), any person seeking to become qualified as a municipal

[3] One comment letter supporting the proposed rule change was received after expiration of the comment period.

securities principal in accordance with paragraph (c)(i) of this rule, must, prior to being qualified as a municipal securities principal: (A) have been duly qualified as either a municipal securities representative or a general securities representative; or (B) have taken and passed either the Municipal Securities Representative Qualification Examination or the General Securities Registered Representative Qualification Examination.

(iii) The requirements of paragraph (c)(i) shall not apply to any person associated with a municipal securities broker or municipal securities dealer who was duly qualified as a municipal securities principal on (the date on which the Commission approves the proposed amendments).

(iv) Any person who ceases to act as a municipal securities principal for two or more years at any time after having qualified as a municipal securities principal in accordance with this section (c) shall take and pass the Municipal Securities Principal Qualification Examination and be qualified as a municipal securities representative prior to being qualified as a municipal securities principal.

(v) For the first 90 days after becoming a municipal securities principal, the requirements of paragraph (c)(i) shall not apply to any person who is qualified as a municipal securities representative, general securities representative or general securities principal and who becomes a municipal securities principal provided, however, that such person shall take the Municipal Securities Principal Qualification Examination within that period.

(vi) The requirements of this section (c) may be waived in extraordinary cases for any associated person of a municipal securities broker or municipal securities dealer who demonstrates extensive experience in a field closely related to the municipal securities business of such municipal securities broker or municipal securities dealer. Such waiver may be granted

(A) by a registered securities association with respect to a person associated with a mumber of such association, or

(B) by the appropriated regulatory agency with respect to a person associated with any other municipal securities broaker or municipal securities dealer.

(d) Qualification Requirements for Financial and Operations Principals.

(i) Except as otherwise provided in this section (d), every financial and operations principal shall take and pass the Municipal Securities Rulemaking Board Financial and Operations Principal Qualification Examination prior to being qualified as a financial and operations principal. The passing grade shall be determined by the Board.

(ii) Any person who ceases to be associated with a municipal securities broker or municipal securities dealer as a financial and operations principal for two or more years at any time after having qualified as such in accordance with this section (d) shall take and pass the Financial and Operations Principal Qualification Examination prescribed by the Board prior to being qualified as a financial and operations principal.

(iii) The requirements of paragraph (d)(i) and (d)(ii) of this rule shall not apply to any financial and operations principal who is:

(A) registered and qualified in such capacity with a registered securities association, or

(B) associated with a municipal securities broker or municipal securities dealer meeting the requirements of paragraphs (a)(2) or (3) of rule 15c3–1 under the Act or exempted from the requirements of rule 15c3–1 in accordance with paragraph (b)(3) thereof.

(iv) The requirements of this section (d) may be waived for any associated person of a municipal securities broker or municipal securities dealer in circumstances sufficient to justify the granting of a waiver if such person were seeking to register and qualify with a member of a registered securities association as a financial and operations principal. Such waiver may be granted

(A) by a registered securities association with respect to a person associated with a member of such association, or

(B) by the Commission with respect to a person associated with any other municipal securities broker or municipal securities dealer (other than a bank dealer).

(e) Qualification Requirements for Municipal Securities Representatives.

(i) Except as otherwise provided in this section (e), every municipal securities representative shall take and pass the Municipal Securities Representative Qualification Examination prior to being qualified as a municipal securities representative. The passing grade shall be determined by the Board.

(ii) The requirements of paragraph (e)(i) of this rule shall not apply to any person who

(A) is duly qualified as a general securities representative by reason of having taken and passed the General Securities Registered Representative Qualification Examination, or

(B) was duly qualified as a municipal securities representative on (the date of approval of the proposed amendments by the Commission).

(iii) Any person who ceases to be associated with a municipal securities broker or municipal securities dealer (whether as a municipal securities representative or otherwise) for two or more years at any time after having qualified as a municipal securities representative in accordance with this section (e) shall take and pass the Municipal Securities Representative Qualification Examination prior to being qualified as a municipal securities representative unless exempt therefrom pursuant to subparagraph (e)(ii)(A) of this rule.

(iv) The requirements of paragraph (e)(i) of this rule shall not restrict the performance of municipal securities activities by any person who first becomes associated with a municipal securities broker or municipal securities dealer in a representative capacity without previously having qualified as a municipal securities representative or general securities representative to the extent such activities are permitted by section (i) of this rule.

(v) The requirements of this section (e) may be waived for any associated person of a municipal securities broker or municipal securities dealer in extraordinary cases in which such person demonstrates extensive experience in a field closely related to the municipal securities business of such municipal securities broker or municipal securities dealer. Such waiver may be granted

(A) by a registered securities association with respect to a person associated with a member of such association, or

(B) by the appropriate regulatory agency with respect to a person associated with any other municipal securities broker or municipal securities dealer.

(f) Qualification Requirements for Municipal Securities Sales Principals.

(i) Except as otherwise provided in this section (f), every municipal securities sales principal shall take and pass an appropriate examination designated by the Board prior to acting in such capacity. The passing grade of such an examination shall be determined by the Board. Until the Board designates such an examination, every municipal securities sales principal shall be required to qualify as a municipal securities principal in

accordance with the provisions of section (c) of this rule.

(ii) Any person seeking to become qualified as a municipal securities sales principal in accordance with paragraph (f)(i) of this rule, must, prior to being qualified as a municipal securities sales principal: (A) have been duly qualified as either a municipal securities representative or a general securities representative; or (B) have taken and passed either the Municipal Securities Representative Qualification Examination or the General Securities Registered Representative Examination.

(iii) The requirements of paragraph (f)(i) shall not apply to any person associated with a municipal securities broker or municipal securities dealer who is qualified as a municipal securities principal.

(iv) Any person who ceases to act as a municipal securities sales principal for two or more years at any time after having qualified as a municipal securities sales principal in accordance with this section (f) shall take and pass the appropriate examination designated by the Board and be qualified as a municipal securities representative prior to being qualified as a municipal securities sales principal.

(v) For the first 90 days after becoming a municipal securities sales principal, the requirements of paragraph (f)(i) shall not apply to any person who is qualified as a municipal securities representative, general securities representative, or general securities principal provided, however, that such person shall take the appropriate examination designated by the Board within that period.

(vi) The requirements of this section (f) may be waived in extraordinary cases for any associated person of a municipal securities broker or municipal securities dealer who demonstrates extensive experience in a field closely related to the municipal securities business of such municipal securities broker or municipal securities dealer. Such waiver may be granted

(A) by a registered securities association with respect to a person associated with a member of such association, or

(B) by the Commission with respect to a person associated with any other municipal securities broker or municipal securities dealer (other than a bank dealer).

(g) Confidentialy of Qualification Requirements.

No associated person of a municipal securities broker or municipal securities dealer shall:

(i) in the course of taking a qualification examination required by this rule receive or give assistance of any nature;

(ii) disclose to any person questions, or answers to any questions, on any qualification examination required by this rule;

(iii) engage in any activity inconsistent with the confidential nature of any qualification examination required by this rule, or with its purpose as a test of the qualification of persons taking such examinations; or

(iv) knowingly sign a false certification concerning any such qualification examination.

(h) Retaking of Qualification Examinations.

Any associated person of a municipal securities broker or municipal securities dealer who fails to pass a qualification examination prescribed by the Board shall be permitted to take the examination again after a period of 30 days has elapsed from the date of the prior examination, except that any person who fails to pass an examination three or more times in succession shall be prohibited from again taking the examination until a period of six months has elapsed from the date of such person's last attempt to pass the examination.

(i) Employment.

(i) Any person who first becomes associated with a municipal securities broker or municipal securities dealer in a representative capacity (whether as a general securities representative or municipal securities representative) without having previously qualified as a general securities representative or municipal securities representative shall be permitted to function in a representative capacity without qualifying pursuant to paragraph (e)(i) for a period of at least 90 days following the date such person becomes associated with a municipal securities broker or municipal securities dealer provided, however, that such person shall not transact business with any member of the public with respect to, or be compensated for transactions in municipal securities during such 90 day period, regardless of such person's having qualified in accordance with the examination requirements of this rule. A person subject to the requirements of this section shall in no event continue to perform any of the functions of a municipal securities representative after 180 days following the commencement of such person's association with such municipal securities broker or municipal securities dealer, unless such person qualifies as a municipal securities representative pursuant to paragraph (e)(i).

(ii) The requirements of this section (i) may be waived for any associated person of a municipal securities broker or municipal securities dealer in extraordinary cases in which such person demonstrates extensive experience in a field closely related to the municipal securities business of such municipal securities broker or municipal securities dealer. Such waiver may be granted

(A) by a registered securities association with respect to a person associated with a member of such association, or

(B) by the appropriate regulatory authority with respect to a person associated with any other municipal securities broker or municipal securities dealer.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-13211 Filed 5-20-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22050; 37-65]

Northeast Utilities, et al.; Filing of Post-Effective Amendment Regarding Extension of Period for the Issuance of Long-Term Notes by Service Company and Acquisition by Holding Company

May 13, 1981.

In the matter of Northeast Utilities, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089; Northeast Utilities Service Company, the Connecticut Light and Power Company, the Hartford Electric Light Company, Western Massachusetts Electric Company, Holyoke Water Power Company.

Northeast Utilities Service Company ("Service Company"), a subsidiary service company of Northeast Utilities ("Northeast"), a registered holding company, and its above-named associate electric utility companies, have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant

to Sections 6(a), 7, 9(a), 10, and 13(b) of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions.

By order dated June 30, 1966 (HCAR No. 15519), the Commission, among other things, authorized Service Company to issue and sell to Northeast for cash, and Northeast to acquire, during a five-year period commencing June 30, 1966, up to $3,000,000 aggregate principal amount to be outstanding at any one time of long-term unsecured notes of Service Company to bear interest at a rate of not more than one-quarter of one percent above the commercial bank prime rate on short-term loans in effect in Hartford, Connecticut.

By orders dated July 30, 1969, January 29, 1971, and June 15, 1976 (HCAR Nos. 16437, 16980, and 19574), the Commission, among other things, authorized increases in the aggregate principal amount of such notes to be issued and sold by Service Company to Northeast to the present limit of $10,000,000 aggregate principal amount at any one time outstanding and also extended the authorization with respect to the issuance and sale of notes to June 30, 1981. The aggregate capital of Service Company, including its outstanding notes and capital stock, will be maintained at all times at an amount not to exceed the sum of two months' operating expenses, plus an amount necessary to finance the inventory of materials and supplies proposed to be purchased by Service Company and stored in its central warehouse, plus the cost of Service Company's property less applicable reserves, prepayments, and petty cash working funds.

Applicants-declarants now propose to further extend the period during which the notes may be issued to June 30, 1986, in order to permit Service Company to meet and maintain its net cash requirements for working capital. Such long-term unsecured notes, which will not exceed $10,000,000 maximum aggregate principal amount at any one time outstanding, will mature 40 years from the date the first of such notes are issued, will bear interest at a rate not more than 120% of the commercial bank prime rate on short-term loans in effect from time to time in Hartford, Connecticut, and may be repaid at any time without premium. In all other respects, the notes will carry the same terms and provisions and be subject to the same limitation on the aggregate capital of Service Company as the notes authorized under the July 30, 1969, order.

The post-effective amendment states that no fees or expenses will be incurred in connection with the proposed transactions and that no consent or approval of any state commission or federal commission, other than this Commission, is required in respect of the proposed transactions.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 11, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specially the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-15207 Filed 5-20-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22053; 70-6465]

Northeast Utilities; Proposed Change in Revolving Credit Agreement

May 15, 1981.

In the matter of Northeast Utilities, Western Massachusetts Electric Company (174 Brush Hill Avenue, West Springfield, Massachusetts 01089), the Connecticut Light & Power Company, the Hartford Electric Light Company, Northeast Nuclear Energy Company (Selden Street, Berlin, Connecticut 06037), and Holyoke Water Power Company (One Canal Street, Holyoke, Massachusetts 01040).

Northeast Utilities ("NU"), a registered holding company, and five of its wholly-owned subsidiary companies, The Connecticut Light & Power Company ("CL&P"), The Hartford Electric Light Company ("HELCO"), Western Massachusetts Electric Company ("WMECO"), Holyoke Water Power Company ("HWP") and Northeast Nuclear Energy Company ("NNECO"), have filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to Sections 6(a), 7 and 12(b) of the Public Utility Holding Company Act of 1935 ("Act"), and Rules 45 and 50 thereunder.

By orders dated July 1, 1980 (HCAR No. 21647), August 21, 1980 (HCAR No. 21684) and February 3, 1981 (HCAR No. 21905) and April 14, 1981 (HCAR No. 22005) in this matter, the applicants-declarants were authorized, among other things, to issue and sell notes to banks and, with the exception of HWP and NNECO, commercial paper to a dealer in commercial paper from time to time through June 30, 1981. In addition, CL&P, HELCO and WMECO were authorized to enter into a multibank revolving credit and term loan agreement under the terms of which the three companies can borrow up to an aggregate of $140,000,000. The aggregate amount of all such notes at any time outstanding, whether issued to banks ("Bank Notes") or to a dealer in commercial paper ("Commercial Paper") or to banks under the revolving credit/term loan agreement ("Revolving Credit/Term Notes") may not exceed $55,000,000 in the case of NU, $210,000,000 in the case of CL&P, $140,000,000 in the case of HELCO, $85,000,000 in the case of WMECO, $8,000,000 in the case of HWP and $40,000,000 in the case of NNECO.

As presently structured the exercise by any company of its option to convert borrowings under the revolving credit agreement to term loans would permanently foreclose such company from making further revolving loans. It is proposed that the agreement be revised to permit CL&P, HELCO and WMECO to reborrow during the revolving credit period even though a portion of the outstanding borrowings may have been converted to term loans. The amount available for reborrowing by an individual company, however, would be reduced to the extent a portion of its commitment had been converted to term loans.

The application-declaration and amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 8, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by

affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing in this matter. After said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-15208 Filed 5-20-81; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

May 18, 1981.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of: Bairnco Corporation, Common Stock, $.05 Par Value (File No. 7-5916).

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 9, 1981 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-15210 Filed 5-20-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22051; 70-6602]

Southwestern Electric Power Co.; Proposed Transactions Related to Financing Air Pollution Control Facilities

May 14, 1981.

Southwestern Electric Power Company ("SWEPCO"), P.O. Box 21106, Shreveport, Louisiana 71156, a public-utility subsidiary company of Central and South West Corporation, a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 6(a), 7, 9(a), 10, and 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 44 and 50(a)(5) thereunder.

SWEPCO has under construction Unit No. 3 of the Welsh Power Plant (the "Unit"), in Titus County, Texas. The Unit, scheduled to be completed in early 1982, will have a rated capacity of 530 megawatts and an estimated total cost of $167,900,000. In order to comply with applicable state and federal environmental control standards with respect to the Unit, it is necessary to construct, as part of the Unit, certain air pollution control facilities (the "Facilities"). SWEPCO proposes to enter into an Installment Sale Agreement (the "Agreement") with Titus Company Fresh Water Supply District No. 1 (the "District"), an instrumentality of the State of Texas, under which the District would undertake the financing of the Facilities. The Agreement provides that SWEPCO will transfer to the District its interest in the Facilities as they presently exist and will be reimbursed for its cost of acquiring and constructing the property so transferred. SWEPCO will then cause the construction of the Facilities to be completed for the District and will be reimbursed by the District for the cost of such construction. Title to various portions of the Facilities will be in the District during the course of construction. Title to the Facilities will automatically vest in SWEPCO upon completion.

The District will finance the acquisition or construction of the Facilities through the issuance and sale, concurrently with the execution of the Agreement, of the District's Pollution Control Revenue Bonds in an aggregate amount presently estimated at $16,000,000 but in no event to exceed $20,000,000. The bonds will bear interest semi-annually and will mature at a date or dates not more than 30 years from the issue date, the exact maturity dates to be determined at the time of pricing of the bonds in order to take maximum advantage of then current market conditions. The proceeds from the sale of the bonds will be placed in a construction fund created and established under the Indenture and will be disbursed to reimburse SWEPCO for the cost of construction of the Facilities, including their acquisition from SWEPCO and their completion.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 15, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing if ordered and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-15209 Filed 5-20-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 81-ASW-3AC]

Gulfstream American Corp. Model 695A; Aircraft Certification and Availability of Documents

The formal type certification process for the Model 695A has been completed. Certification was requested by Gulfstream American Corporation, Bethany, Oklahoma, under the provisions of Subpart "J" of Federal Aviation Regulation (FAR) 21. Federal Aviation Administration (FAA), Southwest Region personnel participated in the certification process by attending Type Certification Board Meetings, reviewing technical documents and witnessing tests.

The Director of the Southwest Region has conducted a review of the issues involved in the Model 695A type certification program and the findings of the Delegation Option Authorization (DOA) and FAA certification teams. He

has also reviewed and discussed with his staff a document entitled "Decision Basis for Type Certification of the Gulfstream American Model 695A airplane."

Based on this review, the Director approved the amendment of Aircraft Type Certificate 2A4 to include the Model 695A. This amendment was dated April 30, 1981.

A copy of the "Decision Basis for Type Certification of the Gulfstream American Model 695A Airplane" is on file in the FAA Rules Dockets. The bulk of the "Decision Basis" reviews the purpose, structure, conduct, and significant highlights of the certification program wherein Gulfstream American was required to demonstrate compliance with the applicable Federal Aviation Regulations and Special Conditions. It provides a brief overview of type inspection test results and a compliance checklist showing the means of compliance with each paragraph of the certification basis. Other appendices and attachments pertaining to the Model 695A type certification program are also included in the document.

The "Decision Basis" document is available for examination and copying at the FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. Copies of the report and appendices may be obtained from the Office of the Director, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101.

Issued in Fort Worth, Texas on May 11, 1981.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 81-15233 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

Advisory Circular on Manufacturers' Service Documents

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed advisory circular and request for comments.

SUMMARY: The proposed new advisory circular suggests acceptable ways aircraft, aircraft engine, propeller, and appliance manufacturers may indicate FAA approval of recommended actions set forth in manufacturers' service documents. As a result of the FAA's 1979 investigation of the crash of an American Airlines, Inc., McDonnell Douglas DC-10 in Chicago it was recommended that the FAA develop and implement a consistent policy on review and approval of manufacturers' service documents. This proposed advisory circular is intended to assure that manufacturers' service information provided to aircraft operators is consistent and that deviations and changes to service documents are made in an acceptable manner.

DATES: Commenters must identify file number AC 120-XX and comments must be received on or before July 20, 1981.

ADDRESSES: Comments on the proposed Advisory Circular may be either mailed in duplicate to: Federal Aviation Administration, Office of Airworthiness, Attention: Technical Standards Branch (AWS-110), 800 Independence Avenue, SW., Washington, DC 20591, or delivered in duplicate to: Room 335D, 800 Independence Avenue, SW, Washington, DC 20591. Comments delivered must be marked File No. AC 120-X. Comments may be inspected at Room 335D between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Hayes, Technical Standards Branch (AWS-110), Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue SW, Washington, D.C. 20591, telephone (202) 426-8374.

SUPPLEMENTARY INFORMATION:

Comments Invited

Comments are invited from all interested persons on the proposed advisory circular dealing with manufacturers' service documents. A copy of the proposed advisory circular may be obtained by contacting the person identified under "For Further Information Contact."

Issued in Washington, D.C., on May 14, 1981.

M. C. Beard,

Director of Airworthiness.

Proposed Advisory Circular 120-XX

Subject: Manufacturers' Service Documents

1. *Purpose.* This advisory circular suggests acceptable methods by which product manufacturers may indicate FAA approval of recommended actions prescribed in manufacturers' service documents.

2. *Related Federal Aviation Regulations (FAR) Sections.* Sections 21.31, 21.93, 21.95, 21.97, 21.99, 21.113, 21.289, 21.463, 43.13 (a) & (b), 43.3(a), 43.7, 43.17, 65.95, 91.163(b), 121.379, 127.140, 135.437, and 145.51.

3. *Background.*

a. Manufacturers' service documents communicate useful recommendations and information on available alterations, suggested repairs, inspections, etc., to operators. It is the operators' (not the manufacturers') ultimate responsibility to ensure that FAA approval has been obtained if FAA approval is required before implementing manufacturers' advice, recommendations, alterations, repairs, etc., prescribed in service documents. The FAR requires manufacturers to provide descriptive data covering required design changes to operators of their products. When FAA approval is required, it is necessary for operators and FAA field inspectors to know which recommendation or information has been reviewed and approved by the FAA prior to issuance of the service document. For this reason it is desirable and expedient to assist the operator by indicating in an appropriate fashion in the body of service documents specifically which recommendation or information has been reviewed and approved by the FAA.

b. In the past, the phrases "FAA/DER Approved," "DER Approved," and "DOA Approved" have been used in service documents to indicate that FAA approval was administered by FAA designees. Such notations introduce confusion regarding the FAA approval status of a recommended action. FAA designee approval has legal significance only when that approval constitutes an FAA approval. Therefore, an approval by an FAA designee on behalf of the FAA that is accomplished within that designee's delegated authority is an FAA approval. FAA designees can approve only actions that have a regulatory basis for approval.

c. It is common practice for manufacturers to publish service documents for distribution to operators of their products. Manufacturers are not required by FAR either to coordinate service documents with the FAA or to gain FAA approval of these service documents prior to publication or distribution; however, manufacturers are required by FAR to gain FAA approval of all type design changes and to provide descriptive data covering required design changes to operators of their products.

d. When major type design changes are involved, FAA approval is required by either FAA regional engineering offices or FAA designees; however, there are some major type design changes that require direct FAA regional engineering participation. The following are examples of major type design changes that require prior FAA regional engineering review and approval:

(1) Changes requiring issuance of type Inspection Authorization.

(2) Changes requiring ground test demonstrations witnessed by FAA regional engineering personnel.

(3) Changes requiring revisions to Type Certificate Data Sheets.

(4) Changes requiring revisions to the Airworthiness Limitation Sections of FAA approved manuals.

(5) Changes made to correct reported deficiencies or safety hazards which appear to be airworthiness directive subjects.

(6) Revisions to changes required by airworthiness directives.

e. It has also been common practice in the past for manufacturers to mark entire service documents, such as service bulletins and all-operators' letters, as "FAA-Approved," "FAA-DER Approved," or "DER Approved." This practice implies that the service document has been reviewed, evaluated, and approved in toto by the FAA; however, since there is no regulatory basis for FAA approval of certain information in service documents, the practice should be discontinued.

f. FAA approval of a document or recommended action should mean that the FAA has reviewed the document or recommended action under established FAA regulations or standards and found it to be acceptable. Many parts of typical service documents do not require and should not receive FAA approval; these parts include manufacturer's recommended compliance times (except as indicated in paragraphs 5b(1)(b) and 5c), reasons or background supporting issuance of the document, recommended maintenance practices, step-by-step routine alteration procedures, estimates on the cost of compliance, tooling and facility requirements for compliance, etc. When there is a regulatory basis for an FAA approval, FAA approval may be indicated.

g. Most manufacturers of products used in air carrier service, and many manufacturers of products used in general aviation, have elected to abide by the guidelines in Air Transport Association (ATA) Specification No. 100, Specification for Manufacturers' Technical Data. Use of ATA Specification No. 100 is not an FAA requirement; however, it is a useful industry specification and its use is acceptable to the FAA. That Specification and an associated Airline) Manufacturer Service Bulletin Implementation Guideline Manual, IGM–1, can be used to the extent they are compatible with the discussion that follows. (Note: ATA Specification No. 100 and IGM–1 are reasonably priced and may be purchased from the Engineering Division, Air Transport Association, 1709 New York Avenue, NW., Washington D.C. 20006.)

