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Presidential Documents

Title 3—

The President

Executive Order 12350 of March 9, 1982

Termination of Urban and Community Impact Analyses

By the authority vested in me as President by the Constitution of the United States of America, Executive Order No. 12074 of August 16, 1978, entitled "Urban and Community Impact Analyses," is hereby revoked.

Ronald Reagan

THE WHITE HOUSE,
March 9, 1982.

[FR Doc. 82-6808
Filed 3-9-82; 3:57 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12351 of March 9, 1982

Nuclear Cooperation With EURATOM

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 126a(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2155(a)(2)), and having determined that, upon the expiration of the period specified in the first proviso to Section 126a(2) of such Act and extended by Executive Orders No. 12193 and No. 12295, failure to continue peaceful nuclear cooperation with the European Atomic Energy Community would be seriously prejudicial to the achievement of United States nonproliferation objectives and would otherwise jeopardize the common defense and security of the United States, and having notified the Congress of this determination, I hereby extend the duration of that period to March 10, 1983.

Ronald Reagan

THE WHITE HOUSE,
March 9, 1982.

[FR Doc. 82-6840]
Filed 3-10-82; 10:41 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 4907 of March 10, 1982

Imports of Petroleum

By the President of the United States of America

A Proclamation

The Secretaries of Commerce and Energy have advised me that the threat to the national security posed by imports of petroleum continues. The Secretaries, in conjunction with the Secretaries of State, Defense, and Treasury, advise that we no longer consider Libya to be a reliable supplier of United States energy needs, and that we must ensure we are not vulnerable to Libyan action in this area. Libyan policy and action supported by revenues from the sale of oil imported into the United States are inimical to the United States national security. The Secretaries recommend that I take steps immediately to eliminate the dependence of the United States on Libya as a source of crude oil.

I agree with the recommendation and believe that the changes proposed are consistent with the purposes of Proclamation 3279, as amended, and the national security findings on which it is based.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States, including Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), do hereby proclaim that:

Section 1. Section 1 of Proclamation 3279, as amended, is further amended by the revision of paragraph (e) to read as follows:

Sec. 1(e). Notwithstanding any other provision of the Proclamation, no crude oil produced in Libya (except crude oil loaded aboard maritime vessels at any time prior to March 12, 1982) may be imported into the United States, its territories or possessions.

Sec. 2. Section 11 of Proclamation 3279, as amended, is further amended by the revision of paragraph (l) to read as follows:

Sec. 11(l) The term "imports", when applied to crude oil other than that produced in Libya, includes both entry for consumption and withdrawal from warehouse for consumption, but excludes unfinished oils and finished products processed in the United States territories and foreign trade zones from crude oil produced in the United States.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of March, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-6879
Filed 3-10-82; 1:09 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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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

Office of the Secretary

7 CFR Part 0

Employee Responsibilities and Conduct

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the conduct regulations of the Department of Agriculture to designate the Director of Personnel as the Designated Agency Ethics Official to administer the provisions of the Ethics in Government Act of 1978 (Pub. L. 95–521).

DATE: Effective March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Peter Sleight (Office of Personnel), United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. 20250, (202) 447–7654.

SUPPLEMENTARY INFORMATION: 5 CFR 738.201 requires each agency to have a Designated Agency Ethics Official to coordinate, administer and oversee implementation of the various provisions of the Ethics in Government Act of 1978. The Secretary of Agriculture has named the Director of Personnel to fulfill this function. The document amends the Department's responsibilities and conduct regulations to reflect that designation and set forth the duties of the Designated Agency Ethics Official.

Since this rule relates solely to internal agency management, pursuant to 5 U.S.C. 553 it is found that notice and other public procedures with respect thereto are impracticable and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to agency personnel management, it is exempt from the provisions of Executive Order 12291.

Lastly, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

PART 0—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Accordingly, 7 CFR 0.735–3 is amended by the addition of new paragraph (g) to read as follows:

§ 0.735–3 Counseling and Advisory Service.

* * * * *

(g) In addition to the counseling service set forth in paragraphs (a) through (f) of this section, 5 CFR 738 prescribes the naming of a Designated Agency Ethics Official (DAEO) to administer Title II of the Ethics in Government Act of 1978, to coordinate and manage the agency's ethics program, and to provide liaison with the Office of Government Ethics with regard to all aspects of the Ethics program. The Director of Personnel has been designated by the Secretary of Agriculture to serve as DAEO for USDA. The responsibilities and duties of the DAEO can be found in 5 CFR 738.203.

(5 U.S.C. 301; Title II of Pub. L. 95–521, 92 Stat. 1836, as amended, 5 U.S.C. app.; 5 CFR 738)

Dated: March 5, 1982.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82–6557 Filed 3–10–82; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 544; Navel Orange Reg. 543, Amdt. 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 March 12–March 18, 1982, and increases the quantity of such oranges that may be so shipped during the period March 5–March 11, 1982. 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 March 12, 1982, and the amendment is effective for the period March 5–March 11, 1982.

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

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-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 recommendation 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 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on October 6, 1981. The committee met again publicly on March 9, 1982 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 effective time.

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Section 907.844 is added as follows:

§ 907.844 Navel Orange Regulation 544.

The quantities of navel oranges grown in Arizona and California which may be handled during the period March 12, 1982, through March 18, 1982, are established as follows:

(1) District 1: 1,600,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

2. Section 907.843, *Navel Orange Regulation 543* (47 FR 9188), is hereby amended to read:

§ 907.843 Navel Orange Regulation 543.

* * * * *

(1) District 1: 1,775,000 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: March 10, 1982

D. S. Kuryloski,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-6858 Filed 3-10-82; 11:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1094

[Milk Order No. 94]

Milk in the New Orleans-Mississippi Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends certain provisions affecting the regulatory status of milk plants under the New Orleans-Mississippi Federal milk order. The suspension removes for March and April 1982 the requirement that a cooperative must deliver at least 50 percent of its member producer milk to pool distributing plants each month to qualify its supply-balancing plant as a pool plant under the order. The suspension was requested by a cooperative association primarily because its sales to distributing plants have decreased substantially from a year ago. The action is needed to assure that dairy farmers regularly supplying a portion of the fluid milk needs of the market will continue to share in the market's Class I sales during March and April of this year without the necessity of inefficient handling and transportation of the milk.

EFFECTIVE DATE: March 11, 1982.

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

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued February 17, 1982; published February 22, 1982 (47 FR 7676).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified "not significant" and, therefore, not a major action.

It also has been determined that any 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 in time to include March 1982 in the suspension period. The initial request for this action was received on February 11, 1982. A notice of proposed suspension was issued on February 17, 1982, inviting interested parties to comment on the proposed action by March 1, 1982.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action would not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers regularly supplying a portion of the market's fluid milk needs will continue to share in the proceeds of the market's Class I sales during March and April of this year without the necessity of inefficient handling and transportation of the milk.

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 New Orleans-Mississippi marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on February 22, 1982 (47 FR 7676), concerning a proposed suspension of certain provisions of the order. Interested persons were afforded the opportunity to file written data, views or arguments thereon.

After consideration of all relevant material, including the notice of proposed suspension and any views, data, and arguments filed in response (none were filed), it is hereby found and determined that for the months of March and April 1982 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1094.7(c), the words, "* * * 50 percent or more of the * * *".

Statement of Consideration

The suspension removes for March and April 1982 the requirement that a cooperative must deliver at least 50 percent of its member producer milk to pool distributing plants each month to qualify its supply-balancing plant as a pool plant under the order. The suspension was requested by Gulf Dairy Association, Inc., a cooperative that operates such a pool plant under the New Orleans-Mississippi order.

Interested parties were given the opportunity to submit written data, views or arguments concerning the suspension. No additional views were received.

The proponent cooperative apparently was barely able to meet the 50 percent delivery requirement for its supply-balancing plant at Kentwood, Louisiana, in the spring months of 1981. With its milk production virtually unchanged but deliveries to pool distributing plants down substantially, it appears likely that the association will be unable to qualify such plant as a pool plant during March and April this year without making uneconomic milk movements.

Market data indicate that producer deliveries during 1981 were up about 1 percent from last year while the market's Class I utilization of producer milk in 1981 was down 4.2 percent from 1980. Specifically, with respect to the proponent cooperative, production of its members during the last four months (October 1981–January 1982) was essentially unchanged from the same 4-month period a year ago. However, during the October 1981–January 1982 period, deliveries by the cooperative to pool distributing plants, which are used to qualify the cooperative's supply-balancing plant, were down almost 10 percent from the same 4-month period a year earlier. It is this decline in shipments to distributing plants that will

cause the cooperative problems in keeping its balancing plant pooled.

Absent a suspension action, the cooperative could maintain pool status for its supply-balancing plant. However, to do so the cooperative may find it necessary to uneconomically haul as many as 50 loads of milk per month to distributing plants during March and April for the sole purpose of qualifying the milk for pool status. Moreover, the order's location adjustment provisions would help the association to so move the milk because the applicable uniform price for milk received at the distributing plants supplied by the association is 18 cents higher than such price for milk received directly at the Kentwood pool plant. In effect, other producers would be paying through the marketwide pool much of the cost to move the milk to the distribuitng plants when it is not needed there. Additional plant handling also would be involved in that the milk would have to be unloaded and received at the distributing plants and then reloaded and shipped back to the cooperative's plant. This would be an inefficient way to pool milk.

To the extent possible, the association wants to avoid such uneconomic movements. However, the association intends to pool all of its milk and move its producer milk supplies in such a manner that pool status for its supply-balancing plant will be maintained.

In view of the circumstances, the aforesaid provisions should be suspended to assure that producers regularly supplying a portion of the market's fluid milk needs will continue to share in the proceeds of the market's Class I sales during March and April of this year without the necessity of inefficient handling and transportation of the milk.

It is hereby found and determined that thirty days' notice of the effective date 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 uneconomic movements of milk would be made solely for the purpose of assuring that the dairy farmers who have supplied a portion of the fluid milk needs of the market will continue to have their milk pooled and priced under the order;

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

(c) Notice of proposed rulemaking was given to interested parties and they were afforded the opportunity to comment. No opposing views were received.

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 the months of March and April 1982.

Effective Date: March 11, 1982.

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

Signed at Washington, D.C., on March 8, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-6554 Filed 3-10-82; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 82-147]

Net Worth Amendment; Correction

March 3, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final Rule; Correction.

SUMMARY: The Federal Home Loan Bank Board corrects its final amendments to the net worth regulations which were published at 47 FR 3543 (January 26, 1982).

FOR FURTHER INFORMATION CONTACT: James C. Stewart, Attorney, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552, (202) (377–6457).

EFFECTIVE DATE: December 31, 1980.

SUPPLEMENTARY INFORMATION: By Resolution No. 82–19, the Federal Home Loan Bank Board lowered the net worth requirement, 12 CFR 563.13, for insured institutions from 4% to 3% of liabilities. The reduction was accomplished by amending paragraphs (a)(2) and (b)(2) of § 563.13. Inadvertently omitted from the resolution was a corresponding amendment to paragraph (a)(5) which imposes one-time requirement on certain insured institutions to meet their statutory reserve requirement without averaging.

Accordingly, the Board hereby corrects the first amendatory instruction to read as follows:

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

§ 563.13 [Amended]

1. Amend paragraphs (a)(2), (a)(5), and (b)(2) of § 563.13 by substituting the phrase "three percent" for the phrase "four percent" wherever it occurs.

(Sec. 409, 94 Stat. 160. secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a, 1437). Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4891 3 CFR, 1943–48 Comp., p. 1071))

By the Federal Home Loan Bank Board.

Thomas P. Vartanian,

General Counsel.

[FR Doc. 82-6682 Filed 3-10-82; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-NE-43; Amdt. 39-4336]

Sikorsky Aircraft Model S-76A Helicopters Certificated in All Categories; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises AD 80–22–55 R3 to eliminate the requirement for repetitive inspections on the piston rods of improved design main rotor dampers on Sikorsky S–76A helicopters. The manufacturer has developed and substantiated an improved damper. Based upon substantiating data, the FAA has determined that the repetitive dye penetrant inspections are unnecessary for this structurally improved damper. The inspections of AD–80–22–55 R3, are retained for the old design dampers. Inspections for the new dampers' bearings are now specified in the Airworthiness Limitations Section of the S–76A Maintenance Manual.

DATES: Effective March 10, 1982. Compliance as prescribed in the AD.

ADDRESSES: The applicable Sikorsky publications may be obtained from Sikorsky Aircraft, Division of United Technologies Corporation, Stratford, Connecticut 06602. Copies of the maintenance manual revisions are contained in the Rules Docket, Office of the Regional Counsel, New England

Region, 12 New England Executive Park, Burlington. Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: William E. Garlock ANE-152, Boston Aircraft Certification Branch, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7336.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

Because of fatigue failures and the separation of the piston rods of main rotor dampers, a telegraphic AD, T80-22-55, was issued on October 24, 1980, requiring visual inspections and, if any indication of a crack was found, dye penetrant inspections of the piston rods on dampers, P/N 76106-08000. The AD also required that the dampers be removed from service if a crack was found. Subsequent to the issuance of the telegraphic AD, engineering tests and analyses indicated that wear and subsequent metal-to-metal contact within the damper spherical rod end bearings can increase the damper piston rod loads and contribute to the fatigue failure of these rods. Another failure of a piston rod occurred in service; therefore, emergency AD T80-22-55 was issued on November 21, 1980, to add requirements for a one time dye penetrant inspection of all damper piston rods, based upon time in service and previous replacement of bearings, and repetitive inspections of the damper spherical rod end bearings for wear. After adoption of that amendment, an additional failure in-flight of a damper piston rod occurred. The FAA determined that the visual inspections of AD T80-22-55 R1 were ineffective and should be replaced with more stringent repetitive dye penetrant inspections. AD T80-22-55 R1 was revised by AD 80-22-55 R3 to eliminate the requirement for visual inspections and to establish a requirement for reptitive dye penetrant inspections. AD 80-22-55 R3 applies to "P/N 76106-08000 main rotor dampers."

Subsequently, the manufacturer developed and substantiated an improved damper, P/N 76106-08000-044. Based upon substantiating data, the FAA has determined that the repetitive dye penetrant inspections are unnecessary for this structurally improved damper. Therefore, this amendment, in effect, eliminates the requirement for dye penetrant inspections for the piston rods of P/N 76106-08000-044 dampers. The requirement for these inspections remains in effect for -042 and -043 dampers. The bearing wear inspections are also being retained for the older design dampers. For the new improved dampers, the bearing wear inspections are now incorporated in the Airworthiness Limitations Section, Chapter 4, of the Sikorsky S-76 Maintenance Manual, SA 4047-76-2-1. The mandatory reporting requirement contained in paragraph 4 is also deleted. Voluntary reporting and reporting under FAR 21.3 will suffice hereafter.

Since this amendment relieves requirements and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making this amendment effective in less than 30 days.

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 revising Amendment 39-4918 (46 FR 3496), AD T80-22-55 R2, as amended by Amendment 39-4943 (46 FR 12950), AD 80-22-55 R3, as follows:

1. In paragraph 1 delete "P/N 76106-08000," and insert in its place "P/N 76106-08000-042 and -043."

2. In paragraph 2 delete "damper spherical bearings" and insert in its place "spherical bearings of P/N 76106-08000-042 and -043 main rotor dampers."

3. At the end of paragraph 2 add a Note: "Mandatory requirements for wear inspections of the spherical bearings of P/N 76106-08000-044 dampers are contained in Airworthiness Limitations Section, Chapter 4, Sikorsky S-76A Maintenance Manual, SA 4047-76-2-1."

4. Delete paragraph 4 entirely, including the parenthetical statement.

This amendment becomes effective March 10, 1982.

(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 document 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). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule eliminates an inspection and reporting requirement of AD 80-22-55 R3 and therefore reduces the economic burden of some operators.

Issued in Fort Worth, Texas, on February 24, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-6515 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ACE-24]

Alteration of Control Zone—Hays, Kans.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment to alter the Hays, Kansas, control zone is necessary to provide additional airspace for a new Non-Directional Beacon (NDB) approach to Runway 34 at the Hays, Kansas, Municipal Airport. A minimal alteration of the control zone's present south extension is required to include the new instrument approach procedure.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, 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: The purpose of this amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR 71.171) is to alter the control zone designation for the Hays, Kansas, Municipal Airport. The alteration is necessary to provide additional airpace for a new NDB approach to Runway 34 at the airport. A control zone is defined as a 5-mile radius plus extensions. A minimal alteration of the Hays, Kansas, control zone's present south extension is required to include the new approach procedure. Since this change is not significant and does not impose any additional burden, notice and public procedure under 5 U.S.C. 553(b) is impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

Accordingly, Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) as republished on January 2,

1981, (46 FR 455) is amended effective 0901 G.m.t. May 13, 1982, by altering the following control zone:

Hays, Kans.

That airspace within a 5-mile radius of the Hays Municipal Airport (latitude 38°50'45" North, longitude 99°16'26" West) and within 2 miles each side of the Hays NDB 167° bearing, extending from the 5-mile radius zone to 8 miles south of the VORTAC; and within 2 miles each side of the Hays VORTAC 162° radial, extending from the 5-mile radius zone to 8 miles south of the VORTAC. 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.

(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. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

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.

Issued in Kansas City, Missouri, on February 25, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-6508 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-7]

Alteration of Control Zone, Memphis, Tenn.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Memphis, Tennessee, Control Zone by revoking the exclusion associated with the De Soto Air Park, Horn Lake, Mississippi, which has been permanently closed.

EFFECTIVE DATE: 0901 G.m.t., May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Donald Ross, 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 Memphis, Tennessee, Control Zone described in § 71.171 (46 FR 455), a portion is excluded around the De Soto Air Park. Since the Air Park has been permanently closed, it is necessary to alter the designated airspace.

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 will delete reference to the De Soto Air Park, Horn Lake, Mississippi, in the description of the Memphis, Tennessee, Control Zone.

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 G.m.t., May 13, 1982, as follows:

Memphis, Tennessee

The present description is deleted and "• • • Within a 5-mile radius of Memphis International Airport (Lat. 35°03'00"N., Long. 89°58'15"W.) • • •" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), 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) it is certified that the rule 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 February 24, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-6510 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-6]

Alteration of Transition Area, Mount Pleasant, Tenn.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Mount Pleasant, Tennessee, Transition Area, by revoking an unnecessary extension, reducing the size of another extension and correcting the geographical coordinates of the Maury County radio beacon (RBN).

EFFECTIVE DATE: 0901 G.m.t., May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Donald Ross, 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 Mount Pleasant, Tennessee, Transition Area described in § 71.181 (46 FR 540), extensions are designated on the 060° and 227° bearings from the Maury County RBN. Relocation of the RBN to an off-airport site negates the need for the extension aligned on the 227° bearing and allows for reduction in size and realignment of the extension which is designated on the 060° bearing. It is necessary to revoke one extension, redesignate another extension and correct the location of the RBN in order to provide controlled airspace for Instrument Flight Rules (IFR) operations at the Airport.

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 Mount Pleasant, Tennessee, Transition Area by revoking an extension, redesignating an extension and correcting the location 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., May 13, 1982, as follows:

The present Transition Area description of Mount Pleasant, Tennessee, is deleted and the following is substituted therefor:

Mount Pleasant, Tennessee

That airspace extending upwards from 700 feet above the surface within a 9.5-mile radius of Maury County Airport (Lat. 35°33'15" N., Long. 87°10'50" W.); within 3 miles each side of the 052° bearing from the Maury County RBN (Lat. 35°36'30" N., Long. 87°05'29" W.), extending from the 9.5-mile radius area to 8.5 miles northeast of the RBN.

(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)))

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) it is certified that the rule 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 February 24, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-6509 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket No. 22743; Amendment No. 91-177]

Transport Category Airplanes; Shoulder Harness

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment changes the compliance date of March 6, 1982, for the combined safety belt and shoulder harness required by § 91.200 to March 6, 1983. This compliance date does not provide operators of affected aircraft sufficient time for the acquisition and installation of required equipment in certain aircraft. Failure to provide such operators additional time within which to comply with the equipment requirements would result in substantial economic penalties for affected operators and would provide a significant amount of inconvenience to the traveling public. Consequently, the relief afforded by this rule is fully consistent with the President's regulatory policies and Executive Order 12291.

DATE: Effective Date—March 6, 1982. Comments must be received on or before April 6, 1982.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-204), Docket No. 22743, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Frank M. Jamison, Jr., Project Development Branch, General Aviation and Commercial Division, Office of Flight Operations, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-8150.

SUPPLEMENTARY INFORMATION:

Background

On February 4, 1980, the FAA published Airworthiness Review Program Amendment No. 8, Cabin Safety and Flight Attendant Amendments (45 FR 7750), which amended 14 CFR Parts 23, 25, 27, 29, 91, and 121 to update and improve airworthiness standards applicable to cabin safety and flight attendants. Amendment 91-162 added § 91.200, which prescribes a combined safety belt and shoulder harness requirement for transport category airplanes operating under Subpart D of Part 91. Amendment 91-162 requires compliance no later than March 6, 1981; however, § 91.200(b) contains a provision whereby an operator may obtain an extension of the compliance date, but not beyond March 6, 1982, if the operator shows that required hardware is unavailable and submits an acceptable schedule for compliance which indicates that compliance will be achieved at the earliest practicable date.

Under the provisions of § 91.200(b), the Director of Flight Operations issued 373 letters extending the compliance date to March 6, 1982. The letters were in response to requests by operators who were unable to obtain the necessary hardware because of its unavailability.

Need for This Regulatory Change

Based upon an analysis of the number of operators who continue to be unable to obtain the required hardware, the FAA recognizes that a substantial number will be unable to meet the extended compliance date of March 6, 1982. For example, as of February 1, 1982, operators of approximately 110 airplanes informed the FAA that they are unable to obtain the necessary equipment and engineering data to comply with § 91.200(b) by March 6, 1982. Enforcement of the rule, as originally adopted, would cause these operators to suffer a severe and costly penalty because their airplanes would have to be grounded until such time as they could comply with the rule.

FAA inspection and surveillance staff have reviewed the operators' requests. FAA finds that, despite the fact that the large majority of operators have been successful in obtaining and installing appropriate equipment, there remains a smaller number of operators who have been unable to do so. In general, this results from inadequate equipment-manufacturer production rates and resulting equipment supply shortages. In viewing this situation, FAA finds that sufficient time to correct these problems will result if this amendment is adopted, and compliance with the equipment installation requirements of § 91.200 would then be achievable without an undue burden to society.

In view of the foregoing, the FAA has changed the compliance date specified in § 91.200(b) from March 6, 1982, to March 6, 1983. This will allow affected operators additional time to obtain and install the required hardware.

Need for Immediate Adoption

Most of the affected operators are solely dependent on the manufacturers to secure the necessary design changes and hardware. When obtained, the required equipment must be installed in accordance with data that has been approved by the FAA. Airplane manufacturers are unable to provide affected operators with the necessary modifications for each airplane type to bring the entire fleet of airplanes being operated under Subpart D of Part 91 into full compliance before the March 6, 1982, deadline. Not adopting this amendment would impose substantial economic losses and inconveniences on the affected operators whose airplanes would have to be grounded until they are appropriately equipped. Accordingly, I find that an emergency exists as prescribed in Section 8(a)(1) of Executive Order 12291 and that following the procedures of the Executive Order is impracticable. Since the current amendment becomes effective on March 6, 1982, I also find

that notice and public procedure are impracticable and contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

PART 91—GENERAL OPERATING AND FLIGHT RULES

§ 91.200 [Amended]

Accordingly, § 91.200(b) of the Federal Aviation Regulations (14 CFR § 91.200(b)) is amended effective March 6, 1982, by changing the "March 6, 1982" compliance date to "March 6, 1983".

(Secs. 313, 314, and 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

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 Executive Order 12291 with respect to this rule since the rule must be issued immediately to prevent a significant inconvenience to the traveling public. 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 under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on March 4, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-6490 Filed 3-5-82; 4:10 pm]

BILLING CODE 4910-13-M

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14 CFR Part 121

[Docket No. 22746; Amdt. 121-177]

Seats, Safety Belts and Shoulder Harnesses; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Federal Aviation Regulations (FAR) clarifies the applicability of a specific safety belt and shoulder harness regulation to transport category airplanes, clarifies the effective date of a FAR section incorporated by reference therein, and deletes sections and dates rendered inoperative by the passage of time.

DATES: Effective March 6, 1982.

FOR FURTHER INFORMATION CONTACT: Larry Bedore, Project Development Branch, Air Transportation Division, Office of Flight Operations, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-8096.

SUPPLEMENTARY INFORMATION:

Background

On February 4, 1980, the Federal Aviation Administration (FAA) published Airworthiness Review Program Amendment No. 8, Cabin Safety and Flight Attendant Amendments (45 FR 7750), which, in pertinent part, amended 14 CFR Parts 25, 91, and 121 to update and improve airworthiness standards applicable to cabin safety and flight attendants. Amendment 121-155 incorporated new provisions into § 121.311 to upgrade seat, safety belt, and shoulder harness requirements for flight attendants.

As adopted, § 121.311(e)(1) required that, effective March 6, 1980, each transport category airplane type certificated after January 1, 1958, and operated pursuant to Part 121, be equipped with a shoulder harness at the pilot-in-command, second-in-command, and flight engineer stations. Section 121.311(e)(2) required that, after March 6, 1981, each transport category airplane operated pursuant to Part 121 must be equipped with a combined safety belt and shoulder harness, meeting the applicable requirements of § 25.785, at each flight deck station. Soon after issuance of Amendment 121-155, the FAA received requests for interpretation of § 121.311(e), subsequently amended by Amendment 121-170 (46 FR 15480, effective March 5, 1981). The questions indicated uncertainty regarding whether § 121.311(e)(2) was applicable to transport category airplanes type certificated prior to January 1, 1958, and whether § 121.311(e)(2) applied to all flight deck station seats or only seats of required flight crewmembers. This amendment to § 121.311(e) is necessary to express clearly the regulatory intent that this section apply only to transport category airplanes type certificated after January 1, 1958.

Sections 121.311(e) and (f) are also amended to include the applicable revision level of § 25.785, which is incorporated by reference in those sections. This is necessary because, as promulgated in Notice 75-31, and issued in Amendment 121-155, § 121.311 (e) and (f) require Part 121 operators to meet equipment requirements defined, in part, by airworthiness type certification standards found in § 25.785. Amendment 25-51, which was issued as part of Airworthiness Review Program Amendment No. 8 (45 FR 7750; February 4, 1980) along with Amendment 121-155, amended § 25.785 to require, in pertinent part, upgraded safety belt and shoulder harness type certification standards for each flight deck station and flight attendant seat in transport category airplanes. These upgraded seat standards were incorporated by reference into § 121.311 (e) and (f) in Amendment 121-155, which inadvertently failed to include a reference to the effective date of § 25.785 which the FAA intended to apply. This amendment of § 121.311 (e) and (f) is necessary to indicate that the sections refer to § 25.785 effective March 6, 1980, so that future amendments to § 25.785 will not automatically impose retroactive equipment requirements upon Part 121 operators.

Section 121.311 (f) and (h) of Amendment 121-155 contained future compliance dates for the new equipment requirements of March 6, 1980, and March 6, 1981, respectively. Those dates were subsequently extended through March 6, 1982, by Amendment 121-170. Since reference to the March 6, 1982, compliance date will no longer be necessary on or after the effective date of the present amendment, this amendment deletes the reference to those dates from the FAR. Similarly, § 121.311(g) has been deleted since the interim period of its intended effectivity will also have passed. Accordingly, § 121.311 (h) and (i) have been redesignated as § 121.311 (g) and (h).

Need for Immediate Adoption

Numerous Part 121 operations are conducted using transport category airplanes type certificated prior to January 1, 1958. Based upon the requests for interpretation and exemption already received from Part 121 operators, the FAA recognizes an urgent need to amend § 121.311(e) to restore its original intent and thereby relieve the public and the aviation community from the economic burden of seeking clarification of, or exemption from, an ambiguous rule. Affected operators of transport category airplanes type certificated prior to January 1, 1958, are unable to determine whether they are required to upgrade their equipment in order lawfully to continue operations after March 6, 1982. Consequently, not adopting this amendment immediately would unnecessarily perpetuate such uncertainty beyond the critical compliance date and could result in the unnecessary, and economically damaging, voluntary grounding of

affected aircraft by Part 121 operators. Since this amendment is clarifying and editorial in nature, I find that notice and public procedure are impractical and contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Adoption of Amendment

Accordingly, Part 121 of the Federal Aviation Regulations (14 CFR Part 121) is amended as follows, effective March 6, 1982:

§ 121.311 [Amended]

1. By revising § 121.311(e) to read as follows:

* * * * *

(e) No person may operate a transport category airplane that was type certificated after January 1, 1958, unless it is equipped at each flight deck station with a combined safety belt and shoulder harness that meets the applicable requirements specified in § 25.785 of this chapter, effective March 6, 1980, except that—

(1) Shoulder harnesses and combined safety belt and shoulder harnesses that were approved and installed before March 6, 1980, may continue to be used; and

(2) Safety belt and shoulder harness restraint systems may be designed to the inertia load factors established under the certification basis of the airplane.

* * * * *

2. By amending § 121.311(f) by deleting the words "After March 6, 1982, each" and inserting the word "Each" in place thereof, and by inserting the phrase ", effective March 6, 1980" after the word "chapter".

3. By deleting § 121.311(g) and redesignating § 121.311 (h) and (i) as § 121.311 (g) and (h), respectively.

4. By amending newly redesignated § 121.311(g) by deleting the words "After March 6, 1982, each" and inserting the word "Each" in place thereof.

(Secs. 313, 314, 601, and 603 through 605, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, 1421, and 1423 through 1425); section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this amendment is not a major rule under Executive Order 12291 or a significant regulation under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action is clarifying and editorial in nature, I also find that the economic impact is so minimal that no regulatory evaluation is now necessary.

Issued in Washington, D.C., on March 5, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-6491 Filed 3-5-82; 4:07 pm]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 202

[Reg. ER-1287; Amdt. 4 to Part 202; Docket No. 40092]

Final Rule To Discontinue Airport Notice and Service Plan Requirements and Unnecessary Operating Restrictions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Board is discontinuing its airport notice and approved service plan requirements and several unnecessary operating restrictions contained in Parts 202 and 213 of its Economic Regulations. This action is being taken on the Board's own initiative in order to eliminate unnecessary administrative burdens on carriers and on the Board's staff. In addition, in order to conform to the new rule, the Organization Regulations are being modified.

DATES: Adopted: February 23, 1982. Effective: April 10, 1982.

FOR FURTHER INFORMATION CONTACT: Ira Leibowitz, Bureau of International Aviation, Legal Division, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5203.

SUPPLEMENTARY INFORMATION: On October 1, 1981, the Board proposed to adopt a rule which would amend Parts 202 and 213 of its Economic Regulations to eliminate airport notice, approved service plan, and attendant reporting requirements, and other provisions which restrict carrier operations (EDR-432, 46 FR 50551, October 14, 1981).

Section 202.13 (a) and (b) and § 213.4 require certificated air carriers and foreign air carriers, respectively, to apply to the Board for permission to initiate service to a point, to change the airport used to serve a point, or to serve two points by the same airport. Proposed changes may not be implemented until 30 days have elapsed or the Board approves the changes, whichever occurs first. Section 202.13(d) requires U.S. carriers to notify the Board if foreign governments require them to serve a point through an airport not regularly used by the carrier.

Section 202.15 governs carrier deviation from certificates that are conditioned by approved service plans. A service plan provides the Board with detailed flight information to foreign points and must be approved before service over the proposed routing may be initiated.[1] Section 202.16 requires U.S. carriers to notify the Board if foreign governments require them to make stops or serve points not named in their certificates or approved service plans.

Sections 202.21 and 202.22 and Appendices A and B to Part 202 delineate the procedural framework for these rules.

Part 202 also imposes restrictions on carrier operations. Section 202.12 limits the period of time aircraft may spend at "intermediate" stops. Another part of that section, along with §§ 202.13(c) and 202.14, contain provisions which were designed to facilitate Board oversight of U.S. carrier service to the points named in their certificates.

In EDR-432 we explained that these rules create undue costs and administrative burdens on both carriers and Board staff. The requirements they impose serve no regulatory purpose, particularly in light of the policies of the Airline Deregulation Act of 1978 (ADA) and the International Air Transportation Competition Act of 1979 (IATCA).

We also emphasized that if the Board needs the subject information in other contexts, it has ample residual powers. For instance, it can utilize, when appropriate, Part 213 or 231 of the Regulations or Sections 407 or 419 of the Federal Aviation Act (the Act). It may also rely on the public and other carriers and such industry publications as the Official Airline Guide (OAG). Such monitoring procedures are in keeping with the Board's more limited role envisioned by deregulation legislation and policy.

Comments on EDR-432 were filed by the Airport Operators Council International (AOCI), and by the National Air Carrier Association (NACA). After careful consideration of these comments, we have decided that they do not warrant a change in our earlier findings and conclusions. We have therefore decided to amend Parts 202 and 213 as proposed in EDR-432.

AOCI basically argues for a retention of §§ 202.13(a) and (b) and § 202.14 and of most of the attendant notice

[1] We no longer condition existing certificates with such service plans. Moreover, the elimination of existing service plans from all certificates authorizing foreign air transportation was adopted by Order 82-2-58.

provisions of § 202.22.[2] It states that the provisions it seeks to retain are essential to the forecast of aviation demand and aircraft movement and to the expression of public interest in the evolution of air service patterns.

AOCI's comments do not provide a sufficient basis for continuing the burdens and restrictions imposed on carrier operations by Parts 202 and 213. The Board does not rely on airport notices to forecast aviation demand, as suggested by AOCI. There are other far more useful sources of information available for this purpose, including traffic data collected by the Board and made available to the public. While airport notices provide some information as to the presence of service at particular airports, we have previously noted that the public's interest in obtaining this information is adequately served through alternate and far less burdensome means. Furthermore, an airport will receive advance notice of an air carrier's desire to serve it through the carrier's need to arrange for landing rights, gate and counter space, and the other facilities and amenities that must precede actual operations to a new or newly regular destination.

NACA supports the proposed rule in large part but opposes removal of the provisions insofar as they affect foreign air carriers. It states that these rules are needed for effective oversight of the airport activities of foreign air carriers, implying that a foreign airport restriction imposed on a U.S. carrier by a foreign government could not be met with an effective response by the United States if the subject rules are eliminated. We disagree. The movements of foreign air carriers may still be monitored by other means, including conditioning their permits and requiring them to file schedules under Part 213. Other retaliatory measures contemplated by the Act remain, of course, in place. We do not anticipate that these rule changes will weaken our ability to monitor the operations of foreign air carriers and to effectively respond to restrictive, discriminatory, or unfair competitive practices against U.S. carriers abroad.

We are making the rule changes final, as proposed. This regulation will be effective 30 days after publication.

Final Regulatory Flexibility Analysis

The discussion above constitutes the Board's final regulatory flexibility analysis of this rule, pursuant to 5 U.S.C. 604. Copies of this document can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673–5432, by referring to the "ER" number at the top of the document.

[2] AOCI urges that each notice that it would require be served upon all the individuals and entities listed in § 202.22 except the Postmaster General and the other scheduled carriers serving the airport or point.

Final Rule

PART 202—CERTIFICATES AUTHORIZING SCHEDULED ROUTE SERVICE: TERMS, CONDITIONS, AND LIMITATIONS

Accordingly, the Board amends 14 CFR Part 202, "Certificates Authorizing Scheduled Route Service: Terms, Conditions and Limitations," as follows:

1. The authority for Part 202 is:

Authority: Secs. 102, 204, 401, 402, 403, 407, 416, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 754, 757, 758, 766, 771, (49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377, 1386); Reorganization Plan No. 3 of 1961, 26 FR 5989.

§§ 202.12–202.16, 202.21, 202.22 and Appendices A and B [Removed]

2. Sections 202.12, 202.13, 202.14, 202.15, 202.16, 202.21, and 202.22, and accompanying appendices A and B, are removed.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-6678 Filed 3-10-82; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 213

[Reg. ER-1288; Amdt. No. 8 to Part 213; Docket No. 40092]

Final Rule to Discontinue Airport Notice and Service Plan Requirements and Unnecessary Operating Restrictions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: In ER–1287, also issued today, the Board discontinued its airport notice and approved service plan requirements and several unnecessary operating restrictions contained in its regulations. The reasons for this change are explained therein. Part 213 is being amended to conform with the new rule.