4. **Definitions.**

A. "Product" means an aircraft, aircraft engine, propeller, appliance, or part thereof.

b. "Service documents" mean publications by a type certificate holder that communicate useful information to the product operators relative to safety, product improvement, economics, and operational and/or maintenance practices. Typical forms of publications include: service bulletins; all-operators' letters; service news letters; and service digests or magazines. Publications, such as flight manuals and certain maintenance manuals, that are required for FAA type certification or approval are excluded.

c. "FAA designees" mean Designated Engineering Representatives (DERS), who have delegated authority to approve engineering information, and Delegation Option Authorization (DOA) and Designated Alteration Station (DAS) Authorization holders, who have delegated authority to approve either technical data or supplemental type certificates on behalf of the FAA.

5. *Discussion.*

a. Product manufacturers should neither mark an entire service document as "FAA-Approved," "FAA/DER Approved," "DER Approved," etc., nor use any other statement which implies that the service document has been reviewed, evaluated, and approved in toto by the FAA unless this is in fact the case and total FAA approval is required by regulation and has been conferred in accordance with prescribed procedures.

b. If an action, such as an alteration, parts replacement, repair, etc., is recommended by a manufacturer, and if FAA design approval is required for this action pursuant to the FAR, the manufacturer may be authorized to indicate a grant of FAA approval in the service document. When this is done:

(1) The service document should be explicit on what falls within the scope of FAA approval. Example statements follow:

(a) "The resultant alteration (or repair) to the affected aircraft described by Paragraph XX has been shown to comply with the applicable Federal Aviation Regulations and is FAA-Approved;" or

(b) "The retirement life limits of Paragraph XX have been shown to comply with the applicable Federal Aviation Regulations and are FAA-Approved." (Note: Use only when replacement life limits are considered a type certification limitation.)

(2) Service documents should be neither treated nor represented as the official FAA approval documents, unless either a letter of design approval from the FAA or a record that compliance has been determined by an FAA designee is on file for recommended actions indicated as FAA-approved in service documents.

(3) Manufacturers should not indicate FAA approval of:

(a) Compliance times recommended in service documents (except as indicated in paragraphs 5b(1)(b) and 5c);

(b) Background information on the reasons why the recommendations are being made;

(c) Recommended maintenance actions, including inspections, that do not require FAA approval in the type certification process; or

(d) Detailed instructions (step-by-step) on how to accomplish a manufacturer's recommended and FAA-approved alteration, repair, rework, etc.

(4) Service document statements regarding approval status should read "FAA-approved" even though FAA designees may have been involved in determining compliance. Terms such as "DER Approved," "FAA/DER Approved," "DOA Approved," etc., should not be used in service documents.

c. FAA approval of structural repairs and approval for continued operation with known but safe levels of structural damage may be indicated in a manufacturer's service document. If a statement, such as "The structural repair in paragraph XX is FAA-approved" is employed, it will be contingent on execution of the conditions contained in the FAA approved document.

d. Deviations to FAA-approved portions of service documents should also be FAA-approved.

[FR Doc. 81-15123 Filed 5-20-81: 8:45 am]
BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 142—Air Traffic Control Radar Beacon System/Discrete Address Beacon System (ATCRBS/DABS) Airborne Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 142 on Air Traffic Control Radar Beacon System/Discrete Address Beacon System (ATCRBS/DABS) Airborne Equipment to be held on June 24–26, 1981 in RTCA Conference Room 267, 1717 H Street NW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the

Eighth Meeting Held on April 21–22, 1981; (3) Review Draft Report on DABS Minimum Operational Performance Standards; (4) Consideration of Unresolved Issues; (5) Develop Procedures for Completing Final Draft Report; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on May 15, 1981.

Karl F. Bierach,

Designated Officer.

[FR Doc. 81-15124 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

Air Traffic Control Tower; Correction to Notice of Commissioning

On April 27, 1981, on page 23583 of the **Federal Register** (46 FR 23583, April 27, 1981), notice was given that the airport traffic control tower at Martha's Vineyard would be commissioned as a part-time FAA Facility from May 21, 1981, through October 1, 1981. The closing date of October 1, 1981, was in error. The facility will be in operation only until September 14, 1981.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354(a) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Burlington, Massachusetts, on May 7, 1981.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 81-14984 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-81-13]

Petitions For Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: June 10, 1981.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Edward P. Faberman,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
16656	Pratt & Whitney Aircraft	14 CFR 33.14, 33.23, 33.27, 33.68, 33.77, and 33.92.	To extend exemption No. 2552 to the JT10D PW2000 engine and allow the use of alternate procedures in lieu of those specified in §§ 33.77 and 33.92. The present exemption allows the use of alternate procedures in lieu of those specified in the other listed sections of Part 33.
20493	Electrospace System, Inc	14 CFR 65.91(c)(d)	To permit Mr. Ron Spatafora to become eligible for an Inspection Authorization without fully complying with the eligibility requirements.
21633	Consolidated Aircraft Corporation	SFAR 41 paragraph 4a	Relief from the 12,500 pound zero fuel weight requirement of SFAR 41, paragraph 4a, to allow operation of the ARAVA model 101B up to a zero fuel weight of 14,000 pounds.
21066	Skywest Airlines	14 CFR Part 135 Subpart F	To allow a minimum of 8 consecutive hours of rest once every 7 days provided the rest period is preceded by no more than 8 hours of duty and no more than 4 hours of flying time, and such rest period is followed by no more than 8 hours of duty and no more than 4 hours of flight time and the next rest period is no less than 16 hours.
21678	Los Angeles Dodgers, Inc	14 CFR 21.181, 91.27(a)(1), 91.29(a)(b), and 91.165.	To permit use of an FAA-approved minimum equipment list and configuration deviation list for one B-720B aircraft in Part 91 operations.
21629	Wien Air Alaska	14 CFR 121.291(a)(1)	To allow petitioner to place Boeing 727-100 aircraft in passenger/cargo service using 96 passengers and 2 flight attendants or 86 passengers/2 cargo pallets and 2 flight attendants without first conducting a full-seating capacity emergency evacuation demonstration.
20418	Northern Air Cargo, Inc	14 CFR 121.185(a)	Reconsideration of the denial of Exemption No. 3120 to allow the operation of DC-6 aircraft into Savoonga and Gambell, St. Lawrence Island, Alaska, using 70 percent of the effective length of the runway for landing and stopping.
21674	United Air Lines Inc	14 CFR 121.291(a)(2)(i)	To permit an increase in the seating capacity of B-737-200 series aircraft from 103 to 136 passengers without conducting a full-scale emergency evacuation demonstration. In addition in the event any of United's B-737 aircraft are operated with less than 136 passenger seats, its operations specifications provide that the minimum required number of flight attendants be established in accordance with § 121.391.
21590	Daniel J. Livingston	14 CFR 61.151(a)	To permit petitioner to obtain an airline transport pilot certificate before reaching his 23rd birthday.
21680	United Air Carriers, Inc	14 CFR 121.411(a)(6)	To permit petitioner to use Lawrence Adams as a check airman in DC-8 simulator training program although Mr. Adams does not hold at least a Class III medical certificate.

Petitions for Exemptions—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
21421	John P. Bussanich	14 CFR 135.243(b)(3)	To allow petitioner to fly as a pilot in command for Southeast Alaska Airlines in their Part 135 operation without having an instrument rating when operating in day visual flight rule conditions in remote areas.
21586	Royale Airlines	14 CFR 61.31(a)(1)	To allow petitioner's pilots to operate Bandeirante EMB 110/41 aircraft without possessing the appropriate type rating for that aircraft.
21686	Pinehurst Airlines, Inc	14 CFR 121.291	To allow petitioner to introduce Nihon VS 11 aircraft into initial passenger service without first conducting the emergency evacuation demonstration with 56 passengers.
17922	Air Midwest, Inc	14 CFR 135.261	Extension of Exemption No. 2582A. The present exemption permits petitioner to assign a flight crewmember and to permit a flight crewmember to accept an assignment for duty when that assignment does not provide for at least 10 consecutive hours of rest during the 24 hours preceding the planned completion of the assignment.
21606	Sierra Academy of Aeronautics (SAA)	14 CFR 61153	To allow petitioner's Algerian National Airline students, who have completed SAA's commercial/instrument course, to take the Airline Transport Pilot (ATP) written test without having met the aeronautical experience requirements.
21607	Calvin D. Brewer	14 CFR 135.243	To permit petitioner to serve as pilot in command of an airplane under visual flight rules without holding an instrument rating or an airline transport pilot certificate.
21583	A. W. Morris	14 CFR 121.574(a)(2)	To allow petitioner to use his personal liquid oxygen and the associated equipment which has not been under a Part 121 certificate holder's approved maintenance program.
21707	Aeromech Airlines	14 CFR 61.31(a)(1)	To allow petitioner's pilots to operate Bandeirante EMB 110/P1 and P2 aircraft, that will be retrofitted in accordance with SFAR 41 after June 1981, without possessing the appropriate type rating for the retrofitted aircraft. The type rating would be obtained at the next 6-month check following retrofitting.
19242	Northwest Airlines, Inc	14 CFR 91.32(b)(1)(ii) and 121.333(c)(2)	Extension of Exemption No. 2795 which permits operation of B747/F and 200 series aircraft above FL 410 without requiring one pilot at the controls having the wear and use an oxygen mask secured/sealed and supplying oxygen.
21663	Aviation Materials Fuel Cells, Inc	14 CFR 65.101(a)(5)	To permit issuance of a limited repairman certificate covering repair of fuel cells after 6 months rather than the 18 months of experience required.
21404	AAR Oklahoma, Inc	14 CFR 135.261(b)	To permit petitioner's pilots to accept an assignment for duty during flight time when, as an assignment, would not provide at least 10 consecutive hours of rest during 24-hour period preceding the planned completion of the assignment.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
21712	Hawaiian Airlines, Inc	14 CFR 121.538	Relief from the requirement to maintain a full security program. *Granted 5/14/81.*
19943	Airline Training Institute	14 CFR 61.63(d) (2) and (3) and 61.157(d)(1).	To permit its trainees to complete a practical test for the issuance of a type rating to be aded to any grade of pilot certificate, in an airplane simulator as set forth in Appendix A of Part 61. *Granted 5/11/81.*
21550	Western Airlines	14 CFR 121.291(a)(2)(i)	To allow petitioner to increase the seating capacity on its Boeing 727-247 aircraft from 146 passengers to 160 passengers without conducting a full emergency demonstration. *Granted 5/12/81.*
21552	Matomco Oil Co., Inc	14 CFR 91.31(a)	To operate a leased McDonnell Douglas DC-6A aircraft Serial No. 44071, without complying with portions of the aircraft operating limitations. *Granted 4/30/81.*
21518	Type Rating Training	14 CFR 61.63(d)(2) and (3), and 61.157(d)(1)	To allow petitioner's trainees to complete a practical test for the issuance of a type rating in an airplane simulator as set forth in Appendix A of Part 61. *Granted 5/11/81.*
15194	Compania Mexicana de Aviscion, S.A. (CMA)	14 CFR Various sections of Parts 21, 61, and 63.	To amend Exemption No. 2195K which permits the operation of four U.S.-registered B-727-2J7 aircraft with petitioner's airman, and the maintenance of those aircraft in accordance with a B-727 master minimum equipment list. The amendment would extend the termination date for two of the aircraft, N552NA and N553NA, to coincide with the expiration date of the current lease. *Granted 5/12/81.*
21342	Pacific Southwest Airlines (PSA)	14 CFR 61.39(a)(1)	To permit certain PSA flight crewmembers to take the flight test for an airline transport pilot certificate (ATCP) although more than 24 months have elapsed since they passed the required written test for that certificate. *Granted 4/20/81.*
21281	Golden West Airlines	14 CFR 121.61(d)	To allow petitioner to employ Mr. John A.C. Nelson as their Chief Inspector although he lacks part of the requirement to have at least 3 years of diversified maintenance experience on large aircraft with an air carrier, commercial operator, or certificated repair station. *Granted 4/30/81.*
21299	Icelandair S.A. and Pilgram Aviation and Airlines	14 CFR Parts 21 and 91	To allow Petitioner to operate one U.S.-registered F-27 aircraft with the use of an FAA-approved MMEL and a continuous airworthiness maintenance program. *Granted 4/30/81.*
20009	Captain Leo Tew	14 CFR 121.383(c)	To permit petitioner to continue as a pilot in air carrier opeations after having reached his 60th birthday. *Denied 4/20/81.*
18871	Sierra Academy of Aeronautics	14 CFR 141.91(a)	Extension of Exemption No. 2744. The present exemption allows petitioner to conduct flight instruction in an approved course of training at a satellite base more than 25 nautical miles from its main base of operation. *Granted 5/12/81.*
21250	Briles Wing Helicopter, Inc	14 CFR 135.117	To permit the ground crew to conduct the before takeoff briefing of helicopter passengers. *Granted 5/12/81.*
12835	Texas Instrument, Inc	14 CFR 91.169	Extension of Exemption 1866E. The present exemption allows the use of the inspection provisions of Sections 91.217 and 91.219 instead of Section 91.169. *Granted 4/30/81.*
19113	Capitol International Airways, Inc	14 CFR various sections of Part 121	To permit petitioner, a charter air carrier, to continue to conduct scheduled passenger service over authorized routes under Supplemental Air Carrier Rules. *Granted 4/30/81.*

Dispositions of Petitions for Exemptions—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
18920	Transamerica Airlines, Inc. and World Airways	14 CFR various sections of Part 121	Extension of termination date of Exemption No. 2947 which allows scheduled service operations utilizing the flight control/dispatch procedures for pilots, and enroute servicing and maintenance procedures of Part 121 that are applicable to supplemental air carriers. *Granted 4/30/81.*
21587	Air Europe Limited	14 CFR 21.181, 91.27, and 91.29	To permit Air Europe to operate a leased U.S.-registered B-737-200 aircraft using a FAA-approved master minimum equipment list. *Granted 4/30/81.*
12738	Union De Transports Aeriens (UTA)	Portions of 14 CFR Parts 21, 61, 63 and 91	To operate three leased DC-10 airplanes (N54629, N54639, and N54649) using an FAA approved minimum equipment list and an FAA-approved continuous airworthiness maintenance program. *Granted 4/30/81.*
20395	Nolan K. Bushnell Aviation	14 CFR 91.32(b)(1) ii, 135.89(b)(3)	To permit operation of petitioner's Learjet Model 35A aircraft up to FL450 without either pilot being required to wear an oxygen mask. *Partial Grant 5/4/81.*
21377	Guy-America Airways (GAA)	14 CFR 121.291 (a) and (b)	To permit GAA to introduce its B-707-100 airplane configurated for 149 passenger seats without first conducting a full-seating capacity emergency evacuation and ditching demonstration. *Granted 5/8/81.*
19498	Air Logistics of Alaska, Inc. (ALA)	14 CFR 135.385 (b) and (c)	Extension of Exemption No. 2902A. The present exemption allows ALA to operate its CASA-212 aircraft at maximum gross landing weights at regular airports where more than 60 percent of the effective runway length would be required for landing and at alternate airports where more than 70 percent of the effective runway length would be necessary. *Granted 5/5/81.*
21373	Big Bend Community College	14 CFR Part 141 Appendix D	To permit the required 600 mile cross-country flight, with three 200 nm legs, to be made with one leg less than 200 nm from the other points. *Denied 4/30/81.*
21131	Air Berlin USA	14 CFR 121.407	To permit Air Berlin to use a B-737 airplane simulator approved by the Belgian Administration De L' Aeronautique for the conduct of proficiency checks. *Denied 5/12/81.*
21365	Thomas Scott Hattaway	14 CFR 65.71(a)(2)	To permit petitioner to become eligible for a mechanic certificate without being able to speak the English language. *Granted 5/14/81.*
21108	Sundstrand Data Control, Inc	14 CFR 91.7	To permit nonpilot technical personnel to occupy a pilot seat in a Grumman G-159 airplane while in flight. *Denied 5/4/81.*
20665	Cochise Airlines, Inc	14 CFR 135.297	To delete the requirement to demonstrate an automatic directional finder (ADF) approach during the pilot in command (PIC) instrument proficiency check. *Granted 5/5/81.*

[FR Doc. 81-15190 Filed 5-20-81; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Arapahoe and Jefferson Counties, Colorado

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this Notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Arapahoe and Jefferson Counties, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. John Gibbs, Staff Environmentalist, or Mr. Jack Gillespie, Preconstruction Engineer, Federal Highway Administration, P.O. Box 25406, Building 25, Denver Federal Center, Denver, Colorado 80225. Telephone: (303) 234-4438.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Colorado Department of Highways, Arapahoe and Jefferson Counties, and the cities of Columbine Valley and Littleton, will prepare and EIS for a proposed crossing of the South Platte River, Project M-1030(1). The project limits are South Santa Fe Drive (SH 85) to the east of the river and Platte Canyon Road (SH 75) to the west, a distance of approximately 1.5 miles.

Alternatives to be considered include (1) the no-build alternative, 92) widening of existing two-lane Bowles Avenue and river crossing to six lanes, (3) a new four-lane road and river crossing generally on the alignment of Ken Caryl Road extended easterly, and (4) a new four-lane road and river crossing generally on the alignment of Coal Mine Road extended easterly. In order to meet the traffic demand, which has a strong northeasterly orientation, these last two alternates would also include a future widening of Bowles Avenue to four lanes.

The proposed project was programmed with Federal funding in October of 1979 and categorized as an Intermediate project. An Intermediate categorization anticipates that the project will be a major Federal action, but that there will not be significant impacts upon the human environment. Scoping meetings and a series of public meetings were held in 1979 and 1980 and the draft of an environmental assessment was prepared in late 1980. During the course of these meetings and environmental studies, it became obvious to the major participants that the project could very well have significant impacts on the environment and that it might be very controversial. The project categorization was accordingly revised to MAJOR in January of 1981 and this Notice signifies the intent to proceed with an EIS which should be distributed within several months of the date of this Notice and followed by a formal public hearing.

To ensure that the full range of issues related to this proposed action is addressed and that all significant issues are identified, comments and suggestions are invited from all interested parties. Comments and questions concerning this proposed action and the EIS or a desire to be included on the EIS distribution list and public hearing mailing list should be directed to the FHWA at the address provided above.

(Catalog of Federal Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: May 12, 1981.

Leon N. Larson,

Director, Office of Environmental Policy, Washington, D.C.

[FR Doc. 81-14913 Filed 5-20-81; 8:45 am]
BILLING CODE 4910-22-M

Evironmental Impact Statement; Chatham County, Georgia

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Chatham County, Georgia.

FOR FURTHER INFORMATION CONTACT: David H. Densmore, Development Engineer, Federal Highway Administration, Suite 700, 1422 West Peachtree Street, NE., Atlanta, Georgia 30309, telephone (404) 881–4758, or Peter Malphurs, State Environmental Analysis Engineer, Georgia Department of Transportation, Office of Environmental Analysis, 65 Aviation Circle, Atlanta, Georgia 30336, Telephone (404) 696–4634.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Georgia Department of Transportation (Georgia DOT) will prepare an environmental impact statement (EIS) on a proposal to construct a new location connector between U.S. 80 and S.R. 367 on White Marsh Island beginning at the intersection of U.S. 80 and Islands Expressway. The new location section will extend south, paralleling Saffold Field, into a T-intersection with S.R. 367. The new location section will be four 12-foot travel lanes, two in each direction. In addition to the new location connector, the proposal includes the widening of S.R. 367 from the new location intersection to Wilmington Island. The existing two-lane roadway will be widened symmetrically to four 12-foot travel lanes with a 14-foot flush median up to the approach to Spencer's Bridge over Turner's Creek. Spencer's Bridge will be widened to four 12-foot travel lanes with a 14-foot flush median all on the south side of the existing bridge. At the bridge terminus, the widening will again be symmetrical to the project terminus. The total project length is approximately three miles. The proposed work is necessary to accommodate existing and future traffic demand.

Alternatives under consideration include the build and no-build alternative.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. Formal scoping meetings will not be held. A public hearing will be held. Public notice will be given of the time and place of the meetings and hearing.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

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

Issued on: May 11, 1981.

David H. Densmore,

Development Engineer, Atlanta, Georgia.

[FR Doc. 81-14914 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Santa Clara County, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed project to replace the existing Cochrane Bridge in Morgan Hill (Santa Clara County), California.

FOR FURTHER INFORMATION CONTACT: David L. Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone: (916) 440–3541.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Santa Clara County Transportation Agency (SCCTA), will prepare an Environmental Impact Statement (EIS) on a proposal to replace the existing Cochrane Bridge in Morgan Hill, California. This bridge is located on East Dunne Avenue and spans Lake Anderson, East of Morgan Hill. The existing structure, which was built in 1951, has undergone extensive stress and distortion since its completion due to landslides and a branch of the Calaveras Earthquake Fault at the site. Ongoing maintenance and reinforcement of the bridge has occurred, but engineering/geologic studies have determined the current structure to be inadequate and in danger of failing should a large earthquake occur. There is a current 10-ton weight limit on the bridge.

The bridge is eligible for federal funding under the FHWA Bridge Replacement Program. Several alternatives for this project are being evaluated including (a.) Bridge replacement designs at the existing site and (b.) locating a new bridge at one of several alternative sites in the vicinity of the existing bridge. At the present, the preferred alternative, based on a consultant's report, is constructing a buttress fill/bridge with an overflow channel immediately adjacent to the existing structure.

A community meeting was held near the project site in Morgan Hill on March 3, 1981 to inform area residents of the proposed plans and to solicit public input on the project.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

David L. Eyres,

District Engineer, Sacramento, California.

[FR Doc. 81-14912 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1980 Rev., Supp. No. 22]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of title 6 of the United States Code. An underwriting limitation of $1,025,000 has been established for the company.

Name of Company: SAFECO Insurance Company of Illinois.

Business Address: SAFECO Plaza, Seattle, Washington 98185.

State of Incorporation: Illinois.

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1980 Revision, at page 44511 to reflect this addition. Copies of

the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: May 13, 1981.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 81-15178 Filed 5-20-81; 8:45 am]

BILLING CODE 4810-35-M

Office of Revenue Sharing

Data Improvement Program for Entitlement Period Thirteen; Dates and Challenge Procedures

AGENCY: Office of Revenue Sharing, Treasury.

ACTION: Notice of the dates and challenge procedures for the data improvement program.

SUMMARY: This gives notice of the beginning and ending dates for the Data Improvement Program for Entitlement Period Thirteen (13) of the General Revenue Sharing Program, and describes the proper challenge procedures.

DATES: Data challenges for Entitlement Period 13 (October 1, 1981–September 30, 1982) should be submitted to the Office of Revenue Sharing by June 19, 1981. Demands for adjustment for Entitlement Period 13 must be made by September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Matthew Butler, Manager, Data and Demography Division, Office of Revenue Sharing, Treasury Department, Washington, D.C. 20226, (202) 634–5166.

SUPPLEMENTARY INFORMATION: On or about May 20, 1981 the data to be used by the Office of Revenue Sharing in calculating the revenue sharing allocations for all State areas and local governments for Entitlement Period 13 will be mailed to each government. The definition of each data element for the interstate allocation will be mailed to the governors of the 50 States and the Mayor of the District of Columbia in the publication *General Revenue Sharing Data Definitions for Allocations to State Areas.*

State Areas

The State data will be mailed to the Governor of each State and to the Mayor of Washington, D.C. For purposes of the revenue sharing program, Washington is treated as the only municipality in the state area of the District of Columbia.