DATES: Adopted: February 23, 1982. Effective: April 10, 1982.

FOR FURTHER INFORMATION CONTACT: Ira Leibowitz, Legal Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5203.

PART 213—TERMS, CONDITIONS AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS

Accordingly, the Board amends 14 CFR Part 213, *"Terms, Conditions and Limitations of Foreign Air Carrier Permits,"* as follows:

1. The authority for Part 213 is:

Authority: Secs. 204, 402, Pub. L. 85–726, as amended, 72 Stat. 743, 757; (49 U.S.C. 1324, 1372).

§ 213.4 and Appendices A and B [Reserved]

2. Section 213.4 and accompanying appendices A and B are removed and reserved.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-6681 Filed 3-10-82; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 385

[Reg. OR-193; Amdt. No. 122 to Part 385; Docket No. 40092]

Final Rule To Discontinue Airport Notice and Service Plan Requirements and Unnecessary Operating Restrictions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: In ER–1287, also issued today, the Board discontinued its airport notice and approved service plan requirements and several unnecessary operating restrictions contained in its regulations. The reasons for this change are explained therein. Part 385 is being amended to conform with the new rule.

DATES: Adopted: February 23, 1982. Effective: April 10, 1982.

FOR FURTHER INFORMATION CONTACT: Ira Leibowitz, Legal Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673–5203.

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Accordingly, the Board amends 14 CFR Part 385, "Delegations and Review of Action Under Delegation; Nonhearing Matters," as follows:

1. The authority for Part 385 is:

Authority: Secs. 102, 204, 401, 402, 403, 407, 416, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 754, 757, 758, 766, 771; (49 U.S.C. 1302,

1324, 1371, 1372, 1373, 1377, 1386); Reorganization Plan No. 3 of 1961, 26 FR 5989.

§ 385.13 [Amended]

2. In § 385.13, *Delegation to the Director, Bureau of Domestic Aviation,* paragraphs (a)(3) and (m) are removed and reserved.

§ 385.26 [Amended]

3. In § 385.26, *Delegation to the Director, Bureau of International Aviation,* paragraphs (a)(3), (a)(4), and (j) are removed and reserved.

By the Civil Aeronautics Board.

Phillis T. Kaylor,

Secretary.

[FR Doc. 82-6679 Filed 3-10-82; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 389

[Reg. OR-194; Amdt. No. 29 to Part 389; Docket No. 40092]

Final Rule To Discontinue Airport Notice and Service Plan Requirements and Unnecessary Operating Restrictions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: In ER-1287, also issued today, the Board discontinued its airport notice and approved service plan requirements and several unnecessary operating restrictions contained in its regulations. The reasons for this change are explained therein. Part 389 is being amended to conform with the new rule.

DATES: Adopted: February 23, 1982. Effective: April 10, 1982.

FOR FURTHER INFORMATION CONTACT: Ira Leibowitz, Legal Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5203.

PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

Accordingly, the Board amends 14 CFR Part 389, "Fees and Charges for Special Services," as follows:

1. The authority for Part 389 is:

Authority: Sec. 204, Pub. L. 85-726, as amended, 72 Stat. 743; (49 U.S.C. 1324).

§ 389.25 [Amended]

2. In § 389.25, *Schedule of Filing and License Fees,* paragraph (d) is removed and reserved.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-6680 Filed 3-10-82; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 271 and 274

[Release No. IC-12274, File No. S7-880]

Adoption of Permanent Notification Forms for Business Development Companies; Statement of Staff Position

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of permanent forms; statement of staff position.

SUMMARY: The Commission is adopting today, on a permanent basis, three forms: a notice of intent to elect to be regulated as a business development company, a notification of election to be regulated as a business development company and a notification of withdrawal of such election. The three permanent forms are substantially the same as interim forms on which the Commission previously sought public comment (March 31, 1981; 46 FR 19459), although a minor technical change has been made in one of the forms in response to public comment. The Commission also is publishing the views of its Division of Investment Management, as expressed in response to a "no-action" request, regarding the distribution of preliminary prospectuses by a company after it has filed a notice of intent to elect but before it has filed a notification of election.

DATE: Effective March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Kathleen A. Jackson, Special Counsel, (202) 272-2115 or Eric H. Pookrum, Esq., (202) 272-2118, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption, on a permanent basis, of three forms under certain provisions of the Investment Company Act of 1940 ("1940 Act") [15 U.S.C. 80a-1 *et seq.* as amended by Pub. L. No. 96-477 (October 21, 1980)]:

(1) Form N-6F [17 CFR 274.15], a form for notice of intent to elect to be subject to sections 55 through 65 of the 1940 Act [15 U.S.C. 80a-54 through 80a-64], the regulatory provisions applicable to business development companies;

(2) Form N-54A [17 CFR 274.53], a form for notification of such election under the 1940 Act; and

(3) Form N-54C [17 CFR 274.54], a form for notification of withdrawal of such election under the 1940 Act.

Additionally, the Commission is announcing the views of its Division of Investment Management, as expressed in response to a "no-action" request, regarding the distribution of preliminary prospectuses by a company after it has filed a notice of intent to elect to be subject to sections 55 through 65 of the 1940 Act, but before it has filed a notification of election.

Adoption of Permanent Forms

The Small Business Investment Incentive Act of 1980 (the "SBIIA") [Pub. L. No. 96-477] was enacted to enable small enterprises, particularly small growing and financially troubled enterprises, to raise needed capital in a manner consistent with the interests of investor protection.[1] To achieve this purpose, the SBIIA *inter alia,* amended various provisions of the 1940 Act by establishing a system of regulation for certain investment companies termed "business development companies." A business development company is defined,[2] in effect, as a domestic closed-end company [3] that is operated for the purpose of making investments in small, developing and financially troubled businesses and that makes available significant managerial assistance to its portfolio companies.

The system for regulation of business development companies is set forth in sections 55 through 65 of the 1940 Act. Although the system of regulation found in these sections is similar to the regulatory system applied to registered investment companies by sections 1 through 53 of the 1940 Act, in general, business development companies are permitted greater flexibility in dealing with their portfolio companies, issuing securities and compensating their management.[4]

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[1] H.R. Rep. No. 1341, 96th Cong., 2d Sess. 19 (1980).

[2] The term "business development company" is defined in section 2(a)(48) of the 1940 Act [15 U.S.C. 80a-2(a)(48)].

[3] Closed-end investment companies are management companies that do not offer for sale or have outstanding any redeemable security. See section 5(a)(2) of the 1940 Act [15 U.S.C. 80a-5(a)(2)].

[4] For a more detailed discussion of the differences between the regulatory system applied to business development companies and that applied to registered investment companies, see Investment Company Act Release No. 11703 (March 26, 1981) [46 FR 19459, March 31, 1981].

Business development companies are not required to register as investment companies under the 1940 Act. However, they are required to register under the Securities Exchange Act of 1934, [15 U.S.C. 78a et seq.] and the SBIIA contemplates the development of certain notification forms to be used by a company in connection with its election to be a business development company or its withdrawal of such an election. More specifically, there are three types of notices or notifications that might be filed by business development companies:

1. a notice of intent to elect to be a business development company;
2. a notification of election to be a business development company; and
3. a notification of withdrawal of such an election.

The filing of a notice of intent to elect would permit a private company to prepare to make a public offering as a business development company without immediately becoming fully subject to the 1940 Act, as amended.

The reports accompanying both the House bill that was enacted as the SBIIA and the substantially similar Senate bill expressed the Congressional intent that the Commission adopt new forms or adapt existing ones for these purposes on an expedited or emergency basis.[5] Therefore, in March, 1981, the Commission adopted interim forms for each of the three types of notifications described above without prior notice and opporunity for comment.[6] At the same time, however, the Commission, among other things, solicited public comment on whether the interim forms should be adopted on a permanent basis and, if so, whether the forms should be changed in any way.

In response to its request for comment, the Commission received one letter. Although the commentator endorsed the adoption of each of the three forms, it suggested one technical change to clarify a possible ambiguity in the certification requirement of Interim Form N–54A. Interim Form N–54A requires that a business development company certify, among other things,

that it will be operated for the purpose of making investments in securities described in sections 55(a) (1) through (3) of the Investment Company Act of 1940; and that it will make available significant managerial assistance with respect to issuers of such securities as represent 70 percent of the total assets of the company for purposes of the computation required by section 55(a) of the Act.

This certification was intended to require a business development company to certify that it met the definitional requirements of section 2(a)(48) of the 1940 Act. However, the commentator asserted that the certification might be construed to go beyond the scope of one of the definitional requirements of section 2(a)(48).

Section 2(a)(48) requires a business development company to be operated for the purpose of making investments in securities described in sections 55(a) (1) through (3) of the 1940 Act [15 U.S.C. 80a–55(a)(1) through 80a–55(a)(3)] [7] and to make available significant managerial assistance to those issuers whose securities are described in sections 55(a) (1) through (3) but only to the extent that such issuers "are treated by such business development company as satisfying the 70 per centum of the value of its total assets condition of section 55."

The commentator expressed the view that the purpose of the proviso in section 2(a)(48) is to make it clear that a business development company which has more than 70 percent of its assets in securities described in sections 55(a) (1) through (3) of the 1940 Act does not have to provide managerial assistance to issuers of those securities represented in the portion of its assets which exceeds the 70 percent threshold. The commentator then pointed out that section 55(a) of the 1940 Act does not require a business development company to maintain 70 percent or any other fixed percentage of its assets in securities or the other types of assets described in section 55(a). Rather, that section makes it unlawful for a business development company to make any *new* acquisitions of assets (other than those described in sections 55(a) (1) through (7)) unless, at the time of the acquisition, at least 70 percent of the value of the company's assets, other than assets described in paragraph (7) of section 55(a), consist of sections 55(a) (1) through (6) assets. In addition, the commentator noted that, under section 55(a), a business development company lawfully may invest in, and count toward meeting the 70 percent test of that section, securities issued by persons to whom the company could not provide managerial assistance, such as the Federal Government. In this connection the commentator contended that a business development company also may acquire or continue to hold and treat as qualifying assets under section 55(a), securities, the issuer of which may no longer need managerial assistance.

The commentator suggested that the certification be amended by either (1) deleting the phrase "as represent 70 percent of the total assets of the company for purposes of the computation required by section 55(a) of the Act" or (2) adding the phrase "to the extent necessary to meet the requirements of the Act" following the word "Act" in the last line of the certification.

The Commission agrees that the certification in Interim Form N–54A might be confusing, and the certification in the permanent form has ben changed. While the Commission has not adopted either of the specific changes suggested by the commentator, the Commission believes that the revised certification meets both the concern of the commentator and the intent of the SBIIA. The revised certification in relevant part provides

that it will be operated for the purpose of making investments in securities described in sections 55(a) (1) through (3) of the Investment Company Act of 1940; and that it will make available significant managerial assistance with respect to the issuers of such securities to the extent required by the Act.

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[5] H.R. Rep. No. 1341, 96th Cong., 2d Sess. 38 (1980); S. Rep. No. 958, 96th Cong., 2d Sess. 23 (1980).

[6] Investment Company Act Release No. 11704, note 4, *supra*.

[7] Sections 55(a) (1) through (3) securities, generally, may be described as securities issued by any company that is organized and has its principal place of business in the U.S., and that is an operating company (i.e., not an investment company, business development company, or other type of financial intermediary such as a bank, broker-dealer, insurance company, etc.). Sections 55(a) (1) through (3) securities must also meet one or more of the following criteria:

(1) The securities were acquired by the business development company in private placement transactions from the issuer or from a present or recent affiliate of the issuer *and*, at the time of the business development company's investment, the issuer did not have a class of its securities listed on an exchange or on the Federal Reserve Board's margin list;

(2) The securities were acquired by the business development company in private placement transactions from the issuer or an officer or employee of the issuer as a "follow-on investment" in an existing portfolio company, which was not exchange or margin-listed at the time of the business development company's initial investment *and* the business development company has retained a substantial part of its original equity investment in the issuer;

(3) The issuer of the securities is a company that (a) the business development company "controls" (meaning beneficial ownership of 25% of the company's voting securities), (b) the business development company actually helps manage, and (c) on whose board the business development company has a representative (securities in this category may be exchange or margin-listed and may be purchased from any person in the open market or in private placement transactions); or

(4) The securities were purchased in private placement transactions from an issuer that at or immediately before the time of the business development company's acquisition was in bankruptcy or reorganization or was unable to meet its obligations as they came due, or were purchased from present or recent affiliates of such an issuer.

Interim Form N-6F, the notice of intent to elect, and Interim Form N-54C, the notification of withdrawal of election, are adopted permanently as originally proposed.

Distribution of Preliminary Prospectuses

To provide guidance to companies that are contemplating becoming business development companies, the Commission is publishing a position recently taken by its Division of Investment Management in response to a "no-action" request. The request was made on behalf of a closed-end company which at the time of its request had fewer than 100 beneficial owners of its securities but which had filed a registration statement on Form N-2 in anticipation of making a public offering as a business development company. At the time of the filing of its registration statement, the issuer had also filed a notice of its intent to file a notification of election to be a business development company. This notice was necessary in light of the interaction of Section 3(c)(1) of the 1940 Act and Section 6(f)(2) of the 1940 Act [15 U.S.C. 80a-3(c)(1), 80a-6(f)(2)], which was added by the SBIIA. Section 3(c)(1) excludes from the definition of an investment company an issuer that has no more than 100 shareholders and is not making or proposing to make a public offering of its securities. Once such an issuer proposed to make such a public offering, it would become ineligible for the exclusion; however, Section 6(f)(2) provides an exemption for such an issuer from many provisions of the 1940 Act if it notifies the Commission that it "intends in good faith to file, within 90 days, a notification of election" to be a business development company.

At the time the no-action request was made, the issuer expected to file an amendment to its registration statement and contemplated that the prospectus contained in that amendment would be circulated by the underwriters of the proposed offering. Counsel for the issuer pointed out that circulation of the company's preliminary prospectus might be deemed to constitute a public offering of the company's securities and that, since the section 6(f)(2) exemption applies only to companies that are *proposing* to make a public offering, distribution of preliminary prospectuses could raise a question about the continued availability of the exemption. Counsel contended, however, that the exemption would not be lost for two reasons. First, counsel stated that the issuer would not complete any public offering or make any sale of its securities unless and until it had filed its notice of election to be regulated as a business development company. Additionally, the issuer undertook to disclose prominently in its preliminary prospectus that the issuer had filed a notice of intent to elect, that it had not yet become a business development company, and that the offering could not be completed unless and until it had made such an election. Finally, the issuer, undertook to file a notification of election before or simultaneously with the filing of the pricing amendment to its registration statement. The issuer requested assurance that the staff would not recommend enforcement action if the Corporation continued to rely on the section 6(f)(2) exemption until the earlier of (1) the date on which the issuer's registration statement on Form N-2 became effective or (2) the expiration of the 90-day period provided by Section 6(f)(2) (or any extension thereof which might be permitted by the Commission). (*Heizer Corporation*, available April 30, 1981).

The Division of Investment Management responded affirmatively to this request. Where the facts are the same as those described in the Heizer no-action letter, it is the position of the Division of Investment Management that the exemption from sections 1 through 53 of the 1940 Act (except to the extent provided in Sections 59 through 65) provided by section 6(f)(2) of that Act may be relied upon to the extent described above.

In accordance with the foregoing 17 CFR Part 271 is amended by adding reference to this release thereto.

Text of Forms

The text of the forms is set forth in the appendix to this release.

Statutory Authority, Effective Date

The Commission hereby adopts Forms N-6F, N-54A, and N-54C pursuant to section 6(f) [15 U.S.C. 80a-6(f)], section 38(a) [15 U.S.C 80a-37(a)], section 54 [15 U.S.C. 80a-53], and section 59 [15 U.S.C. 80a-58] of the 1940 Act. This action is effective immediately pursuant to the Administrative Procedure Act [5 U.S.C. 553(d)(3)].

By the Commission.

George A. Fitzsimmons,

Secretary.

March 5, 1982.

Text of Forms

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

Subpart A of Part 274 of Chapter II of Title 17 of the Code of Federal Regulations is hereby amended as follows:

1. By adding § 274.15 to read as follows:

274.15 Form N-6F, notice of intent to elect to be subject to sections 55 through 65 of the Investment Company Act of 1940.

This form shall be used by a company that would be excluded from the definition of an investment company by section 3(c)(1) of the Investment Company Act of 1940 [15 U.S.C. 80a-3(c)(1)], except that at the time of filing it proposes to make a public offering of its securities as a business development company, to notify the Securities and Exchange Commission that the company intends in good faith to file, within 90 days, a notification of election to become subject to the provisions of sections 55 through 65 of the Investment Company Act of 1940 [15 U.S.C. 80a-54 through 64].

2. By adding § 274.53 to read as follows:

§ 274.53 Form N-54A, notification of election to be subject to sections 55 through 65 of the Investment Company Act of 1940 filed pursuant to section 54(a) of the Act.

This form shall be used pursuant to section 54(a) of the Investment Company Act of 1940 [15 U.S.C. 80a-53(a)] by a company of the type defined in sections 2(a)(48) (A) and (B) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48) (A) and (B) to notify the Securities and Exchange Commission of its election to be subject to the provisins of sections 55 through 65 of said act (15 U.S.C. 80a-54 through 64].

3. By adding § 274.54 to read as follows:

§ 274.54 Form N-54C, notification of withdrawal of election to be subject to sections 55 through 65 of the Investment Company Act of 1940 filed pursuant to section 54(c) of the Investment Company Act of 1940.

This form shall be used pursuant to section 54(c) of the Investment Company Act of 1940 [15 U.S.C. 80a-53(c)] by a business development company to file a notice of withdrawal of its election under section 54(a) of the Investment Company Act of 1940 [15 U.S.C. 80a-53(a)].

The text of the forms is set forth below.

Securities and Exchange Commission, Washington, D.C.; Form N-6F

Notice of Intent To Elect To Be Subject to Sections 55 Through 65 of the Investment Company Act of 1940

The undersigned hereby notifies the Securities and Exchange Commission that it intends to file a notification of election to be subject to sections 55 through 65 of the

Investment Company Act of 1940 (the "Act") and in connection with such notice submits the following information:

Name: [1] ———

Address of Principal Business Office (No. & Street, City, State, ZIP Code): ———

Telephone Number (including area code):——

Name and adress of agent for service of process: ———

The undersigned company hereby notifies the Securities and Exchange Commission that it intends to file a notification of election to be subject to sections 55 through 65 of the Act within ninety days of the date of this filing. The company would be excluded from the definition of an investment company by section 3(c)(1) of the Act, except that it presently proposes to make a public offering of its securities as a business development company.

Signature

Pursuant to the requirements of section 6(f) of the Act, the undersigned company has caused this notice of intent to elect to be subject to sections 55 through 65 of the Act pursuant to section 54(a) of the Act to be duly executed on its behalf in the city of ——— and the state of ——— on the — day of ———, 19—.

[SEAL] Signature ———
(Name of Company)

By ———
(Name of director, officer or general partner signing on behalf of the company)

(Title)

Attest: ———
(Name)

(Title)

Instructions for Form N–6F

Read instructions carefully before preparing this notice. It may be returned as not acceptable for filing unless it is prepared, executed, and filed substantially in accordance with these instructions. This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of a notice of intent to file a notification of election. The form should be filed on paper 8½ x 11 inches in size.

(a) This form shall be used pursuant to section 6(f) of the Act to notify the Commission of the company's intent to file a notification of election to be subject to sections 55 through 65 of the Act. The form should not be filed by a company that at the time of filing has more than one hundred beneficial owners of its securities, or by a company that expects to have more than one hundred beneficial owners of its securities before a notification of election will be filed. Such a company should consider whether or not it needs to file a notification of registration under section 8(a) of the Act or a notification of election under section 54(a) of the Act.

(b) Signature.

An original and three copies of the notice of intent to file a notification of election shall be filed. The three copies may have facsimile or typed signatures. If the company is a business development company having a board of directors, the original notice of intent to file a notification of election shall be signed on behalf of the company by a director, officer, or trustee. If the company is a partnership, the original notice shall be signed by a general partner.

(c) Filing.

The notice of intent to elect and all inquiries and communication with respect thereto shall be forwarded to the Securities and Exchange Commission, Washington, D.C. 20549.

(d) Fee.

There is no fee charged for filing the notice of intent to elect.

Securities and Exchange Commission, Washington, D.C.; Form N–54A

Notification of Election To Be Subject to Sections 55 Through 65 of the Investment Company Act of 1940 Filed Pursuant to Section 54(a) of the Act

The undersigned business development company hereby notifies the Securities and Exchange Commission that it elects, pursuant to the provisions of section 54(a) of the Investment Company Act of 1940 (the "Act"), to be subject to the provisions of sections 55 through 65 of the Act and, in connection with such notification of election, submits the following information:

Name: ———

Address of Principal Business Office (No. & Street, City, State, ZIP Code): ———

Telephone Number (including area code):——

Name and address of agent for service of process: ———

Check one of the following:

[ ] The company has filed a registration statement for a class of equity securities pursuant to section 12 of the Securities Exchange Act of 1934. Give the file number of the registration statement or, if the file number is unknown or has not yet been assigned, give the date on which the registration statement was filed: ———

[ ] The company is relying on rule 12g–2 under the Securities Exchange Act of 1934 in lieu of filing a registration statement for a class of equity securities under that Act.

The file number of the registration as an investment company pursuant to section 8(a) of the Act, if any, of the company: ———

The file number of the registration as an investment company pursuant to section 8(a) of the Act, if any, of any subsidiary of the company: ———

The undersigned company certifies that it is a closed-end company organized under the laws of ——— (state) and with its principal place of business in —— (state); that it will be operated for the purpose of making investments in securities described in section 55(a) (1) through (3) of the Investment Company Act of 1940; and that it will make available significant managerial assistance with respect to issuers of such securities to the extent required by the Act.

Pursuant to the requirements of the Act, the undersigned company has caused this notification of election to be subject to sections 55 through 65 of the Investment Company Act of 1940 to be duly signed on its behalf in the city of ——— and state of —— on the —— day of ——— 19—.

[SEAL] Signature ———

By ———
(Name of director, officer, or general partner signing on behalf of the company)

Title ———

Attest: ———
(Name)

(Title)

Instructions for Form N–54A

Read instructions carefully before preparing the notification of election. A notification of election may be returned as not acceptable for filing unless it is prepared, executed, and filed substantially in accordance with these instructions. This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of a notification of election. The form should be filed on paper 8½ x 11 inches in size.

(a) This form shall be used as the notification of election to be subject to sections 55 through 65 of the Act filed with the Commission pusuant to section 54(a) of the Act.

(b) Signature.

An original and seven copies of each notification of election shall be filed. The seven copies of the notification of election may have facsimile or typed signatures. If the company is a business development company having a board of directors, the original notification of election shall be signed on behalf of the company by a director, officer, or trustee. If the company is a partnership, the original notification shall be signed by a general partner.

(c) Filing.

The notification of election and all inquiries and communications with respect thereto shall be forwarded to the Securities and Exchange Commission, Washington, D.C. 20549.

(d) Fee.

There is no fee charged for filing the notification of election.

(e) Rule 12g–2.

Only companies with a class of equity securites that would have been required to be registered pursuant to section 12(g)(1) of the Securities Exchange Act of 1934 except for the exemption from registration under section 12(g)(2)(B), and that is held of record by at least 300 persons, may rely on rule 12g–2. All other companies must register a class of equity securities under section 12 of the Securities Exchange Act of 1934 before or simultaneously with the filing of this notification of election.

(f) Name.

In selecting a name a company should consider the following: (a) section 35(d) of the Act; (b) the current list of companies

[1] In selecting a name a company should consider the following: (a) section 35(d) of the Act; (b) the current list of companies registered under the Act (in order to ascertain if the name is similar to that of any existing company); and (c) its corporate policies.

registered under the Act (in order to ascertain if the name is similar to that of any existing company); and (c) its corporate policies.

Securities and Exchange Commission, Washington, D.C.; Form N–54C

Notification of Withdrawal of Election To Be Subject to Sections 55 Through 65 of the Investment Company Act of 1940 Filed Pursuant to Section 54(c) of the Investment Company Act of 1940

The undersigned business development company hereby notifies the Securities and Exchange Commission that it withdraws its election to be subject to sections 55 through 65 of the Investment Company Act of 1940 (the "Act"), pursuant to the provisions of section 54(c) of the Act, and in connection with such notice of withdrawal of election submits the following information:

Name:

Address of Principal Business Office (No. and Street, City, State, Zip Code):

Telephone Number (including area code):

File Number under the Securities Exchange Act of 1934:

In addition to completing the cover page, a company withdrawing its election under section 54(a) of the Act must state one of the following bases for filing the notification of withdrawal:

A. The company has never made a public offering of its securities; does not have more than 100 securityholders for purposes of section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering.

B. The company (1) has distributed substantially all of its assets to its securityholders and has effected, or is in the process of effecting, a winding-up of its affairs, and (2) is not liquidating as part of a merger.

C. The company has (1) sold substantially all of its assets to another company; or (2) merged into or consolidated with another company. Give the name of the other company and state whether the other company is a registered investment company, a company excluded from the definition of an investment company by section 3(c)(1) of the Act, a business development company, or none of the above.

D. The company has changed the nature of its business so as to cease to be a business development company, and such change was authorized by the vote of a majority of its outstanding voting securities or partnership interests. Describe the company's new business. Give the date of the shareholders' or partners' meeting and the number of votes in favor of and opposed to the change.

E. The company has filed a notice of registration under section 8 of the Act. State the filing date of the company's notice of registration (Form N–8A) under the Act.

F. Other. Explain the circumstances surrounding the withdrawal of election.

Signature

Form of signature:

Pursuant to the requirements of the Act, the undersigned company has caused this notification of withdrawal of election to be subject to sections 55 through 65 of the Act to be duly signed on its behalf in the city of ——— and state of —— on the day of ——— 19—.

[SEAL] Signature ———
(Name of company)

By ———
(Name of director, officer, or general partnersigning on behalf of the company)

Title ———

Attest: ———
(Name)

———
(Title)

Instructions for Form N–54C

Read instructions carefully before preparing this notification. It may be returned as not acceptable for filing unless it is prepared, executed, and filed substantially in accordance with these instructions. This form is not to be used as a blank form to be filled in, but only a guide for the preparation of a notification of withdrawal. The form should be filed on paper 8½ x 11 inches in size.

(a) This form shall be used pursuant to section 54(c) of the Act to notify the Commission of the company's withdrawal of its notification of election to be subject to sections 55 through 65 of the Act. Such withdrawal will be effective immediately upon receipt by the Commission. Companies filing this notification should be aware that it is only a withdrawal from the regulatory system applicable to business development companies, described in sections 55 through 65 of the Act. A company which files this notification may be subject to sections 1 through 53 of the Act unless it qualifies for another exemption from those sections.

(b) Signature.

An original and three copies of the notification of withdrawal of election shall be filed. The three copies may have facsimile or typed signatures. If the company is a business development company having a board of directors, the original notification of withdrawal of election shall be signed on behalf of the company by a director, officer, or trustee. If the company is a partnership, the original notice shall be signed by a general partner.

(c) Filing.

The notification of withdrawal of election and all inquiries and communication with respect thereto shall be forwarded to the Securities and Exchange Commission, Washington, D.C. 20540.

(d) Fee.

There is no fee charged for filing the notification of withdrawal of election.

(e) Incorporation by Reference.

A company may incorporate by reference any information previously filed in a current report on Form 8–K under the Securities Exchange Act of 1934 by so stating and giving the date on which the Form 8–K was filed.

[FR Doc. 82–6685 Filed 3–10–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 12

State Internal Audit Responsibilities; Revision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document revises existing Federal Highway Administration (FHWA) regulations that set forth a State highway agency's (SHA) responsibilities for audit of its financial operations, and that identify the standards under which the audits will be accomplished. The two major purposes of this action are to ensure that those regulations accurately reflect organizational changes within the Department of Transportation (DOT) as a result of the establishment of the DOT Office of Inspector General, and to implement and incorporate reference to Government-wide audit and management standards issued by the Office of Management and Budget.

EFFECTIVE DATE: April 12, 1982.

FOR FURTHER INFORMATION CONTRACT: Mr. Harvey C. Wood, Office of Fiscal Services, 202–426–0562, or Mr. S. James Wiese, Office of Chief Counsel, 202–426–0762, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: These amendments are necessitated by developments that are external to, but have nevertheless affected, the SHA's internal audit responsibilities under the Federal-aid highway program. On February 25, 1979, the Office of Inspector General was established in the Department of Transportation. On October 22, 1979, the Office of Management and Budget (OMB) revised Circular A–102, Uniform Requirements for Assistance to State and Local Governments, by adding Attachment P, Audit Requirements. In February of 1980, the U.S. General Accounting Office (GAO) reissued Guidelines for Financial and Compliance Audits of Federally Assisted Programs.

The revision to 23 CFR Part 12 is primarily intended to implement new audit policies established by OMB and DOT, and to provide guidance on the audit standards set forth in OMB Circular A–102, Attachment P and GAO's Guidelines for Financial and Compliance Audits of Federally

Assisted Programs. Specifically, these revisions expand upon current audit policy by requiring SHA's to (1) provide information governing the distribution of audit reports, (2) provide for followup and disposition actions on reports, findings, and recommendations, (3) submit an annual certification of timely and acceptable audits of Federal-aid programs, and (4) modify their single audit plans to include procedures for auditing subrecipients and contracting for audit services.

The following changes have been made to the existing regulations:

(a) Section 12.1 is revised to include references to criteria prescribed by OMB Circular A–102, Attachment P and DOT Order 4600.9B, Uniform Administrative Requirements for Grants-In-Aid to State and Local Governments.

(b) Section 12.2 is redesignated as § 12.3 and redefines "audit" to be consistent with GAO guides and OMB Circular A–102. The term "State" is replaced by "State highway agency" and that term is defined. Definitions of the following terms have been added for clarification: cognizant audit agency, cognizant administrative agency, recipient organization, subrecipient organization, single audit, other non-Federal audits, and organization-wide audit.

(c) The former § 12.3 is deleted and the requirements are incorporated into § 12.7 of the revised regulations.

(d) Section 12.4 is redesignated as § 12.5 and is changed to clarify applicability to SHA's and their subrecipients. The SHA's are required to ensure that subrecipients adopt the audit requirements, pursuant to OMB Circular A–102, Attachment P.

(e) The former § 12.5 is redesignated as § 12.7 and is expanded to include all audit criteria, administration of audits, coverage, and procedures for resolving recommendations and findings as required by OMB Circular A–102, Attachment P and DOT directives.

(f) Section 12.6 is redesignated as § 12.17 and is reworded, but contains no change in practice. The provisions for records retention and availability of work papers are required by OMB Circular A–102, Attachment P.

(g) The former § 12.7 is redesignated as § 12.19. Consistent with the other requirements of these regulations, the format of the single audit plan is revised to include procedures relating to audits of subrecipients and an affirmative action statement. Since almost all SHA's are operating under approved single audit plans, only minor revisions may be necessary in most cases. For SHA's not having an approved plan, the submission deadline is extended.

(h) A new § 12.9 requires recipients to submit an annual statement certifying that the proper audit arrangements have been made. Failure to furnish an acceptable audit may be a basis for denying Federal funds and/or requiring that Federal funds be refunded. This certification is required by DOT Order 4600.9B, Uniform Administrative Requirements for Grants-In-Aid to State and Local Governments, dated May 8, 1978 and revised September 24, 1980.

(i) A new § 12.11 requires the SHA to submit audit reports to FHWA and the Office of Inspector General. This is required by the GAO audit standards and OMB Circular A–102, Attachment P. Most of the SHA's already submit audit reports to FHWA.

(j) A new § 12.13 establishes the procedures for FHWA followup and disposition of SHA audit findings and recommendations. This is required by OMB Circular A–102, Attachment P and DOT Order 8000.1, Follow-up Action and Resolution of Audit Recommendations, dated October 5, 1979.

(k) A new § 12.15 encourages audit coordination. The provisions of this section are not mandatory, but reflect the intent of OMB Circular A–102, Attachment P.

The foregoing revisions will not impose any requirements on SHA's beyond those which are currently applicable to all Federal grant recipients and, in particular, recipients of programs administered by DOT. The revised regulations include the minimum requirements necessary to implement the applicable OMB, GAO and DOT directives and are consistent with the FHWA's policy on redtape reduction (43 FR 10578) and DOT regulatory policy (44 FR 11033).

These revisions will not impose any additional costs on SHA's nor will the revisions change the process by which States are reimbursed for costs incurred under the Federal-aid highway program. Under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities. For the foregoing reasons, a full regulatory evaluation is not required.

Because the only substantive revisions being made are those required by OMB, GAO or DOT directives, it is not anticipated that notice and opportunity for comment would result in the receipt of useful information or any substantive changes. In addition, expeditious action has been requested by a number of SHA's which are reluctant to finalize their audit procedures and assume full responsibility for audits without the guidance provided by a revised Part 12 and the companion FHWA directive (Volume 1, Chapter 9, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual). For the foregoing reasons, notice and opportunity for comment are not required under the DOT's regulatory policies and procedures. A general notice of proposed rulemaking is not required under the Administrative Procedure Act because the matters affected relate to grants, benefits, or contracts pursuant to 5 U.S.C. 553(a)(2).

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory procedures.

Information collection requirements contained in this regulation (§§ 12.9, 12.11, and 12.19) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 2105–0112.

(Catalog of Federal Domestic 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: March 4, 1982.

R. A. Barnhart,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA revises Part 12 of Chapter I of Title 23, Code of Federal Regulations, to read as set forth below.

PART 12—FEDERAL-AID HIGHWAY PROGRAMS: STATE INTERNAL AUDIT RESPONSIBILITIES

Sec.

12.1 Purpose.
12.3 Definitions.
12.5 Applicability.
12.7 Criteria for audit performance and administration.
12.9 Annual certification.
12.11 Review of audit reports.
12.13 FHWA followup and disposition actions on reports, findings, and recommendations.
12.15 Audit coordination.
12.17 Retention of records.
12.19 SHA single audit plans.

Authority: 23 U.S.C. 315; OMB Cir. A–102, Attachment P dated October 22, 1979; 49 CFR 1.48(b).

§ 12.1 Purpose.

The purpose of this part is to establish a State highway agency's (SHA)

responsibilities for audit of its financial operations (including internal audits), identify audit standards under which the audits will be accomplished, and prescribed Federal Highway Administration (FHWA) audit criteria to implement applicable provisions of the Office of Management and Budget (OMB) Circular A-102, Attachment P, Audit Requirements, dated October 22, 1979, and the Department of Transportation (DOT) Order 4600.9B, Attachment 11, Audit Requirements, dated September 24, 1980.[1]

§ 12.3 Definitions.

(a) *State highway agency (SHA)*—that department, commission, board, or official of any State, the District of Columbia, and the Commonwealth of Puerto Rico charged by its laws with the responsibility for highway construction and that has the delegated authority to administer Federal highway funds which are received under title 23, United States Code.

(b) *Cognizant audit agency*—the Federal agency assigned audit responsibility by OMB for a particular organization receiving Federal assistance or administering federally assisted programs. In those instances where OMB has designated the DOT as the cognizant agency for a recipient, cognizant audit responsibilities will be performed by the DOT Office of Inspector General (OIG).

(c) *Cognizant administrative agency*—the DOT agency assigned cognizant responsiblities for administrative actions relating to audit reports and resolution of audit findings for recipients of DOT funds. The cognizant administrative agency for funds and programs administered by the SHA's is FHWA.

(d) *Recipient organization*—an SHA receiving Federal highway funds under title 23, United States Code.

(e) *Subrecipient organization*—another State government agency, a local government agency, or other public agency (including metropolitan planning organizations) that receives Federal highway funds from an SHA.

(f) *Single audit*—the concept whereby all requirements for the audit of an organization are satisfied by a single organization-wide audit by an SHA's internal audit unit or other non-Federal audit unit, in accordance with this part.

(g) *Other non-Federal audits*—independent audits performed by (1) internal audit units of State government agencies other than an SHA, (2) local governments, (3) other public agencies, or (4) qualified public accountants.

(h) *Audit*—a systematic review and appraisal by an SHA's internal audit unit or other non-Federal auditor of the accounting, administrative, and operational controls to determine and report on whether:

(1) Financial operations are conducted properly;

(2) Financial statements are presented fairly;

(3) The SHA or subrecipient organization has complied with laws and regulations affecting the expenditure of Federal funds;

(4) Internal procedures have been established to meet the objectives of federally assisted programs; and

(5) Financial reports to the Federal Government contain accurate and reliable information.

(i) *Organization-wide audit*—an audit covering all operations of an SHA wherein Federal funds may be involved. This audit may be:

(1) A single audit covering all financial and compliance aspects of the SHA;

(2) A single financial audit of the SHA in which the auditor's opinion and comments incorporate by reference the results of separate compliance audits that may have been performed during the audit period; or

(3) A State-wide audit in which the SHA's financial and compliance requirements are adequately addressed.

§ 12.5 Applicability.

These requirements shall apply to all SHA's administering the State highway program involving Federal-aid funding under title 23, United States Code. The SHA shall ensure that subrecipients of Federal-aid funding adopt the audit reporting requirements, standards for audit performance and administration, records retention, and audit coordination requirements contained in this part.

§ 12.7 Criteria for audit performance and administration.

(a) The correctness and propriety of Federal-aid claims and compliance with governing laws and regulations are inherent in the certifying responsibility of the SHA. Consistent with this responsibility, audits are to be made by the SHA or at its direction on an organization-wide basis and will be conducted in accordance with the General Accounting Office *Standards for Audit of Governmental Organizations, Programs, Activities, and Functions,*[2] the *Guidelines for Financial and Compliance Audits of Federally Assisted Programs,*[3] any compliance supplements approved by OMB, and generally accepted auditing standards established by the American Institute of Certified Public Accountants.

(b) Audits will be scheduled with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size, newness, and complexity of the activity. Audits performed by an SHA internal audit unit or other non-Federal audit unit in accordance with this part will be relied upon by FHWA, and any additional audit work shall build upon work already done.

(c) Governmental auditing standards provide that SHA internal audit units may not be considered independent when performing audits of their own organization. This qualification on independence may be removed or satisfied when other non-Federal auditors have incorporated the work of SHA internal auditors in their reports and have performed independent compliance and financial tests of the work of the SHA internal auditors. For all audits by non-Federal auditors, including those conducted solely by the SHA internal audit unit, the OIG will perform the additional audit tests necessary to attest to the acceptability of the audit reports.

(d) Audits will be of sufficient scope and coverage to meet the minimum reporting requirements defined in § 12.3(h) and will include, at a minimum, an examination of the systems of internal control, systems established to insure compliance with laws and regulations affecting the expenditure of Federal funds, financial transactions and accounts, and financial statements and reports of SHA's and subrecipients. Audits are to be performed on an organization-wide basis, except in those instances where it would be more cost effective to audit programs, activities, or functions individually, or when deficiencies indicate the need for such an audit.

(e) Procedures shall be established by each SHA to assure that audit recommendations and findings are resolved in a timely and adequate manner, and that FHWA is promptly advised of corrective actions taken or contemplated.

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[1] These documents are available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

[2] Published in 1981 by the GAO, it is available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Stock Number 020-000-00205-1).

[3] The *Guidelines* were published at 45 FR 21836 (April 2, 1980) and available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Stock Number 020-000-00181-0).

(f) When contracts are to be awarded for audits as defined in this part, the recipient shall take affirmative action to assure that small and minority businesses are given the maximum practicable opportunity to compete for and participate in the performance of audits.

§ 12.9 Annual certification.

Recipients shall submit to FHWA an annual statement containing the following or similar certification: "Arrangements have been made for the required financial and compliance audit. The audit will be made within the prescribed audit reporting cycle." Failure to furnish an acceptable audit as determined by the cognizant Federal audit agency may be a basis for denial and/or refunding of Federal funds. The single audit plan should provide the necessary documentation to support the certification. A letter addressed to the FHWA Division Administrator on an annual basis will satisfy this requirement. (Approved by OMB under OMB control number 2105–0112.)

§ 12.11 Review of audit reports.

The SHA internal audit unit shall furnish directly to FHWA and the OIG copies of all audit reports prepared by the internal audit unit or other non-Federal audit unit that include coverage of systems or procedures which may affect the amount of Federal-aid highway funds due the SHA. This includes a system or procedure having an effect on SHA compliance with Federal laws and regulations that relate to Federal-aid highway programs. The OIG is responsible for performing quality assessment reviews to determine that the audits have been conducted in accordance with applicable standards and requirements. (Approved by OMB under OMB control number 2105–0112.)

§ 12.13 FHWA followup and disposition actions on reports, findings, and recommendations.

(a) After receipt of an SHA audit report, or audit report on activities of a subrecipient of Federal-aid highway funds, FHWA shall (1) make an evaluation in order to develop the official position on findings and recommendations affecting Federal-aid funds, (2) make a determination as to action(s) required by FHWA, and (3) advise the SHA of FHWA's official position with regard to the recommendations and findings, the adequacy of actions taken or contemplated by the SHA, and any additional actions considered necessary to protect the Federal interest. This total process should normally be completed within 60 days.

(b) Prompt notification shall be made to the SHA when FHWA considers the disposition actions taken by the SHA to have satisfactorily and effectively resolved the recommendations and audit findings affecting Federal-aid funds. A copy of the notification document together with a summary of disposition actions by the SHA and FHWA will be concurrently submitted to the OIG.

(c) Usually within 15 days after receipt of the advice of completion of disposition actions, the OIG shall advise FHWA of its concurrence or comments.

§ 12.15 Audit coordination.

To improve audit coordination, provide assistance, and reduce duplication of audit coverage, the SHA, FHWA, and OIG are encouraged to coordinate scheduled audits and reviews.

§ 12.17 Retention of records.

Working papers and reports prepared by the SHA internal audit unit and other non-Federal independent auditors shall be retained for a minimum of three years from the date of the audit report unless the SHA is notified in writing by FHWA or the OIG of the need to extend the retention period. Audit working papers shall be made available upon request to FHWA, the OIG, and the General Accounting Office.

§12.19 SHA single audit plans.

(a) Any SHA presently operating under an approved single audit plan shall review its plans and procedures for compliance with Attachment P of OMB Circular A–102 and this part, and advise FHWA and the OIG of any revisions considered necessary, including procedures for implementing paragraphs (b) (4) and (5) of this section.

(b) Any SHA which has not received approval of its single audit plan shall forward a plan to FHWA within 90 calendar days of the date of this regulation. The plan shall include:

(1) Organization and functional statements delineating and assigning internal audit responsibility;

(2) Policy directives which conform to the audit standards and requirements referenced herein;

(3) Present staffing levels, planned staffing levels and collateral duties of internal audit personnel;

(4) Procedures for auditing, or arranging for other non-Federal audits, of subrecipients; and

(5) An affirmative action statement which includes procedures to ensure that small business concerns, and business concerns owned and controlled by socially and economically disadvantaged individuals, have the maximum practicable opportunity to participate when contracting for audit services. (Approved by OMB under OMB control number 2105–0112.)

(c) An SHA that does not meet the requirements of paragraphs (a) or (b) of this section or that has received partial approval of its audit plan, must submit an implementation plan to FHWA within 90 calendar days of the effective date of this regulation outlining the steps proposed to ensure compliance, including proposed implementation dates. Any statutory restrictions which preclude full compliance are to be identified. (Approved by OMB under OMB control number 2105–0112.)

(d) The FHWA Division Administrator will review the SHA's single audit plan and will recommend appropriate action to the Regional Federal Highway Administrator. The Regional Federal Highway Administrator will approve the plan, if acceptable, after appropriate coordination with the OIG.

[FR Doc. 82–6507 Filed 3–10–82; 8:45 am]
BILLING CODE 4910–22–M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 660

[FHWA Docket Number 80–16, Notice 2]

Forest Highways; Administration and Construction Provisions

AGENCY: Forest Service, USDA and Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This regulation revises and updates procedures for the administration and construction of forest highways. The revisions are consistent with the change in the statutory definition of forest highways in the Surface Transportation Assistance Act of 1978.

EFFECTIVE DATE: April 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Coles, Office of Highway Operations (HHO–12), (202) 426–0460, or Mr. Lee J. Burstyn, Office of the Chief Counsel (HCC–10), (202) 426–0754, Federal Highway Administration, 400

Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Currently, there are 22,000 miles of public roads in 40 States and Puerto Rico designated as forest highways. These highways are of special Federal interest because they provide access to the resources of the national forests. Forest highways also provide benefits to communities in or near forest boundaries.

Forest highways are under the jurisdiction of, and maintained by, State or local authorities. The FHWA administers the forest highway program in cooperation with the Forest Service (FS), United States Department of Agriculture. Under this program, Federal funds are made available for the construction and improvement of forest highways.

The regulation governing the forest highway program is codified in Part 660 of Title 23, Code of Federal Regulations (23 CFR Part 660). Subpart A contains the procedures which are used to select forest highway projects for Federal funding and to administer the construction of those projects. Subpart B establishes a Forest Highway System and the procedures for classifying, numbering, and modifying forest highway routes.

The administration of the Forest Highway System was reviewed by the United States General Accounting Office (GAO) and was the subject of a report entitled "Federal Interests Should Receive More Consideration Under the Forest Highway Program" (CED–77–130, October 13, 1977).[1] The GAO report found that certain roads essential to the national forests were not being given sufficient consideration in the financing of forest highway improvements. For example, some 3,700 miles of forest roads were found to be ineligible for Federal funding because of legislative and administrative changes between 1970 and 1977. State and local funds then became the only source of funding for needed improvements on these routes. The GAO report recommended legislative action to permit those forest roads that were formerly considered forest highways to be eligible for funding under the forest highway program.

The Surface Transportation Assistance Act of 1978 (STAA) (Pub. L. 95–599) amended the definition of "forest highway" in section 101(a) of title 23, United States Code (23 U.S.C. 101(a)). This amendment was recommended by the Executive branch in response to the GAO report.

The definition of forest highways in 23 U.S.C. § 101(a) is now broad enough to incorporate those roads which had become ineligible for Federal funding. It includes all forest roads which are under the jurisdiction of, and maintained by, a public authority and open to public travel. It allows the FHWA and the FS to develop a more integrated forest road system by extending funding to those highways which link the various Federal-aid highway systems (i.e., primary, secondary, etc.) with the forest development roads, which are administered by the FS.

The GAO report also recommended that the FHWA and the FS jointly develop and issue specific criteria for selecting projects for forest highway funding. Because of limited funds authorized for the program, the GAO recommended that project development and selection be based on sound criteria to assure that those projects that best meet the program's intent are given top consideration.

Section 660.103(b) of this regulation incorporates the new definition of forest highways which has been in effect since 1978. Section 660.109 establishes a formal program and project selection process based on specific criteria. The selection process is intended to better protect the Federal interest in forest highways by providing a greater role for the FS in the development and selection of programs and projects.

The Forest Highway System, as such, is being eliminated. All references to the Forest Highway System in 23 CFR Part 660, Subpart A and the entire Subpart B have been deleted. The Forest Highway System was not established as a result of any statutory requirement, but rather was created as an administrative mechanism for designating forest highway routes. Under § 660.105, forest roads will be designated as forest highways on the basis of three fundamental criteria, without reference to a formal Forest Highway System. This change is designed to eliminate unnecessary paperwork and administrative burdens in the forest highway program.

The regulation provides for consultation between the FHWA, the FS, State highway agencies, and local government agencies, as appropriate, in a number of important areas including the designation of forest highways (§ 660.105), program and project selection (§ 660.109), and maintenance (§ 660.115). The FHWA encourages agencies with an interest in forest highways to consult with each other on a regular basis and to share their expertise in all program areas.

This regulation represents a condensed version of the former regulation for administering forest highways. Extraneous material and requirements have been eliminated. Other provisions have been revised or supplemented with references to existing policies and procedures to improve the clarity and usefulness.

Section 660.111 retains the concept of a statewide or countywide forest highway agreement, with a project level agreement required only under certain specified conditions. It is intended that all existing agreements between the FHWA and cooperating agencies (i.e., "cooperators") remain in effect under this regulation.

Section 660.113 recognizes that forest highway projects may be constructed or administered directly by the FHWA under the FHWA's "Direct Federal" procedures, or by a cooperator under normal Federal-aid highway program procedures. This section also indicates that the design standards approved for use by the FHWA in 23 CFR Part 625 apply to forest highways unless other standards are approved by the FHWA for use on a particular project.

Section 660.117(a) recognizes that the Federal share of funding for forest highway projects may be any amount up to and including 100 percent, but also makes it clear that participation by cooperators is not required. However, the FHWA encourages coopertors to participate in project funding, as this allows Federal funds to be used for a greater number of projects. Section 660.117(c) is a statement of the FHWA's existing policy which discourages the use of forest highway funds for right-of-way acquisition and maintenance. This policy is based on the same concept of making limited Federal funds available for as many projects as possible.

Discussion of Comments

A notice of proposed rulemaking was published on August 25, 1980 (45 FR 56355). Responses to the NPRM were received from the Western Association of State Highway and Transportation Officials (representing 14 States) and nine other State highway agencies, a county engineers association, and five environmental groups. Changes were made in the regulation in response to comments in order to clarify certain sections.

[1] This report is available from the U.S. GAO, Distribution Section, Room 4522, 441 G Street NW., Washington, D.C. 20548. It is available for inspection and copying from the Office of Highway Operations (ATTN: HHO–12), Room 3110, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590.

A definition of a forest road was added to § 660.103 in response to one comment that it would be helpful to supplement the definition of a forest highway. Both forest highway and forest road are defined in 23 U.S.C. 101(a).

An environmental group was concerned that there were no provisions in this regulation for environmental and Section 4(f) reviews. Section 660.113(b) has been revised to make it clear that forest highway projects must be developed in accordance with the appropriate environmental procedures in Subchapter H of Chapter 1, Title 23, CFR, which includes provisions for compliance with the National Environmental Policy Act, Section 4(f) of the DOT Act, and other environmental statutes.

Three environmental groups indicated that they believed the changes are major and should be discussed in an environmental assessment. These groups further stated they believed the proposed rule was contrary to their goal of keeping parts of the United States in a roadless, undeveloped condition.

This rulemaking is mainly in response to statutory changes (previously indicated) which were passed to better protect the Federal interest with respect to national forests. The FHWA and FS do not consider these changes major. In response to the charge that roads will be placed in roadless areas, this regulation does not change any rules regarding road construction in designated wilderness areas or areas where the land management plan prohibits such use. Public involvement and an environmental analysis are part of the development process of land management plans.

Comments from highway agencies indicated they wanted equal influence in the designation of forest highways and that some of the language used made selection too restrictive. One stated that the selection of a forest highway system could more appropriately be handled by the State highway agency and the FS. Others suggested that FHWA, with the concurrence of the FS and the State highway agency, designate forest highways.

The method of designation indicated in the final rule is necessary to protect the Federal interest with respect to the National Forest System, and allows the selection of projects that will be most beneficial to the management of the system. The selection process was intentionally made restrictive. The forest highway annual apportionment has been limited to $33 million for the past 20 years. Since these funds are limited, only roads that meet FS needs will be selected.

Section 660.105, Designation of forest highways, was revised in response to a comment from a highway association which requested the addition of some language to permit the use of forest highway funds on roads that are impacted by forest traffic because of the loads or capacity problems.

Another general comment was that it is not necessary to bring two separate priority lists (FS and State highway agency) of projects to the programing meeting. One joint list could be made. This procedure is satisfactory if agreement can be reached between the FS and the State highway agency.

The highway agencies were also concerned with § 660.113, Construction. This section was modified to indicate that the cooperator and the FS will concur in the plans, specifications, and estimates of projects and that the completed project will not be accepted by FHWA until it has been inspected and approved by the cooperator, the FS, and FHWA.

Several commenters questioned why it is necessary for the cooperator to consult the FS on maintenance since all the cooperators are experienced in this area. In response to that particular comment, the consultation requirement was eliminated.

Section 204(d) of title 23, U.S.C., requires that all appropriations for forest highways be administered in conformity with regulations jointly approved by the Secretary of Transportation and the Secretary of Agriculture. That approval authority has been delegated to the Federal Highway Administrator and the Chief of the Forest Service, respectively. The issuance of this final rule has been approved by both the FHWA and the FS as indicated by the signatures below.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation according to the regulatory policies and procedures of the Department of Transportation. The anticipated impact of this action is so minimal as to not require preparation of a full regulatory evaluation. Under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, Chapter I, Part 660 of Title 23, Code of Federal Regulations, is revised as set forth below.

(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 March 4, 1982.

L. P. Lamm,

Executive Director, Federal Highway Administration.

Gary E. Cargill,

Associate Deputy Chief, National Forest System, Forest Service.

PART 660—SPECIAL PROGRAMS (DIRECT FEDERAL)

1. Part 660, Subpart A is revised to read as set forth below.

Subpart A—Forest Highways

Sec.

660.101 Purpose.
660.103 Definitions.
660.105 Designation of forest highways.
660.107 Apportionments.
660.109 Program and project selection.
660.111 Agreements.
660.113 Construction.
660.115 Maintenance.
660.117 Funding, records and accounting.

* * * * *

Authority: 16 U.S.C. 1608–1610; 23 U.S.C. 101, 204, 315; 49 CFR 1.48(b).

Subpart A—Forest Highways

§ 660.101 Purpose.

To enhance local, regional, and national benefits by providing for the construction and maintenance of forest highways which serve the National Forest System and its renewable resources.

§ 660.103 Definitions.

In addition to the definitions in 23 U.S.C. 101(a), the following apply to this subpart:

(a) *Cooperator*—a State or local government agency which has jurisdiction over and/or maintenance responsibility for forest highways.

(b) *Forest highway*—a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.

(c) *Forest road*—a road wholly or partly within, or adjacent to, and serving the National Forest System and which is necessary for the protection, administration, and utilization of the National Forest System and the use and development of its resources.

(d) *National Forest System (NFS)*—lands and facilities administered by the Forest Service (FS), U.S. Department of Agriculture, as set forth in the National Forest Management Act of 1976, as amended (16 U.S.C. 1609(a)).

(e) *Open to public travel*—except during scheduled periods, extreme

weather conditions, or emergencies, open to the general public for use with a standard passenger auto, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

(f) *Renewable resources*—those matters within the scope of responsibilities and authorities of the FS as defined in the National Forest Management Act of 1976, as amended (16 U.S.C. 1610), such as recreation, wilderness, wildlife and fish, range, timber, land, water, and human and community development.

§ 660.105 Designation of forest highways.

(a) The Federal Highway Administration (FHWA), in consultation with the FS and cooperators, where appropriate, will designate forest highways from the forest roads which serve the NFS in each State.

(1) The State highway administration (SHA) will represent the State and county interest. All counties should send their proposals to the State.

(2) The SHA and the FS will be able to nominate roads for forest highway designation.

(b) A forest road designated as a forest highway for purposes of this subpart will meet the following criteria:

(1) It is under the jurisdiction of a cooperator and open to public travel.

(2) It provides a connection between an adequate and safe public road and the renewable resources of the NFS which are essential to the local, regional, or national economy, and/or the communities, shipping points, or markets which depend upon those renewable resources.

(3) It serves other local needs such as schools, mail delivery, commercial supply, and access to private property within the NFS, or serves traffic of which a preponderance is generated by use of the NFS and its resources, or serves NFS generated traffic volumes that have a substantial impact on roadway design and construction.

§ 660.107 Apportionments.

On October 1 of each fiscal year the FHWA will apportion the funds authorized for forest highways for that fiscal year after deducting such sums as deemed necessary for the administrative requirements of the FHWA and the necessary expenses of the FS.

§ 660.109 Program and project selection.

(a) For each fiscal year that funds are apportioned for forest highways, the FHWA will request that the FS and the State highway agency (acting for all cooperators in the State) each submit a list of projects proposed for financing with such funds, listed in order of priority.

(b) Following receipt of the lists of projects, the FHWA will conduct a joint conference with the FS and the SHA to resolve any disagreements and to select the projects which will be included in the programs for the current fiscal year and at least the next four years. If there are no disagreements, a conference will not be required. Projects included in each year's program will be jointly selected based upon the following criteria:

(1) The development, utilization, protection and administration of the NFS and its renewable resources.

(2) The enhancement of economic development at the local, regional, and national level.

(3) The continuity of the transportation network serving the NFS and its dependent communities.

(4) The mobility of the users of the transportation network and the goods and services provided.

(5) The improvement of the transportation network for economy of operation and maintenance and the safety of its users.

(6) The protection and enhancement of the rural environment associated with the NFS and its renewable resources.

(c) The recommended program of projects will be prepared by the FHWA and submitted to the FS and SHA for concurrence. The FHWA will approve the program of projects. Following approval, the SHA shall advise any other cooperators in the State of the projects included in the final program. The SHA shall also determine the amount of State and local participation required for the funding of each project.

§ 660.111 Agreements.

(a) A forest highway agreement shall be entered into between the FHWA and each cooperator prior to the expenditure of any funds by the FHWA in the State, county, or other local jurisdiction involved. The forest highway agreement shall set forth the responsibilities of each party, including that of adherence to the applicable provisions of Federal statutes and regulations.

(b) A project agreement implementing the forest highway agreement shall be entered into between the FHWA and the cooperator involved under one or more of the following conditions:

(1) A cooperator's funds are to be made available to the FHWA for the project or any portion of the project.

(2) Federal funds are to be made available to a cooperator for any work.

(3) Special circumstances exist which make a project agreement necessary for payment purposes or to clarify any aspect of the project.

§ 660.113 Construction.

(a) Forest highway projects will be constructed or adminstered by the FHWA unless otherwise provided for in an agreement with the cooperator approved under this subpart.

(b) Projects to be constructed or administered by the FHWA will be developed in accordance with FHWA procedures including the appropriate environmental procedures in Subchapter H of this chapter and the Nationwide Action Plan for the Direct Federal Program.[1] Projects to be constructed or administered by a cooperator shall be developed in accordance with Federal-aid procedures including the appropriate environmental procedures in Subchapter H of this chapter.

(c) No construction shall be undertaken on any forest highway project until plans, specifications and estimates have been concurred in by the cooperator and the FS and approved by the FHWA.

(d) Forest highway projects shall be designed in accordance with Part 625 of this chapter or those criteria specifically approved by the FHWA for a particular project.

(e) The construction of forest highways will be performed by the contract method, unless construction by the FHWA or a cooperator on its own account is warranted under 23 U.S.C. 204(c).

(f) Construction of any project shall not be accepted by the FHWA as completed until the project has been inspected and approved by the cooperator, the FS, and the FHWA.

§ 660.115 Maintenance.

The cooperator having jurisdiction over a forest highway shall have the responsibility for maintaining it, unless otherwise provided for in an agreement approved under this subpart.

§ 660.117 Funding, records and accounting.

(a) The Federal share of funding for eligible forest highway projects may be any amount up to and including 100 percent. A cooperator may participate in the cost of construction, but participation shall not be required.

(b) Forest highway funds shall be available for adjacent vehicular parking areas and for sanitary, water, and fire control facilities.

(c) Use of forest highway funds for right-of-way acquisition or maintenance

[1] Available for inspection and copying as prescribed in 49 CFR 7, App. D.

shall be subject to specific approval by FHWA.

(d) Cooperators which administer construction of forest highway projects and the SHA's shall maintain their forest highway records according to the provisions of Part 17 of this chapter.

(e) Funds provided to the FHWA by a cooperator in advance of construction will be deposited in the Treasury of the United States to the credit of "Cooperative Work, Forest Highways, Federal Highway Administration."

§§ 660.201–660.213 (Subpart B) [Removed and Reserved]

2. Part 660, Subpart B, consisting of §§ 660.201–660.213, is removed and reserved.

[FR Doc. 82-6380 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 668

Emergency Relief Program; Procedures for Federal Roads; Technical Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Technical amendments to final rule.

SUMMARY: This document makes a technical nomenclature change in the delegation of authority for the administration of emergency relief to Federal agencies for the repair or reconstruction of Federal roads.

EFFECTIVE DATE: March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Robert C. Coles, Office of Highway Operations, HHO–12, 202–426–0460; or Lee J. Burstyn, Office of the Chief Counsel, HCC–10, 202–426–0754, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Pursuant to 23 U.S.C. 125(c), the FHWA is authorized to make emergency relief funds available for the repair or reconstruction of Federal roads which have suffered serious damage as a result of natural disaster over a wide area or by catastrophic failure.

As a result of a recent internal reorganization of the FHWA's direct Federal program, all activities involving Federal roads, including emergency relief projects, are now administered by the Associate Administrator for Engineering and Traffic Operations through the FHWA's Direct Federal Program Administrator. Similarly, field operations are now conducted under the supervision of Direct Federal Division Engineers rather than Regional Federal Highway Administrators.

The new organizational structure for the direct Federal program and revised delegations of authority necessitate a nomenclature change to the applicable regulation, 23 CFR Part 668, Subpart B.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. Under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

Notice and opportunity for comment are not required because these amendments are administrative in nature, and it is not anticipated that a request for comments would result in the receipt of useful information. Due to the technical nature of these amendments, the FHWA finds good cause to make it effective in less than 30 days.

(23 U.S.C. 120(f), 125, and 315; 41 U.S.C. 252; 42 U.S.C. 5155; 49 CFR 1.48(b))

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

Issued on: March 2, 1982.

Richard B. Robertson,

Associate Administrator for Planning and Policy Development, Federal Highway Administration.

PART 668—EMERGENCY RELIEF PROGRAM

In consideration of the foregoing, Chapter I of Title 23, Code of Federal Regulations, Part 668, Subpart B is amended as set forth below.

§ 668.203 [Amended]

1. In § 668.203(f), remove the words "Regional Federal Highway Administrator" and insert in lieu thereof the words "Direct Federal Division Engineer (DFDE)";

2. In § 668.203, revise paragrah (i) to read as follows:

* * * * *

(i) "Direct Federal Division Engineer." Director of one of the Direct Federal field offices located in Vancouver, Washington; Denver, Colorado; and Arlington, Virginia.

* * * * *

§§ 668.205, 668.209, 668.211, 668.213, and 668.215 [Amended]

3. In §§ 668.205, 668.209, 668.211, 668.213, and 668.215, wherever the acronym "RFHA" appears, it is amended to read "DFDE".

[FR Doc. 82-6322 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-22-M

23 CFR Part 712

Right-of-Way Revolving Fund

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendment to final rule.

SUMMARY: As part of a continuing effort to reduce costs and paperwork burdens imposed on the States, the Federal Highway Administration (FHWA) is amending procedures that apply to the Right-of-Way Revolving Fund to delete the requirement imposed on each State to submit, by April 1, an estimate of its total needs from the fund for the following fiscal year.

EFFECTIVE DATE: March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Moeller, Office of Right-of-Way (Attention: HRW-12), 202/426–0142, or Mr. Thomas P. Holian, Office of the Chief Counsel (Attention: HCC–10) 202/426–0761, Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: To encourage States to acquire right-of-way in advance of normal situations, recognizing the length of time often necessary to acquire real property and relocate people and personal property, Congress established the Right-of-Way Revolving Fund as part of the Federal-Aid Highway Act of 1968 (Pub. L. 90–495). Congress thereby authorized the Secretary of Transportation to administer funds for the purpose of acquiring rights-of-way for future construction of highway on any Federal-aid system. Subsequently, $300 million was authorized for the program to be set aside from the Trust Fund and kept in the Treasury. The Secretary of Transportation, upon request from a State Highway Agency, is authorized to advance funds without interest from amounts remaining available to pay for entire projects for acquisition of rights-of-way, including the net cost to the State of property management, if any, and related moving and relocation costs.

The implementing regulation, 23 CFR Part 712, Subpart G, requires each State Highway Agency that anticipates using

the revolving fund during the next fiscal year to submit, by April 1, an estimate of its total needs from the fund for the next fiscal year. This estimate is to be sent to Regional Federal Highway Administrators who, in turn, submit requests to FHWA Washington Headquarters for allocation of funds to meet the needs of the various regions.

Currently, the full $300 million authorized by Congress has been allocated to the regional offices for obligation by States within their regions on "as-needed" and "as-funds-are-available" bases. As States identify specific projects which they wish to finance from the revolving fund or projects previously authorized need additional funds, they are required to make specific requests for allocation of funds to FHWA Regional and Division Offices subsequent to April 1 for obligational authority.

Elimination of the requirement for an April 1 submission will result in less paperwork for States seeking allocation and obligational authority on any project which will qualify as a revolving fund project. It is estimated that the elimination of this submission will reduce redtape and time in the approval of eligible projects at the regional level where the obligational authority has been delegated. No additional economic impacts are anticipated as a result of this action.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory procedures. Under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities. Accordingly, a full regulatory evaluation is not required.

Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation (DOT) because it is not anticipated that such action would result in the receipt of useful information. Further, because this amendment relieves a regulatory burden and pertains to a once yearly reporting requirement due on April 1, the FHWA finds good cause to make this amendment effective in less than 30 days under DOT regulatory procedures. Accordingly, this amendment is effective upon publication. Neither a general notice of proposed rulemaking nor a 30-day delay in effective date is required under the Administrative Procedure Act because the matters affected relate to grants, benefits, or contracts pursuant to 5 U.S.C. 553(a)(2).

PART 712—THE ACQUISITION FUNCTION

§ 712.703 [Amended]

Accordingly, Chapter I of 23 CFR Part 712, Subpart G is amended by removing paragraph (a) of § 712.703 and redesignating paragraphs (b) through (f) as paragraphs (a) through (e).

(23 U.S.C. 108, 315; 49 CFR 1.48(b))

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction; 23.003, Appalachian Development Highway System; and 23.008 Appalachian Local Access Roads. 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: March 2, 1982.

Richard B. Robertson,

Associate Administrator for Planning and Policy Development, Federal Highway Administration.

[FR Doc. 82-6756 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-22-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Parts 1401, 1402, 1410, 1420, and 1425

Change in Designation of Regions, in Location for Filing Notices of Dispute, and Requests for Copies of Notices of Dispute

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final rule.

SUMMARY: Pursuant to a reorganization of the Federal Mediation and Conciliation Service, the number of regional offices has been reduced from 8 to 4. While the street addresses of the 4 remaining regional offices have not changed, each of these offices has been given a new designation and a new geographical jurisdiction. Accordingly, in order to insure that individuals, employers, and labor organizations seeking assistance from the agency's regional offices are directed to the proper location, notice is given of the correct designation and of the new area covered for each of the four regional offices now in operation.

The agency has also established, pursuant to the reorganization, a Division of Case Control located in the FMCS National Office. All notices of labor negotiation disputes (Form F-7 and Form F-53) previously filed in regional offices should now be sent instead to the Division of Case Control. See address below.

In addition, Freedom of Information Act requests for copies of notices of labor negotiation disputes (Form F-7 and F-53) should likewise be sent to the Division of Case Control. See address below.

EFFECTIVE DATE: March 29, 1982.

ADDRESS: Federal Mediation and Conciliation Service, Division of Case Control, 2100 K Street, NW., Washington, DC 20427.

FOR FURTHER INFORMATION CONTACT: Nancy B. Broff (202) 653-5305.

Dated: March 4, 1982.

Kenneth E. Moffett,

Director.

PART 1401—PUBLIC INFORMATION

§ 1401.31 [Amended]

1. The address for the Washington, D.C., office of FMCS, stated in § 1401.31(b) introductory text, is corrected to read "2100 K Street, NW., Washington, D.C., 20427."

PART 1410—PRIVACY

PART 1420—FEDERAL MEDIATION AND CONCILIATION SERVICE—ASSISTANCE IN THE HEALTH CARE INDUSTRY

§ 1410.3 [Amended]

§ 1420.5 [Amended]

2. The lists of regional offices in §§ 1410.3(d) and 1420.5(f) are amended to show the four FMCS regional offices now in operation. The offices, and their areas of jurisdiction, are as follow:

1. *Eastern Region:*

Address: Jacob K. Javits Federal Building, 26 Federal Plaza, Room 2937, New York, NY 10278.

Consists of: Maine, New Hampshire, Vermont, Connecticut, Rhode Island, Massachusetts, New York, Puerto Rico, the Virgin Islands, Pennsylvania, Delaware, New Jersey, Garrett and Alleghany Counties of Maryland; and Brooke and Hancock Counties of West Virginia.

2. *Central Region:*

Address: Insurance Exchange Building, Room 1641, 175 W. Jackson Street, Chicago, IL 60604.

Consist of: Illinois (except counties listed under the the Southern Region); Indiana (except counties listed under Southern Region); Wisconsin, Minnesota, North Dakota, South Dakota, Michigan, and Ohio (except counties listed under the Southern Region).

3. *Southern Region:*

Address: Suite 400, 1422 W. Peachtree St., NW., Atlanta, GA 30309.

Consists of: Virginia, Maryland (except counties listed under the Eastern Region); Tennessee; North Carolina; South Carolina; Georgia; Alabama; Florida; Mississippi; Louisiana; Arkansas; Kentucky; Texas

(except for Hudspeth and El Paso counties); Oklahoma; Missouri (except for those counties listed for the Western Region); Illinois (in counties of Calhoun, Greene, Jersey, McCoupin, Montgomery, Fayette, Bond, Madison, St. Clair, Monroe, Clinton, Washington, Marion, White, Hamilton, Wayne, Edwards, Wabash, Lawrence, Richland, Clay, Effingham, Jasper, and Crawford); Indiana (the counties of Knox, Daviess, Martin, Orange, Washington, Clark, Floyd, Harrison, Crawford, Perry, Spencer, DuBois, Pike, Gibson, Posey, Vanderburgh, and Warrick); Ohio (the counties of Butler, Hamilton, Warren, Clermont, Brown, Highland, Clinton, Ross, Pike, Adams, Scioto, Lawrence, Ballia, Jackson, Vinton, Hocking, Athens, and Meigs); Kansas (the counties of Bourbon, Crawford, Cherokee, and Ottawa); West Virginia (except counties listed under the Central Region); and the Canal Zone.

4. *Western Region:*

Address: Francisco Bay Building, Suite 235, 50 Francisco Street, San Francisco, CA 94133.

Consists of: California; Nevada; Arizona; New Mexico; El Paso and Hudspeth Counties [only] in Texas; Hawaii; Guam; Alaska; Washington; Oregon; Colorado; Utah; Wyoming; Montana; Idaho; Nebraska; Kansas; Iowa; Missouri (the counties of Atchinson, Nodaway, Worth, Harrison, Mercer, Putnam, Schuyler, Scotland, Knox, Adair, Sullivan, Grundy, Daviess, Gentry, DeKalb, Andrew, Holt, Buchanan, Clinton, Caldwell, Livingston, Linn, Macon, Shelby, Randolph, Chariton, Carrol, Ray, Clay, Platte, Jackson, Lafayette, Saline, Howard, Boon, Cooper, Pettis, Johnson, Cass, Bates, Henry, St. Clair, Benton, and Morgan); American Somoa; and Wake Island.

PART 1402—PROCEDURES OF THE SERVICE

§ 1402.1 [Amended]

3. FMCS Form F-7 in § 1402.1 is amended by revising the line immediately following the heading "Notice to Mediation Agencies" to read, "To: Federal Mediation and Conciliation Service, Washington, D.C. 20427."

PART 1425—MEDIATION ASSISTANCE IN THE FEDERAL SERVICE

§ 1425.2 [Amended]

4. The first sentence of the introductory paragraph is revised to read, "In order that the service may provide assistance to the parties, the party initiating negotiations shall file a notice with the FMCS Division of Case Control, 2100 K Street, NW., Washington, D.C. 20427, at least 30 days prior to the expiration or modification date of an existing agreement."

5. FMCS Form F-53 in § 1425.2 is amended by

(i) Revising the line immediately following the "Date" line to read, "TO: FEDERAL MEDIATION AND CONCILIATION SERVICE, Washington, D.C., 20427."

(ii) Revising the second line from the bottom of the Form to read, "TO FMCS, Washington, D.C. 20427."

(iii) Removing the last line at the bottom of the form.

PART 1401—PUBLIC INFORMATION

§ 1401.24 [Amended]

6. § 1401.24 is amended by revising the second sentence and adding a third sentence to read, "Parties at interest have the right to receive certified copies of any such notice of dispute upon written request. Requests for copies of notices should be submitted to FMCS, Division of Case Control, 2100 K Street, NW., Washington, D.C. 20427."

[FR Doc. 82-6684 Filed 3-10-82; 8:45 am]

BILLING CODE 6732-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 84, 85 and 86

[CGD 81-008, 81-006, and 81-009]

Annexes I, II, and III to Inland Navigation Rules; Great Lakes Effective Date

AGENCY: Coast Guard, DOT.