State governments are not at this time eligible to receive revenue sharing funds for Entitlement Period 13, since funds have not as yet been appropriated for State governments for this period. States will receive a letter showing their State's data used to calculate the amount for distribution among the State areas. The definition of each data element for Entitlement Period 13 interstate allocations will be provided to the governors and the Mayor of the District of Columbia in the publication *General Revenue Sharing Data Definition for Allocations to State Areas, Entitlement Period 13.* If a State government believes that there are errors in the data relative to the definitions and effective dates, it should notify the Office of Revenue Sharing in writing and provide documentation justifying the proposed data corrections.

A State government should send its data challenge to the Office of Revenue Sharing by June 19, 1981. Upon receipt of a written challenge from a State government, the Office of Revenue Sharing will work with the appropriate Federal agency to substantiate or correct the data questioned, and will advise the State government of its findings. Any resulting changes in the data for State areas will be used in computing the initial or final allocations of local governments in those State areas for Entitlement Period 13.

Entitlement Period 13. The definition of each data element for local governments will be mailed to each unit of local government in the publication *General Revenue Sharing Data Definitions for Allocations to Local Governments, Entitlement Period 13.* These data have been compiled by the Bureau of the Census, Bureau of Economic Analysis, Internal Revenue Service and the Bureau of Indian Affairs.

Additionally, an estimated allocation amount for each State area and recipient local government is being provided to each government to aid in its data verification efforts. If a government does not believe the allocation amount is correct, it should check its data carefully to find the source of the discrepancy. The data may be corrected under this review program or other data improvement procedures. The Office of Revenue Sharing will notify each recipient government of its initial Entitlement Period 13 allocation and the amount of any adjustment for Entitlement Period 12 on its Statement of Assurances Form scheduled to be mailed in September 1981.

After the final allocations for Entitlement Period 13 are computed during 1982, a State or local government (or the Secretary of the Treasury) has until September 30, 1983 to make a demand to adjust the allocations of local governments under Section 102(b) of the State and Local Fiscal Assistance Act of 1972, as amended by Section 6(e)(2) of the State and Local Fiscal Assistance Amendments of 1976. The State government may demand an adjustment of the allocation to its State area. If a demand for adjustment is made by a State or local government, the demand must be in writing with documentation justifying the proposed data correction. In that event, any adjustment in allocation will affect only the State area or local government for which an adjustment was made.

Units of Local Government

The data for each unit of local government and the definitions of local government data elements will be mailed to the official of record for the government. The data definitions for local governments will be provided to each unit of local government in the publication *General Revenue Sharing Data Definitions for Allocations to Local Governments, Entitlement Period 13.* Each recipient local government will be sent either a Form 3233 or a Form 90–18.3. The Form 90–18.3 will be sent only to those governments in areas declared major disaster areas since April 1, 1974 under the Disaster Relief Act of 1974 (88 Stat. 143; 42 U.S.C. chapter 58) whose data were possibly adversely affected by a major disaster. In order to be eligible for the stabilization benefit of the Disaster Relief Act (which permits them to use their pre-disaster data figures rather than their post-disaster figures), the local governments which receive a Form 90–18.3 are required to verify that one or more of their data elements were adversely affected by the disaster.

Form 3233 will be sent to all other recipient governments. If a government believes that there are errors in the data relative to the definitions and effective dates, it should return the Form 3233 to the Office of Revenue Sharing by June 19, 1981 with evidence justifying the proposed data corrections. Governments which receive Form 90–18.3 will also have the opportunity to question their data elements by returning Form 90–18.3 to the Office of Revenue Sharing by June 19, 1981 with supporting evidence. Governments which do not wish to question their data or to certify a disaster need not return the form.

When the Office of Revenue Sharing receives a written challenge from a recipient government, it will work with the Bureau of the Census, the Bureau of Indian Affairs, or other appropriate Federal agency to substantiate or

correct all data questioned, and will advise the government of its findings. Any resulting changes in the data for local governments will be used in computing the initial or final allocations for Entitlement Period 13.

The collective data for all State areas and local governments used in both the initial and final allocations for Entitlement Period 13 will be provided to libraries designated as depositories for Government publications (44 U.S.C. 1911). Copies of the data definitions mailed to all revenue sharing recipients are available upon request from the Office of Revenue Sharing.

(This notice is issued under the authority of the State and Local Fiscal Assistance Act of 1972, as amended (31 U.S.C. 1221 et seq.) and Treasury Department Order No. 224, January 26, 1973 (33 FR 3342) as amended by Treasury Department Order No. 242, Revision No. 1, May 17, 1977)

Date: May 15, 1981.

Judith A. Denny,

Acting Director, Office of Revenue Sharing.

[FR Doc. 81-15218 Filed 5-20-81; 8:45 am]

BILLING CODE 4810-28-M

VETERANS ADMINISTRATION

120-Bed Nursing Home Care Unit, Ambulatory Care Addition and Warehouse-Engineering Office, Veterans Administration Medical Center, Atlanta, Ga.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential cumulative environmental impacts that may occur as a result of the construction of a 120-Bed Nursing Home Care Unit (NHCU), the Ambulatory Care Addition and Warehouse-Engineering Office at the Veterans Administration Medical Center (VAMC), Atlanta, Georgia.

The 120-Bed NHCU is planned as a three-story structure elevated on piers with parking beneath the main floor. The building is sited on the south side of the existing hospital building and connected to it with a short corridor. The Warehouse-Engineering Office will also be located on the south side of the existing hospital building between it and the proposed NHCU. The structure will be a two-story building containing approximately 20,000 gross square feet of floor area. The third project, the Ambulatory Care Addition is located directly adjacent to the north side of the existing hospital building. This structure will be a two-level building with a basement that exits to grade on the west side. The structure will be designed to accept additional floors in the future for vertical expansion.

Long term impacts associated with the proposed development at the Atlanta facility include the loss of parking spaces, increased vehicular traffic, and impact on the floodplain area of the South Park of Peachtree Creek.

Mitigation measures will be applied to reduce the traffic and parking demand by instituting active programs in ridesharing. The impact of the NHCU on the floodplain has been evaluated by the Army Corps of Engineers, the County (De Kalb) and the VA. In order to eliminate significant impact, the NHCU has been placed on piers which will raise the structure well above the flood levels and allow flood waters to pass without destruction. The VA has complied with Executive Order 11988 and made public notification of its plans. There are no unresolved issues outstanding at this time.

Short term impacts associated with the proposed development at the Atlanta facility include temporary construction impacts; erosion, construction noise, air-borne particulate, traffic and visual impacts.

Mitigation measures will be applied to reduce the temporary impacts by utilizing the VA's environmental protection construction specifications. These specifications will require the contractor to take steps to prevent erosion through proper engineering techniques, maintain the construction site in a manner to reduce or eliminate negative visual impact. The projects will comply with the applicable Federal, State, and local codes.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (40 CFR 1508.27).

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Room 950, Veterans Administration, 1425 K Street NW., Washington, D.C. (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to: Director, Environmental Affairs Office (003A), 810 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: May 13, 1981.

Rufus H. Wilson,

Acting Administrator.

[FR Doc. 81-15127 Filed 5-20-81; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 98
Thursday, May 21, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Mine Safety and Health Review Commission	1, 2
Federal Reserve System (Board of Governors)	3
National Commission on Libraries Science	4

1

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

May 8, 1981.

TIME AND DATE: 10 a.m., Wednesday, May 13, 1981.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will also consider and act upon the following:

3. Southwestern Illinois Coal Corporation, LAKE 80–216: Petition for Discretionary Review (Issues include whether the holding in *North American Coal Corp.*, 3 IBMA 93 (1974), should be overruled, and if not, whether it was properly applied to an alleged violation of 30 CFR § 77.1710(g).)

CONTACT PERSON FOR MORE INFOMATION: Jean Ellen, 202–653–5632.

[S–791–81 Filed 5–19–81; 2:32 p.m.]

BILLING CODE 6820–12–M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

May 6, 1981.

TIME AND DATE: 10 a.m., Wednesday, May 13, 1981.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Mulzer Crushed Stone Company, Docket No. LAKE 80–303–M: Petition for Discretionary Review (Issues include interpretation and application of 30 CFR § 56.12–30).

2. Pocahontas Construction Company, Docket No. WEVA 80–109: (motion to set aside order of default).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–792–81 Filed 5–19–81; 2:32 p.m.]

BILLING CODE 6820–12–M

3

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Tuesday, May 26, 1981.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: May 18, 1981.

James McAfee,

Assistant Secretary of the Board.

[S–0790–81 Filed 5–19–81; 10:11 am]

BILLING CODE 6210–01–M

4

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

MEETING: Community Information and Referral Services Task Force.

DATE AND TIME:

Monday, May 18, 1981, 9:00 a.m. to 5:00 p.m.

Tuesday, May 19, 1981, 9:00 a.m. to 5:00 p.m.

PLACE: Suite 3017, Washington Marriott Hotel, 1221 22nd Street, N.W.

STATUS: Open.

MATTERS TO BE DISCUSSED: Future Directions for the Task Force. How to Help Strengthen Libraries in their Role as Community Information Centers.

Ruby O. Woods-Robinson,

Research Associate, NCLIS.

May 11, 1981.

[S–0789–81 Filed 5–19–81; 9:25 am]

BILLING CODE 7527–01–M

federal register

Thursday
May 21, 1981

Part II

Department of Energy

Office of Conservation and Renewable Energy

Grant Programs for Schools and Hospitals and for Buildings and Public Care Institutions, Amendment of Regulations

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 455

Grant Programs for Schools and Hospitals and for Buildings Owned by Units of Local Government and Public Care Institutions, Amendment of Regulations

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) today issues a final rulemaking amending existing regulations for the administration of the grant programs providing schools, hospitals, units of local government, and public care institutions with financial assistance for the purpose of reducing energy consumption. The revisions are made as a result of experience obtained during the operation of two grant cycles, and are made for the purpose of reducing the administrative burdens on institutions and States participating in these programs and providing greater flexibility to States and institutions in their implementation of the program.

DATES: The revised provisions at § 455.63 and § 455.71(f) are effective June 22, 1981; all other revisions are effective as of October 1, 1981.

FOR FURTHER INFORMATION CONTACT:

Frank M. Stewart, Office of Institutional Conservation Programs, Office of Conservation and Renewable Energy, Department of Energy, Mail Stop 2H027, 1000 Independence Ave. S.W., Washington, D.C. 20585, (202) 252–2198.

Edward H. Pulliam, Office of General Counsel, Department of Energy, Mail Stop 6F–094, 1000 Independence Ave., S.W., Washington, D.C. 20585, (202) 252–9510.

SUPPLEMENTARY INFORMATION:

I. Introduction.

II. Discussion of Major Comments and Revisions.

I. Introduction

Parts 1 and 2 of Title III of the National Energy Conservation Policy Act (NECPA), Pub. L. 95–619, 92 Stat. 3238 (42 U.S.C. 6371) established cost sharing energy conservation grant programs to fund technical assistance programs for public and private non-profit schools, hospitals, buildings owned by units of local government and public care institutions, and energy conservation measure programs for schools and hospitals.

On April 2, 1979 and April 17, 1979, the Department of Energy (DOE) issued final regulations governing the conduct of preliminary energy audits and energy audits (PEA/EA) (44 FR 19340) and technical assistance and energy conservation measure programs (TA/ECM) (44 FR 22940). These regulations amended Chapter II of Title 10, Code of Federal Regulations, by adding Part 455, Subparts A through I. The first grant program cycle for TA/ECM grants ended on March 15, 1980. In order to improve the effectiveness of the TA/ECM program by building on experience gained in the first grant program cycle, DOE issued a Notice of Inquiry, published in the **Federal Register** on April 21, 1980 (45 FR 26717). This notice solicited public comment concerning possible revisions to the present TA/ECM regulations for use in future grant program cycles. DOE also sought and received input from major governmental, institutional and professional associations and from State energy office representatives.

On December 29, 1980, DOE published a proposed rulemaking (45 FR 85610) which presented revisions to most subparts of 10 CFR 455, and which solicited comments from interested parties. DOE received and considered written comments from 70 sources and testimony from 13 parties at public hearings held in Washington, D.C. on January 16, 1981 and in San Francisco, California on January 20, 1981. Major comments received and revisions made as a result of those comments are discussed below.

The Catalog of Federal Domestic Assistance (CFDA) program number and title is "81.052, Energy Conservation Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions." OMB Circular No. A–95, Part III procedures are applicable to the review of State Plans. Such procedures are applicable to applications only to the extent that when the State energy office prepares its list of recommended TA and ECM applications, a copy of that list must be forwarded to the State clearinghouse. The State clearinghouse, as appropriate, should send this list to areawide clearinghouses, which may contact the ranked institutions for additional information on projects with a perceived local significance.

Environmental and Regulatory Assessments

Pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), Pub. L. 91–190, 83 Stat. 852 (42 U.S.C. 4321), DOE published a Notice of Availability of an environmental assessment of the entire Title III program on March 12, 1979, in the **Federal Register** (44 FR 13554). Based on this assessment DOE determined that the NECPA Title III program did not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and that an environmental impact statement (EIS) was not needed to support the action.

DOE has reviewed the environmental impacts of the amendments proposed herein. It is DOE's judgement that the effect of these amendments will be to improve the administrative aspects of the program, and provide greater flexibility in the program at the State level. No new or additional environmental impacts are associated with the new amendments, nor do these new amendments require the addition of any mitigating measures beyond those already contained in the program. It is thus DOE's determination that the environmental impacts of the amendments have been adequately analyzed in the March 1979 environmental assessment, and that these impacts are not significant. Hence, no additional is required for this rulemaking. However, prior to awarding any grant for the installation of an active solar heating or cooling system or combination heating and cooling system, or for the conversion of an oil-fired or gas-fired boiler installation to coal, DOE will complete any appropriate site-specific NEPA documentation that may be required.

DOE has reviewed this rulemaking in accordance with Executive Order 12291, 46 FR 13193, and has determined that this rule is not a "major rule" under Section 1(b) of that Executive Order; therefore, this rulemaking does not require a regulatory impact analysis or otherwise need to comply with the parts of that Executive Order which deal with major rules.

This rulemaking has also been reviewed in accordance with OMB Circular A–116 to assess the impacts on urban centers and communities, and DOE has determined that the proposed rule does not constitute a major proposal requiring formal analysis.

Because the notice of proposed rulemaking for these rules was issued before January 1, 1981, the provisions of sections 603 and 604 of Title 5, United States Code, the Regulatory Flexibility Act, are not applicable for this rulemaking, in accordance with section 4 of that Act, Pub. L. 96–354, 94 Stat. 1170 (5 U.S.C. 601 note).

II. Discussion of Major Comments and Revisions

General Comment

Overall reaction to the proposed revisions was favorable, supporting greater discretion at the State level, and a reduction in reporting requirements.

One particularly throughtful commenter noted that, in addition to the primary objective of saving energy, the program has secondary objectives:

". . . promotion of the energy ethic . . ."
". . . educate and train participating institutions . . ."
". . . encourage further implementation of energy conservation measures without federal or state assistance . . ."
". . . encouragement of the analysis and installation of renewable energy systems . . ."
". . . collection of data and development of a data base . . ."

DOE requested comment on two issues of concern: the effective date of the revisions made in the final rule, and whether a 12-month grant program cycle should be on a fiscal, calendar or building construction year basis. Overwhelming sentiment was expressed for implementation of the revisions in this rule in the fourth grant program cycle rather than the third to maintain the momentum of the program, and to avoid additional costs, delays and possible inefficiencies that would result from changes in procedure at this stage. Accordingly, DOE has made this rulemaking effective on October 1, 1981, with the exception of § 455.63 and § 455.71(f), which concern grantee reports and records and the full utilization of school, hospital, and hardship set-aside funds by any eligible applicants in the event that before the State's application deadline there are insufficient applicants who meet the more restrictive requirements for receiving funds from these set-asides. These sections were made effective earlier because they are beneficial to the program and can be implemented quickly with little difficulty.

As to the 12-month cycle concern, the majority of comments supported either a fiscal year or a construction year period. In subsequent cycles, DOE intends to operate on a fiscal year basis. In announcing the opening of the cycle in October, the program participants and States would be able to initiate activities at their level to prepare applications, and take other appropriate pre-application actions. Many comments were offered which were pertinent to the operation of the program, but which concerned matters it would not be appropriate or necessary to address in this regulation, for example—

—the rule does not discuss administrative handling of cost underruns or changes in project scope because this is a grant management issue handled under financial assistance regulations;

—the rule does not follow a recommendation that a sign advertising the use of DOE funds on a project be posted at properties receiving financial assistance under this program;

—the rule does not amplify restrictions on "in-kind" contributions because they are defined and discussed in OMB circulars;

—the rule does not contain suggested revisions to the application form because changes can be done on the form itself without a rule.

Several issues addressed in the comments are outside of DOE's authority to implement, for example—

—funding of energy conservation measures for units of local government and public care institutions, which is not authorized by NECPA;

—expanding the definition in the regulations of units of local government and public care institutions to incorporate private non-profit social service and day care facilities, which is not permitted by NECPA; and

—a revision of OMB Circular A-95 clearinghouse requirements, which is the prerogative of OMB.

Subpart A—General Provisions

§ 455.1 Purpose and Scope

No revisions.

§ 455.2 Definitions

Several comments proposed including specific systems or providing greater detail or limitations on measures listed under the definition of "energy conservation measure." DOE has not expanded further upon the list of eligible energy conservation measures, as it is not intended to be an exclusive listing of eligible measures. DOE received comment concerning the definitions of "owned" and "primarily occupied" as being too restrictive and tending to discourage participation. DOE does not consider these definitions to be a significant impediment to participation of buildings, under the criteria of eligibility established under NECPA, and views these definitions as reflecting the intent of NECPA.

Comment was received on the definition of "construction completion," proposing that DOE not have the option of determining when a building is ready for occupancy, but permit a determination by the project architect of substantial completion to be sufficient. DOE is retaining the definition so as not to relinquish its responsibility under law or to introduce significant degrees of inequity in establishing eligibility. The definition further allows for determinations of completion in those jurisdictions not issuing occupancy permits for buildings.

A number of comments supported the revision of "energy conservation measures" which allowed meters as an integral part of an energy conservation measure. Metering devices separate from energy conservation measures remain ineligible, as payback on such devices cannot be determined. DOE does not intend to specify limits to the allowance of metering devices which are integral to energy conservation measures, as the ranking of ECMs will mitigate against high expenditures for metering equipment without other administrative actions.

As a result of comment, DOE has revised its definition of "heating or cooling system" by adding the words "or ventilating" to the criteria for mechanical systems, and striking the last sentence of the definition. DOE also has revised the definition to allow a building with a system of individual, through-the-wall air conditioning units to be an eligible building in order to comport more closely with the general use of the term in the professional community. Comments were received on the sufficiency of the definitions of "heating degree days" and "cooling degree days" in the context of the allocation formula for technical assistance and energy conservation measure grant funds. One comment supported the current definition, and another commented that, for technical assistance analysis calculations, heating or cooling degree days must emphasize the relationship with design and outdoor temperature and time. No change was considered necessary.

A commenter requested that day care institutions be included under the definition of "school." Such institutions may be eligible if they provide, and are legally authorized to provide, elementary or secondary education, or both, on a day or residential basis, so no revision has been made to the definition of "school." Several comments were received concerning the definition of "energy conservation maintenance and operating procedures", requesting specific cost or simple payback limitations for such procedures. In its definition, NECPA does not establish such limitations and DOE intends to retain the current language to preserve State and Regional discretion in considering operation and maintenance procedures. A related comment asked

that DOE clarify responsibility for identifying projects arising from deferred maintenance. As indicated in the preamble to the proposed rulemaking (45 FR 85611), DOE does not intend to grant funds to be used for meeting problems arising solely from deferred maintenance of systems or facilities. Identification of such problems must reasonably be a responsibility shared by technical assistance analyst, building owner, and the State energy office. Discretion in handling such projects will be at the State and DOE Regional level on a case-by-case basis.

§ 455.3 Administration of Grants

Comment was received asking DOE to reference grant termination appeal procedures under 10 CFR 1024. These procedures are referenced in § 455.5.

DOE is reviewing the financial assistance application forms prescribed by OMB and utilized by this program with the intent of eliminating redundant assurances, and consolidating requirements where this would reduce the burden on applicants. Any changes to the prescribed application form will be communicated to State energy offices as soon as such changes are approved by OMB. Application forms for financial assistance are available through State energy offices.

§ 455.4 Recordkeeping

Comments asked DOE to set a specific 3-year limit on records retained by grantees. DOE Assistance Regulations (10 CFR Part 600) and appropriate OMB Circulars require differing time limits, depending on the nature of the records. Since the matter is covered in detail in these other documents no further revision has been made.

§ 455.5 Suspension and Termination

A comment suggested an expansion of this section to provide for suspension or termination for instances of irregularities found in the technical assistance report. Current authority includes suspension and termination procedures where the grantee is in substantial non-compliance with either its application or the program regulations, so the rule has not been revised further.

Subpart B—Preliminary Energy Audit and Energy Audit Procedures

For ease of reference, DOE has added present § 450.42, Contents of a Preliminary Energy Audit, and § 450.43, Contents of an Energy Audit, as new §§ 455.18 and 455.19 respectively. One change made to these sections is the deletion of the listing of fuel conversion factors in § 450.42(a)(11) (the subject of conversion factors is addressed later in this preamble). As a result of comment, DOE has amended § 455.16 by adding paragraph (f) to permit States to request a waiver of the fund use limitations governing the PEA/EA program, provided the State demonstrates that more energy audits would be performed as a result of granting such a waiver.

The procedures described by new §§ 455.18 and 455.19 will remain in effect for the purpose of specifying energy audit requirements as a prerequisite to further program participation.

Subpart C—Technical Assistance Programs for Schools, Hospitals, Units of Local Government and Public Care Institutions

§ 455.40 Purpose and Scope.

No revisions.

§ 455.41 Eligibility

One comment proposed that DOE permit States to fund applications from schools and hospitals owned by local government units with the allocation for local government and public care institutions in the event that the local government allocation is underutilized. Funds are appropriated separately for schools and hospitals grants and for local government and public care institution grants and cannot be used for purposes other than those for which they were appropriated. NECPA expressly precludes schools and hospitals from being funded as local government buildings.

§ 455.42 Contents of Program

A number of comments addressed the issue of conversion factors to be used by technical assistance analysts, with comment divided as to what factors should be used, and whether or not the State should have discretion in setting those factors. Many States have already required the use of certain conversion factors, and the final rulemaking at § 455.90(q) gives the States the responsibility of designating in their State Plans the energy conversion factors to be used uniformly within the State. DOE has not established rigid national factors for fuel conversion in recognition of fuel type and site factors which may vary from State to State. A related comment suggested that the technical assistance analyst present energy savings in physical units, such as gallons, kilowatt hours, and so forth, rather than in Btu's. For the purpose of analysing and prioritizing energy savings within a building by various fuel types, as required by § 455.71(b)(3), a unit of common measurement, while imperfect, appears to be the most reasonable approach. However, for the purpose of reporting energy use for buildings as a baseline in the TA report (§455.42(d)(6)), and under § 455.63(b)(2)(iii), DOE will accept the presentation of such data in physical units as well as Btu's.

Another commenter noted correctly that the purpose of the provisions of this section are to define the general parameters of the technical analysis to assure sufficient consideration is given to the institution's long-term needs and not just to outline how to conduct a feasibility study of one or two ECMs to support a grant application. In addition, the TA report provides a record of the analysis sufficiently clear that a reviewer responsible for making recommendations or decisions regarding financial assistance can determine the basis for and reasonableness of the recommendations made. DOE has added a new paragraph (a) clarifying these purposes, causing the redesignation of the paragraphs in this section.