ACTION: Final rule, notice of effective date.

SUMMARY: This document establishes the effective date on the Great Lakes for Annexes I, II, and III to the Inland Navigation Rules. These annexes are respectively entitled Positioning and Technical Details of Lights and Shapes, Additional Signals for Fishing Vessels Fishing in Close Proximity, and Technical Details of Sound Signal Appliances, and were published on December 21 and 24, 1981. These regulations were made effective on December 24, 1981, on all inland waters *except* for the Great Lakes, where the effective date was left open. When the annexes were published, the Great Lakes effective date for the Inland Navigation Rules was not known. This notice makes the Great Lakes effective date for Annexes I, II, and III July 1, 1982, which coincides with the recently established Great Lakes effective date for the new Inland Navigation Rules.

EFFECTIVE DATE: The effective date of 33 CFR Parts 84, 85, and 86 on the Great Lakes is July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Llana, Project Manager, Office of Navigation, Room 1606, U.S. Coast Guard Headquarters, 2100 Second Street S.W., Washington, DC 20593, (202) 245-0108.

SUPPLEMENTARY INFORMATION: New statutory Inland Navigation Rules were enacted on December 24, 1980 and were made effective one year later on all United States inland waters except for the Great Lakes. The new Rules were also to apply on the Great lakes, but the effective date was delayed for the Great Lakes to allow the Canadian government time to enact parallel navigation rules and to have the new United States and Canadian navigation rules to take effect on the Great Lakes simultaneously.

The Inland Navigation Rules Act of 1980 also called for the Implementation of special regulatory annexes to supplement the statutory rules. Final regulations for Annex I to the Inland Navigation Rules were published on December 24, 1981 (46 FR 62443) and for Annexes II and III on December 21, 1981 (46 FR 61845). These regulations were made effective on December 24, 1981 (the same date the statutory Rules took effect) on all inland waters except for the Great Lakes. The Great Lakes effective date for those Annexes was not announced at that time because the effective date for the statutory Rules on the Great Lakes had not then been determined.

On February 8, 1982, the Great Lakes effective date for the new Inland Navigation Rules was announced (47 FR 5834). That effective date, July 1, 1982, is being adopted as the effective date for Annexes I, II, and III on the Great Lakes, so that the statutory Rules and the regulatory annexes become effective at the same time.

Drafting Information

The principal persons involved in drafting this notice are Mr. Chris Llana, Project Manager, Office of Navigation, and Lieutenant Michael Tagg, Project Attorney, Office of Chief Counsel.

Accordingly, the effective date of 33 CFR Parts 84, 85, and 86 on the Great Lakes is hereby established as July 1, 1982.

(Sec. 3, Pub. L. 96-591, 33 U.S.C. 2071; 49 CFR 1.46(n)(14))

Dated: March 2, 1982.

R. A. Bauman,

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

[FR Doc. 82-6728 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD5 81-09R]

Drawbridge Operation Regulations: Anacostia River, District of Columbia

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the District of Columbia Department of Transportation, the Coast Guard is amending the regulations governing operation of the Frederick Douglass drawbridge on South Capitol Street across the Anacostia River, mile 1.2, at Washington, D.C. to require an advance notice for all draw openings. This change is being made because the current volume of vessel traffic passing through the bridge is not sufficient to warrant constant attendance by a bridge tender. Also, a new provision is being added that will allow the bridge to remain closed to vessel traffic on every Presidential Inauguration Day in order to prevent vehicular traffic congestion at the bridge on that day. This action will accommodate the needs of vehicular traffic while providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment becomes effective on April 12, 1982.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Specialist, Aids to Navigation Branch, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705, (804) 398-6222.

SUPPLEMENTARY INFORMATION: On December 7, 1981, the Coast Guard published a proposed rule (46 FR 59554) concerning this amendment. The Commander, Fifth Coast Guard District, also published this proposal in Public Notice (5-500) dated December 4, 1981, which was included in Local Notice to Mariners No. 50 dated December 15, 1981. Interested persons were requested to submit their comments and two comments were received.

Discussion of Rule

The District of Columbia Department of Transportation, owner of this bridge, requested the Coast Guard to change the existing regulation which requires that the bridge be opened on signal except for restricted openings during morning and evening rush hours. The request was based on the fact that the draw has been required to be opened infrequently for vessel traffic in recent years, and it has not been cost effective for the owner to maintain an operator in constant attendance when the need for one does not exist. The Coast Guard evaluated the problem, and based on its findings, is now amending the regulation to require a 24-hour advance notice for all draw openings year round. The Coast Guard feels that this change may be made without unduly restricting current water traffic volumes while at the same time relieving the bridge owner of the responsibility of providing constant operator attendance at the bridge. The new provision to allow the bridge to remain closed to vessel traffic on every Presidential Inauguration Day merely affirms the Coast Guard's traditional approval of the District of Columbia's request to do so. The provision in the existing regulation that the draw will remain closed to navigation on certain other occasions to permit uninterrupted passage of dignitaries across the bridge has been retained, as this is considered a necessary provision and was not a subject for change.

One of the comments received in response to the proposed rule recommended an additional provision to require the draw to be opened once each quarter to insure that the draw mechanism remains in operational condition. This provision has not been adopted for this regulation, since there is a general requirement in the Code of Federal Regulations for owners of all drawbridges in the pertinent geographical area to maintain proper mechanical operation of their bridges for the safe, prompt and efficient opening of the draw for the passage of vessels. The other commenter suggested that requiring 24-hour's advance notice is unreasonably inconvenient to waterway users, and that it should be possible to reduce the interval to 4 hours and still obtain cost savings. The Coast Guard has not adopted this suggestion since all its findings during the investigation of this bridge revealed that 24-hour's advance notice would amply provide for all current waterway usage. If usage patterns should change as a result of future development of the waterway, the regulation may change accordingly. This commenter also recommended listing telephone contact numbers for restricted bridges in the *Coast Pilot* publication. The Coast Guard will take action on this suggestion, although such action does not change the text of this regulation. In view of the above comments and the lack of further public comment, there are no substantive differences between this rule and the proposed rule.

There are no known businesses that will be significantly impacted by this change. Since most water traffic on this waterway consists of military craft and visiting U.S. and foreign ships who plan their trips according to a prearranged schedule, it is felt that these may plan their trips around the advance notice opening requirement, thus avoiding any inconvenience or expense resulting from fuel consumption often encountered during unexpected delays. The District of Columbia Department of Transportation will be beneficially affected from an economic standpoint since they will be relieved of the responsibility of providing a salaried operator on a continuous basis.

Evaluation

This regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, this regulation is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact will be mininal. In accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is certified that this rule will not have a significant economic impact on a substantial number of small entities.

Final Regulation

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended by revising 33 CFR 117.330, paragraph (c) to read as follows:

§ 117.330 Anacostia River, Washington, D.C.; bridges.

* * * * *

(c) District of Columbia; South Capitol Street (Frederick Douglass) Bridge.

(1) The draw shall be opened for the passage of vessel traffic if at least 24 hours' advance notice has been given to the District of Columbia Department of Transportation.

(2) Requests for draw openings that coincide with the prearranged passage of dignitaries across the bridge will be scheduled so as not to interfere with the dignitaries' crossing.

(3) The bridge shall remain closed to vessel traffic all day on every Presidential Inauguration Day.

(4) A brief summary of the regulations in this section with a telephone number where the bridge owner can be reached shall be posted on both sides of the bridge in such a manner that it may be read easily from an approaching vessel.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2), 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: February 23, 1982.

John D. Costello,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 82-6727 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Parts 144, 149, and 175

[CGD 80-155b]

Lifesaving Equipment

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: In a separate document, published elsewhere in this issue, the Coast Guard is revoking obsolete specifications concerning cork and balsa wood ring life buoys (Type IV personal flotation devices). This action requires editorial amendments to the regulations that allow cork and balsa wood ring buoys on artifical islands, fixed offshore structures, and recreational boats. Since equipment that has been previously approved may be used if in good and serviceable condition, there are no substantive changes to the regulations.

EFFECTIVE DATE: This final rule becomes effective on April 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Merchant Marine Technical Division (G-MMT/12), Office of Merchant Marine Safety, Room 1216, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426-2174.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** of July 20, 1981, (46 FR 37286). The public was invited to submit comments until September 3, 1981. No comments were received and the rules are therefore made effective as proposed.

Drafting Information

The principal persons involved in drafting this final rule are Mr. Frank K. Thompson, Project Manager, Office of Merchant Marine Safety, and Lieutenant Walter J. Brudzinski, Project Counsel, Office of the Chief Counsel.

Discussion

Because they are no longer being manufactured, the approval specifications for cork or balsa ring life buoys and the material specifications for balsa wood and sheet cork have been revoked. These revocations are contained in Coast Guard Final Rule CGD 80-155a, which appears elsewhere in this issue of the **Federal Register.**

This final rule involves only editorial amendments to reflect the revocations. There are no substantive changes to the lifesaving equipment regulations. The amendments allow previously approved cork and balsa wood ring life bouys to continue to be sold and used as long as they are in good and serviceable condition. This final rule also updates the authority citations of the affected CFR Parts.

Evaluation

The Coast Guard has evaluated this final rule under Executive Order 12291 and has determined that it is not a major regulation. The Coast Guard has also determined that it is nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 dated 5-22-80). An economic evaluation has not been conducted since this final rule involves no substantive changes to the lifesaving equipment regulations, and its impact is expected to be minimal.

Final Regulations

In consideration of the foregoing, Parts 144, 149, and 175 of Title 33, Code of Federal Regulations are amended as follows:

PART 144—LIFESAVING APPLIANCES

1. The authority citation for Part 144 is revised to read as follows:

Authority: Sec. 4(e), 67 Stat. 462, as amended, (43 U.S.C. 1333(d)); 49 CFR 1.46(b).

2. In § 144.01-25, paragraph (a) is revised to read as follows:

§ 144.01-25 Ring life buoys.

(a) Each manned platform must have at least four approved ring life buoys constructed in accordance with 46 CFR Subpart 160.050; except ring life buoys approved under former 46 CFR Subpart 160.009 may be used as long as they are in good and serviceable condition. One ring life buoy must be placed on a suitable rack on each side of a manned platform in an accessible place. The ring life buoy must always be capable of being cast loose and may not be permanently secured in any way.

* * * * *

3. In § 144.10-1, Table 2 is removed, paragraph (a)(2) is revised, and a new paragraph, (a)(3), is added to read as follows:

§ 144.10-1 Lifesaving equipment.

(a) * * *

(2) An approved ring life buoy (Type IV PFD) for every two persons, but no more than four devices are required. Each ring life buoy must be of a type constructed in accordance with 46 CFR Subpart 160.050; except a ring life buoy that was approved under former 46 CFR Subpart 160.009 may be used as long as it is in good and serviceable condition.

(3) Each ring life buoy under paragraph (a)(2) of this section must have an approved automatic electric water light that is attached as described in § 144.01-25(b).

* * * * *

PART 149—DESIGN, CONSTRUCTION, AND EQUIPMENT

1. The authority citation for Part 149 reads as follows:

Authority: Secs. 5(a), 5(b), Pub. L. 93-627, 88 Stat. 2131 (33 U.S.C. 1504(a), (b)); 49 CFR 1.46(s).

2. Section 149.526 is revised to read as follows:

§ 149.526 Approved ring life buoys (Type IV personal flotation devices).

(a) Each PPC must have at least 8 approved ring life buoys (Type IV PFDs) and mounting racks distributed about the perimeter of the platform.

(b) Each ring life buoy must be constructed in accordance with 46 CFR Subpart 160.050 except a ring life buoy that was approved under former 46 CFR Subpart 160.009 may be used as long as it is in good and serviceable condition. Each ring life buoy must be of the 30-inch size, international orange, and easily accessible to persons on board.

(c) At least fifty percent of the ring life buoys required by this section must have an electric water light approved under 46 CFR 161.010.

(d) At least one ring life buoy on each side of the platform must have a buoyant line attached to it that is 1½ times the distance from the buoy to the mean low water line of the platform, or 15 fathoms in length, whichever is greater.

3. Section 149.526 in the table of sections is revised to read as follows:

149.526 Approved ring life buoys (Type IV personal flotation devices).

PART 175—EQUIPMENT REQUIREMENTS

1. The authority citation for Part 175 is revised to read as follows:

Authority: Secs. 5, 39, 85 Stat. 215, 228, as amended (46 U.S.C. 1454, 1488); 49 CFR 1.46(n)(1), unless otherwise noted.

2. Footnote 1 is added to Table 175.23 to read as follows:

§ 175.23 Personal flotation device equivalents.

* * * * *

TABLE 175.23

Devices marked	Are equivalent to performance type
* * * * *	
160.009 Ring life buoy [1].	Type IV—Personal Flotation Device.
* * * * *	

[1] 46 CFR Subpart 160.009 has been revoked. Type IV PFDs previously approved under that subpart may be used as long as they are in good and serviceable condition.

Dated: March 3, 1982.

Clyde A. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard,

Chief, Office of Merchant Marine Safety.

[FR Doc. 82-6729 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL-2062-3]

Approval and Promulgation of Implementation Plan Revisions; Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this rulemaking is to take final action approving volatile organic compound (VOC) rules submitted by the State of Oregon Department of Environmental Quality (DEQ) to require additional control in ozone nonattainment areas of VOC's emitted from industrial sources covered by EPA's Group II Control Technique Guidelines (CTG's). Since no comments were received on the proposed action, EPA's final action will be the same as proposed.

EFFECTIVE DATE: March 11, 1982.

ADDRESSES: Copies of the Oregon submission are available for review during normal business hours at the following locations:

Central Docket Section (10A-80-16), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, M/S 532, Seattle, Washington 98101

State of Oregon, Department of Environmental Quality, Yeon Building, 522 SW. Fifth, Portland, Oregon 97207

Office of Federal Register, 1100 L Street, Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs, Environmental Protection Agency, 1200 Sixth Avenue, M/S 532, Seattle, Washington 98101: Telephone: (206) 442-1275; FTS: 399-1275.

SUPPLEMENTARY INFORMATION: On November 12, 1981 (46 FR 55720) EPA proposed to fully approve portions of the Oregon Group II VOC regulations and conditionally approve others where there were minor deficiencies. Since no comments were received with respect to our proposed approval and conditional approval actions, EPA will take final action in the same manner as proposed. However, because the deficiencies identified in the proposal are relatively minor in terms of their effect on VOC emissions and attainment of the ozone standard, EPA will approve the regulations, based on the understanding that the DEQ will correct the deficiencies identified on November 12, 1981 and as described briefly below:

(1) OAR 340-22-153: Petroleum Refinery Leaks—(a) add the phrase "and operating" to the requirements for intermediate valves on open ended lines, (b) clarify that the exemption in paragraph (4) is determined at the highest temperature at which the liquid is handled and (c) update the reference to the definition of "true vapor pressure."

(2) OAR 340-22-160 (4): Secondary Seals on VOC Liquid Storage—Correct the temperture at which the vapor pressure is measured to be the "storage temperature."

(3) OAR 340-22-210: Rotogravure and Flexographic Printing—(a) Clarify the application of the regulation for specialty printers and (b) revise the regulation to require monitoring of temperature rise across catalytic incinerator beds (no catalytic incinerators at present).

(4) OAR 340-22-170(5): Surface Coating in Manufacturing—add language referencing DEQ test method 24 for compliance determination.

EPA finds that good cause exists for making the action taken in this notice immediately effective for the following reasons: (1) implementation plan revisions are already in effect under State law and EPA approval poses no additional regulatory burden, and (2) EPA has a responsibility under the Clean Air Act to take final action on the portion of the SIP which addresses Part D regulations by July 1, 1979 or as soon therefter as possible.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that the SIP approvals under 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities (46 FR 8709, January 27, 1981). This action constitutes a SIP approval under section 110 and 172 within terms of the January 27, 1981 certification.

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

(Secs. 110 and 172, Clean Air Act as amended (42 U.S.C. 7410(a) and 7502))

Dated: March 4, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Oregon was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart MM—Oregon

1. Section 52.1985 is amended by adding introductory text immediately following the heading of paragraph (a) and by adding paragraphs (a) (2) and (3) as follows:

§ 52.1985 Rules and regulations.

(a) *Part D—Approval.* The Oregon VOC regulations (OAR 340-22-100 through 220) covering Groups I and II Control Technique Guidelines are approved with the following clarifications:

* * * * *

(2) EPA approval of OAR 340-22-170(5) is with the understanding that DEQ source test method 24 will be used to determine compliance.

(3) EPA approval of OAR 340-22-170(5) is with the understanding that compliance determinations will be based on methods approved as part of the SIP.

* * * * *

[FR Doc. 82-6502 Filed 3-10-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Parts 52 and 62

[A-3-FRL-2050-5]

Approval of Revisions of Delaware's Air Quality Plans

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The State of Delaware submitted changes to its approved Part D (Clean Air Act) State Implementation Plan, consisting of amendments to its volatile organic compound (VOC) regulations for stationary sources and a request for a delay in the final implementation date for the State's inspection and maintenance (I/M) program. The State also submitted a State Implementation Plan for lead (Pb) and a section 111(d) (Clean Air Act) plan for sulfuric acid mist. EPA approves all of the above-mentioned submittals as all of the applicable requirements of the Clean Air Act, 40 CFR Part 51 (Requirements for Preparation, Adoption and Submittal or Implementation Plans) and 40 CFR Part 60, Subpart B (Adoption and Submittal of State Plans for Designated Facilities) have been met.

EFFECTIVE DATE: April 12, 1982.

ADDRESSES:

U. S. Environmental Protection Agency, Region III, Air Media and Energy Branch, 6th and Walnut Streets, Curtis Building, Philadelphia, PA 19106; ATTN: Harold A. Frankford (3AW12) Ref. AH201/303/304/400DE;

Delaware Department of Natural Resources and Environmental Control, Air Resources Section, Tatnall Building, Capitol Complex, Dover, Delaware 19901; ATTN: Robert R. French;

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at the above address; telephone: (215) 597-8392.

SUPPLEMENTARY INFORMATION:

Background

40 CFR Part 52—Approval and Promulgation of Implementation Plans

On December 23, 1980 and December 29, 1980 the State of Delaware submitted the following items:

1. Amendments to Regulations I and XXIV pertaining to control of volatile organic compound (VOC) emissions.

2. A request to delay the final date for implementation of the State's mandatory inspection/maintenance (I/M) program in New Castle County.

3. A State Implementation Plan (SIP) for lead.

A description of these items were summarized and proposed for approval in the September 10, 1981 **Federal Register**, 46 FR 45161. The State also certified that public hearings with regard to these items were held in Wilmington on June 19, 1980 and October 31, 1980 in accordance with the requirements of 40 CFR 51.4.

Request for Public Comments

In the proposed rulemaking notice with regard to these amendments, 46 FR 45161 (1981), EPA stated its reasons for proposing approval of the amendments to State Regulations I and XXIV and the revised I/M schedule as revisions of Delaware's Part D non attainment SIP, as well as its reasons for proposing approval of the State's lead (Pb) SIP. In this notice, EPA solicited public comment on the proposed approval actions. However, during the 30-day public comment period, no comments were received.

EPA's Approval Actions

Delaware's Lead SIP

The lead SIP submitted by the State, addresses the maintenance of the lead standard, and concludes that lead concentrations in the atmosphere throughout the State will not increase. This conclusion rests on the assumptions that mobile source emissions will be controlled through the Federal motor vehicle control and lead-in-fuels programs, and that no new significant point sources of lead will be constructed. The SIP also includes a requirement for a review of new and modified major sources of lead. EPA has reviewed the State submission and approves the plan as submitted.

Delaware's Revised I/M Schedule

On November 20, 1981, the State informed EPA that through a combination of additional State and EPA funds, it will have adequate funding available to hire the personnel needed to run the program. EPA believes that this additional funding will help ensure the implementation of a voluntary I/M program and that the necessary funding will be available to enable the State to continue towards implementation of the mandatory program by the August 1, 1982 date set forth in its revised I/M schedule. Therefore, EPA approves the revised I/M schedule submitted on December 29, 1980 as a revision of the Delaware SIP.

Amendments to Regulations I and XXIV

As mentioned in the notice of proposed rulemaking, 46 FR 45160 (1980), EPA proposed approval of an exemption, provided in Regulation XXIV, section 8.1B4 with regard to VOC emissions from crude oil storage tanks, which would exempt the secondary seal requirement for external floating roof storage tanks. The rationale for EPA's proposal action was provided in the proposed rulemaking notice and comments were solicited. During the public comment period, no comments were received. The State of Delaware intends to request consideration of the subject in greater detail, and will make its findings available to EPA. In the interim, EPA believes that this exemption will not interfere with Delaware's reasonable further progress towards attainment of the NAAQS for ozone by December 1987, and therefore approves Delaware's exemption of crude oil storage tanks from the secondary seals requirements as a revision of the Delaware SIP. EPA also approves as a revision of the SIP, the remainder of the Round II CTG regulations submitted by Delaware.

In view of the above evaluation, the Administrator approves the revised I/M schedule and the amendments to Delaware Regulations I and XXIV as revisions of the Delaware SIP. The Administrator also approves the SIP for the control of lead emissions. At the same time, 40 CFR 52.420 (Identification of Plan) of Subpart I (Delaware) is amended to reflect the Administrator's approval action. Because the revised I/M schedule corrects a portion of Delaware's Part D nonattainment SIP that previously had been conditionally approved, 45 FR 14551 (1980), 46 FR 47777 (1981), this rulemaking action deletes 40 CFR 52.433 (Control Strategy: Ozone (hydrocarbons)).

40 CFR Part 62—Approval and Promulgation of State Plans for Designated Facilities and Pollutants

On December 29, 1980, pursuant to section 111(d) of the Clean Air Act, the State of Delaware submitted to EPA Region III a plan to control sulfuric acid mist from existing sources. The State has amended Regulation IX of its air pollution control regulations to include an emission limitation of 0.5 lb/ton of acid produced which corresponds to the emission guideline for these sources in 40 CFR 60.33(a). The State has determined that the Allied Chemical Company's sulfuric acid plant is the only designated facility subject to the sulfuric acid mist standard in Regulation IX. The

State has also determined that Allied Chemical is meeting the emission limitation as determined by EPA Test Method 8. The State provided certification that public hearings were held on October 31, 1980 in accordance with the requirements of 40 CFR 60.23.

This section 111(d) plan supplements an earlier incomplete version submitted by Delaware on October 5, 1978.

EPA Actions

On September 10, 1981, 46 FR 45161, EPA proposed approval of the State's section 111(d) plan for sulfuric acid mist and solicited public comments. During the 30-day public comment period, no comments were received. EPA concludes that the section 111(d) plan now contains all of the necessary elements required by 40 CFR Part 60 and therefore, is approved. At the same time, 40 CFR 62.1875 (Identification of Plan—Sulfuric Acid Mist from Existing Sulfuric Acid Plants) is added to reflect EPA's approval action of the State's section 111(d) plan.

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

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). This action constitutes a SIP approval under sections 110 and 172 within the terms of the January 27 certification. This action only approves State actions, and imposes no new requirements.

I hereby certify that the plan approval contained herein under section 111(d) of the Clean Air Act will not have a significant economic impact on a substantial number of small entities because it only covers one facility, which is already meeting the applicable sulfuric acid mist limitation. Furthermore this action only approves State actions and imposes no new requirements.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(42 U.S.C. 7410–642)

Dated: March 4, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Delaware was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

A. Title 40, Part 52, Subpart I of the Code of Federal Regulations is revised to read as follows:

Subpart I—Delaware

1. In § 52.420, paragraphs (c) (23), (24) and (25) are added to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

(23) Amendments to Regulations I (Definitions) and XXIV (Control of Organic Compounds Emissions) submitted on December 23, 1980 by the Secretary, Delaware Department of Natural Resources and Environmental Control.

(24) A State Implementation Plan for the Control of lead emissions submitted on December 23, 1980 by the Secretary, Delaware Department of Natural Resources and Environmental Control.

(25) A revised schedule for implementation of Delaware's inspection and maintenance program submitted on December 29, 1980 by the Secretary, Delaware Department of Natural Resources and Environmental Control.

§ 52.433 [Removed]

2. Section 52.433 (Controlled Strategy—Ozone) is removed.

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

B. Title 40, Part 62, Subpart I of the Code of Federal Regulations is amended as follows:

Subpart I—Delaware

1. A new center heading and § 62.1875 are added to read as follows:

Sulfuric Acid Mist From Existing Sulfuric Acid Plants

§ 62.1875 Identification of plan.

(a) Title of plan: State implementation plan for control of sulfuric acid mist from existing sulfuric acid plants.

(b) The plan was officially submitted on September 8, 1978 with amendments submitted on December 29, 1980.

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

(1) Allied Chemical Company, Claymont (New Castle County).

[FR Doc. 82-6505 Filed 3-10-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 180

[PP 1F2521/PP 1F2506/PP 1F2495/PP 9F2203/PP 2F2601/R412; PH-FRL-2072-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Metolachlor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide metolachlor in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for residues of the herbicide in or on the commodities was requested by Ciba-Geigy Corp.

EFFECTIVE DATE: March 11, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202; (703–557–1830).

SUPPLEMENTARY INFORMATION: Notices were published in the **Federal Register** that Ciba-Geigy Corp., PO Box 11422, Greensboro, NC 27409, had filed petitions with EPA. These petitions proposed that 40 CFR 180.368 be amended by establishing tolerances for residues of the herbicide metolachlor [2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl) acetamide] and its metabolites determined as 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, expressed as the parent compound, in or on the raw agricultural commodities at the parts per million (ppm) listed below:

Petition	Date	Issue	Commodities	PPM
1F2521	July 20, 1981	46 FR 37324	Fresh corn (includes sweet corn), popcorn grain	0.1
1F2506	June 19, 1981	46 FR 32071	Cottonseed	0.1
1F2495	June 9, 1981	46 FR 30562	Seed and pod vegetables	0.3
9F2203	June 7, 1979	44 FR 32737	Potatoes	0.1
2F2601	Jan. 13, 1982	47 FR 1408	Safflower seed	0.1

The petitioner subsequently amended pesticide petition 9F2203 in the **Federal Register** of November 20, 1981 (46 FR 5709) by increasing the proposed tolerance level for potatoes from 0.1 to 0.2 ppm.

No comments were received in response to these notices of filing.

The data submitted in these petitions and other relevant material have been evaluated. The data considered in support of the proposed tolerances included: a rat acute oral toxicity study with a lethal dose (LD_{50}) of 2.78 grams (g)/kilogram (kg) of body weight (bw); a 90-day dog feeding study with a no-observed-effect level (NOEL) of 500 ppm; a 6-month dog feeding study with a NOEL of 100 ppm; a rat teratology study with a NOEL of 360 milligrams (mg)/kg; a rabbit teratology study with a NOEL of 360 mg/kg; a 2-generation rat reproduction study with a NOEL of 300 ppm; a mouse dominant lethal study (negative); an AMES mutagenicity assay (negative); a 2-year mouse oncogenicity study with no observed oncogenic potential at 30, 1,000, and 3,000 ppm; and a 2-year rat oncogenicity/chronic feeding study in which a NOEL was not established and is discussed further below. In addition, the petitioner has submitted a 12-month interim report of an additional 2-year rat oncogenicity/chronic feeding study in progress. The final report is to be submitted to the Agency by September 1, 1983; however, no gross or microscopic findings that have been observed thus far appear to be treatment related. A second mouse oncogenicity study is to be submitted to the Agency by November 1, 1982.

Results of the completed oncogenicity/chronic feeding study, performed by Industrial Biotest Laboratory (IBT), show a statistically significant increase in primary liver neoplasms in females of the high dose group (3,000 ppm). The Agency's review of this study indicated that the study is not completely adequate for all purposes. Based on the IBT study the Agency evaluated dietary exposure to metolachlor residues and has estimated that residues resulting from these tolerances and previously established tolerances result in a "worst case" oncogenic risk of less than one in one million. The Agency will reassess this risk estimate and reevaluate these and all other tolerances for metolachlor when data from the two new oncogenicity studies are received and reviewed.

Tolerances have previously been established for residues of metolachlor ranging from 0.02 ppm in meat, milk, and eggs to 3.0 ppm in peanut forage and hay. Based upon the NOEL of 100 ppm in the 6-month dog feeding study and a 1,000 fold safety factor, the acceptable daily intake (ADI) has been set at 0.0025 mg/kg/day with a maximum permissible intake (MPI) of 0.150 mg/day for a 60-kg person. Previously established and proposed tolerances have a theoretical maximal residue contribution (TRMC) of 0.052545 mg/day in a 1.5 kg diet or 35.03 percent of the ADI.

There are no regulatory actions pending against the registration of this chemical. The metabolism of metolachlor in plants and animals is adequately understood and an analytical method (gas chromatography) is available for enforcement purposes.

The pesticide is considered useful for the purposes for which the tolerances are sought and it is concluded that the tolerance will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before April 12, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective date: March 11, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Dated: March 5, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.368 is amended by adding and alphabetically inserting the raw agricultural commodities: corn, fresh; cottonseed; potatoes; seed and pod vegetables; and safflower seed; and deleting "(exc. popcorn)" following the commodity "corn, grain" to read as follows:

§ 180.386 Metolachlor; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * * *	
Corn, fresh (inc sweet K+CWHR)	0.1
* * * * * *	
Corn, grain	0.1
* * * * * *	
Cottonseed	0.1
* * * * * *	
Potatoes	0.2
* * * * * *	
Safflower seed	0.1
* * * * * *	
Seed and pod vegetables	0.3
* * * * * *	

[FR Doc. 82-6757 Filed 3-10-82; 8:45 a.m.]

BILLING CODE 6560-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6143

[M-31168]

Montana; Revocation of Secretarial Order Dated June 18, 1908, Blossburg Administrative Site

Correction

In FR Doc. 82-4156, published on page 6855, on Wednesday, February 17, 1982, in the third column, in the second to last line, "T.11.," should be corrected to read "T.11N.,".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 6257]

Identification and Mapping of Special Flood Hazard Areas; Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Associate Director, State and Local Programs and Support reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P. E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0220.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Arizona: Benton	City of Bentonville	*Daily Democrat:* Jan. 18, 1982; Jan. 19, 1982.	Honorable Richard Hoback, Mayor, City of Bentonville, 115 West Central Ave., Bentonville, AR 72712.	Jan. 19, 1982	050012C
Pulaski	City of Sherwood	*Arkansas Gazette:* Jan. 18, 1982; Jan. 19, 1982.	Honorable Bill Henson, Mayor, City of Sherwood, 201 Country Club Road, Sherwood, AR 72116.	Jan. 19, 1982	050235D
California:					
Orange	City of Brea	*Daily Star Progress:* Jan. 18, 1982; Jan. 19, 1982.	Honorable Melvin LeBaron, Mayor, City of Brea, 401 South Brea Boulevard, Brea, CA 92621.	Jan. 19, 1982	060214C
San Joaquin	City of Lodi	*Sentinel:* Jan. 18, 1982; Jan. 19, 1982.	Honorable James McCarty, Mayor, City of Lodi, 221 West Pine St., Lodi, CA 95254.	Jan. 19, 1982	060300D
Santa Barbara	City of Carpinteria	*Carpinteria Herald:* Jan. 15, 1982; Jan. 19, 1982.	Honorable John K. Fukasawa, Mayor, City of Carpinteria, 5775 Carpinteria Ave., Carpinteria, CA 93013.	Jan. 19, 1982	060332D
Colorado:					
Adams	City of Commerce City	*Commerce City Sentinel:* Jan. 14, 1982; Jan. 21, 1982.	Honorable Harold Kite, Mayor, City of Commerce City, P.O. Box 40, Commerce City, CO 80037.	Jan. 19, 1982	080006D
Adams	City of Thornton	*Northglenn-Thornton Sentinel:* Jan. 14, 1982; Jan. 21, 1982.	Honorable Margaret Carpenter, Mayor, City of Thornton, 8992 North Washington St., Thornton, CO 80229.	Jan. 19, 1982	080007C
Boulder	City of Louisville	*The Louisville Times:* Dec. 30, 1981; Jan. 6, 1982.	Honorable Norbert Meier, Mayor, City of Louisville, 749 Main St., Louisville, CO 80027.	Jan. 5, 1982	085076E
Delaware: Kent	Town of Smyrna	*Smyrna Times:* Jan. 7, 1982; Jan. 14, 1982.	Honorable George E. Wright, Town of Smyrna, P.O. Box 307, Smyrna, DE 19977.	Jan. 5, 1982	100017E
Florida:					
Seminole	City of Winter Springs	*The Sentinel Star:* Jan. 5, 1982; Jan. 12, 1982.	The Honorable Troy J. Piland, Mayor, City of Winter Springs, 400 North Edgemon Avenue, Winter Springs, Florida 32708.	Jan. 15, 1982	120295C
Bay	City of Panama City	*Panama City News Herald:* Jan. 15, 1982; Jan. 22, 1982.	The Honorable Jerry Clemons, Mayor, City of Panama City, P.O. Box 1880, Panama City, FL 32401.	Jan. 22, 1982	120012C
Broward	Town of Pembroke Park	*The Hollywood Sun Tower:* Jan. 15, 1982; Jan. 22, 1982.	The Honorable Gerald J. Yourman, Mayor, Town of Pembroke Park, 3150 S.W. 52nd Avenue, Pembroke Park, FL 33023.	Jan. 22, 1982	120052C
Georgia: Troup	City of LaGrange	*The LaGrange Daily News:* Jan. 8, 1982; Jan. 15, 1982.	The Honorable J. Gardner Newman, Mayor, City of LaGrange, P.O. Box 430, LaGrange, GA 30241.	Jan. 15, 1982	130177B
Idaho: Power	City of American Falls	*Power County Press:* Jan. 13, 1982; Jan. 14, 1982.	Honorable Kenneth Morgan, Mayor, City of American Falls, 239 Idaho Street, American Falls, ID 83211.	Jan. 19, 1982	160109C
Illinois:					
DuPage	Village of Glendale Heights	*Daily Journal:* Dec. 24, 1981; Dec. 31, 1981.	John J. Grotto, Village Administrator, Village of Glendale Heights, 1161 Bloomingdale Road, Glendale Heights, IL 60137.	Jan. 1, 1982	170206C

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
DuPage	Village of Glen Ellyn	*Glen Ellyn News:* Jan. 13, 1982; Jan. 20, 1982.	Michael Formento, President, Village Board, Village of Glen Ellyn, Village Hall, 535 Duane St., Glen Ellyn, IL 60137.	Jan. 22, 1982	170207C
Indiana: Floyd	City of New Albany	*New Albany Tribune:* Jan. 22, 1982; Jan. 29, 1982.	Honorable Robert L. Real, Mayor, City of New Albany, Room 316, City County Building, New Albany, Indiana 47150.	Jan. 29, 1982	180062C
Iowa: Johnson	City of Iowa City	*Iowa City Press-Citizen:* Jan. 18, 1982; Jan. 19, 1982.	Honorable John R. Balmer, Mayor, City of Iowa City, Civic Center, 410 East Washington, Iowa City, IA 52240.	Jan. 19, 1982	190171B
Kansas: Reno	City of Hutchinson	*The Hutchinson News:* Jan. 18, 1982; Jan. 19, 1982.	Honorable John L. Corey, Mayor, City of Hutchinson, P.O. Box 1567, Hutchinson, KS 67501.	Jan. 19, 1982	200283C
Kentucky: Kenton	City of Covington	*The Kentucky Post:* Jan. 15, 1982; Jan. 22, 1982.	Honorable B. J. Moorman, Mayor, City of Covington, The City and County Municipal Bldg., 9th Floor, 303 Court Street, Covington, KY 41011.	Jan. 22, 1982	210129C
Louisiana:					
Concordia Parish	Town of Vidalia	*Natchez Democrat:* Jan. 4, 1982; Jan. 5, 1982.	Honorable Sidney A. Murray, Jr., Mayor, Town of Vidalia, 409 Texas Street, Vidalia, LA 71343.	Jan. 5, 1982	220057C
West Baton Rouge Parish	City of Port Allen	*Port Allen West Side Journal:* Jan. 7, 1982; Jan. 14, 1982.	Honorable William C. LeBlanc, Mayor, City of Port Allen, P.O. Box 468, Port Allen, LA 70767.	Dec. 16, 1981 (66-B).	220242B
Maryland: Allegany	Town of Luke	*The Cumberland Times News:* Jan. 22, 1982; Jan. 29, 1982.	Honorable Overton B. Walker, Mayor, Town of Luke, Grant Street, P.O. Box 9, Luke, Maryland 21540.	Jan. 29, 1982	240114C
Michigan:					
Iosco	Township of Oscoda	*Oscoda Press:* Dec. 23, 1981; Dec. 30, 1981.	Robert K. Foster, Township Supervisor, Township of Oscoda, 110 South State Street, Oscoda, Michigan 48750.	Jan. 1, 1982	260101C
St. Clair	Township of Clay	*Courier Journal:* Jan. 13, 1982; Jan. 20, 1982.	Ms. Jacquelyn Downing, Township Supervisor, Township of Clay, 4710 Pointe Tremble Road, Algonac, MI 48001.	Jan. 22, 1982	260194B
Mississippi: Sunflower	Town of Inverness	*The Enterprise Tocsin:* Jan. 7, 1982; Jan. 14, 1982.	The Honorable J.W. Lang, Sr., Mayor, Town of Inverness, P.O. Box 166, Inverness, MS 38753.	Jan. 15, 1982	280165C
New Mexico: Dona Ana	City of Las Cruces	*Las Cruces Sun-News:* Jan. 11, 1982; Jan. 12, 1982.	Honorable J.A. Camunez, Mayor, City of Las Cruces, P.O. Drawer CLC, Las Cruces, NM 88001.	Jan. 12, 1982	355332C
North Carolina:					
Craven	City of New Bern	*The Sun Journal:* Jan. 15, 1982; Jan. 22, 1982.	The Honorable Leander R. Morgan, Mayor, City of New Bern, City Hall, Box 1129, New Bern, North Carolina 28560.	Jan. 22, 1982	370074D
Durham	City of Durham	*Durham Morning Herald:* Jan. 8, 1982; Jan. 15, 1982.	Mr. Barry Del Castilho, City Manager, 101 City Hall Plaza, Durham, NC 27701.	Jan. 15, 1982	370086E
Gaston	City of Gastonia	*The Gastonia Gazette:* Jan. 8, 1982; Jan. 15, 1982.	The Honorable Thebaud Jeffers, Mayor, City of Gastonia, Box 1748, Gastonia, NC 28052.	Jan. 15, 1982	370100C
Haywood	Town of Canton	*The Canton Enterprise:* Jan. 14, 1982; Jan. 21, 1982.	The Honorable H.W. Ramsey, Mayor, Town of Canton, Box 987, Canton, NC 28716.	Jan. 22, 1982	370121C
Pasquotank & Camden	Town of Elizabeth City	*The Daily Advance:* Jan. 8, 1982; Jan. 15, 1982.	Mr. Tommy M. Combs, City Manager, City of Elizabeth City, P.O. Box 347, Elizabeth City, NC 27909.	Jan. 15, 1982	370185C
North Dakota: Cass	City of Fargo	*The Forum:* Jan. 26, 1982; Jan. 27, 1982.	Honorable Jon G. Lindgren, Mayor, City of Fargo, City Hall, Fargo, ND 58102.	Jan. 19, 1982	385364C
Oklahoma:					
Alfalfa	City of Cherokee	*The Cherokee Messenger:* Jan. 12, 1982; Jan. 19, 1982.	Honorable Gordon McDowell, Mayor, City of Cherokee, 121 North Grand, Cherokee, OK 73728.	Jan. 19, 1982	400006C
Rogers	City of Claremore	*The Claremore Progress:* Jan. 19, 1982; Jan. 20, 1982.	Honorable Elizabeth Gordon, Mayor, City of Claremore, P.O. Box 249, Claremore, OK 74107.	Jan. 19, 1982	405375D
Stephens	City of Duncan	*The Duncan Banner:* Jan. 11, 1982; Jan. 12, 1982.	Honorable Bobby Pollock, Mayor, City of Duncan, P.O. Box 969, Duncan, OK 73533.	Jan. 12, 1982	400202C
Oregon: Jackson	City of Central Point	*Medford Mail Tribune:* Jan. 27, 1982; Jan. 28, 1982.	Honorable Don Jones, Mayor, City of Central Point, P.O. Box 3576, Central Point, OR 97502.	Jan. 19, 1982	410092C
Tillamook	City of Manzanita	*Fishrapper:* Jan. 7, 1982; Jan. 14, 1982.	Honorable Irving Carr, Mayor, City of Manzanita, P.O. Box C, Manzanita, OR 97130.	Jan. 12, 1982	410139B
Douglas	City of Roseburg	*The News Review:* Jan. 4, 1982; Jan. 5, 1982.	Honorable John Dunn, Mayor, City of Roseburg, 900 S.E. Douglas St., Roseburg, OR 97470.	Jan. 5, 1982	410067C
Jackson	City of Talent	*The Daily Tidings:* Jan. 28, 1982; Jan. 29, 1982.	Honorable Robert F. Underhill, Mayor, City of Talent, P.O. Box 445, Talent, OR 97540.	Jan. 19, 1982	410100C
Pennsylvania:					
Allegheny	Borough of McKees Rocks	*Suburban Gazette:* Dec. 23, 1981; Dec. 30, 1981.	George Traupman, Borough Secretary, Borough of McKees Rocks, Municipal Building, Linden and Bell Avenues, McKees Rocks, PA 15136.	Jan. 1, 1982	420052C
Lancaster	Township of Manheim	*Lancaster New Era:* Dec. 25, 1981; Jan. 1, 1982.	Jay Gregg, Township Manager, Township of Manheim, 1821 Municipal Drive, Lancaster, Pennsylvania 17601.	Jan. 1, 1982	420556C
South Dakota:					
Butte	City of Belle Fourche	*The Post:* Jan. 26, 1982; Jan. 27, 1982.	Honorable Robert L. Helmer, Mayor, City of Bell Fourche, 606 Sixth Street, Belle Fourche, SD 57717.	Jan. 19, 1982	460012C
Meade	City of Sturgis	*Meade County Times-Tribune:* Jan. 26, 1982; Feb. 2, 1982.	Honorable Robert Voorhees, Mayor, City of Sturgis, Engineering and Inspection Department, 1029 First Street, Sturgis, SD 57785.	Jan. 19, 1982	460055D
Tennessee:					
Anderson	City of Oak Ridge	*The Oak Ridger:* Jan. 15, 1982; Jan. 22, 1982.	Mr. Lucien Faust, City Planner, City of Oak Ridge, City Hall, P.O. Box 1, Oak Ridge, Tennessee 37830.	Jan. 22, 1982	475441C
Bradley	City of Cleveland	*The Cleveland Daily:* Jan. 8, 1982; Jan. 15, 1982.	The Honorable Harry L. Dethero, Mayor, City of Cleveland, 190 Church Street, N.E., Cleveland, TN 37311.	Jan. 15, 1982	470015B
Carter	City of Elizabethton	*The Elizabethton Star:* Jan. 15, 1982; Jan. 22, 1982.	The Honorable J. B. Sheperd, Mayor, City of Elizabethton, P.O. Box 189, Elizabethton, TN 37643.	Jan. 22, 1982	475425B
Maury	City of Columbia	*The Daily Herald:* Jan. 15, 1982; Jan. 22, 1982.	The Honorable J. A. Morgan, Mayor, City of Columbia, City Hall, 707 N. Main Street, Columbia, TN 38401.	Jan. 22, 1982	475423C
Texas:					
Dallas	City of Irving	*Irving Daily News:* Feb. 9, 1982; Feb. 10, 1982.	Honorable Bobby Joe Raper, Mayor, City of Irving, 825 West Irving Boulevard, Irving, TX 75060.	Jan. 25, 1982 (66-B).	480180A
Kerr	City of Kerrville	*Kerrville Daily Times:* Jan. 26, 1982; Jan. 27, 1982.	Honorable H. Lee Jennings, Mayor, City of Kerrville, 600 Main St., Kerrville, TX 78028.	Jan. 19, 1982	480420D
Utah: Sevier	Town of Aurora	*Salina Sun:* Jan. 7, 1982; Jan. 14, 1982.	Honorable Marvin Mason, Mayor, Town of Aurora, P.O. Box 1054, Aurora, UT 84620.	Jan. 12, 1982	490123C

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Washington:					
King	City of Redmond	*Sammamish Valley News:* Jan. 27, 1982; Feb. 3, 1982.	Honorable Christine T. Himes, Mayor, City of Redmond, 15670 N.E. 85th St., Redmond, WA 98052.	Jan. 19, 1982	530067C
Okanogan	Town of Riverside	*Omak-Okanogan County Chronicle:* Dec. 31, 1981; Jan. 7, 1982.	Honorable Phillip Stokes, Mayor, Town of Riverside, P.O. Box 188, Riverside, WA 98849.	Jan. 5, 1982	530122B
Island	City of Oak Harbor	*Whidbey News-Times:* Jan. 6, 1982; Jan. 13, 1982.	Honorable Al Koetje, Mayor, City of Oak Harbor, 3075—300 Avenue West, Oak Harbor, WA 98277.	Jan. 12, 1982	530068C
Cowlitz	City of Castle Rock	*Cowlitz County Advocate:* Jan. 14, 1982; Jan. 21, 1982.	Honorable Michael D. Huson, Mayor, City of Castle Rock, P.O. Box 396, Castle Rock, WA 98611.	Jan. 19, 1982	530277C
Wisconsin:					
Vernon	Village of Stoddard	*Chipmunk Press:* Dec. 23, 1981; Dec. 30, 1981.	Lester Helgeson, Village President, Village of Stoddard, 180 North Main Street, Stoddard, WI 54658.	Jan. 1, 1982	555582C
Racine	City of Burlington	*Burlington Standard Press:* Jan. 6, 1982; Jan. 13, 1982.	Honorable Leonard Kitkowski, City of Burlington, 300 N. Pine Street, Burlington, WI 53105.	Jan. 15, 1981	550348C
Washburn	City of Spooner	*Spooner Advocate:* Dec. 24, 1981; Dec. 31, 1981.	Honorable Rodney Ripley, City of Spooner, 322 Walnut Street, Spooner, WI 54801-1388.	Jan. 1, 1982	550470C
Wyoming:					
Fremont	City of Lander	*Wyoming State Journal:* Jan. 18, 1982; Jan. 21, 1982.	Honorable Delbert McOmie, Mayor, City of Lander, 183 South 4th Street, Lander, WY 82520.	Jan. 19, 1982	560020D
Washakie	City of Worland	*Northern Wyoming Daily News:* Jan. 19, 1982; Jan. 20, 1982.	Honorable Timothy E. McHenry, Mayor, City of Worland, P.O. Box 226, Worland, WY 82401.	Jan. 19, 1982	560066C

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: February 25, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6270 Filed 3-10-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Agency has developed criteria for flood plain management in floodprone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not prescribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Butler, Choctaw (FEMA-6152)	Wahalak Creek	Just upstream of South Mulberry Avenue	*106
		Wahalak Creek Tributary 1	Just upstream of Smith Street	*150
		Brock Creek	Just downstream of South Mulberry Avenue	*101

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Riderwood Drive	*114
			Just upstream of Alabama Highway 10	*117
		Brock Creek Tributary 2	Just upstream of Stevens Road	*122
		Pickett Creek	Just upstream of Alabama Highway 10 (Pushmataha Street).	*127
			Just upstream of Alabama Highway 17 (North Mulberry Street).	*143
		Pickett Creek Tributary 5	Just upstream of Vanity Fair Avenue	*139
			Just upstream of Alabama Highway 17	*144
		Pickett Creek Tributary 4	Just upstream of Vanity Fair Avenue	*132
		Pickett Creek Tributary 3	Just upstream of Woodley Avenue	*137
			Just upstream of Alabama Highway 10	*147
Maps available for inspection at City Clerk's Office, City Hall, 114 North Academy Street, Butler, Alabama 36904.				
Alabama	City of Heflin, Cleburne County (FEMA-6152)	Cahulga Creek	Approximately 120 feet upstream at the confluence of Town Creek.	*858
		Town Creek	Approximately 280 feet upstream from Town Creek Road.	*869
			Just upstream from Almon Street	*885
			Approximately 150 feet upstream from Coleman Street	*900
Maps available for inspection at City Hall, 405 Ross Street, Heflin, Alabama 36264.				
Alabama	Unincorporated Areas of Randolph County (FEMA-6152).	Wehadkee Creek	Just upstream of Mark Head Road	*687
			Just downstream of County Road 30	*777
		High Pine Creek	Just upstream of Dickert Road	*655
			Just downstream of Connector Road	*686
		Town Creek	Just downstream of City of Roanoke Corporate Limits	*715
		Wedowee Creek	Just upstream of U.S. Highway 431 (Main Street)	*785
			Just downstream of County Road (Circle Drive)	*805
Maps available for inspection at Randolph County Courthouse, Main Street, Wedowee Alabama 36278.				
Alabama	City of Roanoke, Randolph County (FEMA-6152)	High Pine Creek	West Corporate Limits	*716
			North Corporate Limits	*724
		Town Creek	Just downstream of Lovina Street	*742
			Just downstream of Chestnut Street	*764
Maps available for inspection at City Hall Main Street, Roanoke Alabama 36274.				
Alabama	Unincorporated Areas of Walker County (FEMA-6152)	Mulberry Fork (near Gorgas)	Just downstream of the confluence of Backer Creek	*266
			Just upstream of State Highway 269	*269
			Just downstream of upstream limit of detailed study	*273
		Mulberry Fork (near Cordova)	Just upstream of Southern Railway	*278
			Approximately 1,000 feet downstream of County Road 30.	*280
			Just downstream of U.S. Highway 78	*285
		Lost Creek	Approximately 550 feet downstream of America Mine #7 Bridge.	*267
		Lost Creek (near Carbon Hill)	Approximately 2,000 feet upstream of St. Louis San Francisco Railway.	*405
		Wolf Creek	Approximately 500 feet downstream of upstream limit of detailed study.	*265
		Blackwater Creek	Just upstream of State Highway 195	*457
			Just upstream of Harris Bridge	473
			Just upstream of Staggs Bridge	*478
			Just downstream of County Highway 25	*500
		Poley Creek	Approximately 250 feet upstream of State Highway 69	*372
			Approximately 300 feet upstream of Shererwood Drive	*390
		Poley Creek Tributary One	Just downstream of upstream limit of detailed study	*415
		Town Creek	Just upstream of Southern Railway	*293
Maps available for inspection at Walker County Courthouse, 18th Street and Third Avenue, Jasper, Alabama 35501.				
Alabama	Town fo Wedowee, Randolph County (FEMA-6152)	Wedowee Creek	Just downstream of U.S. 431 (Main Street)	*785
			Just downstream of Circle Drive	*805
		Frog Level Branch	Just downstream of Woodland Avenue	*805
			Just downstream of U.S. 431 (Main Street)	*819
Maps available for inspection at Town Hall, Wedowee, Alabama 36278.				
Arizona	Apache County (Unincorporated Areas) (FEMA-6153)	Little Colorado River at St. Johns	50 feet downstream of intersection of U.S. Highways 666 and 61 with Little Colorado River at St. Johns.	*5,679
		Little Colorado River at Springerville.	50 feet upstream of intersection of Airport Road and Little Colorado River at Springerville.	*6,958
		San Francisco River	100 feet upstream of intersection of U.S. Highway 180 and San Francisco River.	*7,923
			100 feet upstream of intersection of U.S. Highway 666 (Coronado Trail) and San Francisco River.	*7,972
Maps available for inspection at Department of Planning and Zoning, Washington and Fifth, St. Johns, Arizona.				
Arkansas	City of Magnolia, Columbia County (FEMA-6154)	Nations Creek	Just upstream of Calhoun Road	*271
			Approximately 300 feet downstream of U.S. Highway 82.	*273
		Tanyard Branch	Approximately 100 feet downstream of Louisiana & Northwestern Railroad.	*267
			Approximately 50 feet downstream of State Highway 19.	*276

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Barlow Branch	Approximately 50 feet upstream of U.S. Highway 82 Bypass.	*266
		Tributary to Barlow Branch	Approximately 140 feet upstream of U.S. Highway Bypass.	*273
			At U.S. Highway 82 Business State Highway 19	*273
		Tributary to Big Creek	Approximately 150 feet upstream of North Height Street.	*269
Maps available for inspection at City Hall, 306 North Jackson Street, Magnolia, Arkansas 72204.				
California	San Luis Obispo County (Unincorporated Areas) FEMA-6153.	Graves Creek	200 feet upstream from center of U.S. Highway 101 (South Bound).	*775
		North Fork Paloma Creek	At confluence of North Fork Paloma Creek and Paloma Creek.	*881
		Paloma Creek	175 feet upstream from center of the Southern Pacific Railroad.	*878
			850 feet southwest of intersection of Southern Pacific Railroad and San Rafael Road.	*879
			650 feet southwest of confluence of Paloma Creek and South Fork Paloma Creek.	#1
		Salinas River	50 feet upstream from center of State Highway 46 (24th Street).	*682
			60 feet upstream from center of Templeton Road	*762
			At confluence of Salinas River and Santa Margarita Creek.	*893
		Santa Margarita Creek	25 feet upstream from center of Southern Pacific Railroad.	*910
			25 feet upstream from center of Yerba Buena Avenue	*1002
		Shallow Flooding	At intersection of Oak Road and Chestnut Avenue	*949
		Shallow Flooding	350 feet west of intersection of Oak Road and Walnut Avenue.	*950
		South Branch Toad Creek	125 feet downstream from center of U.S. Highway 101	*806
		Toad Creek (Main and North Branch).	70 feet upstream of the Southern Pacific Railroad	*749
			50 feet upstream from center of Florence Street	*789
		Shallow Flooding	200 feet west of intersection of Toad Creek and center of Southern Pacific Railroad.	*749
			350 feet east of the intersection of Ramada Drive and Main Street.	#2
		Unnamed Creek #1	25 feet upstream from center of River Road	*722
		Yerba Buena Creek	25 feet upstream of H Street	*999
			At intersection of Margarita Avenue and I Street	#1
Maps available for inspection at Planning Department, 2156 Sierra Way, San Luis Obispo, California.				
Connecticut	Thomaston, town, Litchfield County (Docket No. FEMA-6181).	Naugatuck River	Downstream corporate limits	*295
			Downstream of Conrail Bridge	*319
			Upstream of Waterbury Road	*336
			Approximately 1,800' upstream of State Route 8 southbound.	*346
			Downstream East Main Street	*363
			Upstream Hill Road	*380
			Approximately 2,070' upstream of Hill Road	*383
			Upstream of Thomaston Dam	*496
			Upstream corporate limits	*496
		Branch Brook	Confluence with Naugatuck River	*321
			Upstream State Route 6 and 202	*358
			Downstream of Blackrock Dam Wigwam Dam	*567
			Upstream corporate limits	*569
Maps available for inspection at the Office of the Building Inspector, Thomaston Town Hall, 158 Main Street, Thomaston, Connecticut.				
Connecticut	Wolcott, town, New Haven County (Docket No. FEMA-6153).	Mad River	Downstream corporate limits	*462
			Approximately 180' downstream of confluence with Finch Brook.	*473
			1st dam (upstream)	*509
			2nd dam (upstream)	*532
			3rd dam (upstream)	*574
			Approximately 1,250' upstream of State Route 69 (first crossing).	*610
			Approximately 2,300' upstream of State Route 69 (first crossing).	*630
			Center Street (upstream)	*680
			Approximately 1,270' upstream of Mad River Hill Road	*695
			Approximately 2,510' upstream of Mad River Hill Road	*709
		Old Tannery Brook	Downstream corporate limits	*462
			Nutmeg Road (upstream)	*465
			Tosun Road (upstream)	*482
			State Route 69 (upstream)	*512
			Approximately 740' upstream of State Route 69	*518
			Approximately 2,185' upstream of State Route 69	*527
			Approximately 3,925' upstream of State Route 69	*540
			Approximately 4,885' upstream of State Route 69	*560
		Lindsley Brook	Confluence with Scoville Reservoir	*533
			Approximately 620' upstream of Woodtick Road (first crossing).	*573
			Approximately 40' downstream of Ransom Hill Road	*628
			Woodtick Road (second crossing) (upstream)	*668
			Center Street (upstream)	*686

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Woodtick Road (fourth crossing) (upstream) Lindsley Drive.	*744
Maps available for inspection at the Planning and Zoning Department, Wolcott Town Hall, 10 Kenea Avenue, Wolcott, Connecticut.				
Illinois	(C) Springfield, Sangamon County (Docket No. FEMA-6144).	Sangamon River	About 2.25 miles downstream of Chicago and Illinois Midland Railway.	*527
			About 1.44 miles upstream of Chicago and Illinois Midland Railway.	*529
		Spring Creek	At mouth at Sangamon River	*528
			At confluence of town branch	*536
			Just downstream of Meadow Brook Road	*543
		Jacksonville Branch	About 1,500 feet downstream of Churchill Road	*540
			About 400 feet downstream of Fayette Avenue	*556
			Just upstream of Park Drive South	*563
			Just downstream of U.S. Route 54	*584
		Town Branch	Within corporate limits	*536
		Jacksonville Branch Tributary	About 0.21 mile downstream of Bates Avenue	*574
			Just downstream of Bates Avenue	*576
		Sugar Creek	About 1.8 miles downstream of State Route 29	*542
			Just downstream of Spaulding Dam	*547
		Horse Creek	At mouth at South Fork Sangamon River	*545
			About 2.8 miles upstream of mouth	*546
Maps available for inspection at the Engineering Department, Municipal Building, Room 307, 7th and Monroe Street, Springfield, Illinois.				
Iowa	(C) Center Point, Linn County (Docket No. FEMA-6155).	Apple Creek	About 300 feet downstream of confluence of Tributary A.	*790
			About 1,500 feet upstream of Chicago, Rock Island and Pacific Railroad.	*820
		Tributary A	About 150 feet upstream of confluence of confluence with Apple Creek.	*791
			Just downstream of Franklin Street	*794
Maps available for inspection at the City Hall, 1508 Franklin, Center Point, Iowa				
Iowa	(C) Marion, Linn County (Docket No. FEMA-6155)	Indian Creek	About 2000 feet upstream of 29th Street (at southern corporate limit).	*762
			About 1.3 miles upstream of 10th Street	*797
		Dry Creek	At mouth	*786
			About 1.8 miles upstream of mouth (at western corporate limit).	*795
		Squaw Creek	About 0.8 mile downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*784
			Just downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*792
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*799
			Just downstream of U.S. Highway 151	*801
		West Fork Squaw Creek	At mouth	*799
			Just downstream of U.S. Highway 151	*800
			Just upstream of U.S. Highway 151	*806
Maps available for inspection at the Community Development Department, City Hall, 1100 8th Avenue, Marion, Iowa.				
Iowa	(C) Robins, Linn County (Docket No. FEMA-6155)	Dry Creek	About 1.6 miles downstream of Main Street	*832
			About 500 feet upstream of Main Street	*842
			About 2,500 feet upstream of Mentzer Road	*847
Maps available for inspection at the Robins Community Building, 95 Front Street, Robins, Iowa.				
Kansas	(C) Arkansas City, Cowley County (Docket No. FEMA-6155).	Arkansas River	Just upstream of Atchison, Topeka and Santa Fe Railway.	*1,071
			Just upstream of U.S. Highway 77	*1,073
			About 2,900 feet upstream of Chestnut Avenue	*1,082
		Walnut River	At confluence of Mill Canal	*1,070
			Just upstream of Chestnut Avenue	*1,072
			Just downstream of Kansas Avenue	*1,075
		"C" Street Canal	Just upstream of U.S. Highway 77	*1,087
			About 100 feet downstream of Hickory Avenue	*1,101
			Just upstream of 8th Street	*1,108
			About 0.76 mile upstream of 8th Street (at upstream corporate limits).	*1,125
		North Creek	At downstream corporate limits	*1,083
			About 200 feet downstream of northern corporate limits.	*1,091
		Shallow Flooding (Ponding From Rainfall).	About 200 feet northwest of intersection of F Street and Hickory Avenue, just south of Warren Way.	*1,077
			North of Arkansas River and south of Tyler Avenue, east of Atchison, Topeka and Santa Fe Railway.	*1,070
		Shallow Flooding (Overflow From "C" Street Canal).	North of Kansas Avenue and south of Osage Avenue, just east of U.S. Highway 77 and west of "C" Street.	#1
			North of Kansas Avenue and south of Virginia Avenue, just west of Atchison, Topeka and Santa Fe Railway and east of "C" Street.	#2
Maps available for inspection at the City Hall, 1st and Central, Arkansas City, Kansas.				
Kentucky	City of Greenup, Greenup County (FEMA-6152)	Ohio River	Entire river Bank	*543
Maps available for inspection at the City Hall, 1005 Walnut Street, Greenup, Kentucky 41144.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Kentucky	City of Morehead, Rowan County (FEMA-6152)	Triplett Creek	Just downstream of South Tolliver Road	*739
			Just upstream of a Walkway Bridge	*730
			Just upstream of State Highway 519	*715
		North Fork Triplett Creek	Just downstream of Interstate Highway 64	*690
		Christy Creek	At mouth (confluence with Triplett Creek)	*742
	Maps available for inspection at the City Hall, 168 East Main Street, Morehead, Kentucky 40351.			
Maine	Buxton, town, York County (Docket No. FEMA-5947)	Saco River	Downstream Corporate Limits	*73
			Directory downstream of Skeleton Station Dam	*77
			Upstream of Skeleton Station Dam	*128
			3,300' upstream of State Route 4A	*137
			Upstream of State Route 4	*144
			Upstream of Bar Mills Dam	*152
			Approximately 1,000' upstream of abandoned railroad bridge.	*158
			Directly downstream of West Buxton Dam	*166
			Directly upstream of West Buxton Dam	*181
			Approximately 1,050' downstream of corporate limits (upstream crossing).	*192
			Upstream corporate limits	*204
		Saco River	Confluence with Saco River	*182
		Right Channel	Upstream corporate limits	*183
	Maps available for inspection at the Buxton Town Offices, West Buxton, Maine.			
Massachusetts	(T) Arlington, Middlesex County (Docket No. FEMA-6124).	Mystic River	At confluence of Alewife Brook	*6
			At outlet of Mystic Lake	*8
		Alewife Brook	About 250 feet upstream of Broadway	*7
			Just upstream of Massachusetts Avenue	*8
			About 350 feet upstream of State Route 2	*8
		Mill Brook	Mouth at Lower Mystic Lake	*8
			About 50 feet upstream of Mystic Valley Parkway	*12
			Just upstream of Fowle Avenue	*16
			Just upstream of Mystic Street	*20
			Just downstream of Cookes Hollow Dam	*21
			About 380 feet downstream of Mill Street	*41
			Just upstream of Mill Street	*49
			Just upstream of Grove Street	*67
			Just upstream of Brattle Street	*81
			Just downstream of Mill Lane	*115
			Just downstream of Boston and Maine Railroad	*152
	Maps available for inspection at the Planning and Development Department, Town Hall, Arlington, Massachusetts.			
Massachusetts	Clarksburg, town, Berkshire County (Docket No. FEMA-6074).	North Branch Hoosic River	Downstream corporate limits approximately 100' upstream of private drive; 800' upstream of downstream corporate limits.	*891 *906
			Downstream of dam	*932
			Upstream of cross road	*949
			Approximately 100' upstream of River Road (State Route 8).	*1,016
			Upstream of private drive off River Road	*1,030
			Downstream of Henderson Road	*1,062
			Upstream corporate limits	*1,075
		Hudson Brook	Downstream corporate limits	*1,005
			Approximately 1,450' upstream of downstream corporate limits.	*1,027
			Upstream of Daub Drive	*1,046
			Upstream of cross road	*1,052
			Downstream of Middle Road	*1,064
			Approximately 1,100' upstream of Middle Road	*1,097
	Maps available for inspection at the Town Hall, Briggsville School, Route 8, Clarksburg, Massachusetts.			
Massachusetts	Dalton, town, Berkshire County (Docket No. FEMA-6015).	East Branch Housatonic River	Downstream corporate limits	*1,024
			Pioneer Mill Dam (upstream)	*1,051
			Old Berkshire Mill Dam (upstream)	*1,078
			Byron Weston Dam No. 2 (downstream)	*1,102
			Byron Weston Dam No. 2 (upstream)	*1,128
			Orchard Road (upstream)	*1,146
			Old Windsor Road (upstream)	*1,156
			East Housatonic Street (upstream)	*1,180
			State Route 8 (approximately 5,000' upstream of East Housatonic Street (upstream).	*1,291
			Upstream corporate limits	*1,319
		Wahconah Falls Brook	Confluence with east branch Housatonic River	*1,146
			North Street (upstream)	*1,153
			Holiday Road (upstream)	*1,177
			Cleveland Road (upstream)	*1,209
			Approximately 2,800' upstream of Cleveland Road	*1,231
		Anthony Brook	Confluence with Wahconah Falls Brook	*1,146
			North Street (upstream)	*1,158
			Approximately 2,600' upstream of North Street	*1,182
		Sackett Brook	Washington Mountain Road (upstream)	*1,059
			Kirchner Road (downstream)	*1,072
	Maps available for inspection at the Dalton Selectmen's/Planning Board Office, Dalton, Massachusetts.			

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Massachusetts	Dunstable, town, Middlesex County (Docket No. FEMA-6053).	Nashua River	State boundary	*177
			Upstream corporate limits	*182
		Salmon Brook	State boundary	*160
			Upstream Pleasant Street	*165
			Upstream of corporate limits	*168
Maps available for inspection at the Town Hall Library, Main Street, Dunstable, Massachusetts.				
Massachusetts	Groton, town, Middlesex County (Docket No. FEMA-6094).	Nashua River	Downstream corporate limits	*204
			Upstream corporate limits	*215
		Squannacook River	Confluence with Nashua River	*215
			Approximately 1,700' downstream of West Groton Road.	*225
			Approximately 3,900' upstream of West Groton Road	*240
			Upstream corporate limits	*259
		James Brook	Downstream corporate limits	*241
			Approximately 920' upstream of Old Ayer Road (downstream crossing).	*280
			Upstream of Indian Hill Road	*296
			Upstream of Boston and Maine Railroad (furthest upstream crossing).	*304
		Reedy Meadow Brook	Downstream corporate limits	*208
			Approximately 600' downstream of Nashua Road	*220
			Approximately 590' upstream of Nashua Road	*239
		Unkety Brook	Approximately 650' upstream of the downstream corporate limits.	*214
			Approximately 3,660' upstream of Radian Road	*225
		Cow Pond Brook	Approximately 625' downstream of abandoned railroad	*180
			Upstream of Bridge Street	*192
			Downstream of Lost Lake Dam	*207
		Baddacook Brook	Confluence with Cow Pond Brook	*198
			Upstream of access road (upstream crossing)	*216
			Upstream of Cart Road	*226
		Martins Pond Brook	Confluence with Lost Lake	*216
			Approximately 1,080' upstream of confluence with Lost Lake.	*235
			Approximately 4,600' upstream of confluence with Lost Lake.	*256
		Massapoag Pond	Entire shoreline within community	*168
Maps available for inspection at the Office of the Planning Department, Town Hall, Groton, Massachusetts.				
Massachusetts	Erving, town, Franklin County (Docket No. FEMA-6052).	Connecticut River	Confluence of Millers River	*192
			Upstream corporate limits	*203
		Millers River	East Mineral Road	*192
			Gunn Street	*224
			Central Vermont Railway	*228
			Mill Road	*238
			Breached dam	*255
			Approximately 1.0 mile upstream breached dam	*300
			Approximately 1.5 miles downstream Farley Road	*330
			Farley Road	*384
			Boston and Maine Railroad	*436
			North Street	*456
			Upstream corporate limits	*477
		Keyup Brook	Confluence with Millers River	*458
			Boston and Maine Railroad	*464
			State Route 2	*468
Maps available for inpsection at the Erving Town Hall, Erving, Massachusetts.				
Massachusetts	Halifax, town, Plymouth County (Docket No. FEMA-6027).	Taunton River	Confluence of Winnetuxet River	*27
			Cherry Street Bridge (Upstream side)	*28
		Winnextuxet River	Confluence with Taunton River	*27
			Upstream corporate limits	*29
		Palmer Mill Brook	Confluence with Winnetuxet River	*29
			Upstream side of Hayward Street Bridge	*29
Maps available for inspection at the Halifax Selectmen's Office, Town Hall, Halifax, Massachusetts.				
Massachusetts	Hopkinton, town, Middlesex County (Docket No. FEMA-5978).	Sudbury River	Downstream corporate limits	*236
			Upstream of Stone Arch Bridge	*242
			Just upstream of Cordaville Dam	*256
			Approximately 740' downstream of Fruit Street	*265
			Upstream of Fruit Street	*275
			Upstream corporate limits	*277
		Whitehall Brook	Downstream corporate limits	*280
			Approximately 2,150' upstream of Fruit Street	*285
			Whitehall State Park boundary	*294
		Cold Spring Brook	Downstream corporate limits	*238
			Just downstream of North Mill Street	*244
			Upstream of North Mill Street Dam	*253
			Upstream of South Mill Street Dam	*262
			Just downstream of Front Street	*273
		Indian Brook	Approximately 1,150' downstream of confluence with tributary to Indiana Brook.	*301
			Approximately 1,300' downstream of Wood Street	*305

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tributary to Indian Brook	Confluence with Indian Brook	*303
			Just downstream of Wood Street	*307
Maps available for inspection at Town Hall, 18 Main Street, Hopkinton, Massachusetts.				
Massachusetts	Lancaster, town, Worcester County (Docket No. FEMA-5966).	Nashua River	Downstream corporate limits	*225
			Upstream side of Seven Bridge Road	*232
			Upstream corporate limits	*241
		North Nashua River	Confluence with Nashua River	*236
			Approximately 160' upstream of Main Street	*241
			Upstream side of North Main Street	*249
			Approximately 1,800' upstream of Ponakin Road	*260
			Approximately 1.8 miles upstream of Ponakin Road	*270
			Upstream corporate limits	*280
		Goodridge Brook	Downstream corporate limits	*258
			Approximately 125' upstream of Parker Road	*265
			Approximately 1, 063' upstream of Parker Road	*268
Maps available for inspection at the Town Clerk's Office, Town Hall, Main Street, Lancaster, Massachusetts.				
Massachusetts	Leicester, town, Worcester County (Docket No. FEMA-6061).	French River	Corporate limits (downstream)	*667
			Downstream of Conrail	*685
			Stafford Street	*689
			Dam (downstream)	*691
			Dam (upstream)	*705
			Pleasant Street	*736
			Greenville Pond Dam (downstream)	*755
		Town Meadow Brook	Greenville Pond Dam (upstream)	*763
			Green Street	*769
			0.270 mile upstream from Green Street	*780
			0.420 mile upstream from Green Street	*795
			0.930 mile downstream from Pine Street	*810
			Pine Street	*820
			Dutton Pond	*839
			0.165 mile upstream of Dutton Pond	*855
			Culvert 0.210 mile downstream of SR 9 (upstream side.	*877
			SR 9	*899
			Sargent Pond Dam (downstream)	*904
			Sargent Pond Dam (upstream)	*909
		Lynde Brook	Main Street	*703
			0.12 mile above Main Street	*715
			0.20 mile above Main Street	*726
			0.31 mile above Main Street	*742
			0.38 mile above Main Street	*758
			0.45 mile above Main Street	*771
			0.48 mile above Main Street	*791
			Lynde Brook Reservoir Dam	*825
Maps available for inspection at the Office of the Planning Board, Washburn Square, Leicester, Massachusetts.				
Massachusetts	Lenox, town, Berkshire County (Docket No. FEMA-6061).	Housatonic River	Downstream corporate limits	*926
			Upstream of Mill Street	*938
			Upstream of Brown Street extended	*945
			Upstream of Valley Mill Dam	*955
			Upstream corporate limits	*962
		Yokun Brook	Downstream of East Street	*968
			Downstream of Edgewood Drive	*991
			Approximately 500' upstream of Edgewood Drive	*1,002
			Approximately 2,375' upstream of Edgewood Drive	*1,020
			Approximately 3,500' downstream of New Lenox Road	*1,040
			Approximately 2,400' downstream of New Lenox Road	*1,080
			Downstream of New Lenox Road	*1,110
			Downstream of U.S. Routes 7 and 20	*1,120
			Downstream of West Mountain Road (downstream crossing).	*1,134
			Approximately 2,100' downstream of Lime Kiln Road	*1,152
			Approximately 640' downstream of Lime Kiln Road	*1,187
			Upstream of Lime Kiln Road	*1,219
		Sawmill Brook	Upstream of East Street	*1,020
			Downstream of Sherwood Drive	*1,047
			Upstream of Sherwood Drive	*1,059
			Approximately 120' downstream of Hubbard Street	*1,107
			Upstream of Hubbard Street	*1,119
			Approximately 590' upstream of Hubbard Street	*1,129
			Downstream of U.S. Routes 7 and 20	*1,159
		Marsh Brook	Downstream corporate limits	*1,008
			Downstream of private road	*1,033
			Downstream of West Street	*1,037
		Sargent Brook	Downstream corporate limits	*976
			Upstream of private road (extended)	*983
			Downstream of Plunkett Street	*1,030
Maps available for inspection at the Lenox Town Hall, Walker Street, Lenox, Massachusetts.				
Massachusetts	Merrimac, town, Essex County (Docket No. FEMA-6089).	Lake Attitash	Entire shoreline within community	*98
		Merrimack River	Downstream corporate limits	*13
			Upstream corporate limits	*16
		Tributary to Neal Pond	Birch Meadow Road No. 1	*102