The treatment of payback calculations for coal and solar and renewable resource projects received wide support from commenters. Although one comment cautioned that such projects, due to their anticipated high cost, would limit the availability of funds for purely energy conservation measure projects, DOE has retained this provision in the final rulemaking as it promotes a reduction in dependence on less abundant fossil fuels. The States may, under their State Plan, limit project size by cost or limit total funds awarded to an individual institution to mitigate the possibility of a disproportionate amount of grants being made for coal conversion.

Several commenters requested that DOE allow the use of demand charges in calculating payback. In many cases, demand charges can be significantly reduced by changing operating procedures. Moveover, demand charges can be reduced without saving the first Btu. DOE views the exclusion of demand charges from payback calculations as necessary to more closely assess the true conservation potential of energy conservation measures. One observer made the further comment that considering demand charges could tend to level peaks for a given utility, thus saving high cost and generally more energy intensive generation. This would be true only to the extent that sufficient grants for load-shifting projects were awarded in that utility's service area to permit it to reduce the generating capacity it had

on-line or to significantly reduce the load on that equipment. However, measures which save energy also tend to have this peak-shaving result. On balance, for purposes of this program, DOE is retaining the exclusion of demand charges from payback calculations, since the basic intent of this program is to conserve energy in eligible buildings. This is not to imply that TA analysts cannot address demand charges or rate schedules as a service to their clients. DOE encourages this since the inclusion of such information could result in recommendation to the institution which could be deemed desirable to implement because of monetary savings.

By far the most comments supported retention of the simple payback calculation and rejection of the life cycle costing methodology (LCC).

However, there were also substantive comments pointing up the greater usefulness of some form of life cycle cost analysis in the financial decision-making process at the institution, and some states felt the ranking would be more realistic if a methodology which considered the useful life of the measure could be used. After careful consideration, DOE has determined that simple payback will be retained. However, in recognition of the usefulness of the life cycle costing methodology at the institutional level, DOE encourages use of such a methodology and the small incremental costs associated with including a LCC analysis in a TA report is allowable under the program. For those States which wish to consider life-cycle costs and benefits in their ranking procedures, DOE recommends development of such a factor under the authority contained in § 455.71(b)(4). States which elect to exercise this option should take care not to impose an unnecessary burden on institutions, particularly those which have already completed the TA analysis.

The problem of inflation affecting the payback calculations for TA reports was of concern to several commenters. It should be emphasized, however, that the rule does not provide for nor allow consideration of inflation in energy costs, as increases in such costs are difficult to forecast accurately; payback is to be based on current prices only. DOE encourages the institution and the TA analyst to jointly agree as to project costs as of an assumed bid time. It is to all parties best interests to keep these estimates as reasonable as possible, because an understated estimate would tend to be selected for grant award more readily but has a high risk that the institution would have to pay for a cost overrun. An overstated estimate, on the other hand, reduces the risk that an institution would have to bear additional costs, but is less likely to be awarded a grant. In addition, excess funds revert to DOE at close out, resulting in the loss of an opportunity for the use of these funds by other State institutions.

Several comments were addressed to the provisions at § 455.42(c) or § 455.42(d)(6), or both. Some coments related to easing the requirement that a thorough TA analysis consider current energy prices, including rates where applicable. This information becomes the basis for the cost savings estimates, and must therefore be real, current prices. Other comments related to verification and updating of the annual energy use in the building. The annual energy use figure is also necessary for calculating the effect of operating and maintenance procedure changes and installation of energy conservation measures. The institution will need this baseline for measuring the effect of any actions taken by financial assistance granted under this program; state and federal program managers will likewise use this data as part of their determination of program effectiveness.

The requirement that costs and savings associated with each identified energy conservation operating and maintenance procedure in § 455.42(d)(5) has been changed, in response to comment, to allow an overall estimate of the effects of groups of such changes or the total impact of all such recommendations. It was pointed out that, despite the probable motivation which would result from having the detail on each, the cost of calculations would generally be unreasonable. DOE encourages TA analysts to be as complete and specific as possible in reporting recommendations for O&M changes, for the benefit of their clients. TA analysts should also note that this change does not affect the requirement that their analysis of the costs and benefits of ECM be calculated from a baseline, which assumes O&M changes have been implemented and energy use reduced as a result.

As a result of comment, subparagraph (d)(5)(vii) has been revised to require the energy and energy cost savings estimates presented in the technical assistance report to be supported by all data and assumptions used by the technical analyst in lieu of detailed calculations.

A requirement of the technical assistance report is to include the results of an energy audit. As a result of comment received, DOE has amended § 455.42(d)(1)(i) to specify that this requirement should be supported by the statement required by paragraph (d)(7) as to the accuracy of the energy audit data incorporated in the TA report and the completeness of the energy audit recommendations.

Some comments proposed that DOE revise the requirement under (d)(6) for monthly energy use and cost data for the prior 12-month period as part of the technical assistance report. As noted above, such information is important to establish a historical baseline for the technical analyst to consider in his recommendations. Estimates may be used only if such data is unavailable through institutional or energy supplier records. Similarly, DOE recognizes that retrieving such data on a monthly basis may be impossible, and has revised paragraph (d)(6) to require such data on a monthly basis only if possible.

Several comments suggested the definition of TA analysis be expanded to include "preliminary design work" as an allowable cost under the TA program. Since design fees can be substantial compared with an analysis of energy conservation measures, DOE does not agree with this suggestion. However, this should not preclude the use of sketches, schematics, flow diagrams, and other such tools as necessary to adequately assess and clearly report on energy conservation measures.

An issue receiving comment was whether DOE should require the technical assistance analyst to consider either "feasible" or "possible" operations and maintenance procedure changes and energy conservation measures. Paragraph (b) of the final rulemaking requires the analyst to consider all "feasible" items.

An interesting comment was made to the effect that the TA analysis should require field measurements on existing equipment operation, as drawings and visual inspection are frequently inadequate tools for determining their efficiency. DOE concurs, but it is DOE's position that the qualified TA analyst is the best judge of the extent of measurements necessary to the analysis, and will rely on the analyst to perform all such measurements as are incident to execution of TA duties in a responsible and professional manner.

The issue of mandating a specific TA format drew comment both supporting and opposing the adoption of a format. DOE has considered developing such a format but at this time does not intend to mandate a format for technical assistance analyses, as such an action would tend to curtail the professional

technical analyst's approach to unique situations or facilities. DOE has provided, and will continue to provide, samples and other guides to interested parties.

Several comments expressed opposition to cost "guidelines" suggested by DOE for technical assistance projects. Institutions eligible under this program vary widely in age, construction, system complexity and location. Guidelines used by DOE are not meant to impose cost limits on any technical assistance projects, but are rather used only as an internal review threshold for more costly projects. There is accordingly, no reference to cost guidelines for technical assistance projects made in the regulatory language.

Subpart D—Energy Conservation Measures for Schools and Hospitals

§ 455.50 Purpose and scope.

No revisions.

§ 455.51 Eligibility.

Several comments addressed the 1–15 year payback limitations respecting eligibility for energy conservation measures, with some comments favoring the elimination of such criteria altogether, and some comments favoring either a lowering of the limit to under one year or a raising of the limit to over 15 years. No change has been made to the final regulation. The desire for a reasonable return on funds invested in energy conservation measures would argue against raising the 15 year ceiling; projects showing less than a 1 year payback could be accomplished by most institutions within a budget cycle, and would pay for themselves within the equivalent of a grant program cycle.

A number of comments touched in some way on easing the requirement in (a)(4) that O&M procedures be implemented before applying for or receiving TA/ECM funds. Experience, including a recent audit by GAO, confirms that O&M procedures are the most cost effective actions which can be taken. Further, they are by their very nature generally not very costly in comparison to the benefits.

§ 455.52 Contents of program.

A commenter suggested that States be allowed to limit the volume and cost of energy conservation measure projects. States have the power to set such limitations in their State Plans to further the goal of equitable allocation of funds among applicants.

Subpart E—Applicant Responsibilities

§ 455.60 Grant application submittals.

Clarification was requested on several points in this section, including the "appropriate milestone dates" referenced in (b)(4) and (c)(4), and a clarification of the circumstances under which Federal funds could be used to meet cost sharing requirements. DOE has chosen not to define specific milestone dates for completing technical assistance and energy conservation measure projects as these would vary widely by type of activity, institution, and project, and because milestones are an important part of State and institutional discretion. Regarding the second point, a few Federal assistance programs, such as some of those administered by the Appalachian Regional Commission, are authorized by recent law to have all or part of their funds treated as non-Federal funds for matching grant purposes. In such cases, where appropriate authority exists for a Federal assistance program, a request may be made to use funds from that program to match DOE funds. Such requests will be considered on a case-by-case basis.

Suggestions made concerning specific revisions to the application forms or consolidation of assurances and certifications will be considered as DOE revises those forms to the extent consistent with OMB guidance.

Comment was received asking DOE to waive the requirement for a copy of the technical assistance report submitted with an energy conservation measure application if such a report had been previously submitted with an earlier application. A related comment asked that DOE accept technical assistance reports completed prior to major configuration changes to a building, specifically those changes resulting from the installation of energy conservation measures. To respond to the first comment, subsection (c)(6) has been amended so that States and DOE Regional offices may negotiate to accommodate such situations, avoiding excessive paperwork. Regarding the second comment, because it is essential that calculations and information contained in such technical assistance reports remain reasonably current and relevent, DOE will still require technical assistance reports to have been completed subsequent to major configuration or utilization changes to a building, but previously completed ECMs are not expected to involve major configuration changes to a building.

§ 455.61 Applicant certifications.

DOE was asked to clarify the role of major vendors and product manufacturers in conducting technical assistance projects. Conflict of interest certifications provided in paragraph (d) require the technical assistance analyst to certify that he has no conflicting financial interests. Accordingly, no one who has a financial interest in or is employed by a vendor or product manufacturer may perform a TA analysis.

The revision to paragraph (e) concerning Davis-Bacon Act requirements prompted many comments opposing the revision. The revision was made in order to make the original rule conform more closely to NECPA.

Under NECPA the Davis-Bacon Act applies only to grants for ECM's, not PEA's, EA's, or TA's, and to a particular project only when the total cost of the project is more than $5,000. Even if the total cost of a project is more than $5,000, Davis-Bacon applies only to construction contracts in excess of $2,000 let for that project. A project is defined in relation to work done regarding a single building. If a grant is for more than $5,000 but the work done to a particular building using funds provided under the grant is for $5,000 or less, a contract for work done on that particular building does not need to comply with the Davis-Bacon Act. For example, under a grant for $9,000 involving installing ECM's to two buildings, at a cost of $4,000 for one and at a cost of $5,000 for the other, a construction contract let for work on one or both of these buildings would not be required to comply with the Davis-Bacon Act.

§ 455.62 Grant applications for State administrative expenses.

No revisions.

§ 455.63 Grantee reports and records.

Most commenters supported the overall reduction in reporting requirements. Some comments suggested that DOE eliminate the requirement for a semi-annual report for energy conservation measure grantees. The final rulemaking retains the requirement for semi-annual reports for these grantees, in consideration of DOE project management and accountability concerns and to permit resolution of any problem areas within a reasonable time frame.

Several comments addressed specific points, including the submission of copies of all grantee reports to DOE; a clarification of when the 12-month cycle commences for annual energy

conservation measure grantee reports, and opposition to the requirement that the grantee describe, in final report, existing plans to install additional measures. Regional offices, as provided in (b)(6), already have authority to request some or all grantee reports submitted to the State and a revision is not necessary. The 12-month cycle for annual reports for energy conservation measure grantees commences with the completion of the energy conservation measure project(s). DOE has eliminated the requirement for the final report concerning plans for future measures, since this information is not necessary to the management of the program.

Subpart F—State Responsibilities

§ 455.70 State evaluation of grant applications.

Comments received on the issue of hospital Certificate of Need unanimously favored the elimination of this requirement. DOE is not empowered to waive this requirement, which stems from Part C of Title XV of the Public Health Service Act, as amended, Pub. L. 93-641, 88 Stat. 2242 (42 U.S.C. 300m) and, in some cases, State law. Congressional or State legislative action would be required to respond to this concern.

Several commenters requested an elaboration of what constitutes an "abbreviated" review of applications by State education or health facilities agencies. One element of such a review would be a determination of whether a school or hospital facility was scheduled for closing or four utilization for other purposes under existing State education or health facility plans. Regarding health planning agency review, the Department of Health and Human Services (HHS) suggested, in a September 7, 1979 Program Policy Notice 79-15, that such reviews not include an analysis of the project's technical merit, and that a limited review is appropriate in view of the fact that energy conservation projects will not add to hospital bed capacity or the service complement of the facility. HHS has pointed out to Health Systems Agencies and State Health Planning and Development agencies that the need to review any application depends on whether the proposed project exceeds the thresholds established for the planning agencies' project review program; the application should not be reviewed where the thresholds are not exceeded.

§ 455.71 State ranking of grant applications.

The majority of comments received supported the revisions pertaining to the State option of ranking by measure or by building, the flexibility in allowing the State to establish fuel conservation priorities under the third ranking factor, the deletion of climate considerations as a mandatory fourth ranking factor, and the increased flexibility provided in paragraph (f) regarding the use of set-aside and hardship funds. The final rulemaking incorporates these revisions. Institutions should contact their State Energy Office regarding the options that a State selects and incorporates into its State Plan. The State option of funding hardship applicants wholly or partially from the 10 percent hardship allocation also received support from commenters.

A comment suggested that DOE establish a minimum set-aside for elementary and secondary schools. This would run counter to the intent of NECPA, which is to provide financial assistance for energy conservation projects to institutions on the basis of relative need, regardless of size and type of ownership, determined by such factors as cost, energy consumption and energy savings.

Clarification was requested concerning the nature of an energy conservation measure involving a building complex. At the request of an applicant for an energy conservation measure grant, an ECM affecting a group of buildings may be treated as if it were an ECM for a single building. Typically, such a measure involves a modification to a central plant system serving a number of buildings. Please note however, the necessity to consider the effect of ECMs in individual buildings on such multi-building ECMs.

Commenters addressed the questions of whether the State is required to rank all applications or just those recommended for funding, and whether the State should submit all applications to DOE or only those within the limits of the allocations. In response to the first point, States are required to rank all eligible applications received. Second, the language of § 455.72(a) has been clarified to indicate only those applications within the limits of a State's allocation have to be forwarded. However, DOE Regional Offices may request that the State submit a few additional eligible applications beyond those recommended for approval so as to provide alternates in the event that some recommended applications are withdrawn, modified, or removed from consideration during the DOE reviews.

§ 455.72 Forwarding of applications.

Comment was received opposing the requirement that buildings be consolidated under one application for each institution or coordinating agency, but rather proposing that each building be considered under a separate grant application to DOE. Applicant data and budget information is still to be presented building-by-building, but if several buildings are consolidated under a single grant application, it should reduce the burden on institutions. The final rulemaking retains this submission procedure.

§ 455.73 State liaison, monitoring and reporting.

Comments received supported the elimination of grantee financial auditing as a State requirement in this section and § 455.90, in view of Federal financial assistance policy requiring grantee organization-wide, rather than grant-specific, financial audits. For clarification, and to conform with the amendment to § 455.90, the requirement for States to notify eligible institutions of the content of an approved State Plan in subsection (b) has been changed to expressly include notification of amendments to that Plan as approved by DOE.

As a result of comment received, DOE has reconsidered the State requirement in subsection (c) to notify each applicant as to the ranking of the applicants buildings or measures prior to submittal to DOE. While encouraging this procedure where and when feasible, DOE agrees that this could delay the forwarding of applications or confuse the applicant as to the action taken in his or her application, and has deleted the requirements that the notifications be "prior to submittal of applications to the Secretary." However, the State is responsible for indicating the specific reasons for not recommmending an application for funding. Finally, at the suggestion of a commenter, the word "similar" has been deleted from paragraph (c), as this word is misleading.

Subpart G—Grants Awards

§ 455.80 Approval of grant applications.

The treatment of pre-grant costs drew a number of comments, asking for clarification or suggesting a specific time period for consideration of pre-grant costs. Pre-grant costs are costs described in an application for financial assistance, incurred after the date of application but before Notice of Grant Award by DOE. DOE has revised paragraph (f) to specify that such costs may be funded if they are incurred from the date of an application for assistance, but no earlier than the end of the preceding grant program cycle. Costs incurred in a preceding cycle may be wholly or partially accepted for the

purpose of matching Federal grant funds for additional energy conservation measures in the same building, as provided in § 455.82(e). DOE stresses that the applicant bears the responsibility for the entire project cost unless the application is approved by DOE.

Paragraphs (d) and (e) are revised in the final rulemaking as a result of concerns over the intent. These paragraphs indicate that DOE will not provide supplemental funds for a technical assistance or an energy conservation measures grant award, and will make only one technical assistance grant award per building, and one grant award per building in a given cycle for energy conservation measures. As the rulemaking language states, institutions wishing to apply for other additional energy conservation measure in the building in future grant program cycle may do so.

Comments suggested DOE provide for application appeal procedures or a consultation process to permit applicants to correct deficiencies. DOE is of the opinion that an informal consultation process is appropriate to help correct deficiencies and that this can be done without a regulatory change.

The amendment to paragraph (c) published in the proposed rule has been changed to clarify the purpose of the amendment.

§ 455.81 Grant awards for units of local government and public care institutions.

No revisions.

§ 455.82 Grant awards for schools and hospitals.

Paragraph (e) has been revised slightly, as a result of comment, by adding the stipulation that credit may be for wholly or partially completed energy conservation measures, and that the credit applies to proposed "additional" energy conservation measures in the same building.

In connection with credit, a number of comments opposed the requirement that a technical assistance analysis be completed prior to the installation of the measure(s) for which credit is sought. DOE has retained this requirement in the final rulemaking for the reason that the credit provision was meant to serve those institutions that first analyzed their buildings to determine what energy conservation measures to install by participating in the technical assistance program or by completing an equivalent independent program, and proceeded independently to acquire and install the appropriate energy conservation measures. To waive the requirement for a prior technical assistance analysis would impair the potential for determining whether those credited measures would have otherwise been eligible or appropriate for the purposes of this program and open the door to ECM supported by reports purporting to be TAs but which are, in reality, feasibility studies.

§ 455.83 Grant awards for State administrative expenses.

NECPA requires the Secretary to "prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State." While this provision allows DOE to prescribe the amount allocated, expressed as a percentage of total funds appropriated for these programs, it does not allow DOE to determine whether the funds should or should not be matched equally by the State. Without authority, provided by Congress, DOE cannot waive the matching requirement for State administrative expenses, as was requested by several commenters.

Subpart H—State Plan Development and Approval

§ 455.90 Contents of State plan.

DOE has responded to concerns that institutions specify a time period in which unimplemented operation and maintenance procedure changes will be made under provisions of paragraph (j), by incorporating additional detail in subparagraph (2) to require a date to be specified for completion of the procedure changes. Comments were received asking for a clarification of the allowability of the cost of a financial audit for a grantee, and whether indirect costs are allowable. Both costs are allowable costs for grantees. DOE does not intend to specify limits to either the cost of a financial audit or an indirect cost rate, as these will vary considerably by location and type of project. Financial audits should not be conducted on an individual grant basis, but rather on an organization wide basis to ascertain the effectiveness of the financial management systems and internal procedures established to meet the terms and conditions of the grant.

Some comments related to paragraph (o) concerning qualifications of a technical assistance analyst. As a result of one suggestion, DOE has made experience in energy conservation a general qualification, rather than specific to subparagraph (1). One comment recommended that architects be permitted to conduct the technical assistance analysis alone. A State Plan may establish criteria to qualify architects to conduct such analyses alone, under subparagraph (3), provided that individuals conducting such analyses possess appropriate training and experience in building energy systems, and have experience in energy conservation.

One comment questioned why the provision concerning procedures for apportionment of funds was deleted. Such procedures are considered to be sufficiently described in § 455.71(a) and (b), and the provision was deleted on that basis.

Comments asked for an expansion on the expectations under paragraph (p), concerning data and reporting. This requirement stems from Sections 394(a)(1) and (2), and 400D(a) (1) and (2) of NECPA. States that have included such information in their State Plans have relied on findings from preliminary energy audits to estimate energy savings, and to assess the general types of energy conservation projects and estimated total costs, using the general data contained in the preliminary energy audits and State geographical and fuel considerations. The phrasing of the proposed rule has been modified to indicate that the State Plan should include such estimates and recommendations, not procedures for collecting and reporting such information.

One comment suggested that the method for calculating interactions among ECMs be specified in § 455.42. Upon consideration, DOE elected to allow the States the option of specifying a methodology considered appropriate to their circumstances. The commenter suggested these possible methods as follows—

(1) Start with the measure having the shortest payback, consider the interaction of the second shortest payback with the first, then of the third with the first and second, and continue in this manner until all have been considered.

(2) Start with ECMs which reduce building loads, then consider distribution system loads as if the building load ECMs had been implemented, then the primary HVAC or other equipment as if both building and distribution load ECMs had been implemented.

(3) Assume all measures are to be implemented and calculate the savings as a function of the whole and then determine the appropriate portion attributable to each.

DOE has added paragraph (q) to permit the setting of statewide fuel conversion factors.

§ 455.91 Submission and approval of State plans

No revisions.

Subpart I—Allocation of Appropriations Among the States

§ 455.100 Allocation of funds

A commenter urged that States be permitted to establish the percentage of funds to be used for technical assistance projects. Such a determination was made by Congress in authorizing appropriations for this program and cannot be set by rule.

§ 455.101 Allocation formulas

This program has made use of the 1976 census estimates in determining population factors contained in the allocation formula. Comments recommended the use of new census data in subsequent allocations, and DOE intends to do so as of the effective date of this rule revision. The appropriate changes have been made in this section.

§ 455.102 Reallocation of funds

NECPA requires DOE to reallocate funds not obligated in a fiscal year to all States in the subsequent fiscal year. DOE is thus constrained from giving priority to States with numerous unfunded applications, or from allowing a State to receive all of its own unobligated funds in the next fiscal year, as was suggested in comments received.

In consideration of the foregoing, Chapter II, Title 10, Part 455 of the Code of Federal Regulations is amended as set forth below by revising Subpart A; amending § 455.16 and adding new §§ 455.18 and 455.19 in Subpart B; and revising Subparts C through I.

Issued in Washington, D.C., May 15, 1981.

Frank DeGeorge,

Acting Assistant Secretary, Conservation and Renewable Energy.

1. 10 CFR 455.16 is amended to add a new paragraph (f) as follows:

§ 455.16 [Amended]

* * * * *

(f) A state may request, and the Secretary may approve, a waiver of the limitations required under paragraphs (d) and (e) of this section, provided the State demonstrates that such a waiver would permit the conduct of more energy audits than would otherwise be conducted under the provisions of this section.

2. 10 CFR Part 455 is amended to read as follows:

PART 455—GRANT PROGRAMS FOR SCHOOLS AND HOSPITALS AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

Subpart A—General Provisions

Sec.

455.1 Purpose and Scope.
455.2 Definitions.
455.3 Administration of Grants.
455.4 Recordkeeping.
455.5 Suspension and Termination of Grants.

Subpart B—Preliminary Energy Audits and Energy Audit Grant Procedures

455.10 Purpose and Scope.
* * * * *
455.18 Contents of a Preliminary Energy Audit.
455.19 Contents of an Energy Audit.

Subpart C—Technical Assistance Programs for Schools, Hospitals, Units of Local Government and Public Care Institutions

455.40 Purpose and Scope.
455.41 Eligibility.
455.42 Contents of Program.

Subpart D—Energy Conservation Measures for Schools and Hospitals

455.50 Purpose and Scope.
455.51 Eligibility.
455.52 Contents of Program.

Subpart E—Applicant Responsibilities

455.60 Grant Application Submittals.
455.61 Applicant Certifications.
455.62 Grant Applications for State Administrative Expenses.
455.63 Grantee Records and Reports.