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			At most upstream crossing of Birch Meadow Road No. 2.	*107
Maps available for inspection at the Conservation Commission, Town Hall, School Street, Merrimac, Massachusetts.				
Massachusetts	North Brookfield, town, Worcester County (Docket No. FEMA-6052).	Meadow Brook	Downstream corporate limits	*700
			Prouty Road (downstream)	*709
		Sucker Brook	Confluence with Meadow Brook	*700
			Murphy Road (downstream)	*737
			Footbridge (upstream)	*751
			Mill Road (upstream)	*791
		Coys Brook	Downstream corporate limits	*617
			State Route 67 (upstream)	*622
			Farm Road (upstream)	*627
			Cider Mill Road (upstream)	*643
			Tucker Road (downstream)	*652
		Lake Lashaway	Entire shoreline	*619
Maps available for inspection at the Town Clerk's Office, North Brookfield Town Office, North Brookfield, Massachusetts.				
Massachusetts	Orange, town, Franklin County (Docket No. FEMA-6053).	Millers River	Downstream corporate limits	*477
			1,850' upstream of Boston and Maine Railroad (second crossing).	*487
			Downstream of Boston and Maine Railroad (third crossing).	*497
			Upstream of New Hope Dam	*507
			Upstream county boundary	*511
		East branch Tully River	Downstream county boundary	*516
			1,950' upstream of Tully Road	*526
			1,135' downstream of Fryeville Road	*536
			500' downstream of Fryeville Road	*546
			450' upstream of Fryeville Road	*556
			240' downstream of first dam	*565
			Downstream of first dam	*574
			Upstream of first dam	*583
			Downstream of second dam	*594
			1,640' upstream of second dam	*604
			500' downstream of upstream county boundary	*614
			Upstream county boundary	*623
Maps available for inspection at the Town Administrator's Office, Orange Town Hall, Orange, Massachusetts.				
Massachusetts	Plympton, town, Plymouth County (Docket No. FEMA-6012).	Winnetuxet River	Downstream corporate limits	*29
			Downstream of Winnetuxet Road	*40
			Upstream of Winnetuxet Road	*47
			Upstream of dam above Winnetuxet Road	*55
			Approximately 1,350' upstream of Parsonage Road	*66
			Upstream corporate limits	*76
Maps available for inspection at the Plympton Planning Office, Town Hall, Palmer Road, Plympton, Massachusetts.				
Massachusetts	Rochester, town, Plymouth County (Docket No. FEMA-6052).	Mattapoisett River	Wolf Island Road (upstream side)	*22
			Approximately 800' downstream of New Bedford Road	*30
			Approximately 2,700' upstream of Rounseville Road	*40
			Cultivation Dam in Rochester wildlife management area (upstream side).	*51
			Snipatuit Pond spillway (downstream side)	*55
Maps available for inspection at the Rochester Town Hall, Rounseville Road, Rochester, Massachusetts.				
Massachusetts	Stockbridge, town, Berkshire County (Docket No. FEMA-5978).	Housatonic River	Downstream corporate limits	*747
			Upstream breached dam	*762
			Upstream side of Conrail	*773
			Downstream Glendale Dam	*794
			Upstream Glendale Dam	*816
			Downstream side of Glendale North Road	*822
			Upstream side of U.S. Route 7	*829
			Upstream corporate limits	*834
Maps available for inspection at the Town Clerk's Office, Stockbridge Town Hall, West Main Street, Stockbridge, Massachusetts.				
Massachusetts	Webster, town, Worcester County (Docket No. FEMA-6012).	French River	Approximately 1,200' downstream of downstream corporate limits.	*392
			Downstream corporate limits	*402
			Upstream of Providence & Worcester Company Railroad.	*408
			Upstream of Chase Avenue	*417
			Upstream of Peter Street	*421
			Downstream of dam located approximately 1,600' upstream of Peter Street.	*426
			Upstream of dam located approximately 1,600' upstream of Peter Street.	*435
			Downstream of dam located approximately 650' downstream of North Main Street.	*438
			Upstream of dam located approximately 650' downstream of North Main Street.	*453
			Confluence of Mill Brook	*453
			Upstream corporate limits	*454
		Mill Brook	Confluence with French River	*453

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 1,250' upstream of Arkwright Road	*455
Maps available for inspection at the Town Engineer's Office, Town Hall, Main Street, Webster, Massachusetts.				
Massachusetts	Wrentham, town, Norfolk County (Docket No. FEMA-6121).	Rabbit Hill Brook	Downstream corporate limits	*178
			Downstream U.S. Route 1	*187
			Upstream of U.S. Route 1	*193
			Upstream of motel access road	*197
			Downstream of Myrtle Street	*200
			Approximately 100 feet upstream of Myrtle Street	*203
		Crocker Brook	Downstream of access road	*206
			1,300 feet upstream of East Street (downstream of Conrail bridge).	*210
		Burnt Swamp Brook	Downstream corporate limits	*236
			Upstream of Burnt Swamp Road	*245
			Upstream of private road (approximately 1,040 feet downstream of West Street).	*251
			Approximately 1,700 feet upstream of West Street	*266
Maps available for inspection at the Town Clerk's Office, Town Offices, South Street, Wrentham, Massachusetts.				
Missouri	(C) Neosho, Newton County (Docket No. FEMA-6155)	Hickory Creek	About 1,600 feet downstream of College Street	*992
			Just upstream of College Street	*995
			About 200 feet upstream of Wood Street	*1,006
			Just upstream of Kansas City Southern Railroad	*1,012
			About 200 feet upstream of State Highway 86	*1,026
			About 1,500 feet upstream of confluence of Shartel Branch.	*1,039
		High School Branch	About 400 feet upstream of mouth	*994
			Just upstream of the Kansas City Southern Railroad	*1,004
			About 200 feet upstream of Lincoln Street	*1,023
			Just upstream of McCord Street culvert	*1,036
			Just downstream of Spring Street	*1,043
			Just upstream of Hill Street	*1,061
			Just upstream of Walnut Drive	*1,079
			Just upstream of South Street	*1,093
			Just upstream of service road	*1,107
		Hatchery Branch	At mouth	*1,013
			About 150 feet downstream of McKinney Street	*1,024
			Just upstream of Park Street	*1,042
			About 450 feet upstream of Park Street (just upstream of Kansas City Southern Railroad.	*1,048
			About 400 feet upstream of Fain Street	*1,069
			Just upstream of Kansas City Southern Railroad	*1,088
			Just upstream of Daughtery Road	*1,109
		West High School Branch	At mouth	*1,044
			Just upstream of Hillcrest Drive	*1,065
			Just downstream of U.S. Highway 71 Culvert	*1,070
			Just upstream of U.S. Highway 71	*1,076
		Shartel Branch	About 250 feet downstream of Stratford Place	*1,034
			Just downstream of South Street	*1,050
		Buffalo Creek	About 2000 feet downstream of Lyon Drive	*1,157
			Just downstream of Lyon Drive	*1,160
			Just upstream of Lyon Drive	*1,171
			Just downstream of Howard Bush Drive	*1,211
			About 100 feet upstream of Howard Bush Drive	*1,218
			Just upstream of Kansas City Southern Railroad	*1,220
Maps available for inspection at the City Hall, 221 North College, Neosho, Missouri.				
Montana	Dillon (city), Beaverhead County (FEMA-6181)	Blacktail Deer Creek	20 feet upstream from center of Cornell Street	*5,101
		Beaverhead River	200 feet southeast from intersection of Park Street with Bannack Street.	*5,094
Maps available for inspection at City Hall, 125 N. Idaho Street, Dillon, Montana.				
Montana	Drummond (town), Granite County (FEMA-6153)	Edwards Gulch	30 feet upstream of the intersection of First Street and Edwards Gulch.	*3,960
		Bergman Slough	Intersection of Old U.S. Highway 10A (Main Street) and Bergman Slough.	*3,949
		Clark Fork	100 feet south of intersection of Old U.S. Highway 10A (Main Street) and Chicago, Milwaukee, St. Paul and Pacific Railroad.	*3,953
Maps available for inspection at Town Hall, Drummond, Montana.				
Montana	Granite County (unincorporated areas) (FEMA-6153)	Clark Fork (downstream segment)	Confluence with Gillespie Creek	*3,605
		Clark Fork (upstream segment)	100 feet upstream of the intersection of Old U.S. Highway 10A and Clark Fork.	*3,953
		Clark Fork Divided Flow	Upstream side of Chicago, Milwaukee, St. Paul and Pacific Railroad Bridge.	*3,900
		Bergman Slough	125 feet downstream of intersection of U.S. Highway 10A and Bergman Slough.	*3,941
		Flint Creek	50 feet downstream of intersection of bridge on Gravel Road and Flint Creek.	*4,023
		Frost Creek	Centerline of Sansome Street over Frost Creek	*5,290
		Rock Creek	50 feet downstream of intersection of unnamed road and Rock Creek (2.74 miles above mouth).	*3,592
			Confluence with Bear Gulch	*3,887
Maps available for inspection at Granite County Courthouse, Philipsburg, Montana.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Montana	Lima (town), Beaverhead County (FEMA-6181)	Junction Creek	30 feet upstream from the center of Bailey Street	*6,259
		Junction Creek Overbank	20 feet upstream from the center of Peat Street	*6,257
		Shallow Flooding	At intersection of Keller Street and Broadway Street	#1
Maps available for inspection at Town Hall, Lima, Montana.				
Montana	Philipsburg (town), Granite County (FEMA-6153)	Camp Creek	30 feet upstream of the intersection of Railroad Street and Camp Creek.	*5,166
			Intersection of footbride and Camp Creek	*5,270
		Frost Creek	Intersection of West Street and Frost Creek	*5,255
Maps available for inspection at Town Hall, Philipsburg, Montana.				
New Jersey	Leonia, borough, Bergen County (Docket No. FEMA-6147).	Overpeck Creek	Downstream corporate limits	*9
			Upstream corporate limits	*9
		Flat Rock Brook	Confluence with Overpeck Creek	*9
			Upstream corporate limits	*9
Maps available for inspection at the Office of the Borough Administrator, Borough Hall, 312 Broad Avenue, Leonia, New Jersey.				
New Jersey	Mendham, township, Morris County (Docket No. FEMA-6147.	North Branch Raritan River	Downstream corporate limits	*296
			Mosle Road (upstream side)	*317
			Confluence of McVickers Brook	*319
			Union Schoolhouse Road (upstream side)	*347
			Confluence of Burnett Brook	*361
			State Route 24 (upstream side)	*394
			Upstream corporate limits	*423
		Burnett Brook	Confluence with North Branch Raritan River	*361
			Downstream confluence of Indian Brook	*373
			State Route 24 (upstream side)	*408
			Upstream confluence of Indian Brook	*446
			Old Mill Road (upstream side)	*470
			Footbridge (upstream side)	*530
			Old Mill Road (upstream side) (upstream crossing)	*635
			Upstream corporate limits	*708
		Indian Brook	Confluence with Burnett Brook	*373
			Approximately 1,140' upstream of the confluence with Burnett Brook.	*383
			Corporate limits	*401
		Dawsons Brook	Confluence with Burnett Brook	*702
			Ironia Road (upstream side)	*722
			Corporate limits	*747
		Passaic River	Downstream corporate limits	*332
			Jockey Hollow Road (upstream side) (1st crossing)	*423
			Tempe Wick Road (upstream side) (1st crossing)	*446
			Corey Lane (upstream side)	*458
			Tempe Wick Road (upstream side) (2nd crossing)	*468
			Approximately 785' upstream of Dam	*472
		Whippany River	Downstream corporate limits	*346
			Tingley Road (upstream side)	*363
			Footbridge (upstream side)	*386
			Confluence of Harmony Brook	*396
		Harmony Brook	Confluence with Whippany River	*396
			Main Street (upstream side)	*429
			Private Road (upstream side) (1st crossing)	*447
			Woodland Road (upstream side) (1st crossing)	*538
			Approximately 100' upstream of Woodland Road (2nd crossing).	*599
Maps available for inspection at the Township Building, West Main Street, Brookside, New Jersey.				
New Jersey	Penns Grove, borough, Salem County (Docket No. FEMA-6147).	Delaware River	Entire shoreline within corporate limits	*9
Maps available for inspection at the Municipal Building, Penns Grove, New Jersey.				
New Jersey	Swedesboro, borough, Gloucester County (Docket No. FEMA-6147).	Raccoon Creek	Locke Avenue (upstream side)	*9
			Kings Highway (upstream side)	*10
Maps available for inspection at the Municipal Building, 500 Kings Highway, Swedesboro, New Jersey.				
New Jersey	Vineland, city, Cumberland County (Docket No. FEMA-6147)	Scotland Run	Upstream Willow Grove Lake Dam	*75
			Upstream State Route 55 (northbound)	*78
		Long Branch	Confluence with Blackwater Branch	*89
			Corporate limits	*93
		Piney Branch	Confluence with Blackwater Branch	*79
			Downstream of North Valley Avenue	*86
		Manantico Creek	Upstream of Manantico Lake Dam	*55
			Upstream of Dante Avenue	*63
		Cedar Branch	Confluence with Manantico Creek	*63
			Downstream of Chestnut Avenue	*71
			Downstream of Maple Avenue	*81
		Blackwater Branch	Approximately 1,875' downstream of Maurice River Parkway.	*57
			Upstream of North Mill Road	*65
			Upstream of Delsea Drive	*79
			Upstream of Northeast Avenue	*84
			Corporate limits	*93

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Manumuskin River	Downstream corporate limits	*33
			Approximately 5,450' downstream of Old Mays Landing Road.	*51
			Upstream of Mays Landing Road	*61
			Upstream corporate limits	*75
		Maurice River	Downstream corporate limits	*31
			Approximately 2 miles upstream of corporate limits	*40
			Downstream of Landis Avenue	*50
			Upstream of Garden Road	*62
			Downstream of Weymouth Road	*71
Maps available for inspection at the Office of the City Engineer, City Hall, Vineland, New Jersey.				
New Mexico	City of Grants, Valencia County (FEMA-6152	Rio San Jose	Approximately 125 feet downstream of U.S. Route 66 (Santa Fe Avenue).	*6,415
			Approximately 270 feet downstream of Nimitz Drive	*6,424
			Just downstream of State Highway 547 (First Street)	*6,436
			Approximately 150 feet upstream of upstream crossing of Santa Fe Avenue (U.S. Route 66).	*6,446
		Grants Canyon	Approximately 500 feet upstream of confluence with Rio San Jose.	*6,426
			Just downstream of Washington Avenue	*6,434
			Approximately 125 feet downstream of Roosevelt Avenue.	*6,445
		Zuni Canyon	At I-40 culvert entrance	*6,505
Maps available for inspection at Grants City Hall, 600 West Santa Fe, Grants, New Mexico 87020.				
New Mexico	Village of Milan, Valencia County (FEMA-6152)	Rio San Jose	Just downstream of Milan Street	*6,513
			Just downstream of U.S. Highway 66	*6,522
			Just downstream of Stanley Street	*6,529
		Zuni Canyon	Approximately 670 feet upstream of Russell Avenue	*6,510
Maps available for inspection at City Hall, 623 Uranrum Street, Milan, New Mexico 87021.				
New Mexico	Village of Ruidoso Downs, Lincoln County (FEMA-6154).	Rio Ruidoso	Approximately 80 feet upstream of Bridgefront	*6,431
			Just upstream of Entrance Road	*6,335
		Turkey Spring Canyon	Just upstream of U.S. Highway 37-70	*6,434
Maps available for inspection at Village Hall, U.S. 70 Highway, Ruidoso Downs, New Mexico 88346.				
New York	Ossining, village, Westchester County (Docket No. FEMA-6147).	Hudson River	Entire Shoreline	*8
		Kil Brook	Downsteam corporate limits	*216
			Upstream of Park Avenue	*257
			Upstream of Campwoods Road	*334
			Downstream of State Route 9A	*372
Maps available for inspection at the Village Hall, 16 Croton Avenue, Ossining, New York.				
North Carolina	Town of Hot Springs, Madison County (FEMA-6152)	French Board River	Just upstream of U.S. Highway 25 and 70	*1,328
		Spring Creek	Just upstream of Bridge Street (State Highway 209)	*1,333
			Just downstream of Station Highway 209 at Station 1.20 miles above mouth.	*1,361
Maps available for inspection at Town Hall, Andrews Avenue, Hot Springs, North Carolina 28743.				
North Dakota	Stanley (township), Cass County (FEMA-6157)	Red River of the North	At confluence with Wild Rice River	*907
Maps available for inspection at 13 Sleepy Hollow, Horace, North Dakota.				
Ohio	(C) Alliance, Stark, and Mahoning Counties (Docket No. FEMA-6155).	Tributary No. 1 to Mahoning River	About 140 feet upstream of Vine Street	*1,060
			Just upstream of North Rockhill Avenue	*1,069
			Just upstream of Johnson Avenue	*1,088
			Just upstream of Buckeye Avenue	*1,092
			Just upstream of Klinger Avenue	*1,098
Maps available for inspection at the City Engineer's Office, City Hall, 470 East Market Street, Alliance, Ohio.				
Ohio	(V) Canal Fulton, Stark County (Docket No. FEMA-6155).	Tuscarawas River	About 150 feet downstream of downstream corporate limit.	*944
			About 4,250 feet upstream of Market Street	*947
		Plum Creek	About 400 feet downstream of Manchester Road	*955
			About 1,500 feet upstream of Strausser Street	*967
Maps available for inspection at the Engineer's Office, Town Hall, 155 East Market Street, Canal Fulton, Ohio.				
Ohio	(C) Massillon, Stark County (Docket No. FEMA-6144)	East Sippo Creek	About 3,700 feet downstream of Lincoln Way East (at culvert inlet).	*947
			About 1,400 feet downstream of Lincoln Way East	*972
Maps available for inspection at the Mayor's Office, City Hall, 100-102 City Hall Street, Massillon, Ohio.				
Ohio	(V) Minerva, Stark, Carroll, and Columbiana Counties (Docket No. FEMA-6144).	Sandy Creek	At downstream corporate limits	*1,031
			Just upstream of Grant Street	*1,040
			About 2,100 feet upstream of East Lincoln Way	*1,052
			About 700 feet upstream of State Route 183	*1,063
Maps available for inspection at the Village Administrator's Office, Town Hall, 209 North Market Street, Minerva, Ohio.				
Ohio	(V) Navarre, Stark County (Docket No. FEMA-6155)	Tuscarawas River	About 1,100 feet upstream of Wooster Street	*924
			About 650 feet downstream of Blough Avenue	*919
Maps available for inspection at the Mayor's Office, Town Hall, 27 West Canal Street, Navarre, Ohio.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	(V) Waynesburg, Stark County (Docket No. FEMA-6144).	Sandy Creek	About 1,120 feet downstream of confluence of Indian Run.	*962
			Just upstream of Waynesburg Drive	*965
			At upstream corporate limits	*967
	Maps available for inspection at the Mayor's Office, Town Hall, 141 East Lisbon Street, Waynesburg, Ohio.			
Oregon	Gaston (city), Washington County (FEMA-6143)	Tualatin River	Approximately 500 feet east along Main Street from its intersection with Tualatin Valley Highway.	*174
	Maps available for inspection at City Hall, 116 Front Street, Gaston, Oregon.			
Oregon	Jackson County (unincorporated areas) (FEMA-5966)	Lazy Creek	Upstream limit of detailed study, approximately 180 feet upstream of the City of Medford corporate limits.	*1,590
		Unnamed tributary to Larson Creek	Intersection of Creek and center of North Phoenix Road.	*1,540
		Griffin Creek	30 feet upstream from center of Scenic Avenue	*1,234
			Intersection of Beilinger Lane and Minear Road	*1,459
		Pleasant Creek	Intersection of Creek and center of Queens Branch Road.	*1,122
		Foots Creek	Intersection of Creek and center of Foots Creek Road	*1,103
		Little Butte Creek	75 feet upstream from center of Crater Lake Highway State Highway 62.	*1,281
			At confluence with Schoolhouse Creek	*1,438
		Lone Pine Creek	Intersection of Creek and center of Foothill Road (at upstream limit of detailed study).	*1,565
		Larson Creek	Intersection of Creek and center of Ellendale Drive	*1,406
		Crooked Creek	25 feet upstream from center of Stewart Avenue	*1,402
			Intersection of Dark Hollow Road and Skyview Drive	*1,567
		Daisy Creek	10 feet downstream from center of Third Street South	*1,742
		Evans Creek	At confluence with Maple Creek	*1,016
			10 feet upstream from center of Covered Bridge Road	*1,136
		Rogue River	Intersection of Savage Creek Road and U.S. Highway 99.	*979
			500 feet upstream from center of Table Rock Road	*1,198
			Intersection of River and center of Dodge Bridge State Highway 234.	*1,285
			At confluence with Big Butte Creek	*1,531
		Wagner Creek	At confluence with Bear Creek	*1,562
		Ashland Creek	400 feet upstream from center of Bridge to Treatment Plant.	*1,715
		Coleman Creek	Intersection of Creek and center of U.S. Highway 99	*1,488
		Clay Creek	Intersection of Creek and center of East Main Street	*1,905
		Bear Creek	10 feet upstream from center of Kirtland Road	*1,168
			200 feet upsteam from center of Fern Valley Road	*1,472
			2,760 feet upstream from center of Fern Valley Road	*1,483
			Intersection of Valley View Road and North Main Street U.S. Highway 99.	*1,659
	Map available for inspection at Jackson County Courthouse, Medford, Oregon.			
South Carolina	Unincorporated areas of Chester County (FEMA-6181).	Dry Fork Creek	Approximately 250 feet upstream of Highway 9	*431
			Just upstream of County Route 225	*444
		Tanyard Branch	Approximately 100 feet upstream of State Highway 72 Bypass.	*451
		Grassy Run Branch	Just upstream of State Highway 9	*500
			Just upstream of State Highway 72	*527
		Tributary GR-1	Just upstream of State Road 132	*531
		Tributary GR-2	Just upstream of County Route 367	*530
	Maps available for inspection at Tax Assessor's Office, Chester County Courthouse, Main Street, Chester, South Carolina 29706.			
South Carolina	City of Chester, Chester County (FEMA-6154)	Dry Fork Creek	At Chester corporate limits	*447
			Approximately 120 feet downstream of Center Street (U.S. Route 321).	*466
		Tributary DF-1	Just downstream of Cushman Drive extended	*454
		Tanyard Branch	Just downstream of West End Street	*456
			Approximately 170 feet downstream of Crestwood Drive.	*472
		Tributary TB-1	Just upstream of Arch Street extended	*471
	Maps available for inspection at City Hall, 100 West End Street, Chester, South Carolina 29706.			
South Carolina	City of Lancaster, Lancaster County (FEMA-6154)	Cane Creek	Just upstream of Highway 9 (Rockhill Road)	*439
			Just upstream of State Highway 9 Bypass	*441
		Bear Creek	Approximately 100 feet upstream of State Highway 9	*442
			Just upstream of Tenth Street extension	*452
		Gills Creek	Just downstream of Roddey Drive	*445
			Just downstream of U.S. Highway 521 Bypass	*453
		Hannahs Creek	Just downstream of East Barr Street	*455
			Just downstream of State Highway 9 Bypass (U.S. Highway 521 Bypass).	*461
		Camp Creek	Just upstream of County Road 56 (University Drive)	*446
	Maps available for inspection at City Hall, 201 West Gay Street, Lancaster, South Carolina 29720.			

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
South Dakota	Madison (city), Lane County (FEMA-5701)	Park Creek	20 feet upstream from center of 4th Street	*1,659
			20 feet upstream from center of 1st Street	*1,668
			40 feet upstream from center of Egan Street	*1,679
			80 feet upstream from center of Ninth Street Northwest.	*1,684
		Park Creek Tributary	Center of Josephine Avenue	*1,680
		Silver Creek	Center of Highland Avenue	*1,690
			Center of Frank Street	*1,657
			Center of Egan Avenue	*1,663
			Center of Highland Avenue	*1,668
	Maps available for inspection at City Hall, 116 West Center, Madison, South Dakota.			
Tennessee	Town of Gallaway, Fayette County (FEMA-6154)	Loosahatchie River	Just upstream of Gallaway Road	*276
		West Gallaway Branch	Just downstream of Brownville Road	*292
			Just upstream of U.S. Highway 70 & 79	*297
		Cane Creek	Just upstream of Brownville Road	*283
		Cane Creek Tributary	Just upstream of Louisville and Nashville Railroad	*285
			Just upstream of U.S. Highway 70 & 79	*295
	Maps available for inspection at Town Hall, 609 Watson Drive, Gallaway, Tennessee 38036.			
Tennessee	Town of Somerville, Fayette County (FEMA-6154)	Loosahatchie River	Just upstream of State Highway 76 and 59	*343
			Just downstream of Old Mill Road	*346
	Maps available for inspection at Town Hall, West North Street, Somerville, Tennessee 38068.			
Texas	City of Angleton, Brazoria County (FEMA-6163)	Brushy Bayou	Just upstream of the Missouri Pacific Railroad	*21
			Just downstream of State Highway 35	*24
			At Molina Court extended	*29
			Just downstream of State Highway 288 (Velasco Street).	*31
		East Levee Ditch	Just upstream of Missouri-Pacific Railroad	*24
		Shallow Flooding	At the intersection of Browning and North Rock Island Streets.	#1
			At the intersection of Chenango and East Mulberry Streets.	#1
	Maps available for inspection at City Hall, Council's Chambers, 121 South Velasco, Angleton, Texas 77515.			
Texas	City of Bay City, Matagorda County (FEMA-6163)	Cottonwood Creek	Just upstream of Hammon Road	*42
			At 4th Street	*50
			At 8th Street	*51
			Just downstream of Southern Pacific Railroad	*52
	Maps available for inspection at City Hall, 1901 Fifth Street, Bay City, Texas 77414.			
Texas	City of Belton, Bell County (FEMA-6152)	Nolan Creek	Just upstream of Interstate Highway 35	*508
			Just downstream of Main St. (State Highway 317)	*514
		Nolan Creek Tributary 1	Just downstream of 2nd Avenue (FM 2748)	*533
			Just upstream of 2nd Avenue (FM 2748)	*550
		Nolan Creek Tributary 2	Approximately 350 feet upstream of confluence with Nolan Creek Tributary 1.	*558
		Mitchell Branch	Just upstream of Loop 121	*587
			Just downstream of Interstate Highway 35	*611
		Leon River	Just downstream of Belton Railroad	*476
			Just upstream of Waco Road (FM 817)	*492
			Just upstream of Main Street (State Highway 317)	*499
	Maps available for inspection at City Hall, 333 East A Street, Belton, Texas 76513.			
Texas	City of Edna, Jackson County (FEMA-6163)	Dry Creek	Just downstream of Sunny Lane	*58
			Just upstream of Vanderbilt Road	*61
			Just upstream of W. Elm Street	*65
			Just upstream of U.S. Highway 59	*68
		East Ditch	Just upstream of East Division Stream	*64
			Just downstream of State Highway 59	*68
	Maps available for inspection at City Hall, 105 North Allen Street, Edna, Texas 77957.			
Texas	City of South Lake, Tarrant and Denton Counties (FEMA-6154).	Bear Creek	Just upstream of St. Louis Southwestern Railway	*575
			Just upstream of White Chapel Road	*595
			Just downstream of Oakwood Trail extended	*604
		Tributary BB6	Just downstream of the dam	*577
			Just upstream of the dam	*582
			Just upstream of Continental Boulevard	*584
		Tributary BB8	Just upstream of Continental Boulevard	*601
		Tributary BB9	Just upstream of FM 1709 (West South Lake Boulevard).	*644
		West Jones Branch	Just upstream of Shady Lane	*573
			Just upstream of Kimball Avenue	*582
		Dove Creek	Just upstream of East Dove Street	*574
			Just downstream of North Carroll Avenue	*593
			Just upstream of Northwest Parkway Southbound (State Highway 114).	*613

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		South Fork Kirkwood Branch	Just upstream of North White Chapel Road	*570
			Approximately 100 feet downstream of Northwest Parkway North Bound (State Highway 114).	*593
			Just upstream of Dove Street	*608
		Higgins Branch	Approximately 100 feet at upstream of Dove Street	*601
Maps available for inspection at City Hall, 667 North Carroll Street, South Lake, Texas 76292.				
Vermont	Richmond, town, Chittenden County (Docket No. FEMA-6154).	Winooski River	Downsteam corporate limits	*300
			Downstream village corporate limits	*309
			Upstream village corporate limits	*312
			Confluence of Huntington River	*323
			Upstream corporate limits	*325
		Huntington River	Confluence with Winooski River	*323
			Approximately 4,240' upstream of Cochran Road	*343
			Approximately 9,220' upstream of Cochran Road	*408
			Approximately 9,220' downstream of Huntington Road	*472
			Approximately 4,700' downstream of Huntington Road	*498
			Approximately 140' upstream of Huntington Road	*520
			Upstream corporate limits	*526
Maps available for inspection at the Richmond Town Clerk's Office, Town Hall, Richmond, Vermont.				
Virginia	Courtland, town, Southampton County (Docket No. FEMA-6147).	Nottoway River	Upstream of Interstate Route 58 and State Route 35 Bypass (under construction).	*23
			Upstream of Norfolk, Danville & Franklin Railway Company.	*25
			Upstream corporate limits	*26
Maps available for inspection at the Town Hall, Courtland, Virginia.				
Washington	Sedro Woolley (city), Skagit County (FEMA-6157)	Skagit River	At intersection of Graves Street and Dunlop Avenue	*51
Maps available for inspection at City Clerk's Office, 720 Murdock Street, Sedro Woolley, Washington.				
Wisconsin	(V) Mukwonago, Waukesha County (Docket No. FEMA-6144).	Fox River	About 1600 feet downstream of Soo Line Railroad	*784
			Just downstream of Soo Line Railroad	*784
		Lower Phantom Lake	Within community	*792
		Mukwonago River	About 1.0 mile downstream of State Highway 83	*783
			Just downstream of Lower Phantom Lake Dam	*785
			Just upstream of Lower Phantom Lake Dam	*792
Maps available for inspection at the Village Hall, 625 South Rochester, Mukwonago, Wisconsin.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: February 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6274 Filed 3-10-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 205

[Docket No. 205 Sub D-1]

Disaster Assistance: Individual and Family Grant Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This Rule establishes the Federal Emergency Management Agency (FEMA) program regulations for the Individual and Family Grant (IFG) program under Section 408 of the Disaster Relief Act of 1974. The IFG program provides for grants to States so that States may make grants to individuals and families who, as a result of a major disaster, are unable to meet disaster-related necessary expenses or serious needs. The regulation specifies eligibility criteria for individuals, eligible categories of assistance, the requirements placed upon States for administering the program, procedures for obtaining Federal funds, and fiscal provisions.

DATES: This Rule is effective April 12, 1982.

FOR FURTHER INFORMATION CONTACT: Sarah L. Wise, Office of Disaster Assistance Programs, State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, 202–287–0550.

SUPPLEMENTARY INFORMATION: On September 23, 1981, FEMA published a proposed rule in the **Federal Register.** Twenty-seven State agencies provided comments. As a result, several significant changes were made.

The most significant change in this final rule is the elimination of the three-year flood insurance policy as an adequate policy. In its place a requirement for adequate coverage for one year has been levied on disaster victims, with clearly defined penalties for failure to either obtain or maintain such coverage. Adequate flood insurance coverage has been determined to be $5,000 on the structure and $2,000 on contents for an owner-occupant and $5,000 on contents for a renter. The basis for this determination is the need to provide coverage in an amount at least equal to the maximum available amount of the grant. The amount of contents coverage was determined by an analysis of grants made for personal property in previous programs (highest average was $1,600), and in most cases, the minimum premium for flood insurance ($50) will purchase the coverage described above for both

owner-occupants and renters. Applicants who are required to purchase flood insurance as a condition of receiving a grant must obtain and maintain insurance for the life of the structure or for as long as the applicant lives there whichever is less. If the applicant does not obtain the required flood insurance he/she must return to the State the amount awarded for acquisition and construction as well as the amount awarded for the premium. If the applicant does not maintain the required flood insurance, he/she will receive grant assistance in subsequent disasters only for flood damage to insurable items in an amount over and above that which would have been covered by the flood insurance.

The separate paragraph requiring farmers, ranchers and persons engaged in aquaculture to apply for assistance to Farmers Home Administration (FmHA) or the Small Business Administration has been deleted. Since FmHA will withdraw an applicant rather than deny assistance based on the test for credit, there is no need to specifically identify farmers, ranchers or persons engaged in aquaculture.

Fifteen respondents opposed the encouragement to issue grants to individuals and families prior to receiving assistance from other means. This sentence in the Purpose paragraph (§ 205.54(b)) has been rewritten to permit States to make grants before assistance from other means is received, but only in emergency situations and with a reimbursement commitment on the part of the applicant.

Ten respondents objected to the addition of "Food" as an eligible category of assistance. As a result, it has been deleted as an identified eligible category and will be considered a necessary expense or serious need on a case-by-case basis if approved by a State under the "Other" category.

The separate paragraph under the eligibility criteria allowing the combining of grants with funds made available by other individuals or families for repairing or providing a facility that serves more than one individual or family has been deleted. It has been rewritten and inserted as part of providing access under the housing category. This change reflects the original intent of allowing grant recipients to combine grant funds with other funds for the purpose of providing access.

The provision for developing a site for, towing, setting up and connecting a mobile home has been deleted as a specified eligible item. Since the housing category defines a residence to include a mobile home, these costs are implicit in the repair or replacement of a residence.

Several minor changes were also made as a result of the comments received. However, many of the comments received can be handled through interpretation of the regulations and will be clarified when the IFG program handbook revisions are completed.

As a result of a FEMA General Counsel opinion, issued subsequent to the proposed rule, paragraph (h)(5) requiring States to return to the U.S. Treasury any interest earned on an excess advance has been deleted from this Final Rule.

In addition, several comments addressed increasing the maximum amount of the grants to individuals and families and the percent of reimbursable State administrative expenses. The two issues are legislative and cannot be changed by regulation.

Finally, paragraph (n), covering the exceptions for the Combined Application and Verification Process has been deleted. The Agency is re-evaluating the type of system that would be most beneficial to both the disaster victim and the agencies which provide disaster assistance. Adequate notification will be given when FEMA has completed this project.

FEMA has determined that there will be no significant impact on the environment caused by implementation of these proposed regulations. An environmental assessment resulting in a finding of no significant impact has been prepared in accordance with 44 CFR 10.9(e), and pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508). Copies of this assessment may be inspected or obtained at the Office of Disaster Assistance Programs, at the address stated above. An environmental impact statement will not be prepared.

It has been determined that this regulation is procedural in nature, and that the changes from the existing regulation will have little, if any, impact on costs and, thus, this is not a major rule.

Also, as the regulation is applicable only to States, or to individuals or families, it is not applicable to small entities. Thus, it is certified that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities, and an initial regulatory impact analysis will not be prepared.

PART 205—FEDERAL DISASTER ASSISTANCE (PUBLIC LAW 93-288)

This rule implements section 408 of the Disaster Relieve Act of 1974 and is issued under authority in section 601 of that Act. Accordingly § 205.48 of Title 44 CFR is repealed and a new § 205.54 added to Subchapter D of Title 44 Code of Federal Regulations as follows:

§ 205.48 [Removed]

§ 205.54 Individual and family grant (IFG) programs.

(a) *General.* The Governor may request that a Federal grant be made to a State for the purpose of such State making grants to individuals or families who, as a result of a major disaster, are unable to meet disaster-related necessary expenses or serious needs. The total Federal grant under this section will be equal to 75 percent of the actual cost of meeting necessary expenses or serious needs of individuals and families, plus State administrative expenses not to exceed 3 percent of the Federal grant (see computation of State administrative expenses in paragraph (i)(1) of this section.). The total Federal grant is made only on condition that the remaining 25 percent of the actual cost of meeting individuals' or families' necessary expenses or serious needs is paid from funds made available by the State. With respect to any one major disaster, an individual or family may not receive a grant or grants under this section totaling more than $5,000, including both the Federal and State shares. The Governor or his/her designee is responsible for the administration of the grant program.

(b) *Purpose.* The grant program is intended to provide funds to individuals or families to permit them to meet those disaster-related necessary expenses or serious needs for which assistance from other means is either unavailable or inadequate. Meeting those expenses and needs as expeditiously as possible will require States to make an early commitment of personnel and resources. States may make grants for emergency needs in instances where there is an unreasonable delay in receiving assistance from other means, with a commitment from the applicant that when assistance is received from other means the State must be reimbursed. The grant program is not intended to indemnify disaster losses or to permit purchase of items or services which may generally be characterized as nonessential, luxury, or decorative.

(c) *Definitions used in this section.* (1) "Necessary expense" means the cost of an item of service essential to an individual or family to prevent, mitigate

or overcome a disaster-related hardship, injury, or adverse condition.

(2) "Serious need" means the requirement for an item or service essential to an individual or family to prevent, mitigate or overcome a disaster-related hardship, injury or adverse condition.

(3) "Family" means a social unit living together and comprised of a husband and wife and dependents, if any, or a household comprised of an unmarried person living with a dependent son, stepson, daughter, stepdaughter, or a dependent descendant of a son or daughter.

(4) "Individual" means a person who is not a member of a family, as defined in paragraph (c)(3) of this section.

(5) "Assistance from other means" means assistance, including monetary or in-kind contributions, from other governmental programs, insurance, voluntary or charitable organizations, or from any sources other than those of the individual or family.

(6) "Owner-occupied" means that the residence is occupied by: The legal owner; a person who does not hold formal title to the residence but is responsible for payment of taxes, maintenance of the residence, and pays no rent; or a person who has lifetime occupancy rights in the residence with formal title vested in another.

(d) *National eligibility criteria.* In administering the IFG program, a State shall determine the eligibility of an individual or family in accordance with the following criteria:

(1) *General.* (i) To qualify for a grant under this section, an individual or family representative must:

(A) Make application to all applicable available governmental disaster assistance programs for assistance to meet a necessary expense or serious need (see exception in paragraph (d)(1)(iii) of this section), and be determined not qualified for such assistance, or demonstrate that the assistance received does not satisfy the total necessary expense or serious need;

(B) Not have previously received or refused assistance from other means for the specific necessary expense or serious need, or portion thereof, for which application is made; and

(C) Certify to refund to the State that part of the grant for which assistance from other means is received, or which is not spent as identified in the grant award document.

(ii) Individuals or families who incur a necessary expense or serious need in the major disaster area may be eligible for assistance under this section without regard to their alienage, their residency in the major disaster area, or their residency within the State in which the major disaster has been declared.

(iii) Individuals or families are ineligible for disaster loan assistance from the Small Business Administration (SBA), and need not apply for such assistance, if they certify that they:

(A) Suffered only personal property damage; and

(B) Are unemployed; and

(C) Derive more than 50 percent of their income from welfare or social security payments.

(iv) The flood Disaster Protection Act of 1973, Pub. L. 93–234, as amended, imposes certain restrictions on approval of Federal financial assistance for acquisition and construction purposes. Subpart K of Part 205 implements Pub. L. 93–234 for FEMA assistance generally. This paragraph refines those requirements for the IFG program. To the extent that this paragraph is inconsistent with Subpart K, this paragraph applies.

(A) For the purposes of this paragraph, "financial assistance for acquisition or construction purposes" means a grant to an individual or family to repair, replace, or rebuild a home, and/or to purchase or repair insurable contents. However, the term does not include grants related to non-flood damage.

(B) A State may not make a grant for acquisition or construction purposes where the structure to which the grant assistant relates is located in a designated special flood hazard area which has been identified by the Director for at least one year as flood-prone, unless the community in which the structure is located is participating in the National Flood Insurance Program (NFIP). However, if a community qualifies for and enters the NFIP during the six-month period described in 44 CFR 205.253(a)(3)(i), the Governor's Authorized Representative (GAR) may request a time extension (see paragraph (k)(1) (ii) and (iii) of this section) from the Regional Director for the purpose of accepting and processing grant applications in that community. The Regional Director or Associate Director, as appropriate (see paragraph (k)(2) of this section), may approve the State's request if those applicable governmental disaster assistance programs which were available during the original application period are available to the grant applicants during the extended application period.

(C) (*1*) The State may not make a grant for acquisition or construction purposes where the structure to which the grant assistance relates is located in a designated special flood hazard area in which the sale of flood insurance is available under the NFIP unless the individual or family agrees to purchase adequate flood insurance and to maintain such insurance for the life of the structure or for as long as the individual or family occupies the residence whichever is less. Adequate flood insurance, for purposes of the IFG program means (*i*) for an owner-occupant, a policy providing coverage of at least $5,000 for the structure and $2,000 for contents; (*ii*) for a renter, a policy providing coverage of at least $5,000 for contents. If the grant recipient fails to obtain the required flood insurance he/she must return to the State the amount of the grant received for acquisition and construction and the amount received for the first year's premium. If the grant recipient fails to maintain the required insurance he/she will receive grant assistance only for flood damage to insurable items which exceeds the face value of the flood insurance policy had the policy been maintained. If the grant recipient can show proof that the settlement would have been less than the face value of the flood insurance policy, the State may approve the increased amount. The cost of the first year's premium is considered a necessary expense for those individuals or families who are required to obtain flood insurance (see paragraph (d)(2)(vi) of this section). If the same premium will provide more than the required coverage, the higher coverage should be obtained.

(*2*) After a determination that flood insurance is required and after disbursement of a grant, States shall require the grant recipient to provide proof of purchase of the required flood insurance.

(D) A State may not make a grant for acquisition or construction purposes where an applicant who is required to apply to SBA or FmHA in accordance with paragraph (d)(1)(i)(A) of this section is denied loan assistance because of failure to have obtained and/or maintained a flood insurance policy required as a condition of previous loan assistance.

(v) In order to comply with the President's Executive Orders on Floodplain Management (EO 11988) and Protection of Wetlands (EO 11990), the State must implement the IFG program in accordance with FEMA regulations 44 CFR Part 9. That part specifies which IFG program actions require a floodplain management decision-making process before a grant may be made, and also specifies the steps to follow in the decision-making process. Should the State determine that an individual or family is otherwise eligible for grant

assistance, the State shall accomplish the necessary steps in accordance with that section, and request the Regional Director to make a final floodplain management determination.

(2) *Eligible categories.* Assistance under this section shall be made available to meet necessary expenses or serious needs by providing essential items or services in the following categories:

(i) Housing. With respect to primary residences (including mobile homes) which are owner-occupied at the time of the disaster, grants may be authorized to:

(A) Repair, replace, or rebuild;

(B) Provide access. Where an access serves more than one individual or family, an owner-occupant whose primary residence is served by the access may be eligible for a proportionate share of the cost of jointly repairing or providing such access. The owner-occupant may combine his/her grant funds with funds made available by the other individuals or families if a joint use agreement is executed (with no cost or charges involved) or if joint ownership of the access is agreed to;

(C) Clean or make sanitary;

(D) Remove debris from such residences. Debris removal is limited to the minimum required to remove health or safety hazards from, or protect against additional damage to, the residence; and

(E) Provide or take minimum protective measures required to protect such residences against the immediate threat of damage.

(ii) Personal property such as:

(A) Clothing;

(B) Household items, furnishings, or appliances. If a pre-disaster renter receives a grant for household items, furnishings, or appliances, and these items are an integral part of a mobile home or other furnished unit, the pre-disaster renter may apply the funds awarded for these specific items toward the purchase of the furnished unit, and toward mobile home site development, towing, set-up connecting and/or reconnecting;

(C) Tools, specialized or protective clothing, and equipment which are required by an employer as a condition of employment;

(D) Repairing, cleaning or sanitizing any eligible personal property item; and

(E) Moving and storing to prevent or reduce damage.

(iii) Transportation. Grants may be authorized to provide public transportation. When public transportation is unavailable or inadequate, grants for private transportation may be provided.

(iv) Medical or dental expenses.

(v) Funeral expenses. Grants may include funeral and burial (and/or cremation) expenses.

(vi) Cost of the first year's flood insurance premium to meet the requirements of paragraph (d)(1)(iv)(C) of this section.

(vii) Minimization measures required by owner-occupants to: Comply with the provisions of 44 CFR Part 9 (Floodplain Management and Protection of Wetlands); enable them to receive assistance from other means; and enable them to comply with a community's floodplain management regulations.

(viii) Cost for estimates required for eligibility determinations under the IFG program. A grant in this category may not exceed the customary charges for such services in the disaster area.

(ix) Other. A State may determine that other necessary expenses and serious needs are eligible for grant assistance. If such a determination is made, the State must summarize the facts of the case and throughly document its finding of eligibility. Should the State require technical assistance in making a determination of eligibility, it may provide a factual summary to the Regional Director and request guidance. The Associate Director also may determine that other necessary expenses and serious needs are eligible for grant assistance. Following such a determination, the Associate Director shall advise the State, through the Regional Director, and provide the necessary program guidance.

(3) *Ineligible categories.* Assistance under this section shall not be made available for any item or service in the following categories:

(i) Business losses, including farm businesses and self-employment;

(ii) Improvements or additions to real or personal property, except those required to comply with paragraph (d)(2)(vii) of this section;

(iii) Landscaping;

(iv) Real or personal property used exclusively for recreation; and

(v) Financial obligations incurred prior to the disaster.

(e) *State administrative plan.* (1) The State shall develop a plan for the administration of the IFG program that includes, as a minimum, the items listed below:

(i) Assignment of grant program responsibilities to State officials or agencies.

(ii) Procedures for:

(A) Notifying potential grant applicants of the availability of the program, to include the publication of application deadlines, pertinent program descriptions, and further program information on the requirements which must be met by the applicant in order to receive assistance;

(B) Accepting applications at Disaster Assistance Centers and subsequently at State established local application centers;

(C) Establishing local application centers after the closing of Disaster Assistance Centers;

(D) Verifying necessary expenses and serious needs;

(E) Determining applicant eligibility and grant amounts by a State employee or panel of State employees, and notifying applicants of the State's decision;

(F) Determining the requirement for flood insurance;

(G) Preventing duplication of benefits between grant assistance and assistance from other means;

(H) At the applicant's request, reconsidering the State's determinations;

(I) Processing applicant appeals, recognizing that the State has final authority. Such procedures must provide for:

(*1*) The receipt of oral or written evidence from the appellant or representative,

(*2*) A determination on the record, and

(*3*) A decision by an impartial person or board;

(J) Disbursing grants in a timely manner;

(K) Verifying by random sample (no less than a 5% sample) that grant funds: are meeting applicants' needs; are not duplicating assistance from other means; and are meeting floodplain management and flood insurance requirements.

(L) Recovering grant funds obtained fraudulently, expended for unauthorized items or services, expended for items for which assistance is received from other means, not expended or committed as of the date the State requests Federal reimbursement, or authorized for acquisition or construction purposes where proof of purchase of flood insurance is not provided to the State;

(M) Conducting a State audit;

(N) Reporting to the Regional Director, and to the Federal Coordinating Officer as required; and

(O) Reviewing and updating the plan.

(iii) National eligibility criteria as defined in paragraph (d) of this section.

(iv) Provisions for compliance with Section 311 of the Act, Non-discrimination in Disaster Assistance, and Section 317 of the Act, Criminal and Civil Penalties.

(v) Pertinent time limitations for accepting applications, grant award activities, and administrative activities.

(vi) Provisions for specifically identifying, in the accounts of the State, all Federal and State funds committed to each grant program, and provisions for ensuring the immediate return, upon discovery, of all advances made by the Federal Government that are excess to the program needs.

(2) The Governor or his/her designee may request the Regional Director to provide technical assistance in the preparation of an administrative plan to implement this program.

(3) The Regional Director shall review the State administrative plan in each disaster for which assistance under this section is requested, and may defer approval until the plan meets the requirements of this section and current policy guidance.

(4) The State shall make its approved administrative plan part of the State emergency plan, as described in Section 205.4 of these regulations.

(f) *State initiation of the IFG program.* To make assistance under this section available to disaster victims, the Governor must, either in the request to the President for a major disaster declaration or by separate letter to the Regional Director, express his/her intention to implement the program. This expression of intent must include an estimate of the size and cost of the program. In addition, this expression of intent represents the Governor's agreement to the following:

(1) That the program is needed to satisfy necessary expenses and serious needs of disaster victims which cannot otherwise be met;

(2) That the State will pay its 25 percent share of all grants to individuals and families;

(3) That the State will return immediately upon discovery advanced Federal funds that exceed actual requirements;

(4) To implement an administrative plan as identified in paragraph (e) of this section;

(5) To implement the grant program throughout the area designated as eligible for assistance by the Associate Director; and

(6) To maintain close coordination with and provide reports to the Regional Director.

(g) *Approval of funds.* (1) The Regional Director may approve Federal assistance under this section upon his/her determination that:

(i) The Governor has indicated his/her intention to implement the program in accordance with paragraph (f) of this section; and

(ii) The State administrative plan meets the requirements of this section and current policy guidance.

(2) The Regional Director may approve Federal assistance based on his/her estimate of the amount required to meet the necessary expenses and serious needs of disaster-affected individuals and families which cannot be met through assistance from other means. The Regional Director may authorize the use of the letter of credit as a mechanism for funding the IFG program.

(h) *Advance of funds.* (1) The GAR shall submit requests, and the Regional Director may authorize advances of funds, for the Federal share of grants under this section.

(2) The Regional Director may also authorize advances of funds for the State share of grants under this section if the State is unable immediately to pay its 25 percent share.

(i) The Governor shall make the initial request to the Regional Director for an advance of the State share. The request shall include:

(A) A certification that the State is unable immediately to pay its 25 percent share;

(B) A statement of the specific actions taken or to be taken to overcome the inability to provide the State share;

(C) A certification that the State will repay this advance when it is able, and the date for this repayment; and

(D) An estimate of the total amount needed to meet the State's 25 percent share.

(ii) The GAR may submit to the Regional Director subsequent requests for advances of the State share.

(3) The Regional Director may recover any advance of the State share not repaid by the date established in accordance with paragraph (h)(2)(i)(C) of this section, or any excess advance of the Federal share not refunded within 30 days after completion of the Federal audit (or State audit in those programs where no Federal audit is conducted), in accordance with 44 CFR Part 11, Subpart C, including the offset of Federal funds to which the State would otherwise be entitled.

(4) The Regional Director may withhold advances under this section if the State has failed to repay an advance of its share in a previous IFG program in accordance with the date in paragraph (h)(2)(i)(C), of this section, or has failed to repay previous excess advances of Federal funds after completion of the Federal audit (or State audit in those programs where no Federal audit is conducted).

(i) *Reimbursement to the State.* (1) The Regional Director shall approve reimbursement to the State of the Federal share of eligible costs on the basis of a voucher filed by the State and supported by a State audit. Costs that are eligible for reimbursement include 75 percent of the cost of meeting necessary expenses or serious needs of individuals and families, and expenses incurred in administering the grant program. The maximum amount of State administrative expenses that is eligible for reimbursement is computed by dividing the eligible Federal cost of meeting necessary expenses or serious needs of individuals and families by 0.97, and subtracting the eligible Federal cost of meeting such expenses or needs from the quotient.

(2) If a State requests reimbursement for a grant that is improperly or inadequately documented, or that does not conform to the State administrative plan, the Regional Director shall suspend the claim.

(3) The State may request reimbursement for a grant that has not yet been expended or committed by the grant recipient. The State shall justify such a claim, including the steps being taken to eliminate it. If the Regional Director determines that the justification is inadequate, he/she shall suspend the claim.

(4) The State may request reimbursement for a grant that was made on the basis of fraudulent information, that was misapplied by the grant recipient, that duplicates assistance from other means, or that was authorized for acquisition or construction where proof of purchase of flood insurance was not provided to the State. If the State has taken the action required by its administrative plan to recover the grant funds, but has been unable to do so, the Regional Director shall approve the claim.

(j) *Audits.* The State shall audit each grant program in accordance with audit guidelines provided by the Regional Director. All claims are subject to Federal audit.

(k) *Time limitations.* (1) In the administration of the IFG program:

(i) The Governor shall indicate his/her intention to implement the IFG program no later than seven days following the day on which the major disaster was declared and in the manner set forth in paragraph (f) of this section;

(ii) The State shall accept applications from individuals or families for a period

of 60 days following the declaration date, and for a minimum of 30 days thereafter when the State determines that extenuating circumstances beyond the applicants' control (such as, but not limited to, hospitalization, illness, or inaccessibility to application centers) prevented them from applying in a timely manner;

(iii) The State shall complete all grant award activity, including eligibility determinations, disbursements, and disposition of appeals, within 180 days following the declaration date. The Regional Director shall suspend all grant awards disbursed after the specified completion date; and

(iv) The State shall complete all administrative activities and submit final reports, State audit, and vouchers to the Regional Director within 90 days of the completion of all grant award activity.

(2) The GAR may submit a request with appropriate justification for the extension of any time limitation. The Regional Director may approve the request for a period not to exceed 90 days. The Associate Director may approve any request for a further extension of the time limitations.

(l) *Appeals.* (1) The State may appeal to the Regional Director any Federal action under paragraphs (g) through (k) of this section. An appeal shall be made in writing within 30 days of the date of the Federal action. The Regional Director shall review the material submitted, conduct an investigation if appropriate, and, not later than 15 days following receipt of the appeal, notify the State of his/her decision in writing.

(2) The State may further appeal the Regional Director's decision to the Associate Director. This appeal shall be made in writing within 15 days of the Regional Director's decision. Action by the Associate Director is final.

(m) *Exemptions from garnishment.* All proceeds received or receivable under the IFG program shall be exempt from garnishment, seizure, encumbrance, levy, execution, pledge, attachment, release, or waiver. No rights under this provision are assignable or transferable. The above exemptions will not apply to the requirement imposed by paragraph (e)(1)(ii)(L) of this section.

Dated: March 2, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6595 Filed 3-10-82; 8:45 am]

BILLING CODE 6718-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 25, 33, 75, 94, 108, 160, 162, 164, 180, and 192

[CGD 80-155a]

Lifesaving Equipment; Revocation of Obsolete Specifications

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revoking the approval specifications for cork and balsa wood ring life buoys, and the material specifications for cork and balsa wood. These ring life buoys are no longer manufactured. The requirements for ring life buoys have been amended to allow buoys approved under these specifications to be used as long as they are in good and serviceable condition. This action eliminates obsolete regulations from the Code of Federal Regulations.

EFFECTIVE DATES: This final rule becomes effective on April 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Merchant Marine Technical Division, (G-MMT/12), Office of Merchant Marine Safety, Room 1216, U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, D.C. 20593, (202) 426-2174.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** of July 20, 1981 (46 FR 37290). The public was invited to submit comments until September 3, 1981. No comments were received and the rules are therefore made effective as proposed.

Drafting Information

The principal persons involved in drafting this final rule are Mr. Frank K. Thompson, Project Manager, Office of Merchant Marine Safety, and Lieutenant Walter J. Brudzinski, Project Counsel, Office of the Chief Counsel.

Discussion

The Coast Guard is revoking 46 CFR Subpart 160.009, the approval specification for cork and balsa wood ring life buoys. Because these items are no longer manufactured, a specification for their approval is unnecessary. Ring life buoys made of foam plastic (see 46 CFR 160.050) have replaced the wooden type and are now the only type of ring life buoy approved by the Coast Guard. Cork and balsa wood ring buoys previously approved under the revoked subpart may, however, be used as long as they are in good condition. With the revocation of Subpart 160.009, the material specifications for sheet cork, Subpart 164.001, and for balsa wood, Subpart 164.002 are unnecessary and therefore the Coast Guard is revoking them also.

These revocations require amendments to the various requirements for ring life buoys on vessels and structures which are located throughout Titles 33 and 46, Code of Federal Regulations. Amendments to Title 33, similar in language and form to these amendments, are set out in a separate rulemaking document in this issue of the **Federal Register**. This final rule also updates the authority citations of the affected CFR Parts.

Evaluation

This final rule has been reviewed under the provisions of Executive Order 12291 and has been determined not to be major. In addition, this final rule is considered to be nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted because the impact is expected to be minimal. These amendments merely revoke outdated approval specifications, but allow equipment previously approved under those specifications to remain in use as long as it is in good and serviceable condition.

Final Regulations

In consideration of the foregoing, Chapter I of Title 46, Code of Federal Regulations is amended as follows:

PART 25—REQUIREMENTS

1. The authority citation for Subpart 25.25 is revised to read as follows:

Authority: R.S. 4405 as amended (46 U.S.C. 375); R.S. 4462 as amended (46 U.S.C. 416); c. 155, sec. 17, 54 Stat. 166 as amended (46 U.S.C. 526p); secs. 5, 39, 85 Stat. 215, 228 (46 U.S.C. 1454, 1488); sec. 6(b)(1), 80 Stat. 938 (49 U.S. C. 1655(b)(1)); 49 CFR 1.46(b).

2. § 25.25-5(d) is revised to read as follows:

§ 25.25-5 Life preservers and other lifesaving equipment required.

* * * * *

(d) In addition to the equipment required by paragraph (b) or (c) of this section, each vessel 26 feet in length or longer must have at least one approved ring life buoy, constructed in accordance with Subpart 160.050 of this chapter; except a ring life buoy that was approved under former Subpart 160.009 of this chapter may be used as long as it is in good and serviceable condition.

PART 33—LIFESAVING EQUIPMENT

1. The authority citation for Part 33 is revised to read as follows:

Authority: R.S. 4405, as amended, (46 U.S.C. 375); R.S. 4417a, as amended, (46 U.S.C. 391a); R.S. 4462, as amended, (46 U.S.C. 416); R.S. 4488, as amended, (46 U.S.C. 481); sec. 3, 65 Stat. 675, (50 U.S.C. 198); E.O. 12234, 3 CFR, 1980 Comp.; sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

2. In § 33.40–1, paragraph (a) is revised to read as follows:

§ 33.40–1 Ring life buoys and water lights, general requirements—TB/ALL.

(a) Each ring life buoy must be of an approved type, constructed in accordance with Subpart 160.050 of this chapter; except a ring life buoy that was approved under former Subpart 160.009 of this chapter may be used as long as it is in good and serviceable condition.

* * * * *

PART 75—LIFESAVING EQUIPMENT

1. The authority citation for Part 75 is revised to read as follows:

Authority: R.S. 4405, as amended, (46 U.S.C. 375); R.S. 4462, as amended, (46 U.S.C. 476); c. 463, sec. 5, 49 Stat. 1384, as amended, (46 U.S.C. 369); R.S. 4417, as amended, (46 U.S.C. 391); R.S. 4418, as amended, (46 U.S.C. 392); R.S. 4426, as amended, (46 U.S.C. 404); R.S. 4488, as amended, (46 U.S.C. 481); R.S. 4491, as amended, (46 U.S.C. 489); sec. 10, 35 Stat. 428, as amended, (46 U.S.C. 395); 41 Stat. 305, as amended, (46 U.S.C. 363); secs. 1, 2, 49 Stat. 1544, 1545 (46 U.S.C. 367); c. 258, sec 3, 70 Stat. 152, as amended, (46 U.S.C. 390b); c. 155, sec. 17, 54 Stat. 166, as amended, (46 U.S.C. 526(p)); sec. 3, 68 Stat. 675, (50 U.S.C. 198); E.O. 12234, 3 CFR, 1980 Comp.; sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

2. Paragraph (a) of § 75.43–5 is revised to read as follows:

§ 75.43–5 General.

(a) Each ring life buoy must be an approved type, constructed in accordance with Subpart 160.050 of this chapter; except a ring life buoy that was approved under former Subpart 160.009 of this chapter may be used if it is in good and serviceable condition.

* * * * *

PART 94—LIFESAVING EQUIPMENT

1. The authority citation for Subpart 94.43 is revised to read as follows:

Authority: R.S. 4405, as amended, (46 U.S.C. 375); R.S. 4462, as amended, (46 U.S.C. 416); sec. 6(b)(1), 80 Stat. 938, (49 U.S.C. 1655(b)(1)); (49 CFR 1.46(b)). Interpret or apply R.S. 4417, as amended, (46 U.S.C. 391); R.S. 4488, as amended, (46 U.S.C. 481); R.S. 4491, as amended, (46 U.S.C. 489); sec. 10, 35 Stat. 428, as amended, (46 U.S.C. 395); 41 Stat. 305, as amended, (46 U.S.C. 363); secs. 1, 2, 49 Stat. 1544, 1545, (46 U.S.C. 367); sec. 3, 65 Stat. 675, (50 U.S.C. 198); E.O. 12234, 3 CFR, 1980 Comp.; sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

2. Paragraph (a) of § 94.43–5 is revised to read as follows:

§ 94.43–5 General.

(a) Each ring life buoy must be of an approved type, constructed in accordance with Subpart 160.050 of this chapter; except a ring life buoy that was approved under former Subpart 160.009 of this chapter may be used if it is in good and serviceable condition.

* * * * *

PART 108—DESIGN AND EQUIPMENT

1. § 108.515(b)(2) is revised to read as follows:

§ 108.515 Ring life buoys.

* * * * *

(b) * * *

(2) Be approved under Subpart 160.050 of this chapter; except a ring life buoy that was approved under former Subpart 160.009 of this chapter may be used as long as it is in good and serviceable condition.

* * * * *

PART 160—LIFESAVING EQUIPMENT

§§ 160.009–1—160.009–7 (Subpart 160.009) [Removed]

1. Part 160 is amended by removing Subpart 160.009—"Specification for a Buoy, Life Ring, Cork or Balsa Wood for Merchant Vessels and Boats."

PART 164—MATERIALS

§§ 164.001–1—164.001–5 (Subpart 164.001) [Removed]

§§ 164.002–1—164.002–6 (Subpart 164.002) [Removed]

1. Part 164 is amended by removing Subpart 164.001, *Cork, Sheet, for Merchant Vessels* and Subpart 164.002 *Balsa Wood, for Merchant Vessels.*

PART 180—LIFESAVING EQUIPMENT

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

Authority: R.S. 4405, as amended, (46 U.S.C. 375); R.S. 4462, as amended (46 U.S.C. 416); sec. 3, 70 Stat. 152, as amended, (46 U.S.C. 390b); R.S. 4488, as amended, (46 U.S.C. 481); sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

2. Section 180.05–1(b)(7) is revised to read as follows:

§ 180.05–1 Equipment of an approved type.

* * * * *

(b)* * *

(7) Ring Life Buoys 160.050

* * * * *

3. Section 180.30–1 (a) is revised to read as follows:

§ 180.30–1 General.

(a) Each ring life buoy must be of an approved type, constructed in accordance with Subpart 160.050 of this chapter; except a ring life buoy that was approved under former Subpart 160.009 of this chapter may be used if it is in good and serviceable condition.

* * * * *

PART 192—LIFESAVING EQUIPMENT

1. The authority citation for Part 192 is revised to read as follows:

Authority: R.S. 4405, as amended, (46 U.S.C. 375); R.S. 4462, as amended, (46 U.S.C. 416). Interpret or apply R.S. 4417, as amended (46 U.S.C. 391); R.S. 4418, as amended, (46 U.S.C. 392); R.S. 4453, as amended, (46 U.S.C. 435); R.S. 4488, as amended (46 U.S.C. 481); sec. 10, 35 Stat. 428, as amended (46 U.S.C. 395); c. 82, 41 Stat. 305, as amended (46 U.S.C. 363); secs. 1, 2, 49 Stat. 1544, 1545, as amended (46 U.S.C. 367); secs. 5, 17, 54 Stat. 164, 166, as amended, (46 U.S.C. 526e,p); sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b), unless otherwise noted.

2. Paragraph (a) of § 192.43–5 is revised to read as follows:

§ 192.43–5 General.

(a) Each ring life buoy must be of an approved type constructed in accordance with Subpart 160.050 of this chapter; except a ring life buoy that was approved under former Subpart 160.009 of this chapter may be used if it is in good and serviceable condition.

* * * * *

Dated: March 3, 1982.

Clyde T. Lusk,

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

[FR Doc. 82–6725 Filed 3–10–82; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 42

Preservation of Records of Communication Common Carriers; Clarification of Requirement for Retention of Trouble Report History Records

AGENCY: Federal Communications Commission.

ACTION: Clarification of a certain section of the Commission's rules.

SUMMARY: This document clarifies a section of Part 42 of the Commission's rules for Mr. F. L. Koerner, General Rates Planning Staff Manager of Central Telephone and Utilities Corporation who requested clarification of the retention requirement as prescribed in § 42.9 of Part 42 of the Commission's rules and regulations as it pertains to trouble report history records. He also requests clarification of the term "active file" as used in the context of § 42.9.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Steckler, Chief, Accounting Branch, Accounting and Audits Division, Common Carrier Bureau, Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554, Telephone (202) 634–1861.

Stephen Steckler,

Chief, Accounting Branch, Accounting and Audits Division, Common Carrier Bureau.

Central Telephone and Utilities Corporation,
O'Hare Plaza, 5725 East River Road,
Chicago, Illinois.

Attention: F. L. Koerner, General Rate Planning Staff Manager.

Gentlemen: This refers to your letter of January 12, 1982, wherein you request clarification as to whether or not "trouble report history records" are included in retention requirement item 44(h) contained in § 42.9 of Part 42 of our rules and regulations. You also request an interpretation of what is meant by "active file" as contained in the referenced section.

In reponse to your first question, § 42.1(a) states that the regulations in this part apply to all accounts, records, memoranda, documents, papers, and correspondence prepared by or on behalf of the carrier * * *" Item 44(h) specifically lists individual *trouble reports*, also toll circuit *trouble history records*. The list of records outlined in § 42.9 appears quite explicit in this regard. Therefore, your trouble report history records should be retained as prescribed.

You also request that we clarify our interpretation of the term "active file." In the context in which it is used in § 42.9 "active file" refers to a file on current, on line customers. Once the customer terminates service, his file is no longer active (except temporary disconnects for non-payment of bill or seasonal disconnects).

I hope this information is helpful to you; if we can be of further assistance do not hesitate to contact this office.

Sincerely,

Stephen Steckler,

Chief, Accounting Branch, Accounting and Audits Division, Common Carrier Bureau.

[FR Doc. 82–6593 Filed 3–10–82; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[BC Docket No. 80–201, etc.; RM–3249 and 3710, etc.]

FM Broadcast Station in Certain Communities in South Carolina; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a second FM channel to North Charleston, South Carolina, at the request of T. B. Trammel. Also, first FM assignments are made to Eastover, Ravenel, Parris Island, and Mount Pleasant, South Carolina, at the request of William G. Dudley, M. E. Foley, D. W. McFarland, and John M. Dunnagan, respectively. Because they were either mutually exclusive with the new assignments or could not conform with the Commission's minimum distance separation requirements for FM stations, proposed assignments at Elloree, Manning, Johnston, Winnsboro Mills, Saluda, and Union, South Carolina, are denied. A proposed assignment to Leesville, South Carolina, is denied for lack of interest in the channel.

DATE: Effective May 7, 1982.

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

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau, 632–7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (North Charleston, Eastover, and Ravenel, South Carolina) BC Docket No. 80–201, RM–3249, RM–3710; Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Elloree, South Carolina), BC Docket No. 80–211, RM–3579; Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Mount Pleasant, Parris Island, Manning, Bamberg, and Batesburg, South Carolina), BC Docket No. 80–213, RM–3406, RM–3718, RM–3719; Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Johnston, Leesville, Winnsboro Mills, Saluda, Union, and Batesburg, South Carolina), BC Docket No. 81–171, RM–3518, RM–3556, RM–3613, RM–3666, RM–3771.

Report and Order—Proceeding Terminated

Adopted: February 25, 1982.

Released: March 8, 1982.

1. Before the Commission is a "Further Notice of Proposed Rule Making and Orders to Show Cause," 46 FR 19737, published March 26, 1981, proposing seven separate assignment plans involving the above-captioned communities. The communities were divided into two sets, Set A and Set B, because any assignment plan proposed for Set A could be adopted independently of any assignment plan for Set B. The communities included in Set A are North Charleston, Eastover, Ravenel, Elloree, Parris Island, and Mount Pleasant. Set B includes the communities of Manning, Bamberg, Batesburg, Johnston, Winnsboro Mills, Saluda, Union, and Leesville. In this "Report and Order", we shall first address Set A in its entirety and then proceed to an analysis of Set B.

Set A

2. The following table lists the three assignment plans proposed for the communities in Set A:

Community	Plan A–I		Plan A–II		Plan A–III	
	Present	Proposed	Present	Proposed	Present	Proposed
North Charleston	273	241, 273	273	241, 273	273	273
Eastover		257A				240A
Ravenel		269A		269A		240A
Elloree				257A		257A
Parris Island		221A		221A		221A
Mount Pleasant		285A		285A		269A, 285A

As explained in the "Further Notice", in Plan I, North Charleston is assigned a second Class C channel, and all of the other communities are assigned Class A channels except Elloree. Plan II is similar except Elloree receives an assignment and Eastover does not. Plan III proposes no further assignment to North Charleston, but assigns two Class A channels to Mount Pleasant in addition to Class A channels to all the other communities. Comments in response to the "Further Notice" were submitted by T. B. Trammel ("Trammel"), the original proponent of the Class C assignment to North Charleston; William K. Durst ("Durst"); William G. Dudley, III ("Dudley"), proponent of the assignment to Eastover; M. E. Foley ("Foley"),

proponent of the assignment to Ravenel; Santee-Cooper Broadcasting Company ("Santee-Cooper"), proponent of the assignment to Elloree; D. W. McFarland ("McFarland"), proponent of the assignment to Parris Island; and John M. Dunnagan ("Dunnagan"), proponent of the proposal to assign a channel to Mount Pleasant. Reply comments were filed by Trammel, William Roversi ("Roversi"), Dudley, Foley, and Santee-Cooper.

3. Before summarizing the comments received in response to the "Further Notice", we believe it would be helpful to provide some background information on the communities involved in this proceeding and the justifications given by the assignments' proponents for placing FM channels in particular communities. Much of this information was presented in the "Further Notice", but we will repeat it here for the convenience of the reader.

4. North Charleston, with a 1980 population of 65,630,[1] has increased in size by over 45,000 inhabitants since 1970. The city is located approximately 10 kilometers (6 miles) north of Charleston, and is served locally by daytime-only AM Station WNCG and FM Station WKTM (Channel 273). The petitioner for the North Charleston assignment asserts that the city plays an important role in the growth and expansion of the entire county and contains the largest share of industry in the area. The community also includes the Charleston Naval Base, which makes North Charleston a large center of employment.

5. Ravenel has a reported 1980 population of 1,655 as compared with its 1970 population of 931. Ravenel is located approximately 27 kilometers (17 miles) west of Charleston. The community presently has no local aural service. M. E. Foley, the proponent of the assignment to Ravenel, states that Ravenel is an incorporated town governed by a mayor and six town council members. In addition to being a "convenient resting place for travelers," Foley asserts that small locally owned businesses and a nearby chemical plant support the economy of the city.

6. Eastover has grown from a population of 817 in 1970 to 899 in 1980. Eastover is located 40 kilometers (25 miles) east of Columbia, South Carolina. The city has no local aural service. Petitioner for the Eastover assignment, William G. Dudley, states that Eastover is an incorporated town which is governed by an elected mayor and four town council members. Eastover is located in the heart of a large agricultural section of Richland County and serves as a market place for area farmers and agricultural workers and the employees of the East Coast steel mill, Westvaco forestry activities, and a new electricity and gas complex.

7. The community of Elloree has declined in population from 940 in 1970 to 909 in 1980. Elloree is located approximately 108 kilometers (67 miles) northwest of Charleston. Since this proceeding was initiated, Elloree has received local aural service from a new daytime-only AM station licensed to Elloree-Santee. Petitioner for the Elloree assignment, Santee-Cooper, asserts that Elloree and its surrounding area is the retirement and recreational spot in the heart of South Carolina. It avers that the proposed station would provide a first local FM service to Elloree and would also serve an important section of rural population in Orangeburg County.