Subpart F—State Responsibilities

455.70 State Evaluation of Grant Applications.
455.71 State Ranking of Grant Applications.
455.72 Forwarding of Applications.
455.73 State Liaison, Monitoring and Reporting.

Subpart G—Grant Awards

455.80 Approval of Grant Applications.
455.81 Grant Awards for Units of Local Government and Public Care Institutions.
455.82 Grant Awards for Schools and Hospitals.
455.83 Grant Awards for State Administrative Expenses.

Subpart H—State Plan Development and Approval

455.90 Contents of State Plan.
455.91 Submission and Approval of State Plans.
455.92 State Plans Developed by the Secretary.

Subpart I—Allocation of Appropriations Among the States

455.100 Allocation of Funds.
455.101 Allocation Formulas.
455.102 Reallocation of Funds.

Authority: Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3238 (42 U.S.C. 6371); Section 367(e)(2) of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1162, 42 U.S.C. 6325(e)(2); and Department of Energy Organization Act, Pub. L. 95-91,91 Stat. 565 (42 U.S.C. 7101).

Subpart A—General Provisions

§ 455.1 Purpose and scope.

(a) This part establishes programs of financial assistance pursuant to Parts 1 and 2 of Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3238 (42 U.S.C. 6371) which adds Parts G and H, respectively, to Title III of the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 901 (42 U.S.C. 6291).

(b) This subpart authorizes grants to States or to public or non-profit schools and hospitals to assist them in conducting preliminary energy audits and energy audits, in identifying and implementing energy conservation maintenance and operating procedures and in evaluating, acquiring and installing energy conservation measures, including solar energy or other renewable resource measures, to reduce the energy use and anticipated energy costs of buildings owned by schools and hospitals.

(c) This subpart also authorizes grants to States or units of local government and public care institutions to assist them in conducting preliminary energy audits and energy audits, in identifying and implementing energy conservation maintenance and operating procedures and evaluating energy conservation measures, including solar energy and other renewable resource measures, to reduce the energy use and anticipated energy costs of buildings owned by units of local government and public care institutions.

§ 455.2 Definitions.

"Act," as used in this part, means the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 871 (42 U.S.C. 6201) *as amended* by Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3238 (42 U.S.C. 6371).

"Auditor" means any person who is qualified in accordance with 10 CFR 450.44 to conduct an energy audit.

"Building" means any structure, the construction of which was completed on or before April 20, 1977, which includes a heating or cooling system, or both.

"Civil rights requirements" means civil rights responsibilities of applicants and grantees pursuant to the Nondiscrimination in Federally Assisted Programs regulation of the Department of Energy (10 CFR 1040).

"Complex" means a closely situated group of buildings on a contiguous site, or a closely situated group of buildings served by a central utility plant, such as a college campus or a multibuilding hospital.

"Construction completion" means the date of issuance of an occupancy permit for a building or the date the building is ready for occupancy as determined by DOE.

"Cooling degree days" means the annual sum of the number of Fahrenheit degrees of each day's mean temperature above 65° for a given locality.

"Coordinating agency" means any public or non-profit organization legally constituted within a State for either administrative control or services for a group of institutions within a State and which acts, and is authorized by eligible institutions to so act, as the agent for such institutions with respect to their participation in the program.

"DOE" means the Department of Energy.

"Energy audit" means any survey of a building or complex conducted in accordance with the requirements of Subpart E of 10 CFR Part 450.

"Energy conservation maintenance and operating procedures" means modifications in the maintenance and operations of a building, and any installation therein, which are designed to reduce the energy use in such building and which require no significant expenditure of funds.

"Energy conservation measure" means installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, which may contain integral control and measurement devices, including, but not limited to—

(a) Insulation of the building structure and systems within the building;

(b) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door systems modifications;

(c) Automatic energy control systems which would reduce energy consumption;

(d) Equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(e) Active or passive solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(f) Active or passive solar water heating systems;

(g) Furnace or utility plant and distribution system modifications including—

(1) Replacement burners, furnaces, boilers, or any combination thereof, which substantially increase the energy efficiency of the heating system;

(2) Devices for modifying flue openings which will increase the energy efficiency of the heating system;

(3) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights; and

(4) Utility plant system conversion measures including conversion of existing oil and gas-fired boiler installations to alternative energy sources, including coal;

(h) Addition of caulking and weatherstripping;

(i) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless such increase in illumination is necessary to conform to any applicable State or local building code or, if no such code applies, the increase is considered appropriate by the Secretary;

(j) Energy recovery systems;

(k) Cogeneration systems which produce steam or forms of energy such as heat, as well as electricity for use primarily within a building or a complex of buildings owned by an eligible institution and which meet such fuel efficiency requirements as the Secretary may by rule prescribe;

(l) Costs of installation and connection of such leased equipment as would otherwise be an eligible energy conservation measure;

(m) Such other measures as the Secretary identifies by rule for purposes of this part, as set forth in Subpart D of 10 CFR 450; and

(n) Such other measures as a grant application show will save a substantial amount of energy and are identified in an energy audit in accordance with Subpart E of 10 CFR 450.

"Fuel" means any commercial source of energy used within the building or complex being surveyed such as natural gas, fuel oil, electricity, or coal.

"Governor" means the chief executive officer of a State, including the Mayor of the District of Columbia, or a person duly designated in writing by the Governor to act on her or his behalf.

"Grantee" means the entity or organization named in the Notice of Grant Award as the recipient of the grant.

"Grant program cycle" means the period of time specified by DOE which relates to the fiscal year or years for which monies are appropriated for grants under this part, during which one complete cycle of DOE grant activity occurs, including fund allocations to the States; applications receipt, review, approval or disapproval, and award of grants by DOE, but which does not include the grantee's performance period.

"Gross square feet" means the sum of all heated or cooled floor areas enclosed in a building, calculated from the outside dimensions, or from the centerline of common walls.

"Heating or cooling system" means any mechanical system for heating, cooling or ventilating conditioned areas of a building, including a system of through-the-wall air conditioning units.

"Heating degree days" means the annual sum of the number of Fahrenheit degrees of each day's mean temperature below 65° for a given locality.

"Hospital" means a public or non-profit institution which is a general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care; and which is duly authorized to provide hospital services under the laws of the State in which it is situated.

"Hospital facilities" means buildings housing a hospital and related facilities, including laboratories, laundries, out-patient departments, nurses' home and training facilities and central service facilities operated in connection with a hospital, and also includes buildings housing education or training facilities for health professions personnel operated as an integral part of a hospital.

"Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska native village, or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92–203; 85 Stat. 688, which (a) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or (b) is located on, or in proximity to, a Federal or State reservation or rancheria.

"Local educational agency" means a public board of education or other public authority or a non-profit institution legally constituted within, or otherwise recognized by, a State for either administrative control or direction of, or to perform administrative services for, a group of schools within a State.

"Maintenance" means activities undertaken in a building to assure that equipment and energy-using systems operate effectively and efficiently.

"Native American" means a person who is a member of an Indian tribe.

"Operating" means the operation of equipment and energy-using systems in a building to achieve or maintain specified levels of environmental conditions or service.

"Owned" or "Owns" means a property interest, including without limitation a leasehold interest, which is, or shall become, a fee simple title in a building or complex.

"Preliminary energy audit" means any survey of a building or complex conducted in accordance with the requirements of Subpart E of 10 CFR Part 450.

"Primarily occupied" means that in excess of 50 percent of a building's square footage or time of occupancy is occupied by a public care institution or an office or agency of a unit of local government.

"Public care institution" means a public or non-profit institution which owns—

(a) A facility for long-term care, rehabilitation facility, or public health center, as described in Section 1633 of the Public Health Service Act (42 U.S.C. 300s–3; 88 Stat. 2270); or

(b) A residential child care center, which is an institution, other than a foster home, operated by a public or non-profit institution and is primarily intended to provide full-time residential care with an average length of stay of at least 30 days for at least 10 minor persons who are in the care of such institution as a result of a finding of abandonment or neglect or of being persons in need of treatment or supervision.

"Public or non-profit institution" means an institution owned and operated by—

(a) A State, a political subdivision of a State or an agency or instrumentality of either; or

(b) A school or hospital which is, or would be in the case of such entities situated in American Samoa, Guam, Puerto Rico, and the Virgin Islands, exempt from income tax under Section 501(c)(3) of the Internal Revenue Code of 1954; or

(c) A unit of local government or public care institution which is, or would be in the case of such entities situated in American Samoa, Guam, Puerto Rico, and the Virgin Islands, exempt from income tax under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954.

"School" means a public or non-profit institution which—

(a) Provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis;

(b)(1) Provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

(2) Admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

(3) Is accredited by a nationally recognized accrediting agency or association; and

(4) Provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the preceding requirements and which provides such a program;

(c) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions cited in subdivisions (A), (B), and (C) of subparagraph (2) above; or

(d) Is a local educational agency.

"School facilities" means buildings housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

"Secretary" means the Secretary of the Department of Energy.

"State" means, in addition to the several States of the Union, the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

"State energy agency" means the State agency responsible for developing State energy conservation plans pursuant to Section 362 of the Energy Policy and Conservation Act, or, if no such agency exists, a State agency designated by the Governor of such State to prepare and submit the State Plan required under Section 394 of the Energy Policy and Conservation Act, as amended by the Energy Conservation and Production Act.

"State hospital facilities agency" means an existing agency which is broadly representative of the public hospitals and the nonprofit hospitals, or, if no such agency exists, an agency designated by the Governor of such State which conforms to the requirements of this definition.

"State school facilities agency" means an existing agency which is broadly representative of public institutions of higher education, nonprofit institutions of higher education, public elementary and secondary schools, nonprofit elementary and secondary schools, public vocational education institutions, nonprofit vocational education institutions, and the interests of handicapped persons in a State or, if no such agency exists, an agency which is designated by the Governor of such State which conforms to the requirements of this definition.

"Technical assistance" means a program or activity for (1) the conduct of specialized studies to identify and specify energy savings and related cost savings that are likely to be realized as a result of either modifying maintenance and operating procedures in a building, and the acquisition and installation of one or more energy conservation measures, (2) the planning or administration of such specialized studies. For States, schools and hospitals, which are eligible to receive grants to carry out energy conservation measures, the term also means the planning or administration of specific remodeling, renovation, repair, replacement or insulation projects related to the installation of energy conservation, solar energy or renewable resource measures in a building.

"Unit of local government" means the government of a county, municipality, parish, borough, or township, which is a unit of general purpose government below the State, determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes; the District of Columbia, American Samoa, Guam, and the Virgin Islands; the recognized governing body of an Indian tribe which governing body performs substantial governmental functions; libraries owned by any of the foregoing; and public libraries which serve all residents of a political subdivison below the State level, such as a community, district or region, free of charge and which derive at least 40 percent of their operating funds from tax revenues of a taxing authority below the State level.

§ 455.3 Administration of grants.

(a) Grants provided under this part shall comply with applicable law, regulation or procedure including, but without limitation, the requirements of—

(1) Office of Management and Budget Circular A–87, entitled "Cost Principles for State and Local Governments";

(2) Office of Management and Budget Circular A–102, entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments";

(3) Office of Management and Budget Circular A–110, entitled "Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations";

(4) DOE regulation, 10 CFR 1040, entitled "Non-discrimination In Federally Assisted Programs", which implements the following public laws: Title VI of the Civil Rights Act of 1964; Section 16 of the Federal Energy Administration Act of 1974; Section 401 of the Energy Reorganization Act of 1974; Title IX of the Education Amendments of 1972; The Age Discrimination Act of 1975; and Section 504 of the Rehabilitation Act of 1973;

(5) OMB Circular A-122, "Cost Principles for Non-Profit Organizations";

(6) OMB Circular A-21, "Cost Principles for Institutions of Higher Education";

(7) 45 CFR 74, Appendix E, "Cost Principles for Hospitals";

(8) OMB Circular A-95 Part III, "Review, Evaluation, and Coordination of Federal and Federally-Assisted Programs and Projects";

(9) DOE Assistance Regulation 10 CFR Part 600, Subparts A and B.

(b) Grantees shall comply with such additional requirements applicable to this part as DOE may from time to time prescribe for the administration of grants.

§ 455.4 Recordkeeping.

Each State or other entity within a State receiving financial assistance under this part shall make and retain records required by DOE, including records which fully disclose the amount and disposition of the financial assistance received; the total cost of the administration and the activities for which assistance is given or used; the source and amount of any funds not supplied by DOE and any data and information which DOE determines are necessary to protect the interest of the United States and to facilitate an effective financial audit and performance evaluation. The Secretary, or any of her or his duly authorized representatives, shall have access, as prescribed by DOE Assistance Regulations, to any books, documents, receipts or other records which the Secretary determines are related or pertinent, either directly or indirectly, to any financial assistance provided under this part.

§ 455.5 Suspension and Termination of Grants.

The Secretary may suspend or terminate financial assistance under a previously approved application if the Secretary determines the applicant has failed to comply substantially with the terms and conditions set forth in the application and this part. Suspension and termination procedures shall be as set forth in OMB Circulars A-102 and A-110 as applicable. A decision to suspend or terminate pursuant to this section may be appealed to the DOE Financial Assistance Appeals Board, pursuant to 10 CFR 1024. A decision to suspend or terminate financial assistance based on failure to comply with civil rights requirements shall be made pursuant to Subpart H of DOE's Nondiscrimination in Federally Assisted Programs Regulation (10 CFR 1040).

Subpart B—Preliminary Energy Audit and Energy Audit Grant Procedures

§ 455.10 Purpose and scope.

(a) This subpart contains the regulations whereby the Federal Government shall provide financial assistance for preliminary energy audits and energy audits.

(b) Preliminary energy audits are to be performed by States for the purpose of—

(1) Determining the energy use characteristics of eligible school and hospital facilities, and buildings owned by units of local government and public care institutions, including the size, type, rate of energy use and major energy using systems of such buildings within the State;

(2) Establishing a data base from which reasonably accurate estimates can be made of the number of eligible institutions, the number of qualifying buildings, and patterns of energy conservation needs including an indication of the opportunities for use of solar or other renewable energy sources; and

(3) Assisting States in development of a sound and complete State Plan which is a prerequisite to receipt of financial assistance for technical assistance or energy conservation measures, including solar energy or other renewable resource measures.

(c) Energy audits are to be performed by States or eligible schools, hospitals, units of local government and public care institutions for the purpose of—

(1) Determining the energy use characteristics of eligible school and hospital facilities, and buildings owned by units of local government and public care institutions, including the size, type, rate of energy use and major energy using systems of such buildings within the State;

(2) Identifying and encouraging adoption of energy conservation maintenance and operating procedures;

(3) Indicating potential, if any, for acquiring and installing energy conservation measures, including possible use of solar energy or other renewable resources; and

(4) Providing, to the greatest extent practical, consistent information necessary to identify those buildings to receive priority for additional financial assistance.

* * * * *

§ 455.18 Contents of a preliminary energy audit.

(a) A preliminary energy audit shall provide a description of the building or complex audited and determine its energy-using characteristics, including—

(1) The name or other identification, and address of the building;

(2) A statement that the building meets the requirements of one of the following categories—

(i) A school facility;

(ii) A hospital facility; or

(iii) A building owned and primarily occupied either by offices or agencies of a unit of local government or by a public care institution, neither of which shall include any building intended for seasonal use or any building used primarily by a school or hospital;

(3) A description of the functional use made of the building identifying whether it is a—

(i) School—

(A) Elementary;

(B) Secondary;

(C) College or university;

(D) Vocational;

(F) Other;

(ii) Hospital—

(A) General;

(B) Tuberculosis; or

(C) Other;

(iii) Local government building—

(A) Office;

(B) Storage;

(C) Service;

(D) Library;

(E) Police station;

(F) Fire station; or

(G) Other; or

(iv) Public care building—

(A) Nursing home;

(B) Long term care other than a nursing home;

(C) Rehabilitation facility;

(D) Public health center; or

(E) Residential child care center;

(4) The name and address of the owner of record, indicating whether owned by a public institution, private nonprofit institution or an Indian tribe;

(5) The size of the building, expressed in gross square feet;

(6) The age of the building;

(7) Approximate daily hours of operation, including periods of partial use if applicable;

(8) An indication of whether the building is partially used during vacation periods or other times when the building is not fully utilized, for periods of a week or more, by quarter;

(9) An identification of major energy-using systems, including—

(i) Type of heating system or cooling system or both;

(ii) Fuel used for heating system, cooling system;

(iii) Fuel used for domestic hot water, such as electric or natural gas;

(iv) Special energy using systems, such as food service or laundry; and

(v) Lighting, such as incandescent or fluorescent;

(10) Fuel use in physical units and cost data by type for a preceding 12 month period, by month if practicable, using actual data or an estimate if actual figures are unavailable;

(11) Total annual energy use expressed in Btu's per gross square foot and energy cost per gross square foot.

(b) A preliminary energy audit shall provide a brief description of activities which have been undertaken to conserve energy in the building or complex being audited, including whether—

(1) A person has been designated to monitor and evaluate energy use;

(2) Work partially or fully satisfying the requirements of an energy audit has been performed;

(3) Detailed studies have been conducted by architects, engineers or architect-engineer teams of energy use and energy conservation; and

(4) Any major energy conservation measures have been implemented, together with a listing of such measures, and estimates of their costs and energy savings if available.

(c) A preliminary energy audit shall provide information regarding site, building, and heating and hot water systems related to solar energy or other renewable resource potential including—

(1) An indication of whether open land, such as fields, yards and parking areas, is available within the immediate vicinity of the building which is not heavily shaded by tall buildings, trees or other obstructions;

(2) A statement of whether the building is located generally within an urban, suburban or rural area;

(3) An approximation of whether more than half the building's roof area or southern oriented wall surface is heavily shaded by shrubs, trees, buildings or other obstructions for more than about four hours per day;

(4) The number of stories;

(5) A general description of the building's shape, such as square, rectangular, E-shaped, H-shaped or L-shaped;

(6) An indication of whether the roof is flat or pitched, and if pitched whether it has a southern orientation;

(7) Whether there are existing roof-top obstructions, such as chimneys, space conditioning equipment, water towers, mechanical rooms, stairwells or other permanent structures;

(8) An indication of the exterior material of the southern facing wall, such as masonry, wood, aluminum;

(9) An approximation of the proportion of glass area of the southern facing wall, such as less than 25 percent, 25–75 percent, more than 75 percent;

(10) Location of primary space heating and water heating systems—

(i) Whether outside of or within the building;

(ii) If within the building, whether on the ground floor, in the basement, or on the roof; and

(iii) If within the building, whether centrally located, in multiple units, or a combination thereof.

§ 455.19 Contents of an energy audit.

(a) An energy audit shall contain the information required for a preliminary energy audit, in accordance with § 455.18, and shall also include a description of—

(1) Major changes in functional use or mode of operation planned in the next fifteen years, such as demolition, disposal, rehabilitation, or conversion from office to warehouse;

(2) For a building in excess of 200,000 gross square feet, if available—

(i) Peak electric demand for both daily and annual cycles; and

(ii) Annual energy use by fuel type of the major mechanical or electrical systems if the information is available or can be reasonably estimated;

(3) Terminal heating or cooling, or both, such as radiators, unit ventilators, fancoil units, or double-duct reheat systems;

(4) Building site and structural characteristics related to solar energy or other renewable resource potential, including but not limited to—

(i) Climatic factors, specifically—

(A) Average annual heating degree days and cooling degree days;

(B) Average solar insolation by month;

(C) Average monthly wind speed; and

(ii) Roof characteristics, including—

(A) An identification of primary structural component such as steel, wood, concrete; and

(5) A description of general building conditions.

(b) An energy audit shall—

(1) Indicate that appropriate energy conservation maintenance and operating procedures have been implemented for the building, supported by a demonstration based on actual records, that energy use has been reduced in a given year through changes in maintenance and operating procedures, by not less than 20 percent from a corresponding based period having a degree day variance of less than 10 percent; or

(2) Recommended appropriate energy conservation maintenance and operating procedures, on the basis of an on-site inspection and review of any scheduled preventive maintenance plan, together with a general estimate or range of energy and cost savings if practical, which may result from—

(i) Effective operation of ventilation systems and control of infiltration conditions, including—

(A) Repair of caulking or weatherstripping around windows and doors;

(B) Reduction of outside air intake, shutting down ventilation systems in unoccupied areas, and shutting down ventilation systems when the building is not occupied; and

(C) Assuring central or unitary ventilation controls, or both, are operating properly;

(ii) Changes in the operation of heating or cooling systems through—

(A) Lowering or raising indoor temperatures;

(B) Locking thermostats;

(C) Adjusting supply or heat transfer medium temperatures; and

(D) Reducing or eliminating heating or cooling at night or at times when a building or complex is unoccupied;

(iii) Changes in the operation of lighting systems through—

(A) Reducing illumination levels;

(B) Maximizing use of daylight;

(C) Using higher efficiency lamps; and

(D) Reducing or eliminating evening cleaning of buildings;

(iv) Changes in the operation of water systems through—

(A) Repairing leaks;

(B) Reducing the quantity of water used, e.g., flow restrictors;

(C) Lowering settings for hot water temperatures;

(D) Raising settings for chilled water temperatures; and

(v) Changes in the maintenance and operating procedures of the utility plant and distribution system through—

(A) Cleaning equipment;

(B) Adjusting air/fuel ratio;

(C) Monitoring combustion;

(D) Adjusting fan, motor, or belt drive systems;

(E) Maintaining steam traps; and

(F) Repairing distribution pipe insulation; and

(vi) Such other actions as the State may determine useful or necessary, consistent with the purposes of the

energy audit and acceptable cost constraints of § 450.46.

(c) Based on information gathered under paragraphs (a) and (b) of § 455.18, and paragraphs (a)(1) and (2) of this section, an energy audit shall indicate the need, if any, for the acquisition and installation of energy conservation measures and shall include an evaluation of the need and potential for retrofit based on consideration of one or more of the following—

(1) An energy use index or indices, for example, Btu's per gross square foot per year;

(2) An energy cost index or indices, for example, annual energy costs per gross square foot; or

(3) The physical characteristics of the building envelope and major energy-using systems.

(d) Based on information gathered under paragraph (c) of § 455.18 and subparagraph (a)(4) of this section, an energy audit shall include an indication of whether building conditions or characteristics present an opportunity for use of solar heating and cooling sysems or solar hot water systems.

(e) An energy audit may include an assessment of the estimated costs and energy and cost savings likely to result from the purchase and installation of one or more energy conservation measures.

Subpart C—Technical Assistance Programs for Schools, Hospitals, Units of Local Government and Public Care Institutions

§ 455.40 Purpose and scope.

This subpart specifies what consitutes a technical assistance program eligible for financial assistance under this part, and sets forth the eligibility criteria for schools, hospitals, units of local government and public care institutions to receive grants for technical assistance to be performed in buildings owned by such institutions.

§ 455.41 Eligibility.

To be eligible to receive financial assistance for technical assistance program, an applicant must—

(a) Be a school, hospital, unit of local government, public care institution or coordinating agency, all as defined in § 455.2, except that—

(1) Financial assistance for units of local government and public care institutions will be provided only for buildings which are owned and primarily occupied by offices or agencies of a unit of local government or public care institution and which are not intended for seasonal use and not utilized primarily as a school or hospital eligible for assistance under this program;

(2) Financial assistance provided to a school which is a local education agency as defined in § 455.2 must not be used for technical assistance program or acquisition or installation of any energy conservation measure in any building of such agency which is used principally for administration.

(b) Be located in a State which has an approved State Plan as described in Subpart H of this part;

(c) Have conducted an energy audit or its equivalent, as determined by the State in accordance with the State Plan, for the building for which financial assistance is to be requested, subsequent to the most recent construction, reconfiguration or utilization change which significantly modified energy use within the building;

(d) Give assurance that it has implemented all energy conservation maintenance and operating procedures identified as a result of the energy audit, or provide a satisfactory written justification satisfactory to the Secretary, pursuant to § 455.90(j);

(e) Submit an application in accordance with the provisions of this part and the approved State Plan.

§ 455.42 Contents of program.

(a) The purpose of a technical assistance program and its report are—

(1) To identify and document energy conservation maintenance and operating procedure changes and energy conservation measures in sufficient detail to support possible application for financial assistance, and to provide reviewers and decisionmakers handling such applications sufficient information upon which to base judgments as to their reasonableness; and

(2) To provide the institution with a description of its current characteristics, procedures, operating and maintenance procedure changes and potential for cost-effective capital improvements such that the report can be used to guide those responsible for the energy and financial management of the institution in implementing energy conservation actions without regard to possible financial assistance under this program.

(b) A technical assistance program shall be conducted by a technical assistance analyst, who has the qualifications established in the State Plan in accordance with § 455.90(o) and who shall consider all feasible energy conservation operating and maintenance procedure changes and energy conservation measures for a building, including solar or other renewable resource measures. A technical assistance program shall identify the estimated costs of, and the energy and cost savings likely to be realized from, implementing energy conservation maintenance and operating procedures. A technical assistance program shall also provide a detailed engineering analysis to specify the estimated cost of, and the energy and cost savings likely to be realized from, acquiring and installing each energy conservation measure, including solar and other renewable resource measures, that indicate a significant potential for saving energy based upon the technical assistance analyst's initial consideration.

(c) The technical assistance analyst shall use the following cost consideration factors in developing their calculations—

(1) Current prices, excluding demand charges

(2) Marginal prices, where incremental prices apply

(d) At the conclusion of a technical assistance program, the technical assistance analyst shall prepare a report which shall include—

(1) A description of building characteristics and energy data including—

(i) The results of the energy audit (or its equivalent) of the building, together with a statement as to the accuracy of the energy audit data and completeness of the energy audit recommendations as required in § 455.42(d)(7);

(ii) The operating characteristics of energy using systems; and

(iii) The estimated remaining useful life of the building;

(2) An analysis of the estimated energy consumption of the building, by fuel type in total Btu's and Btu/sq. ft./yr using conversion factors prescribed by the State, at optimum efficiency (assuming implementation of all energy conservation maintenance and operating procedures);

(3) An evaluation of the building's potential for solar and renewable resource conversions, including water heating systems;

(4) A listing of any known local zoning ordinances and building codes which may restrict the installation of solar systems;

(5) A description and analysis of all identified operating and maintenance procedure changes, if any, and energy conservation measures, including solar and other renewable resource measures, setting forth—

(i) A description of each operating and maintenance procedure change and an estimate of the costs of adopting such operating and maintenance procedure changes;

(ii) An estimate of the cost of design, acquisition and installation of each energy conservation measure, discussing pertinent assumptions as necessary;

(iii) Estimated useful life of each energy conservation measure;

(iv) An estimate of increases or decreases in maintenance and operating costs that would result from each conservation measure if any;

(v) An estimate of the salvage value or disposal cost of each energy conservation measure at the end of its useful life, if any;

(vi) An estimate supported by all data and assumptions used in arriving at the estimate, of the annual energy and energy cost savings (using current energy prices excluding demand charges) expected from each operating and maintenance procedure changes and the acquisition and installation of each energy conservation measure. In calculating the potential energy cost savings or energy savings of each energy conservation measure, including solar or other renewable resource measure, technical assistance analyst shall—

(A) Assume that all energy savings obtained from energy conservation maintenance and operating procedures have been realized;

(B) Calculate the total energy and energy cost savings, by fuel type, expected to result from the acquisition and installation of all feasible energy conservation measures, taking into account the interaction among the various measures;

(C) Calculate that portion of the total energy and energy costs savings, as determined in (B) above, attributable to each individual energy conservation measure; and

(D) Consider climate and other variables.

(vii) The simple payback period of each energy conservation measure, taking into account the interactions among the various measures. The simple payback period is calculated by dividing the estimated total cost of the measure, as determined pursuant to § 455.42(d)(5)(ii), by the estimated annual cost saving accruing from the measure, as determined pursuant to § 455.42(d)(5)(vi). For the purposes of ranking applications, the simple payback period shall be calculated using the cost savings resulting form energy savings only, determined on the basis of current energy prices except:

(A) For energy conservation measures which result in coversion from oil, natural gas, other petroleum products or electricity to coal, the simple payback period shall be calculated based on the annual cost savings (using current energy prices) associated with the change in fuels; or

(B) For solar or other renewable resource energy conservation measures, the simple payback period shall be calculated using the cost of the fuels displaced (using current energy prices) as the annual cost savings;

(C) For energy conservation measures installing leased equipment, only the cost of installation and connection of the leased equipment are eligible for financial assistance under this program. The payback period shall be determined by dividing the total installation and connection costs by the result of subtracting the average annual recurring leased costs from the projected average annual energy cost saving.

(viii) The estimated cost of the measure which shall be the total cost for design and other professional service (excluding cost of a technical assistance program), if any, and acquisition and installation costs. At the request of the applicant, the technical assistance report shall provide a life cycle cost analysis, which considers all costs and cost savings, such as maintenance costs and/or savings, resulting from an energy conservation measure for use by the institution;

(6) Energy use and cost data, actual or estimated, for each fuel type used for the prior 12-month period, by month if possible.

(7) A signed and dated certification that the technical assistance program has been conducted in accordance with the requirements of this section and that the data presented is accurate to the best of the technical assistance analyst's knowledge.

Subpart D—Energy Conservation Measures for Schools and Hospitals

§ 455.50 Purpose and scope.

This subpart indicates what constitutes an energy conservation measure that may receive financial assistance under this part and sets forth the eligibility criteria for schools and hospitals to receive grants for energy conservation measures, including solar and other renewable resource measures.

§ 455.51 Eligibility.

(a) To be eligible to receive financial assistance for an energy conservation measure, including solar or other renewable resource measures, an applicant must—

(1) Be a school, hospital or coordinating agency as defined in § 455.2, provided that financial assistance provided to a school which is a local education agency as defined in § 455.2 must not be used for a technical assistance program or acquisition or installation of any energy conservation measure in any building of such agency which is used principally for administration;

(2) Be located in a State which has an approved State Plan as described in Subpart H of this part;

(3) Have completed a technical assistance program or its equivalent, as determined by the State in accordance with the State Plan, for the building for which financial assistance is to be requested, subsequent to the most recent construction, reconfiguration or utilization change to the building which significantly modified energy use within the building;

(4) Have implemented all energy conservation maintenance and operating procedures which are identified as the result of a technical assistance program, or have provided a satisfactory written justification for not implementing any specific maintenance and operating procedures so identified, as described in § 455.90(j).

(5) Have no plan or intention at the time of application to close or otherwise dispose of the building for which financial assistance is to be requested within the simple payback period of any energy conservation measure recommended for that building; and

(6) Submit an application in accordance with the provisions of this part and the approved State Plan.

(b) To be eligible for financial assistance, the simple payback period of each energy conservation measure for which financial assistance is requested shall not be less than 1 year nor greater than 15 years, and the estimated useful life of the measure shall be greater than its simple payback period.

§ 455.52 Contents of program.

The programs to be funded under this part will be for the design, acquisition and installation of energy conservation measures to reduce energy consumption or measures to allow the use of solar or other alternative energy resources for schools and hospitals. Such measures include, but are not necessarily limited to those included in the definition of "energy conservation measures" in § 455.2.

Subpart E—Applicant Responsibilities

§ 455.60 Grant application submittals.

(a) Each eligible applicant desiring to receive financial assistance shall file an application in accordance with the provisions of this subpart and the approved State Plan of the State in which such building is located. The

application, which may be amended in accordance with applicable State procedures at any time prior to the State's final determination thereon, shall be filed with the State energy agency designated in the State Plan.

(b) Applications from schools, hospitals, units of local government, public care institutions and coordinating agencies for financial assistance for technical assistance programs shall include the certifications contained in § 455.61 and—

(1) The applicant's name and mailing address;

(2) The energy audit (or its equivalent) for each building for which financial assistance is requested;

(3) A project budget, by building, which stipulates the intended use of all Federal and non-Federal funds; including in-kind contributions (valued in accordance with the guidelines in OMB Circular A–102 or OMB Circular A–110, as appropriate), to be used to meet the cost-sharing requirements described in Subpart G;

(4) A brief description, by building, of the proposed technical assistance program, including a schedule, with appropriate milestone dates, for completing the technical assistance program; and

(5) Additional information required by the applicable State Plan, and any other information which the applicant desires to have considered, such as information to support an application from a school or hospital for financial assistance in excess of the 50 percent Federal share on the basis of severe hardship or an application which proposes the use of Federal funds, paid under and authorized by another Federal agreement, to meet cost sharing requirements.

(c) Applications from schools and hospitals and coordinating agencies for financial assistance for energy conservation measures, including solar and other renewable resource measures, shall include the certifications contained in § 455.61 and—

(1) The applicant's name and mailing address;

(2) Identification of each building pursuant to § 455.18(a) (1) through (5) for which financial assistance is requested, including—

(i) Name or other identification of each building and its address;

(ii) Building category;

(iii) Description of functional use;

(iv) Ownership; and

(v) Size of building expressed in gross square feet.

(3) A project budget, by measure or by building, as provided in the State Plan which stipulates the intended use of all Federal and non-Federal funds, and identifies the sources and amounts of non-Federal funds, including in-kind contributions (valued in accordance with the guidelines in OMB Circular A–102 or OMB Circular A–110, as appropriate), to be used to meet the cost sharing requirements described in Subpart G;

(4) A schedule, including appropriate milestone dates, for the completion of the design, acquisition and installation of the proposed energy conservation measures for each building;

(5) For each energy conservation measure proposed for funding, the projected cost, and the projected simple payback period as contained in § 455.42(d)(5)(vii). Applications with more than one energy conservation measure per building shall include projected costs and paybacks for each measure, and the average simple payback period for all measures proposed for the building;

(6) Unless waived by DOE, the report of the technical assistance analyst. This report must have been completed since the most recent construction, reconfiguration or utilization charge to the building, which significantly modified energy use, for each building.

(7) If the applicant is aware of any adverse environmental impact which may arise from adoption of any energy conservation measure, an analysis of that impact and the applicant's plan to minimize or avoid such impact; and

(8) Additional information required by the applicable State Plan, and any additional information which the applicant desires to have considered, such as information to support an application for financial assistance in excess of the 50 percent Federal share on the basis of severe hardship, or an application which proposes the use of Federal funds, paid under and authorized by another Federal agreement, to meet cost sharing requirements.

§ 455.61 Applicant certifications.

Applications for financial assistance for technical assistance programs and energy conservation measures, including solar and other renewable resource measures, shall include certification that the applicant—

(a) Is eligible under § 455.41 for technical assistance or § 455.51 for energy conservation measures;

(b) Has satisfied the requirements set forth in § 455.60;

(c) Has implemented all energy conservation maintenance and operating procedures recommended as a result of the energy audit and for applications for energy conservation measures, those recommended in the report obtained under a technical assistance program. If any such procedure has not been implemented, the application shall contain a satisfactory written justification for not implementing that procedure as prescribed pursuant to § 455.90(j);

(d) Will obtain from the technical assistance analyst, before the analyst performs any work in connection with a technical assistance program or energy conservation measure, a signed statement certifying that the technical assistance analyst has no conflicting financial interests and is otherwise qualified to perform the duties of technical assistance analyst in accordance with the standards and criteria established in the approved State Plan;

(e) For a project under this Part having a total estimated cost of more than $5,000, any construction contract or subcontract in excess of $2,000 using any grant funds awarded under this Part must include those contract labor standards provisions set forth in 29 CFR 5.5 and a provision for payment of laborers and mechanics at the minimum wage rates determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a) as set forth in 29 CFR Part 1. For the purpose of this section "project" means an undertaking to acquire and install one or more energy conservation measures in a building which is eligible under this Part; and

(f) Will comply with all reporting requirements contained in § 455.63.

§ 455.62 Grant applications for State administrative expenses.

(a) Each State desiring to receive grants to help defray State administrative expenses shall file applications therefor in accordance with the provisions of this section. Each State may apply for an amount not exceeding 2 percent of its total allocation for technical assistance and energy conservation measures during the initial grant program cycle to the Secretary for approval; or, for subsequent grant program cycles, any time after notice by DOE of the amounts allocated to each State for that grant program cycle. In addition, each State after it makes the submittal to DOE required under § 455.72 may apply for a further grant not exceeding 5 percent of the total of all grant awards for technical assistance and energy conservation measures within that State in that grant program cycle, less any amounts previously awarded the State for administrative

expenses in the same grant program cycle.

(b) Applications for financial assistance to defray State administrative expenses shall include—

(1) The name and address of the person designated by the State to be responsible for the State's functions under this part;

(2) An identification of the intended use of all Federal and non-Federal funds, for the State administrative expenses listed in § 455.83(b) and a list of the sources and amounts of the required matching non-Federal funds, including in-kind contributions value in accordance with the guidelines in OMB Circular A-102, "Uniform Requirements for Grants-in-Aid to State and Local Governments" to be used to meet the cost-sharing requirements described in Subpart G of this part; and

(3) Any other information required by DOE.

§ 455.63 Grantee records and reports.

(a) Each State, school, hospital, unit of local government, public care institution and coordination agency which receives a grant for a technical assistance program, energy conservation measure, including solar and other renewable resource measures, or State administrative expenses shall keep all the records required by § 455.4 in accordance with DOE Assistance Regulations.

(b) Each grantee shall submit reports as follows—

(1) For technical assistance projects, two copies of a final report of the analysis completed on each building for which financial assistance was provided shall be submitted to the State energy agency no later than 90 days following completion of the analysis. These reports shall contain—

(i) The report submitted to the institution by the technical assistance analyst, and

(ii) The institution's plan to implement energy conservation maintenance and operating procedures.

(2) For energy conservation measure projects—

(i) Semi-annual progress reports shall be submitted by grantees. Two copies shall be submitted to the State energy agency no later than the end of July and January and shall detail and discuss milestones accomplished, those not accomplished, status of in-progress activities and remedial actions if needed to achieve project objectives. A final report may be submitted in lieu of the last semi-annual report if it satisfies the semi-annual progress report and final report designated time frames;

(ii) Two copies of a final report which list and describe the energy conservation measures acquired and installed, a final estimated simple payback period for each measure and the project as a whole, and a statement that the completed energy conservation measures conform to the approved grant application, will be submitted to the State within 90 days of the completion of the project;

(iii) Within 60 days of the close of each 12-month period following project completion, grantees shall submit annual reports to the State for three years, or for the life of this Federal program, whichever is shorter. These reports shall identify each building and provide data on energy use for that building for the preceding 12-month period.

(3) For State administrative grants, each State shall submit reports to the Secretary, by the close of each February and August following State Plan approval, which provide—

(i) A discussion of administrative activities pursuant to § 455.83(b), and a discussion of milestones accomplished, those not accomplished, status of in-progress activities, problems encountered, and remedial actions, if any, planned pursuant to § 455.73(e);

(ii) A summary of grantee reports received by the State since the previous semi-annual grantee report submission pursuant to subparagraphs (b)(1) and (b)(2) of this section; and

(iii) For the August report, an estimate of annual energy use reductions in the State, by energy source, attributable to implementation of energy conservation maintenance and operating procedures and installation of energy conservation measures under this program. Such estimates shall be based upon a sampling of institutions participating in the technical assistance phase of this program and upon the reports submitted to the State pursuant to § 455.63(b)(2)(iii).

(4) Such other information as the Secretary may, from time to time request.

(5) Each copy of any technical assistance, energy conservation measures, or State administrative report shall be accompanied by a financial status report completed in accordance with the documents listed in § 455.3. A financial status report shall not be required for annual reports submitted pursuant to subparagraph (a)(2)(iii) of this section. Unless the State administrative grant funding period coincides with its semi-annual report requirements under subparagraph (3) of this section, the State shall also submit a financial status report covering its administrative activities at the conclusion of its State administrative grant funding period.

(6) Grantee technical assistance, energy conservation measure, and financial status reports submitted to the State shall be submitted by the State to DOE as required by the Secretary.

Subpart F—State Responsibilities

§ 455.70 State evaluation of grant applications.

(a) If an application received by a State is reviewed and evaluated by that State and determined to be in compliance with Subparts C, D and E of this part, § 455.70(b), any additional requirements of the approved State Plan, State environmental laws, and other applicable laws and regulations, then such application will be eligible for financial assistance.

(b) Concurrently with its evaluation and ranking of grant applications pursuant to § 455.71, the State will forward applications for technical assistance or for energy conservation measures for a school or hospital to the State school facilities agency or the State hospital facilities agency, as the case may be, for review and certification that each school application is consistent with related State programs for educational facilities, and each hospital application is consistent with State health plans under sections 1524(c)(2) and 1603 of the Public Health Service Act (42 U.S.C. 300m-3 and 300o-2, respectively), and that each has been coordinated through abbreviated review mechanisms under section 1523 of the Public Health Service Act (42 U.S.C. 300m-2) and section 1122 of the Social Security Act. No application from a school or hospital shall be eligible for funding until such certification has been issued.

§ 455.71 State ranking of grant applications.

All eligible applications received by the State will be ranked by the State in accordance with its approved State Plan.

(a) For technical assistance programs, buildings shall be ranked in descending priority based upon the energy conservation potential of the building as determined from an energy audit (or its equivalent) in accordance with the procedures established in the State Plan and one or more of the methods indicated in § 455.19(c). In the case of buildings having equivalent energy conservation potential, preference shall be given to those buildings which have completed an energy audit without the use of Federal funds. Each State shall

develop separate rankings for all buildings covered by eligible applications for—

(1) Technical assistance programs for units of local government and public care institutions, and

(2) Technical assistance programs for schools and hospitals.

(b) All eligible applications for energy conservation measures received will be ranked by the State on an individual building-by-building or a measure-by-measure basis. Several buildings may be ranked as a single building if the application proposes a single energy conservation measure which directly involves all of the buildings. Buildings or measures shall be ranked in accordance with the procedures established by the State Plan, on the basis of the information developed during a technical assistance program (or its equivalent) for the building and the criteria for ranking applications, which are listed below in the descending order in which weights for each criterion are to be applied by the State—

(1) Payback, calculated in accordance with § 455.42(d)(5)(vii);

(2) The types of energy sources to which conversion is proposed, including in descending priority—

(i) Renewable; and

(ii) Coal;

(3) The types and quantities of energy to be saved, including oil, natural gas, or electricity, in a priority as established in the approved State Plan;

(4) Other factors as determined by the State.

(c) A State is exempt from the ranking requirements of this section when—

(1) The total amount requested by all applications for schools and hospitals for technical assistance and energy conservation measures in a given grant program cycle for grants up to 50 percent is less than or equal to the funds available to the State for such grants and the total amount recommended for hardship funding is less than or equal to the amounts available to the State for such grants.

(2) The total amount requested by all applications for buildings owned by units of local government and public care institutions in a given grant program cycle is less than or equal to the total amount allocated to the State for technical assistance program grants in the State.

(d) Within the rankings of school and hospital buildings for technical assistance and energy conservation measures, including solar or other renewable resource measures, to the extent that approvable applications are submitted, a State shall initially assure that—

(1) Schools receive at least 30 percent of the total funds allocated for schools and hospitals to the State in any grant program cycle; and

(2) Hospitals receive at least 30 percent of the total funds allocated for schools and hospitals to the State in any grant program cycle.

(e) To the extent provided in § 455.100(d), financial assistance will be initially available for schools and hospitals experiencing severe hardship based upon an applicant's long-term need or inability to provide the 50 percent non-Federal share. This financial assistance will be available only to the extent necessary to enable such institutions to participate in the program.

(1) The State shall recommend funds for severe hardship applications wholly or partially from the funds reserved in accordance with § 455.100(d) and as stated in an approved State Plan.

(2) Applications for Federal funding in excess of 50 percent based on claims of severe hardship shall be given an additional evaluation by the State to assess on a quantifiable basis, to the maximum extent practicable, the relative need among eligible institutions. The minimum amount of additional Federal funding necessary for the applicant to participate in the program will be determined by the State in accordance with the procedures established in the State Plan and will be based upon one or more of the following—

(i) The ratio of the cost of the proposed technical assistance programs or energy conservation measures to the institution's total annual budget;

(ii) The borrowing capacity of the institution;

(iii) The average unemployment rate for the institution's locality at the time the application is submitted;

(iv) The ratio of the amount expended annually by the institution for energy to the institution's total annual operating budget;

(v) The median annual family income of the institution's locality; and

(vi) Other special conditions of the institution or its locality as determined by the State.

(3) A State shall indicate, for those schools and hospitals with the highest rankings, determined pursuant to subparagraphs (a) and (b) of this section—

(i) The amount of additional hardship funding requested by each eligible applicant for each building determined to be in a class of severe hardship; and

(ii) The amount of hardship funding recommended by the State based upon relative need as determined in accordance with the State Plan, to the limit of the hardship funds available.

(f) Only schools, hospitals, and hardship applicants shall be recommended for funding from the appropriate allocation specified in paragraphs (d) and (e) of this section, unless after the State deadline for submitting applications has passed, there are insufficient applications meeting the requirements of paragraphs (d) and (e) of this section and otherwise qualifying for funding under this part, in which case the State may recommend use of the remaining funds in those allocations to fund applications under this part without regard to the limitations of paragraphs (d) and (e) of this section.

§ 455.72 Forwarding of applications.

(a) Each State shall forward all applications recommended for funding within its allocation to the Secretary once each grant program cycle along with a listing of buildings or measures covered by eligible applications for schools, hospitals, units of local government and public care institutions, and ranked by the State pursuant to the provisions of § 455.71. If ranking has been employed the list shall include the standings of buildings or measures.

(1) Measure by measure rankings will be recombined for the respective building with more than one recommended measure.

(2) Buildings will be consolidated under one grantee application.

(b) The State shall indicate the amount of financial assistance requested by the applicant for each eligible building and, for those buildings recommended for funding within the limits of the State's allocation, the amount recommended for funding. If the amount recommended is less than the amount requested by the applicant, the list shall also indicate the reason for that recommendation.

(c) States shall certify applications submitted are eligible pursuant to § 455.70(a).

§ 455.73 State liaison, monitoring and reporting.

Each State shall be responsible for—

(a) Consulting with eligible institutions and coordinating agencies representing such institutions in the development of its State Plan;

(b) Notifying eligible institutions and coordinating agencies of the content of the approved State Plan and any amendment to a State Plan;

(c) Notifying each applicant how the applicant's building or measure ranked among other applications, and whether

and to what extent its application will be recommended for funding or, if not to be recommended for funding, the specific reason(s) therefor;

(d) Certifying that each institution has given its assurance that it is willing and able to participate on the basis of any changes in amounts recommended for that institution in the State ranking pursuant to § 455.71; and

(e) Direct program oversight and monitoring of the activities for which grants are awarded as defined in the State Plan. States shall immediately notify the Secretary of any non-compliance or indication thereof.

(f) Reporting requirements pursuant to § 455.63(b)(3).

Subpart G—Grant Awards

§ 455.80 Approval of grant applications.

(a) The Secretary shall review and approve applications submitted by a State in accordance with § 455.72 if the Secretary determines that the applications meet the objectives of the Act, and comply with the applicable State Plan and the requirements of this part. The Secretary may disapprove all or any portion of an application to the extent funds are not available to carry out a program or measure (or portion thereof) contained in the application, or for such other reason as the Secretary may deem appropriate.

(b) The Secretary shall notify a State and the applicant of the final approval or disapproval of an application at the earliest practicable date after the Secretary's receipt of the application, and, in the event of disapproval, shall include a statement of the reasons therefor.

(c) An application which has been disapproved for reasons other than lack of funds may be amended to correct the cause of its disapproval and resubmitted in the same manner as the original application at any time within the same grant program cycle. Such an application will be considered to the extent funds have not already been designated for institutions by the ranking process at the time of resubmittal. However, nothing in this provision shall obligate either the State or the Secretary to take final action regarding a resubmitted application within the grant program cycle. An application not acted upon may be resubmitted in a subsequent grant program cycle.

(d) The Secretary shall not provide supplemental funds beyond those awarded for technical assistance projects and shall fund only one technical assistance project per building.

(e) The Secretary shall not provide supplemental funds beyond those awarded for all energy conservation measures funded under a grant in a given grant program cycle. An institution may apply for, and the Secretary may make, grant awards in another grant program cycle for energy conservation measures for which financial assistance was not previously and specifically provided, even though the measures relate to a building which previously received grants for other energy conservation measures.

(f) The Secretary may fund costs incurred by an institution for technical assistance and energy conservation measure projects after the date of the grant application, so long as that date is no earlier than the close of the preceeding grant program cycle. Such costs may be funded when, in the judgement of the Secretary, the institution has complied with program requirements and the costs incurred are allowable under applicable cost principles and the approved project budget. The applicant bears the responsibility for the entire project cost unless the application is approved by the Secretary in accordance with this part.

§ 455.81 Grant awards for units of local government and public care institutions.

(a) The Secretary may make grants to units of local governments, public care institutions and coordinating agencies for up to 50 percent of the costs of performing technical assistance programs for buildings covered by an application approved in accordance with § 455.80.

(b) Total grant awards within any State to units of local government and public care institutions are limited to funds allocated to each State in accordance with Subpart I of this part.

(c) Units of local government and public care institutions are not eligible for financial assistance for severe hardship.

(d) No grant awarded under this section for a technical assistance program shall include funding for the purchase of any single item of equipment or tangible personal property having an acquisition cost in excess of $500.

§ 455.82 Grant awards for schools and hospitals.

(a) The Secretary may make grants to schools, hospitals and coordinating agencies for up to 50 percent of the cost of performing technical assistance programs for buildings covered by an application approved in accordance with § 455.80. Grant awards for technical assistance programs in any State within any grant program cycle shall be limited to a portion of the total allocation as specified in the Subpart I.

(b) The Secretary may make grants to schools, hospitals and coordinating agencies for up to 50 percent of the costs of acquiring and installing energy conservation measures, including solar and other renewable resource measures, for buildings covered by an application approved in accordance with § 455.80.

(c) The Secretary may award up to 10 percent of the total amount allocated to a State for schools and hospitals in a case of severe hardship, ascertained by the State in accordance with the State Plan, for buildings recommended and in amounts determined by the State pursuant to § 455.71(e).

(d) No grant awarded under this section for a technical assistance program shall include funding for the purchase of any single item of equipment or other tangible personal property having an acquisition cost in excess of $500.

(e) Applicant expenditures for a technical assistance program or installation of one or more energy conservation measures commenced after November 8, 1978 for a building may be wholly or partially credited, in the discretion of the Secretary, toward meeting the matching non-Federal funds requirement for a grant for additional energy conservation measures in the same building. Credit will be considered only when the projects for which credit is sought meet program requirements and credit for energy conservation measures will be considered only when supported by a technical assistance analysis performed prior to the installation of the energy conservation measure. Applications for credit for completed or partially completed energy conservation measures will be considered in conjunction with applications for additional energy conservation measures. The application shall reflect both the work done and the work to be done and will be reviewed and ranked on that basis. In no case shall the credit exceed an amount equal to the non-Federal share of the proposed additional energy conservation measures.

§ 455.83 Grant awards for State administrative expenses.

(a) For the purpose of defraying State expenses in the administration of technical assistance programs in accordance with Subpart C and energy conservation measures in accordance with Subpart D, the Secretary may make grant awards to a State—

(1) Immediately following approval of the State Plan, or for subsequent grant program cycles, immediately following public notice of the amounts allocated to a State for the grant program cycle, and upon approval of the grant application for administrative costs, in an amount not exceeding 2 percent of that State's total allocation for a given grant program cycle for technical assistance and energy conservation measures. Grants for such purposes may be made for up to 50 percent of a State's projected administrative expenses, as approved by the Secretary; and

(2) Concurrently with grant awards for approved applications for technical assistance or energy conservation measures for institutions in that State, and upon approval of an application for administrative costs, in an amount not exceeding the difference between the amount granted pursuant to subparagraph (1) of this paragraph and 5 percent of the total amount of grants awarded within the State for technical assistance programs and energy conservation measures in the applicable grant program cycle. Grants for such purposes may be made for up to 50 percent of a State's projected administrative expenses, as approved by the Secretary. The total of all grants for State administrative costs, technical assistance programs and energy conservation measures in that State shall not exceed the total amount allocated for that State for any grant program cycle.

(b) A State's administrative expenses shall be limited to those directly related to administration of technical assistance programs and energy conservation measures including costs associated with—

(1) Personnel, whose time is expended directly in support of such administration;

(2) Supplies, and services, expended directly in support of such administration;

(3) Equipment purchased or acquired solely for, and utilized directly in support of such administration, provided that no single item of equipment or other tangible personal property costing more than $300 shall be acquired without the express consent of DOE;

(4) Printing, directly in support of such administration; and

(5) Travel, directly related to such administration.

Subpart H—State Plan Development and Approval

§ 455.90 Contents of State plan.

Each State shall develop a State Plan for technical assistance programs and energy conservation measures, including solar and other renewable resource measures. The State Plan shall include—

(a) A statement setting forth the procedures by which the views of eligible institutions or coordinating agencies representing such institutions, or both, were solicited and considered during development of the State Plan, and any amendment to a State Plan;

(b) The procedures the State will follow to notify eligible institutions and coordinating agencies of the content of the approved State Plan, or any approved amendment to a State Plan;

(c) The procedures for submittal of grant applications to the State;

(d) A description and evaluation of the results of preliminary energy audits (described in Subpart B of this part) which have been conducted in the State including, but not limited to—

(1) In the case of a State which has completed preliminary energy audits of all potentially eligible buildings, a summary of the data gathered pursuant to § 455.18 for all such buildings;

(2) In the case of a State which has completed preliminary energy audits of a sample of all potentially eligible buildings within the State—

(i) Reasonably accurate estimates of the preliminary energy audit data required by § 455.18 for all potentially eligible buildings within the State; and

(ii) A plan which describes further actions to be taken to complete preliminary energy audits of all potentially eligible buildings;

(e) The procedures to be used by the State for evaluating and ranking technical assistance and energy conservation measure grant applications pursuant to § 455.71, including the weights assigned to each criterion set forth in § 455.71(b). In addition, the State shall determine the order of priority given to fuel types that include oil, natural gas, and electricity, under § 455.71(b)(3).

(f) The procedures that the State will follow to insure that funds will be allocated equitably among eligible applicants within the State, including procedures to insure that funds will not be allocated on the basis of size or type of institution but rather on the basis of relative need taking into account such factors as cost, energy consumption and energy savings, in accordance with § 455.71;

(g) The procedures that the States will follow for identifying schools and hospitals experiencing severe hardship and for apportioning the funds that are available for schools and hospitals in a case of severe hardship. Such policies and procedures shall be in accordance with § 455.71(e);

(h) A statement setting forth the extent to which, and by which methods, the State will encourage utilization of solar space heating, cooling and electric systems and solar water heating systems;

(i) The procedures to assure that all financial assistance under this part will be expended in compliance with the requirements of the State Plan, in compliance with the requirements of this part, and in coordination with other State and Federal energy conservation programs;

(j) The procedures to insure implementation of energy conservation maintenance and operating procedures in those buildings for which financial assistance is requested under this part. At a minimum, the plan shall provide that all operating and maintenance procedure changes recommended in an energy audit report or a technical assistance report, or both, have been implemented prior to initial or additional financial assistance under this part being provided. An assurance that the operations and maintenance procedure will be implemented in the future, or a justification for not implementing such a procedure, as appropriate, may be acceptable in lieu of implementation if it is shown that—

(1) The recommendation is infeasible because of factors not considered by the auditor or analyst;

(2) There is a cost involved which exceeds the institution's limit on operating expenditures, provided it is shown a budget request has been made to implement the recommendation and assurance is given that the change will be effected at some specified future date;

(3) The implementation of the change requires some item of supply or material which is not presently available; or

(4) Other factors subject to approval by the Secretary on a case-by-case basis;

(k) The procedures designed to insure that financial assistance under this part will be used to supplement, and not to supplant, State, local or other funds;

(l) The procedures for determining that energy audits performed without the use of Federal funds have been performed in substantial compliance with the eligibility requirements contained in § 455.41(c);

(m) The procedures for determining that technical assistance programs performed without the use of Federal funds have been performed in compliance with the requirements of § 455.42, for the purposes of satisfying the eligibility requirements contained in § 455.51(a)(3);

(n) The procedures for State management, monitoring and evaluation of technical assistance programs and energy conservation measures receiving financial assistance under this part;

(o) A description of the State's program for establishing and insuring compliance with qualifications for technical assistance analysts. Such policies shall require that technical assistance analysts have experience in energy conservation and—

(1) Be a registered professional engineer licensed under the regulatory authority of the State;

(2) Be an architect-engineer team, the principal members of which are licensed under the regulatory authority of the State; or

(3) Be otherwise qualified in accordance with such criteria as the State may prescribe in its State Plan to insure that individuals conducting technical assistance programs possess the appropriate training and experience in building energy systems. Such policies shall also require that technical assistance analysts be free from financial interests which may conflict with the proper performance of their duties;

(p) A statement setting forth:

(1) An estimate of energy savings which may result from the modification of maintenance and operating procedures and installation of energy conservation measures;

(2) A recommendation as to the types of energy conservation measures considered appropriate within the State; and

(3) An estimate of the costs of carrying out technical assistance and energy conservation measures programs.

(q) For purposes of the technical assistance program, § 455.42, a statement setting forth uniform conversion factors to be used in the technical assistance analysis for conversion of fuels to Btu equivalents.

§ 455.91 Submission and approval of State plans.

(a) Proposed State Plans or amendments necessitated by a change in regulations shall be submitted to the Secretary within 90 days of the effective date of this subpart or any amended regulations. The Secretary, upon request and for good cause shown, may grant an extension of time.

(b) The Secretary shall, within 60 days of receipt of a proposed State Plan, review each plan and, if it is found to conform to the requirements of this part, approve the State Plan. If the Secretary does not disapprove a State Plan within the 60-day period, the Secretary will be deemed to have approved the State Plan.

(c) If the Secretary determines that a proposed State Plan fails to comply with the requirements of this part the Secretary shall return the Plan to the State with a statement setting forth the reasons for disapproval.

(d) The Secretary shall review each amendment submitted by the State and, if it is found to conform to the requirements of this part, approve the amendment. If the Secretary determines that a proposed State Plan amendment fails to comply with the requirements of this part, the Secretary shall return the amendment to the State with a statement setting forth the reasons for disapproval. With the consent of the Secretary, the State may submit a new or amended plan at any time.

§ 455.92 State plans developed by the Secretary.

(a) If a State Plan has not been approved by February 7, 1981, or within 90 days after completion of the preliminary energy audits, whichever is later, the Secretary may develop and implement a State Plan on behalf of the schools and hospitals in the State.

(b) Subsequent to the development of a State Plan by the Secretary, the State may submit its own State Plan and the Secretary shall approve or disapprove such plan within 60 days after receipt by the Secretary. If the proposed plan meets the requirements of this part, and is not inconsistent with any plan developed and implemented by the Secretary, the Secretary shall approve the State Plan which shall automatically replace the plan developed by the Secretary.

Subpart I—Allocation of Appropriations Among the States

§ 455.100 Allocation of funds.

(a) The Secretary will allocate available funds among the States for the purpose of awarding grants to schools, hospitals, units of local government, and public care institutions and coordinating agencies to implement technical assistance and energy conservation measures grant programs in accordance with this part.

(b) The Secretary shall notify each Governor of the total amount allocated for grants within the State for any grant program cycle—

(i) For schools and hospitals, the allocation amount shall be for technical assistance programs, together with any limitation placed on technical assistance, and energy conservation measures; and

(ii) For units of local government and public care institutions, the allocation amount shall be solely for technical assistance programs.

(c) The Secretary shall notify each Governor of the period for which funds allocated for a grant program cycle will be made available for grants within the State.

(d) Each State shall make available up to ten percent of its allocation for schools and hospitals in each grant program cycle to provide financial assistance, not to exceed a 90 percent Federal share, for technical assistance programs and energy conservation measures for schools and hospitals determined to be in a class of severe hardship. Such determinations shall be made in accordance with § 455.71(e).

§ 455.101 Allocation formulas.

(a) Financial assistance for conducting technical assistance programs for units of local government and public care institutions shall be allocated among the State by multiplying the sum available by the allocation factor set forth in paragraph (c) of this section.

(b) Financial assistance for conducting technical assistance programs and acquiring and installing energy conservation measures, including solar and other renewable resource measures, for multiplying the sum available by the allocation factor set forth in paragraph (c) of this section.

(c) The allocation factor (K) shall be determined by the formula—

$$K = \frac{0.07}{N} + 0.1\,\frac{(sfc)}{(Nfc)} + 0.83\,\frac{(SP)(SC)}{(NPC)}$$

where, as determined by DOE—

(1) Sfc is the average retail cost per million Btu's of energy consumed within the region in which the State is located, as reflected in the 1985, Series C projections prepared for DOE's Energy Information Administration Administrator's Annual Report, 1977;

(2) Nfc is $271.95, the summation of the Sfc numerators for all States;

(3) n is the total number of eligible States;

(4) SP is the population of the State, as determined from current census estimates, "Current Population Reports";

(5) SC is the sum of the State's heating and cooling degree days, as determined from National Oceanic and Atmospheric Administration data for the thirty year period, 1941 through 1970;

(6) NPC is the summation of the (SP) (SC) numerators for all States.

(d) Except for the District of Columbia, Puerto Rico, Guam, American

Samoa and the Virgin Islands, no allocation available to any State may be less than 0.5 percent of all amounts allocated in any grant program cycle. No State will be allocated more than 10 percent of the funds allocated in any grant program cycle.

§ 455.102 Reallocation of funds.

(a) If a State Plan has not been approved and implemented by a State by the close of the period for which allocated funds are available as set forth in the notice issued by the Secretary pursuant to § 455.100(c), funds allocated to that State for technical assistance and energy conservation measures will be reallocated among all States for the next grant program cycle, if available.

(b) If a State Plan has not been approved by February 7, 1981, or within ninety days after completion of the preliminary energy audits, whichever is later, the Secretary may develop and implement a State Plan on behalf of the schools and hospitals within the State. If the Secretary does not develop a State Plan for a State, the funds reserved for that grant program cycle for schools and hospitals in that State will be reallocated for the next grant program cycle among all States for schools and hospitals.

(c) The Secretary shall reallocate the funds which remain unobligated by DOE at the end of any grant program cycle among all States in the next grant program cycle.

[FR Doc. 81-14543 Filed 5-20-81; 8:45 am]

BILLING CODE 6450-01-M

federal register

Thursday
May 21, 1981

Part III

Department of Transportation

Federal Aviation Administration

Airworthiness Standards; Certificates

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 39, and 91

[Docket No. 20660; Ref. Notice No. 80-13]

Airworthiness Standards; Aircraft and Products Design and Procedural Standards for Type Certificates, Type Certificate Amendments, and Supplemental Type Certificates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws Notice 80-13 published in the **Federal Register** August 28, 1980 (45 FR 57688). That notice proposed to amend certain certification procedures regulations applicable to the type design approval of aircraft, aircraft engines, and propellers. The notice is being withdrawn so the agency can reconsider the issues involved. This is consistent with Executive Order 12291.

FOR FURTHER INFORMATION CONTACT: William J. Sullivan, Chief, Safety Regulations Staff (AVS-20), Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 775-8714.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 1980, the Administrator issued Notice 80-13 (45 FR 57688; August 28, 1980). The notice proposed amendments "to the certification procedures regulations applicable to the type design approval of aircraft, aircraft engines, and propellers, including major changes to: (1) provide a mechanism by which the FAA may act more systematically to ensure that aircraft in service satisfy up-to-date level-of-safety expectations; (2) ensure that the certification procedures regulations of Part 21 are consistent for the issuance of type certificates, type certificate amendments, or supplemental type certificates in order to ensure the same level of effort by applicants and by the FAA for affected products, irrespective of the type design approval procedure used; and (3) make other necessary amendments to Part 21 consistent with longstanding administrative practice in the issuance of type certificates, type certificate amendments, and supplemental type certificates. Amendments to Parts 39 and 91 [were] also proposed to facilitate application of type design change requirements to aircraft, aircraft engines, and propellers in service when necessary for safety." During the initial comment period on Notice 80-13, the FAA received nine requests for a public hearing and 15 requests for extension of comment period. On October 24, 1980, the Administrator responded to those requests and issued Notice 80-13A (45 FR 72020; October 30, 1980). This notice announced a public hearing November 12-14, and extended the comment period to November 26, 1980.

During the hearing, witnesses unanimously questioned the underlying purpose and indicated opposition to Notice 80-13. On November 25, 1980, the Administrator issued Notice 80-13B (45 FR 80434; December 4, 1980). The preamble to Notice 80-13B stated: "It is clear that there is a great deal of misunderstanding concerning the intent of this proposal, in respect to both FAA policy and some wording in the proposed rules. In addition, the agency realizes that it may have misjudged the conceived economic impacts and other implications of the rule changes. The purpose of this extention is to allow the FAA to discuss the proposal further with concerned groups. All such meetings will be docketed. This will allow all interested parties to reconsider their views subsequent to these meetings. At the end of this comment period, a new NPRM [notice of proposed rulemaking] will be issued for comment using all information received. The new NPRM will be designed to more thoroughly explore the purpose and anticipated impacts of the proposed policies and rules as was done at the public hearing." The comments were due March 31, 1981.

Reasons for the Decision

During my preparation to assume the responsibilities of Federal Aviation Administrator, I asked the FAA staff to brief me on this regulatory proposal. As the record of the November 1980 public hearing reflects, Notice 80-13 is not clear and concise. Although some of the changes proposed in the notice may have merit, the entire subject must be reviewed including the comments received on the original proposals. In any event, rulemaking should not proceed based on the proposals in Notice 80-13. I have directed my staff to reassess these issues and the suggestions that gave rise to the original proposals. They are to give me their recommendations on what, if any, further action is appropriate on this subject.

On February 17, 1981, the President issued Executive Order 12291 on "Federal Regulations" (46 FR 13193; February 19, 1981). Section 2 of the Executive Order specifies five general requirements for the rulemaking conducted by the Federal Government. These requirements will guide the Federal Aviation Administration rulemaking activity over the coming years. This action is consistent with Executive Order 12291.

The Decision and Withdrawal

Accordingly, I conclude that the FAA should not proceed with rulemaking based on the proposals contained in the notice of proposed rulemaking now pending. Therefore, Notice 80-13 (45 FR 57688; August 28, 1980) is withdrawn. This action does not preclude the FAA from considering similar proposals in the future or commit it to any further or future course of action on this subject.

(Secs. 313, 314 and 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430) and Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this notice of withdrawal involves a rulemaking action which: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation because the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on May 8, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-15142 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

federal register

Thursday
May 21, 1981

Part IV

Department of Transportation

Federal Aviation Administration

Airplane Tires; General Operating and Flight Rules

Page Not Found

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 19793; Ref. Notice No. 79-20]

General Operating and Flight Rules; Airplane Tires

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws Notice 79-20 published in the **Federal Register** November 29, 1979 (44 FR 68759). That notice proposed to amend the general operating and flight rules to require the installation of improved airplane tires to be operated at specified pressure and deflection levels on certain turbojet-powered transport category airplanes. The notice is being withdrawn because the direct and indirect costs of the rule outweigh the benefits that the rule would achieve. This action is consistent with Executive Order 12291.

FOR FURTHER INFORMATION CONTACT: William J. Sullivan, Chief, Safety Regulations Staff (AVS-20), Associate Administrator for aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 775-8714.

SUPPLEMENTARY INFORMATION:

Background

In 1979, the FAA substantially revised the transport category airplane airworthiness rules and the technical standard orders for aircraft tires (§ 25.733 and TSO-C62c) and for aircraft wheel and wheel-brake assemblies (§ 25.735 and TSO-C26c). When these rules were issued (44 FR 68738; November 29, 1979), the FAA also issued Notice 79-20 (44 FR 68759; November 29, 1979). Notice 79-20 proposed "to amend the general operating and flight rules [Part 91 of the Federal Aviation Regulations] to require the installation of improved airplane tires on certain turbojet-powered transport category airplanes." Notice 79-20 proposed three basic changes: (1) to require tires qualified to the new technical standard (TSO-C62c) to be installed on wide-body turbojet aircraft by December 31, 1982, and on standard-body turbojet aircraft by December 31, 1983; (2) to require those tires to be operated at the higher pressures associated with the 7 percent load margin; and (3) to require paired tires on the same axle to be operated within a narrow percentage deflection differential. During the comment period the Air Transport Association of America requested an extension of the comment period to study data developed by the tire manufacturers and to develop comments. In response to that request, the FAA issued Notice 79-20A (45 FR 13114; February 28, 1980) extending the comment period. Comments were due March 21, 1980.

Comments received generally oppose the proposed changes and state that the proposed installation dates are unrealistic. Commenters state that tires qualified to the new technical standard are now beginning to enter the inventory. They claim that the old tires (qualified to obsolete TSO-C62b) will be replaced through attrition by 1984 for wide-body turbojet airplanes, and by 1985 for standard-body turbojet airplanes, or about 2 years after the dates proposed in Notice 79-20. If the proposed rules were adopted, commenters state that unnecessary scrapping of tires from the operators' inventories (caused by the earlier retirement of tires qualified to obsolete TSO-C62b) would cost 2 to 4 million dollars.

The proposed rule also would have required operation of the improved tires at the increased pressure necessary to achieve the 7 percent load margin designed into the tires. As to the tire pressure and tire deflection requirements, commenters claim the proposal would reduce wheel life by 40 percent and increase the rate of crack propagation for wheels by 20 percent. They contend that increased incidence of wheel cracks and possible failures would result in increased airplane time out of service, in turn causing lost revenue and increased fuel cost. Also, they maintain that maintenance and inspection programs would become more extensive to detect more rapidly propagating cracks. Commenters also state that increased tire pressure would increase braking distances and, in turn, would require reevaluation of airplane performance. They argue that runway life would be affected by the smaller tire "footprint" distributing the load over a smaller area. In sum, the commenters claim these indirect effects of the proposed rule would result in substantial, unquantifiable, and unjustifiable costs.

Reasons for the Decision

During my preparation to assume the responsibilities of Federal Aviation Administrator, I asked the FAA staff to brief me on this rulemaking action. I learned that the adoption of the proposed rule would impose costs which exceed the expected benefits. Clearly, the adoption of the proposed rule at this time would not significantly increase the net benefit to society that results from the new airworthiness rules and technical standard orders in effect since 1979. The FAA will continue to monitor service experience to determine whether progress continues. If that experience indicates that this is not true, I will pursue appropriate rulemaking action on this subject on a priority basis. However, the record of this rulemaking does not justify pursuing a retroactive regulation at this time.

On February 17, 1981, the President issued Executive Order 12291 on "Federal Regulations" (46 FR 13193; February 19, 1981). Section 2 of the Executive Order specifies five general requirements for the rulemaking conducted by the Federal Government. These requirements will guide the Federal Aviation Administration rulemaking activity over the coming years. This action is consistent with Executive Order 12291.

The Decision and Withdrawal

Accordingly, I conclude that the FAA should not proceed with rulemaking based on the proposals contained in the notice of proposed rulemaking now pending. Therefore, Notice No. 79-20 (44 FR 67860; November 29, 1979) is withdrawn. This action does not preclude the FAA from considering similar proposals in the future or commit it to any further or future course of action on this subject matter.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1421, 1423; Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this notice of withdrawal involves a rulemaking action which: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation because the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on May 8, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-15141 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

federal register

Thursday
May 21, 1981

Part V

Department of Transportation

Federal Aviation Administration

Operation Review; Flight Attendants

Federal Register

Part V

Department of Transportation

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 17897; Ref. Notice No. 78-7A]

Operations Review Program; Notice No. 8A

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws Notice 78-7A published in the **Federal Register** June 19, 1980 (45 FR 41596). That notice proposed to amend § 121.391(d) of the Federal Aviation Regulations to provide that all flight attendants must remain seated during taxi except to perform duties related to the safety of the airplane and its occupants. This notice is being withdrawn because the record of this rulemaking fails to support further action on this subject. This is consistent with Executive Order 12291.

FOR FURTHER INFORMATION CONTACT: William J. Sullivan, Chief, Safety Regulations Staff (AVS-20), Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 775-8714.

SUPPLEMENTARY INFORMATION:

Background

In 1978, the FAA issued Notice 78-7 (43 FR 20448; May 11, 1978) as part of the Operations Review Program. In that notice, the FAA proposed to amend § 121.391(d) of the Federal Aviation Regulations to provide that *required* flight attendants must remain seated during taxi except to perform duties related to the safety of the airplane and its occupants. However, the **Federal Register** misprinted language critical to the proposal which created the impression that the FAA would require *all* flight attendants to remain seated during taxi (with the exception noted). On June 16, 1980, the FAA issued Notice 78-7A (45 FR 41596; June 19, 1980) to allow interested persons an opportunity to be heard on the issue of whether the rule should be applied to all flight attendants. The notice asked commenters to "submit explicit, verifiable data, including flight attendant injuries during taxi, and other data demonstrating a need for requiring all flight attendants to remain seated during taxi." Shortly before the initial comments on this notice were due, the Air Transport Association of America asked for an extension of the comment period. In response to this request, the FAA issued Notice 78-7B (45 FR 59295; September 8, 1980) reopening the comment period. Initial comments were due October 23, 1980. Reply comments were due November 23, 1980.

Reasons for the Decision

During my preparation to assume the responsibilities of Federal Aviation Administrator, I asked the FAA staff to brief me on this rulemaking action. The Federal Aviation Regulations were amended to provide that required flight attendants remain seated during taxi except to perform required safety duties. The rule was intended to ensure the safety of the traveling public during an emergency by ensuring required flight attendants were at their stations.

In response to the FAA's request for explicit, verifiable data, some commenters submitted workmen compensation claim records to support the contention that *all* flight attendants should remain seated during taxi. Although the data submitted may reflect valid claims for compensation, they do not establish a cause and effect relationship between the injuries identified and the rulemaking proposed. No other information was submitted to substantiate the proposal. Therefore, the FAA lacks adequate information concerning the need for and consequences of the rulemaking proposed. Based on the record of this proceeding, this rulemaking should be terminated.

On February 17, 1981, the President issued Executive Order 12291 on "Federal Regulations" (46 FR 13193; February 19, 1981). Section 2 of the Executive Order specifies five general requirements for the rulemaking conducted by the Federal Government. These requirements will guide the Federal Aviation Administration rulemaking activity over the coming years. This action is consistent with Executive Order 12291.

The comments received on Notice 78-7A raised a new issue. A misunderstanding may exist concerning the assignment of required safety duties to flight attendants who are in excess of the number required by the rules. I am satisfied that this misunderstanding can be eliminated without initiating rulemaking action. I have directed the FAA staff to issue appropriate guidance material to FAA field personnel to eliminate the problem.

The Decision and Withdrawal

Accordingly, I conclude that the FAA should not proceed with rulemaking based on the proposals contained in the notice of proposed rulemaking now pending. Therefore, Notice No. 78-7A (45 FR 41596; June 19, 1980) is withdrawn. This action does not preclude the FAA from considering similar proposals in the future or commit it to any further or future course of action on this subject matter.

(Secs. 313, 314, and 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430) and Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this notice of withdrawal involves a rulemaking action which: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation because the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on May 8, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-15144 Filed 5-20-81; 8:45 am]

BILLING CODE 4910-13-M

federal register

Thursday
May 21, 1981

Part VI

Department of Transportation

Federal Aviation Administration

Access to Flight Data Recorder and Cockpit Voice Recorder Tapes

Digest

Part VI

Department of Transportation

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. 20661; Ref. Notice No. 80-14B]

FAA Access to Flight Data Recorder and Cockpit Voice Recorder Tapes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws Supplemental Notice 89-14B published in the **Federal Register** January 19, 1981 (46 FR 5506). That notice proposed to establish the regulatory procedures necessary for the Administrator to obtain flight data recorder information and cockpit voice recorder information. The information was to be used in the Aviation Human Factors Program study of the human element associated with aircraft operation and design. The notice is being withdrawn to avoid the adoption of a rule that is not necessary at this time. This withdrawal is consistent with the spirit of Executive Order 12291. The FAA will continue to pursue actively the Aviation Human Factors Program.

FOR FURTHER INFORMATION CONTACT: William J. Sullivan, Chief, Safety Regulations Staff (AVS-20), Associate Administator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 775-8714.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 1980, the Administrator issued Notice 80-14 (45 FR 57694; August 28, 1980). The notice proposed amendments to Parts 121 and 135 of the Federal Aviation Regulations to "allow the Administrator to obtain flight data recorder information and cockpit voice recorder information at any time and at any place." The information was to be used "to study the human factor element associated with aircraft operation and design to determine what, if any, regulatory changes should be made to enhance aviation safety." On October 24, 1980, the Administrator issued Notice 80-14A (45 FR 72017; October 30, 1980) extending the comment period on the original notice to November 26, 1980. On January 14, 1981, the Administator issued Supplemental Notice 80-14B (46 FR 5506; January 19, 1980) which superseded the original proposal (Notice 80-14). The supplemental notice responded extensively to the comments received on the original proposal and modified the language of the changes to Parts 121 of 135. Comments are due May 18, 1981.

Reasons for the Decision

During my preparation to assume the responsibilities of Federal Aviation Administrator, I asked the FAA staff to brief me on this regulatory proposal and on the Aviation Human Factors Program. I am satisfied that the Aviation Human Factors Program should receive a high priority during my term in office. I am not satisfied that the rulemaking proposed in Notice 80-14B should proceed further at this time.

On February 17, 1981, the President issued Executive Order 12291 on "Federal Regulations" (46 FR 13193; February 19, 1981). Section 2 of the Executive Order specifies five general requirements for the rulemaking conducted by the Federal Government. These requirements will guide the Federal Aviation Administration rulemaking activity over the coming years.

The preamble of Notice 80-14B states: "The inflight data collection set forth in these [proposed] amendments is one *small* but essential part of the overall Aviation Human Factors Program. In addition, all other pertinent data sources will be analyzed in the study of the human factors affecting aviation safety." The controversy surrounding the proposal in Notice 80-14 promises to compromise the overall credibility and effectiveness of the Aviation Human Factors Program. The program should not be constrained artificially by collateral issues. Rather, the program must be developed with the full cooperation and support of the aviation community and the public. As the program progresses, the FAA can determine realistically and factually what data are needed and from what sources. Until then, whether or not access to in-flight data from flight data and cockpit voice recorders is "essential" remains to be seen. Until that is known, rulemaking based on Notice 80-14B is premature and not in keeping with the spirit of Executive Order 12291.

The Decision and Withdrawal

Accordingly, I conclude that the FAA should not proceed with rulemaking based on the proposals contained in the notice of proposed rulemaking now pending. Therefore, Notice No. 80-14B (46 FR 5506; January 19, 1981) is withdrawn. This action does not preclude the FAA from considering similar proposals in the future or commit it to any further or future course of action on this subject matter.

(Secs. 313(a) and 601 through 605 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1424); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this notice of withdrawal involves a rulemaking action which: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation because the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on May 8, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-15143 Filed 5-20-81; 8:45 am]

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Reader Aids

Federal Register

Vol. 46, No. 98

Thursday, May 21, 1981

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Public Inspection Desk	633-6930
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

Privacy Act Compilation	523-3517
United States Government Manual	523-5230

SERVICES

Agency services	523-3408
Automation	523-3408
Dial-a-Reg	
Chicago, Ill.	312-663-0884
Los Angeles, Calif.	213-688-6694
Washington, D.C.	202-523-5022
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public briefings: "The Federal Register—What It Is and How To Use It"	523-5235
Public Inspection Desk	633-6930
Regulations Writing Seminar	523-5240
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5239

FEDERAL REGISTER PAGES AND DATES, MAY

24519-24926	1
24927-25076	4
25077-25288	5
25289-25420	6
25421-25594	7
25595-26036	8
26037-26274	11
26275-26470	12
26471-26604	13
26605-26758	14
26759-27088	15
27089-27322	18
27323-27468	19
27469-27622	20
27623-27898	21

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
305 26487

3 CFR

Executive Orders:
5105 (Revoked by PLO 5866) 27652
11992 (Revoked by EO 12305) 25421
12059 (Revoked by EO 12305) 25421
12064 (Revoked by EO 12305) 25421
12084 (Revoked by EO 12305) 25421
12097 (Amended by EO 12305) 25421
12258 (Amended by EO 12305) 25421
12304 24521
12305 25421

Proclamations:
4843 24519
4844 25077

Administrative Orders:
Presidential Determinations:
No. 81-6 of May 13, 1981 27623

5 CFR

870 25595
890 25595

Proposed Rules:
2422 26488
2423 26488
2424 26488
2429 26488

7 CFR

28 24927
250 26759
800 27070
905 27323
907 ..... 25423, 26605, 27625
910 ..... 24523, 25596, 26759
915 27469
918 25423
944 27469
982 26037
985 25424
1032 24927
1050 24927
1098 27089
1133 27625
1137 27626
1701 25079
1942 24523

Proposed Rules:
419 24954
930 26065
953 25625
981 27126
982 25626
993 26786
999 25626
1040 25626
1068 27501
1701 ..... 25096, 27344
1076 26337
2851 26787
2852 25097

8 CFR

100 25425
109 25079
211 25597
212 ..... 24929, 25081
214 25597
242 25597
244 25597
245 25597
248 25597

Proposed Rules:
235 26653
251 26653

9 CFR

73 ..... 25425, 27627
82 ..... 24524, 25599
92 ..... 24930, 26040
303 26760
331 24524
381 26760

Proposed Rules:
92 26065
381 26350

10 CFR

Ch. II 27270
30 26471
430 27324
455 27862
501 26605

Proposed Rules:
Ch. I 24576
50 26491
212 25315
459 25466
903 25426

12 CFR

201 27090
204 27090
217 27090
335 25204
545 ..... 24526, 24531
584 24526
701 26275
760 26607

Proposed Rules:
Ch. III 26654
210 24576

545.....24579
563.....24579
571.....24579

13 CFR

111.....24931
120.....25083

Proposed Rules:

Ch. I.....24955

14 CFR

21.....27092
39.....24931-24936, 25427-25429, 26042, 26043, 26608, 27095-27098, 27628-27630
71.....25430-25433, 26044, 26043, 27099-27101, 27630-27632
73.....26045, 27632
75.....27102, 27633
95.....25434, 26045
97.....24937, 26609, 27634
207.....25417
208.....25418
212.....25418
221.....25418
223.....25418
249.....25414
375.....25419

Proposed Rules:

Ch. I.....25466, 27710
21.....27711, 27712, 27885
39.....26069, 26070, 27715, 27885
71.....24957-24961, 25467, 26071, 27126-27128, 27716-27720
73.....27128
75.....25468
91.....27885, 27889
159.....26358, 26656
121.....27893, 27897
135.....27897
221a.....25637
374.....25321

15 CFR

373.....26275
376.....24532
377.....24532
379.....26275
385.....26275
399.....26275, 27103

Proposed Rules:

930.....26658
1001.....27501

16 CFR

0.....26284, 27634
1.....26284, 27634
2.....26284, 27634
4.....26284, 26293, 27634
5.....26050, 26284, 27634
13.....24940, 25289, 26611, 27634
305.....25290
1700.....26297

Proposed Rules:

Ch. I.....25468
Ch. II.....25478, 26262, 27721
13.....25102, 25103, 25476
450.....24584
1301.....25638

17 CFR

1.....24940, 26000, 26299, 27473
3.....24940, 26299
4.....26004, 26761
15.....26472
16.....26472
17.....26472
18.....26472
21.....26472
140.....26004, 26761
145.....24940, 26299
147.....24940, 26299

Proposed Rules:

1.....25106
3.....25106
32.....25106, 25107
210.....27344
229.....25638, 26789
240.....26789

18 CFR

2.....26613
46.....25084
131.....25084
270.....24537
271.....24548-24549, 27635
282.....24549, 25599
294.....24550
401.....25439, 26638

Proposed Rules:

157.....24585
271.....25643, 25644
282.....26352
284.....24585, 27355
292.....26352

19 CFR

159.....24944
355.....26472-26475

20 CFR

401.....24551
404.....25601

Proposed Rules:

Ch. I.....26790
656.....26789
676.....25084, 25645, 27462
679.....25645, 27462

21 CFR

5.....26052, 26299
109.....24551
146.....26300
193.....24945, 26762
430.....25602, 25605
436.....25602, 25605, 25607
440.....25602
442.....25605, 25607
444.....25607
445.....25607
520.....25084, 25085, 25608, 26300
522.....24553, 25085, 26762, 26763
546.....25086
558.....24553
561.....24945, 26764
588.....26763

Proposed Rules:

1.....26790
166.....26790
180.....24593
182.....24593
351.....25107
430.....25651
436.....25651
440.....25651
444.....25651
448.....25651
452.....25651
540.....25107
1308.....24593

22 CFR

201.....27104

23 CFR

Proposed Rule

625.....27722

24 CFR

201.....25609
203.....25087, 27105
205.....27105
207.....27105
213.....27105
220.....27105
221.....27105
232.....27105
234.....25087, 27105
235.....27105
236.....27105
241.....27105
242.....27105
244.....27105

Proposed Rules:

235.....24594
885.....25107

25 CFR

5.....26765
105.....26475
173.....26476
242.....26476

26 CFR

1.....24945, 27635
7a.....25291
16A.....27636
25.....27642
35.....24553
601.....26053

Proposed Rules:

1.....24594, 27723
31.....24595, 27357
32.....27357
51.....24595, 26660

27 CFR

240.....25610

Proposed Rules:

4.....24962
5.....24962
7.....24962

28 CFR

503.....24896
524.....24896
543.....24896
545.....24896
547.....24896

Proposed Rules:

527.....24902
545.....24902

29 CFR

1910.....24556, 24558
2602.....27328
2610.....26765
2670.....27330
2671.....27330

Proposed Rules:

Ch. XII.....25109
530.....25108
1910.....25653, 27358

30 CFR

Proposed Rules:

226.....26661
601.....25653
840.....24963
841.....24963
842.....24963
843.....24963
844.....24963
845.....24963

31 CFR

535.....26476, 26478

32 CFR

57.....25440
299.....26481

Proposed Rules:

Ch. I.....24596
Ch. V.....24596
Ch. VI.....24596
Ch. VII.....24596
Ch. XVI.....26498
199.....24964

33 CFR

25.....27107
66.....27642
82.....27643
100.....26638
162.....27644
165.....26055
183.....27644

Proposed Rules:

Ch. II.....24596
89.....26661
95.....27128
165.....26072
320.....26792
321.....26792
322.....26792
323.....26792
324.....26792
325.....26792
326.....26792
327.....26792
328.....26792
329.....26792
330.....26792

34 CFR

78.....27304
104.....25614
300.....25614
735.....26056
776.....26056
778.....26057
797.....26057

36 CFR

Proposed Rules:

Ch. I.....27723
Ch. III.....24596

37 CFR

201.....25442

38 CFR

3.....27074

36 ..... 25443, 25444, 26482

Proposed Rules:

6 27361
8 27361
21 26499

39 CFR

111 ..... 25090, 25446
601 26639

Proposed Rules:

111 ..... 25109, 26792

40 CFR

Ch. I 27333
35 26301
52 ..... 24560, 24562, 24946, 25090, 25092, 25294, 25446, 26301-26304, 26484, 26640, 26641, 26767-26769, 27119, 27339
60 27341
61 27341
62 27342
66 27119
81 ..... 25294, 25301, 25446, 26305
86 24948
122 27473
162 26305
173 26058
180 ..... 24950, 25615, 26770, 26771, 27480
260 27473
261 27473
264 ..... 27119, 27473
265 ..... 27119, 27473
761 ..... 27614, 27615
762 27120
1501 25461
1502 25461
1508 25461

Proposed Rules:

Ch. I 24965
35 27314
50 25655
51 24596
52 ..... 24597-24602, 24966, 24967, 25110, 25322, 25323, 25481, 25483, 25485, 25659, 26074, 26353, 26499, 26793, 27129, 27501-27504
60 26501
61 25113
62 26504
65 26075
81 ..... 24604, 25324, 25325, 26355, 26504, 26506, 27131
86 ..... 26076, 26796
123 ..... 24968, 26796, 27132
180 ..... 24605, 25486, 25659, 26663, 26796, 27133
192 26356
261 27363
420 24606
466 25114
761 ..... 25411, 25660, 27617-27619

41 CFR

Ch. I 26061, 26484, 27645
5-5 25615
5A-1 27122
5A-3 27122
5A-5 25615
5A-16 27122
8-1.4 26643
8-8.2 26643
8-95 26644
9-1 25302
9-2 25303
9-3 25303
9-4 25303
9-5 25303
9-7 25303
9-9 25303
9-10 25304
9-15 25304
9-18 25304
9-23 25304
9-50 25304
14-3 25617
101-37 25618
105-735 25305

42 CFR

32 25622
401 24551
405 ..... 24564, 25093

43 CFR

Public Land Orders:

1163 (Revoked by P.L.O. 5864) 27653
5860 25619
5861 26061
5862 27653
5863 27651
5864 27653
5865 27651
5866 27652

44 CFR

9 24951
64 ..... 26305, 26772, 26774, 27123
65 ..... 26061, 26775-26777
67 26308-26355
70 26644-26648

Proposed Rules:

67 ..... 26077, 26085, 26797, 26798, 27133, 27139

45 CFR

500 26062
531 26062

Proposed Rules:

Ch. XI 24969
302 25660

46 CFR

157 27654
502 24565
510 24565
525 24575

Proposed Rules:

Ch. I 26086
Ch. IV 25326
148 27724

47 CFR

0 27654
2 ..... 26485, 26649
22 27655
73 ..... 25461, 25462, 25620, 26062, 26223, 26485, 26486, 26649, 27706
74 27481
81 26485
83 ..... 25463, 26485
90 ..... 27481, 27707
95 26778

Proposed Rules:

Ch. I 24969, 25661, 27506
2 26507
21 26507
25 26798
31 26356
33 26356
34 26356
35 26356
73 ..... 25487-25489, 25662, 26509-26515, 26663, 26798, 27725-27728
74 26507
76 25490
90 27729

48 CFR

Proposed Rules:

15 26664
47 26664

49 CFR

Ch. X 26336
1 26651
531 24952
571 25463
639 26651
640 26651
1033 ..... 25094, 25310-25312
1034 ..... 26064, 27709
1039 27342
1048 25314
1056 25621
1064 27343
1244 26781

Proposed Rules:

Ch. I 25491
171 27146
173 ..... 25492, 27146
1002 25326
1102 26087
1132 ..... 26799, 26801
1134 ..... 26799, 26801
1201 ..... 25114, 26515
1241 ..... 25114, 26515
1248 25114
1307 27732

50 CFR

216 27056
285 27482
611 ..... 27483, 27489
658 27483

Proposed Rules:

17 ..... 24607, 26464
651 27147
653 25327

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 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

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.

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 May 5, 1981

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:

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3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

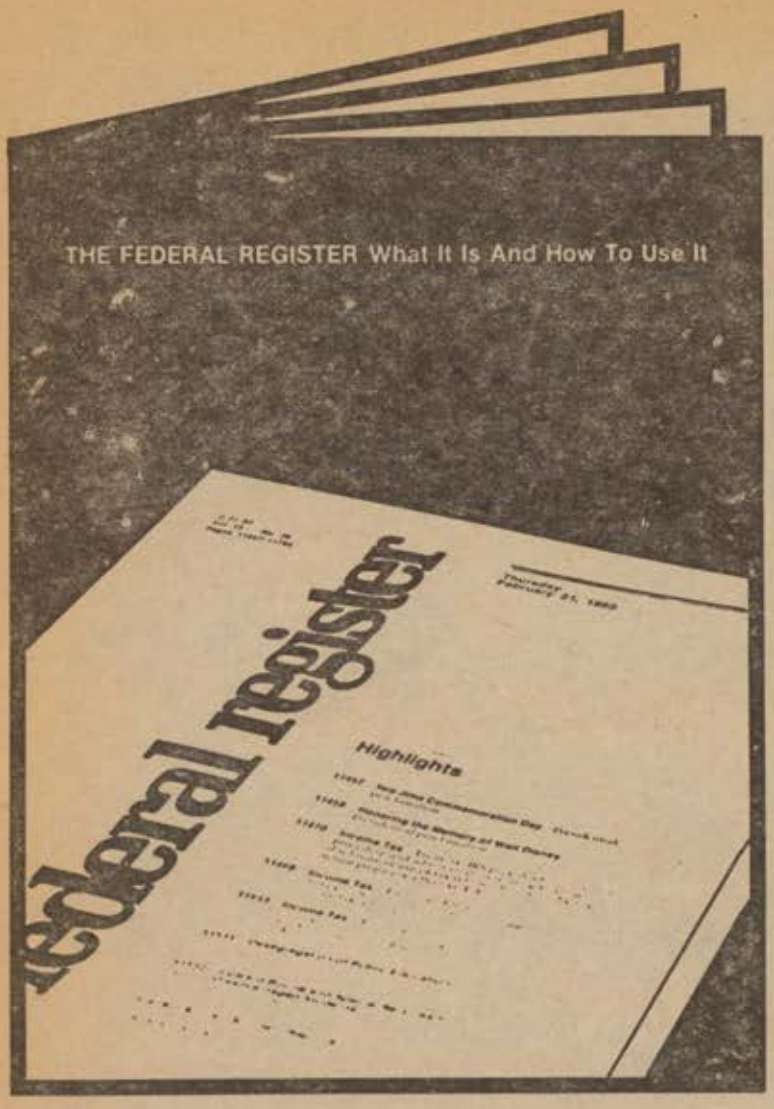
WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WHEN: June 12, 1981, at 9 a.m.

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call King Banks, Workshop Coordinator, 202-523-5235.

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