8. Mount Pleasant has grown from a 1970 population of 6,879 to a 1980 population of 13,838. The community, which is located approximately 6 kilometers (4 miles) from Charleston, presently has no local aural broadcast service. John M. Dunnagan, the proponent of the Mount Pleasant assignment, states that the most important industry, in and around the city, is fishing, with large seafood packing companies located in Mount Pleasant. Dunnagan notes that because of the community's rapid growth, the construction and service industries have expanded greatly.

9. Parris Island, which had a 1970 population of 8,868,[2] is located approximately 85 kilometers (53 miles) southwest of Charleston and presently has no local aural service. According to the petitioner for the Parris Island assignment, D. W. McFarland, Parris Island is a Marine Corps Recruiting Depot housing 2,300 permanent personnel and from 5,000 to 10,000 temporary personnel at any one time. Petitioner states that for assignment purposes Parris Island has many attributes of a community including a Base Exchange, commissary, library, golf course, service station, post office, commercial bank, and bowling alley.

Comments in Response to the Further Notice

10. Trammel, the original petitioner for a Class C channel assignment to North Charleston, reaffirms his intention to apply for the channel if assigned to that city. Trammel supports the adoption of assignment Plan II because that plan proposes assignments to cities having the greatest combined population. Trammel opposes Plan III because that plan would not assign a second channel to North Charleston. According to Trammel, failing to assign a second channel to North Charleston in order to make a first assignment to the smaller cities of Elloree, Ravenel, and Eastover would not result in the "fair, efficient, and equitable distribution of radio services" as required by the Communications Act. Trammel avers that North Charleston's only present FM station is co-owned with the city's only AM station and that a second FM assignment would provide North Charleston with its first competitive aural service. Trammel also notes the growth of North Charleston as further evidence of the community's need for a second FM assignment. Durst also supports the assignment of Channel 241 to North Charleston and asserts that he will apply for the channel, if assigned. Durst opines that the possibility of a Class A assignment to communities such as Eastover and Elloree, which have populations less than 1,000 and are already well served with FM reception service, should not foreclose a second assignment to the rapidly growing community of North Charleston.

11. Dudley, petitioner for the assignment to Eastover, reiterates his intention to apply for a channel, if assigned. Dudley notes that Plan I would deprive Elloree of its first assignment while Plan II similarly deprives Eastover. Dudley asserts that because the implementation of first local service is a primary assignment criterion, both communities should receive a channel. Therefore, Dudley supports Plan III.

12. Foley, proponent of the assignment to Ravenel, repeats his commitment to apply for the channel in Ravenel if assigned. Foley notes that two channels have been suggested for assignment to Ravenel, Channels 240A and 269A. According to Foley, assigning Channel 269A to Ravenel could cause site location problems due to interference with Station WCEW operating on Channel 215. Foley also claims that assigning Channel 269A to Ravenel would preclude Station WCEW from increasing its power and changing its transmitter site in the future. For these reasons, Foley urges the assignment of Channel 240A to Ravenel, and therefore prefers assignment Plan III.

13. Santee-Cooper makes several arguments in support of the assignment of Channel 257A to Elloree. In addition to presenting community data and discussing the growth of Elloree and the

[1] All population figures are taken from the 1970 and 1980 U.S. Censuses.

[2] No 1980 Census data are available for Parris Island.

surrounding area, Santee-Cooper asserts that the commission wrongly included Elloree in this expanded rule making. Santee-Cooper states that the initial Elloree proposal was not contested or even commented upon and should have been finalized long ago. The Commission's actions, by including Elloree in the instant proceeding, threaten to delay and possibly prevent Elloree from receiving a much-needed first FM assignment. Santee-Cooper reasons that the mandate of section 307(b) of the communications Act of 1934—to assign frequencies in a fair and efficient manner—should not be automatically applied in derogation of a sound regulatory process. Santee-Cooper, noting that Dudley owns North Charleston's two existing radio stations, further alleges that the Eastover and Ravenel proposals are not *bona fide* proposals and were offered simply to defeat the assignment of a second channel to North Charleston. Therefore, Santee-Cooper opines that the Eastover and Ravenel proposals should be dismissed. If the Commission is inclined to consider the Eastover and Ravenel proposals, Santee-Cooper submits that all the communities under consideration could be assigned a new channel if the proposed standards of BC Docket 80–90 were utilized.[3]

14. McFarland, the petitioner for Channel 221A at Parris Island, reaffirms his interest in the assignment and states that he will apply for the channel if assigned. Dunnagan, the proponent of the assignment to Mount Pleasant, likewise states that if a channel is assigned to Mount Pleasant, he will apply for authority to construct and operate a station.

15. In reply, Trammel states that only one party has expressed a continuing interest in an assignment at Mount Pleasant. This is an additional factor, according to Trammel, arguing against adopting Plan III, which proposes two Mount Pleasant assignments but no additional assignment to North Charleston. Trammel also concludes that Elloree appears to warrant an assignment. By contrast, Trammel asserts that the comments and petitions supporting assignments to Eastover and Ravenel give no description of the communities and no justification for making assignments there. Trammel concludes that neither Eastover nor Ravenel should be assigned a channel. Accordingly, Trammel supports adoption of Plan II, except for the assignment of a channel to Ravenel. William Roversi also supports the assignment of a second FM channel at North Charleston and states that he will apply for a channel there, if assigned.

16. Dudley states in his reply comments that the proponents of a second North Charleston assignment conveniently ignore the fact that North Charleston is not an isolated community but is adjacent to Charleston. Dudley states that assigning another FM station to North Charleston would not provide the third local service to a separate community, but would add the 12th station to an already well-served area. Dudley also counters Durst's assertions that a channel in North Charleston would serve any previously underserved areas by stating that recent changes in the operation of existing stations have already covered any previously "gray" areas. Regarding Santee-Cooper's comments, Dudley asserts that the "scurrilous and completely unsupported" allegations should be stricken from the record as having no basis in fact. Similarly, Foley states that Santee-Cooper has no proof or substantiation for the charges that the Ravenel petition represents a "strike proposal," and he argues that the comments should be stricken from the record.

17. Santee-Cooper, in its reply comments, again avers that the assignment to Elloree should be finalized irrespective of any other actions taken in this proceeding. Santee-Cooper reiterates its charges that the Eastover and Ravenel proposals are merely intended to prevent a second assignment to North Charleston. Finally, Santee-Cooper states that it supports the assignment of two channels to Mount Pleasant, although it does not commit itself to apply for a channel there.

18. Initially, we note that under all three plans proposed for the communities listed in Set A, the communities of Parris Island and Mount Pleasant would receive at least one FM assignment. No parties commenting in this proceeding have opposed a first FM assignment to either Parris Island or Mount Pleasant. Further, it appears that both communities deserve assignments and interests have been expressed in their use. Thus, we shall assign one channel to Parris Island and Mount Pleasant. The Parris Island assignment requires a site restriction of 4 miles northeast in order to avoid short-spacing to Hinesville, Georgia. With respect to a second channel assignment to Mount Pleasant, no party commenting in this proceeding has expressed a willingness to apply for an additional channel. Without this expression of interest, we shall not make the assignment.

19. The remaining four communities under consideration are North Charleston, seeking its second FM assignment, and Eastover, Elloree, and Ravenel, each seeking a first FM assignment. To some degree, all of these proposed assignments have been contested. Therefore, an analysis of the issues presented regarding these remaining communities requires a somewhat more extensive treatment. We shall first address the propriety of making a second channel assignment to North Charleston vis-a-vis a first assignment to either Eastover or Elloree.[4] In comparing mutually exclusive assignments, the Commission generally first looks to its established FM assignment priorities.[5] These priorities, as applicable to this proceeding are:

(a) Insofar as possible, to provide each community with at least one FM broadcast station, especially where the community has only a daytime-only or local AM station, and especially where the community is outside of an urbanized area;

(b) Provide a choice of at least two FM services to as much of the population of the United States as possible, especially where there is no primary AM service available; and,

(c) Provide, in all communities which appear to be of large enough size to support two local stations, two local FM stations, especially where the community is outside of an urbanized area.

A straightforward application of the above-listed priorities would result in first assignments to Elloree and Eastover, which both have populations of less than 1,000, while denying a second assignment to the larger and more important city of North Charleston. We do not believe that such a result is equitable in this paraticular instance. First of all, our priorities were not intended to be applied in rigid and mechanical fashion. "See, Anamosa, Iowa," *supra* at 525. Rather, we take into account the relative sizes and the need for the requested FM assignment. Here, favoring a second assignment to a large, dynamic community over a first assignment to a very small community is not inconsistent with the Commission's

[3] Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments, 78 F.C.C. 2d 1235 (Notice of Proposed Rule Making, 1980).

[4] As indicated earlier, all three of these cities cannot, at this time, receive the requested assignment.

[5] The FM assignment priorities were originally set out in the Further Notice of Proposed Rule Making in Docket No. 14185, 27 FR 7797, 7798 (August 7, 1962), and restated in Anamosa and Iowa City, Iowa, 46 F.C.C. 2d 520 (1974).

mandate to assign frequencies in a fair and efficient manner.

20. The Commission has stated that applying the assignment priorities in a strict manner may lead to anomalous results. For example, applying the priorities literally, "* * * the result would be that any community, even one of only 100 persons, seeking a first channel would automatically succeed in preference to a second channel in a city of 1,000,000 that would bring a second service to 4,000,000 people. Needless to say, we have not followed such a rigid pattern and have taken into account the size of the respective communities and their need for an FM station." "Anamosa and Iowa City, Iowa," *supra* at 525 (1974). In this particular instance, we find it more equitable to assign a second channel to North Charleston. We base this decision on its recent large growth in population and relative lack of strictly local service. Having determined that North Charleston deserves a second FM channel, we may exclude Plan III from further consideration. In excluding this plan, we deny a second FM Channel to Mt. Pleasant in which no interest has been expressed and force a choice between Elloree and Eastover for a first FM channel.

21. Plans I and II are similar except that Plan I makes an assignment to Eastover while Plan II favors an assignment to Elloree. Thus, we must now make a decision concerning which community, Eastover or Elloree, is more deserving of a first FM assignment. In making such a comparison, we must consider the size, growth, location, ability to receive additional FM services, and existing local aural service of both communities. According to the 1980 U.S. Census, the towns of Eastover and Elloree are virtually the same size. However, in comparing 1980 versus 1970 populations, we find that Eastover has made a modest gain in population while Elloree has shown a slight decline. Eastover, however, is part of the Columbia, South Carolina, SMSA and receives 60 dBu service or better from four FM stations. Elloree receives such service from three FM stations. Neither proposed assignment would provide any first or second FM service to unserved or underserved areas. With respect to existing local aural service, Eastover has none while Elloree is served by a daytime-only AM station licensed to Elloree-Santee. In our opinion, the fact that Elloree has some local aural service combined with its declining population persuades us that, of the two communities, Eastover is more deserving of a first FM channel. The assignment of Channel 257A to Eastover requires a 3.2-mile southeast site restriction.

22. In favoring Eastover over Elloree, we feel compelled to answer several of the arguments proffered by Santee-Cooper, the proponent of the Elloree assignment. Santee-Cooper forcefully argues that its petition was initially uncontested and mutually exclusive with no other FM proposal and that it is therefore unfair for the Commission staff to include it in this complex proceeding. According to Santee-Cooper, sound administrative procedures are at least as important as the Commission's mandate to make assignments in a fair and equitable manner. We disagree. The fact that the Elloree petition was initially uncontested and could have been granted earlier cannot be given precedence over the situation as it now exists. We must make our determination based on our perceptions of the public interest at the present. The Elloree petition was included in this expanded proceeding for the purpose of determining which communities in South Carolina are most deserving of the limited channels available. Having determined that North Charleston and Eastover are more deserving of FM assignments, we cannot agree that sound administrative policy demands that Santee-Cooper's previously uncontested petition be granted. See, "Blytheville, Arkansas, et al." 49 R.R. 2d 470 (Broadcast Bureau 1981).

23. Santee-Cooper also avers that denying Elloree an assignment at this time effectively precludes the community from ever receiving any local FM service. While it is true that our actions prevent Elloree from immediately receiving an assignment, it is by no means certain that the community is thus forever foreclosed. Rearrangements in the Table of Assignments in the future may open up other assignment possibilities for Elloree. Also, if the Commission adopts the proposals in BC Docket 80–90,[6] a significant increase in the availability of FM frequencies in the South Carolina area could occur.[7] Thus our actions today certainly do not foreclose the possibility that Elloree might receive an assignment in the future.

24. Santee-Cooper's final argument concerns the motivations of Dudley and Foley in proposing the Eastover and Ravenel assignments. According to Santee-Cooper, these proposals were made solely to defeat the North Charleston assignment and thereby prevent competition to Dudley's existing North Charleston stations. Aside from Santee-Cooper's allegations, nothing in the record corroborates these assertions. Dudley and Foley have submitted information indicating that Eastover and Ravenel are communities deserving of FM assignments. Further, they have committed themselves to apply for channels in Eastover and Ravenel, if assigned. Thus, we believe that Dudley and Foley have met the Commission's assignment criteria. The fact that Dudley owns the existing North Charleston stations is, for our present purposes, irrelevant. Station ownership is not a consideration in FM assignment cases unless it can be shown that the proponent of a new assignment would not be permitted to operate the requested channel because of our multiple ownership rules. "Hunter-Granger, Utah", 40 R.R. 2d 535, 538 (Broadcast Bureau, 1977). No such showing has been made in this proceeding. Thus, the assertions of Santee-Cooper regarding the motivations of Dudley and Foley in prosecuting the Eastover and Ravenel assignments have no bearing on our considerations, and we shall assign Class A channels to both communities.

25. One final issue must be addressed. Foley argues that he prefers the assignment of Channel 240A over 269A to Ravenel because of possible conflicts with Class D noncommercial Station WCEW operating in Charleston on Channel 215. At present, the Commission does not protect Class D stations. Further, if Station WCEW wants to upgrade its facilities at some time in the future, the required separation between it and Channel 269A would be only five miles. Because Station WCEW and the Ravenel reference point are over 10 miles apart, no problem is anticipated. We shall therefore adopt our proposal to assign Channel 269A to Ravenel.

Set B

26. The following table lists the four assignment plans proposed for the communities in Set B:

[6] See footnote 3.

[7] Although we acknowledge that our actions in BC Docket 80–90 may open up new assignment possibilities for Elloree, our action in this proceeding in no way relies on that possibility. We have consistently stated that we will not make important assignment decisions based on the potential outcome of BC Docket 80–90. Beaumont, Lake Jackson and Port Lavaca, Texas, 46 FR 62074, published December 22, 1981; Rhinelander, Wisconsin, et al. 49 R.R. 2d 1113 (Broadcast Bureau, 1981). Similarly, we are not inclined to grant waivers of the existing regulations in order to grant assignments which would comply with the proposals of Docket 80–90. Thus, the proposal of Santee-Cooper to make a series of assignments based on proposed changes in the assignment regulations will not be adopted.

	Plan B-I		Plan B-II		Plan B-III		Plan B-IV	
Manning	221A	223	221A	223	221A	223	221A	221A
Bamberg	224A	221A	224A	221A	224A	221A	224A	224A
Batesburg	221A	237A	221A	237A	221A	237A	221A	221A
Johnston		224A		224A				
Winnsboro Mills		221A						
Saluda						221A		
Union				221A				
Leesville								237A

The first three plans propose the substitution of a Class C channel for the existing Class A channel at Manning. According to the proponent of the Manning substitution, operations on a Class C channel would provide a first aural nighttime service to 13,485 persons and a second FM service to 61,820 persons. The differences in the first three plans center on which communities, Johnston, Winnsboro Mills, Saluda, and/or Union, will receive a first FM assignment. All of these proposed assignments require channel substitutions at Bamberg and Batesburg. Plan B–IV assigns a first FM channel to Leesville which does not require any substitutions at Bamberg and Batesburg.

27. Comments in response to the "Further Notice" were submitted by Clarendon County Broadcasting Corporation ("CCBC"), the proponent of the Manning channel substitution; Edgefield-Saluda Radio Company ("Edgefield-Saluda"), the petitioner for the Johnston assignment; Fairfield Broadcasting, Incorporated ("Fairfield"); Ridge Broadcasting Company ("Ridge"), the petitioner for the Winsboro Mills assignment and licensee of Station WKWQ–FM, Batesburg; William K. Durst ("Durst"), proponent of the Saluda assignment; and the Broadcasting Company of Union ("BCU"), the proponent of the Union assignment. Reply comments were submitted by CCBC, Edgefield-Saluda, and Durst.

28. Manning, located approximately 112 kilometers (70 miles) northwest of Charleston, has grown from a 1970 population of 4,025 to a 1980 population of 4,746. Manning is presently served locally by FM Station WTWE (Channel 221A). Manning's economy is supported by tourism, agriculture and agriculturally oriented businesses.

29. Johnston, whose population has grown from 2,552 in 1970 to 2,624 in 1980, is located approximately 72 kilometers (45 miles) west-southwest of Columbia. Johnston is currently served locally by daytime-only AM Station WJES. According to the proponent of the Johnston assignment, peach growing is the community's major industry, though manufacturing is increasing in importance in the local economy.

30. Leesville is located approximately 43 kilometers (27 miles) north of Columbia. The city grew in population from 1,907 in 1970 to 2,296 in 1980. Leesville has no local service at present.

31. Saluda, with a 1980 population of 2,752, has grown from a population of 2,442 in 1970. Saluda is located approximately 66 kilometers (41 miles) west of Columbia and has no local aural service. The proponent of the Saluda assignment states that it is the commercial center for Saluda County agricultural and manufacturing industries, and that there are about 100 business establishments in the community.

32. Union, located approximately 95 kilometers (60 miles) northwest of Columbia, has declined slightly in population from 10,775 in 1970 to 10,523 in 1980. Union is currently served by full-time AM Station WBCU (1460 kHz).

33. Winnsboro Mills, an unincorporated community located approximately 42 kilometers (26 miles) north of Columbia, had a 1970 population of 2,312. No 1980 population data is available for Winnsboro Mills. The community presently has no local aural service. According to the proponent of the assignment, Winnsboro Mills is a separate community from nearby Winnsboro, and it supports its own stores and business establishments.

34. As stated in paragraph 25, above, the first three assignment plans for Set B require channel substitutions at Bamberg and Batesburg. Also, as explained in the "Further Notice," the channel substitution at Batesburg would, because of minimum distance spacing requirements, require the existing station in Batesburg, Station WKWQ–FM, to relocate its transmitter to a location approximately 5.5 kilometers (3.5 miles) south of its present site. We stated that we will not normally require a station to change transmitter sites in order to accommodate additional assignments. In this case, however, because the licensee of Station WKWQ–FM, Ridge, was also a petitioner in the proceeding, and had offered a proposal which involved a change in its transmitter site, we felt there might be no obstacle to our proposals requiring Ridge to change sites. We specifically asked Ridge to state any reasons why it might not be willing to make the necessary relocation in the event that the assignment it sought at Winnsboro Mills was not approved.

35. Because of our resolution of the Set B assignments, a detailed summary of the comments received is unnecessary. Briefly, except for the Leesville channel, continuing interests for all the proposed assignments were stated by at least one party to the proceeding. Ridge, however, asks that its petition seeking an assignment to Winnsboro Mills be dismissed and states that it no longer consents to the modification of Station WKWQ–FM's license and transmitter relocation. Several commenters argue that Ridge's refusal to cooperate should not defeat the prospect of two new FM assignments plus the initiation of new service to previously unserved and underserved populations. These parties aver that the Commission should nonetheless modify Ridge's license for Station WKWQ–FM and adopt one of the first three assignment plans. Several commenters also aver that, because Ridge initially supported a plan which would have required the channel substitution and transmitter relocation, Ridge should not be reimbursed for any expenses incurred. These parties imply that Ridge's prior support for the proposals indicates that Ridge was willing and able to absorb these costs without reimbursement. Having agreed to this earlier, the commenters suggest that Ridge should not now be entitled to reimbursement.

36. It is the Commission's established policy to substitute FM channels, even when the channel is occupied and in use, where such substitution will permit a more efficient and fair allocation of broadcast frequencies. "See, e.g., Baxley, Georgia, et al.," 42 R.R. 2d 249 (1978); "Blytheville, Arkansas, et al." 46 R.R. 2d 1267 (1980). However, as a general matter, we will not require relocating a station's transmitter site without the licensee's consent. "Smiths Grove, Kentucky," 48 R.R. 2d 1195, reconsid. denied, 50 R.R. 2d 236 (Broadcast Bureau, 1981); "Woodward and Alva, Oklahoma," 48 R.R. 2d 1537 reconsid. granted in part, 50 R.R. 2d 771 (Broadcast Bureau, 1981). In this proceeding, Ridge, although initially suggesting that it would modify its license and relocate its transmitter, now indicates that it is not willing to undertake the necessary relocation. Without Ridge's express consent, we do not believe that we should further pursue any proposal which includes the

relocation of Station WKWQ–FM's transmitter.

37. We have stated in the past that a balancing of interests must be made when a forced transmitter relocation is being considered. In "Asheville, North Carolina," 36 R.R. 2d 810 (1976), *supra* at 815, we stated that a relocation would not be required "* * * absent an unusually strong and compelling showing that the public gains achievable are sufficient to overcome concern with the ensuing impact upon the affected station and the public." It is, therefore, conceivable that given the proper circumstances, we would proceed with an assignment proposal which required a nonconsenting licensee to change operating frequencies and relocate its transmitter. While the potential public interest benefits of any of the first three plans are sizable, we do not feel that they are of such significance that they override our general policy of not requiring relocation. In any event, if we were to modify Station WKWQ–FM's license and force it to relocate its transmitter, we would expect any ultimate licensee benefitting from such modification to share in the reimbursement of Ridge for its modification and relocation expenses. As noted earlier, several potential beneficiaries of a license modification in Batesburg argued strenuously against reimbursement. Thus, we shall not order Ridge to modify its license.[8] This action effectively eliminates Plans I, II, and III from further consideration.[9]

38. The sole remaining assignment plan is Plan IV which proposes a first FM assignment to Leesville, South Carolina. None of the parties commenting in this proceeding have expressed any continuing interest in the Leesville assignment. Absent a commitment to apply for the channel, we will not make the assignment. Therefore, none of the plans proposed for the communities, included in Set B, will be adopted.

39. Accordingly, it is ordered, That effective May 7, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with respect to the following communities:

City	Channel No.
Eastover, SC	257A
Mount Pleasant, S.C	285A
North Charleston, S.C	241, 273
Parris Island, S.C	221A
Ravenel, S.C	269A

40. Authority for the actions taken herein is 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.

41. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632–7792.

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–6687 Filed 3–10–82; 8:45 am]

BILLING CODE 6712–01–M

[8] Ridge's license for Station WKWQ–FM was recently renewed (December 1, 1981), conditioned on the outcome of this proceeding. Generally our policy, pursuant to the decision in "Transcontinent Television Corp. v. F.C.C.", 308 F. 2d 339 (D.C. Cir. 1962) is to delay modifying the license (without a hearing) until the expiration of the license term.

[9] Several parties suggest that because Ridge originally consented to the modification and resulting site change, we should overlook Ridge's subsequent refusal. We disagree. The fact that Ridge originally agreed to the relocation cannot affect our decision; we must act on the basis of the facts as they presently exist. *Cf.* "Smiths Grove, Kentucky", *supra*.

Proposed Rules

Federal Register
Vol. 47, No. 48
Thursday, March 11, 1982

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

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1944

Revision of Section 502 Rural Housing Loan Policies, Procedures and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration proposes to amend its regulations regarding section 502 Rural Housing Loan Policies, Procedures and Authorizations. The proposed action implements a 1-year Interest Credit Agreement. The circumstances requiring this action is an Office of Audit report which indicates an excessive amount of improper interest credit is being granted. The intended effect is more accurated granting of interest credit based on current income. Also proposed is a loan restriction on applicants who previously had a Farmers Home Administration loan on an adequate dwelling but disposed of the property through sale or transfer unless 2 years have elapsed or there were mitigating circumstances. This action is required for better administrative control of the program. The intended effect is to stop the program from being used for personal gain beyond adequate shelter.

A proposal is being made to change the maximum moderate-income limit for eligibility to $3,000 over the maximum low-income limit with no area moderate-income limit to be less than $15,600, or greater than $23,000 with the exception of Alaska. The circumstances requiring this action is a lack of resources to meet the needs of the population within the present income limits. The intended effect is to allocate limited resources to applicants least likely to obtain housing from other sources.

DATE: Comments must be received on or before May 10, 1982.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Daryl L. Grove, Director, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5345, South Agriculture Building, Washington, DC 20250, telephone: 202–382–1474; or Ruth Smith, Loan Specialist, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5349, South Agriculture Building, Washington, DC 20250, telephone: 202–382–1488.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 which implements Executive Order 12291 and has been classified as "nonmajor."

This action requires no increase in costs to the Government. There is no impact on proposed budget levels, and funding allocations will not be affected because of this action. There will be a modest increase in the reporting requirements required of the public in order to determine eligibility of those receiving the benefits. We have determined that the increase in reporting requirements is not a significant impact and that this regulation maximizes net benefit to society at the lowest net cost.

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

This regulation does not directly affect any FmHA programs or projects which are subject to A–95 clearinghouse review.

CFDA No. 10.410—Low to Moderate Income Housing Loans (Rural Housing Loans—Section 502-Insured).

1. Interest Credit Agreement

The Agency proposes to implement a 1-year interest credit contract based on the borrower's current circumstances. Changes will be made only in case of error in borrower information, cancellation if the borrower's adjusted income exceeds the moderate-income limit, and granting of moratorium if decrease in income justifies and borrower qualifies.

The Agency studied two alternatives regarding the term of the Interest Credit Agreement.

Alternative 1 (current method). A 2-year Interest Credit Agreement based on the current household situation and income projected for the next 12 months.

Effects: This alternative has the least public and administration burden. It is estimated that it cost the public $345,000 to comply. It requires completion of approximately 200,000 agreements by FmHA each year. Audit findings estimate that 190.7 million dollars of excessive interest credit are granted because of initial errors and borrower circumstances changing over the life of the agreement. Changes in the family income during the 2-year period result in 19 percent of the borrowers subsequently becoming ineligible and an additional 48 percent receiving excessive benefits. It also results in borrowers adjusting to a living standard above their means causing financial problems at time of renewal if benefits are lowered.

Alternative 2 (chosen method). A 1-year interest credit contract based on the borrower's current circumstances and income.

Effects: This alternative increases the public and administrative burden over alternative 1. It is estimated that the public burden will be $550,000 or $205,000 over alternative 1. It doubles the administrative burden of the interest credit program. However, it is estimated that it will reduce the cost of the interest credit program by about $128 million dollars. It benefits the borrower by frequent revision of housing cost in ratio to household income. Computing current income is also a more accurate method of determining annual income than projecting income for the next 12 months as is presently required.

2. Loan Restriction

The Agency proposes a loan restriction on an applicant who previously had a section 502 rural housing loan but disposed of the property through sale or transfer unless 2 years have elapsed or there were mitigating circumstances.

Alternative 1. Provide for no eligibility restriction in regards to applicants who previously had been section 502 rural housing borrowers.

Effect: This alternative permits borrowers the option to sell their property for a profit and then reapply for a new loan. These previous borrowers apply for the limited available resources causing delay in service to other applicants without adequate housing. It is estimated that in some areas over 10 percent of FmHA loan funds are being used to serve this group. Because housing costs have constantly increased, the cost to the Government in providing subsidy to this group is also higher.

Alternative 2. Restrict applicants who previously had a section 502 rural housing loan to a 2-year waiting period.

Effect: This option should curb the incentive to sell for profit and thus reduce Government cost. It diminishes the tendency of third party groups to profit at the expense of the borrower. It still permits eligibility for those borrowers who must sell because of job transfer or other extenuating circumstances.

3. Moderate Income Limit

FmHA proposes to lower the maximum moderate-income limits to $3,000 more than the applicable maximum low-income limit for the area except that no maximum moderate-income limit would be less than $15,600, or greater than $23,000 with the exception of Alaska.

Alternative 1. Establish the moderate-income limit at a constant $5,500 above the low-income limit (current method).

Effect: It is estimated that about 3 million households have a moderate income based on this definition. About 197,800 of these households occupy substandard houses and most of these could qualify for a Section 502 rural housing loan. Based on current budget levels, less than 10 percent of eligible households could be provided with a Section 502 loan in any year. Most programs with eligibility income limits serve those at the top first and those with lower income later. Therefore, it is concluded that this option would help an income group that may have other alternatives for housing.

Alternative 2. Establish the moderate-income limit at a constant $3,000 above the low-income limit with no limit less than $15,600 or over $23,000 with the exception of Alaska.

Effect: It is estimated that about 2 million households have a moderate income based on this definition. About 100,000 of these households occupy substandard houses. This alternative increases the opportunity of these households to receive a section 502 loan by more than 30 percent over alternative 1. This alternative, therefore, better allocates limited resources to those of lower income.

The reporting and recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget.

PART 1944—HOUSING

For the reasons set out in the preamble, Part 1944, Subpart A, Chapter XVIII, of Title 7 of the Code of Federal Regulations is proposed to be amended by revising §§ 1944.1 through 1944.50 and Exhibit C and D to read as follows:

1. As proposed, §§ 1944.1 through 1944.50 are revised as follows:

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, Authorizations

Sec.

1944.1 General.
1944.2 Definitions.
1944.3 Loan purposes.
1944.4 Loan restrictions.
1944.5–1944.7 [Reserved]
1944.8 Income eligibility requirements.
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Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

§ 1944.1 General.

This subpart sets forth the policies and procedures and delegates authority for making section 502 Rural Housing (RH) loans to individuals under Title V of the Housing Act of 1949, as amended. The objective of section 502 loans is to provide eligible persons who will live in rural areas an opportunity to obtain adequate but modest, decent, safe, and sanitary dwellings and related facilities. The requirements of Farmers Home Administration (FmHA) Instruction 1901–E will be applied as appropriate. Loans and services provided under this Subpart shall not be denied to any person or applicant based on race, sex, national origin, color, religion, marital status, age, physical or mental handicap (applicant must possess the capacity to enter into a legal contract for services), receipt of income from public assistance, or because the applicant has, in good faith, exercised any right under the Consumer Protection Act.

§ 1944.2 Definitions.

The following definitions apply to this subpart:

(a) *Above-moderate income.* An adjusted annual income that exceeds the maximum limit for moderate-income households as provided in Exhibit C of this Subpart.

(b) *Adjusted annual income.* Annual income as defined in paragraph (c) of this section less 5 percent thereof and less an additional $300 for each dependent minor person (excluding the applicant and foster children) who is a member of the household.

(c) *Annual income.* Current monthly income received by the applicant and all adult members of the household times twelve. See § 1944.8(c) for supplemental rules on determining annual income.

(d) *Cosigner.* A party who joins in the execution of a promissory note to guarantee its repayment by the borrower. The cosigner becomes jointly and severally liable to comply with the terms of the note in the event of the borrower's default.

(e) *County Supervisor.* Includes Assistant County Supervisor for all duties and responsibilities which are included in the employee's job description and for authorizations which have been delegated in writing in accordance with FmHA Instruction 2006–F (available in any FmHA office).

For the areas of Alaska and the Western Pacific Territories it also includes the Area Supervisor.

(f) *Existing dwelling.* One which is (1) more than 1 year old, or (2) previously occupied as a residence.

(g) *Extended family.* A family unit consisting of parents, children and other relatives who will live together on a permanent basis as a part of a household.

(h) *Farm.* Includes the total acreage of one or more tracts of land which (1) is owned by the applicant, (2) is operated as a single unit, (3) is in agricultural production, and (4) annually will produce agricultural commodities for sale and home use with a gross value of at least $400 based on 1944 prices. To aid in estimating the gross annual value of agricultural commodities produced on a particular farm, a State Supplement will be issued listing the 1944 prices for the principal farm commodities in the State.

(i) *Household.* The applicant and all other persons who will make the applicant's dwelling their primary residence for all or part of the next 12 months.

(j) *Low income.* Eighty percent of the area median income rounded up to the next $500 but not less than 60 percent nor greater than 80 percent of the non-metro census regional income. Maximum low-income limits are set forth in Exhibit C of this Subpart.

(k) *Moderate income.* Three thousand dollars more than low income with no moderate-income limit less than $15,600, or greater than $23,000 with the exception of Alaska. Maximum moderate-income limits are set forth in Exhibit C of this Subpart.

(l) *Nonfarm tract.* A parcel of land that is not a farm and is located in a rural area, or a building site that is part of a farm, and which secures an RH loan in accordance with § 1944.18(b)(10).

(m) *Place.* An area containing a concentration of inhabitants within a determinable unincorporated area.

(n) *Rehabilitation.* Major repairs and improvements to existing dwellings such as the installation or completion of bathroom facilities, installation of major items of equipment, additions, or structural changes.

(o) *Senior citizen.* A "senior citizen" is a person who is 62 years of age or older.

(p) *Town.* A "town" means a municipality similar to a city but not a New England-type town which resembles a township or county in most States.

(q) *Urban area.* Either a town, village, city, place or any associated combination thereof, which with the immediately adjacent densely settled areas has a population in excess of the limits prescribed in § 1944.10 (a) (2) (i) and (ii).

(r) *Very low income.* Fifty percent of area median income. Maximum limits for very low income are set forth in Exhibit C of this Subpart.

§ 1944.3 Loan purposes.

(a) A loan may be made to an eligible applicant for the following purposes:

(1) To buy, build, rehabilitate, improve or relocate a dwelling and provide related facilities for use by the applicant as a permanent residence.

(2) To buy, build, rehabilitate, improve or relocate a dwelling, and provide related facilities for a farm owner to provide housing to be occupied by the farm manager, tenants, sharecroppers or farm laborers.

(3) To refinance secured debts or unsecured debts as provided in § 1944.22.

(b) A loan made under § 1944.3 (a) (1) or (2) may be used to:

(1) Purchase, in fee title, a minimum adequate site, as outlined in § 1944.11 (c) on which the improvements are or will be located, if the applicant does not own an adequate site.

(2) Pay reasonable acquisition cost for a leasehold interest in a minimum adequate site at the time of making the initial RH loan.

(3) Provide an adequate and safe water supply and/or an adequate sewage disposal facility.

(4) Provide site preparation, including grading, foundation planting, seeding or sodding of lawns, trees, walks, yard fences and driveways to building sites.

(5) Purchase and install essential equipment in the dwelling including items such as a range, refrigerator, clothes washer or clothes dryer, if these items are normally sold with dwellings in the area and if purchase of these items is not the primary purpose of the loan.

(6) Provide special design features or equipment when necessary because of physical handicap or disability of the applicant or a member of the household.

(7) Purchase and install approved energy saving measures and approved furnaces and space heaters which use a type of fuel that is commonly used, and is economical and dependably available.

(8) Provide storm cellars, and similar protective structures.

(9) Pay incidental expenses such as fees for credit reports, tax monitoring service, legal, title clearance, loan closing, architectural, surveying and other technical services.

(10) Pay reasonable connection fees for utilities such as water, sewer, electricity or gas, which are required to be paid by the borrower and which cannot be paid from other funds.

(11) Pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned improvements.

(12) Pay real estate taxes which are due and payable on the building and/or site at the time of closing on an initial loan, if this amount is not a substantial part of the loan.

(13) Establish escrow accounts for the payment of real estate taxes or property insurance premiums in those states where the use of escrow accounts is authorized by the National Office.

(14) Provide living area for all members of the applicant's household, including "extended family," as provided in § 1944.16(a)(7).

(15) Pay part of the cost of constructing, remodeling, repairing or buying a domestic water system or waste disposal system provided prior authorization is obtained from the National Office and the following conditions are met:

(i) The facility must be jointly owned and used by not more than 10 participants.

(ii) The domestic water or waste disposal system cannot be provided with a Community Facilities loan.

(iii) The group must act as individuals and not as a legal entity such as a partnership, corporation or association.

(iv) The facility will be located in a rural area and will be used only for normal home use.

(v) The applicant will give FmHA a mortgage as required in § 1944.18(a), including the applicant's interest in the system if it is practical to mortgage the system. The interest of any co-owners of the jointly owned facility who are not applicants may be excluded from the mortgage on prior approval by the State Director, as provided in § 1944.18(b)(8).

(vi) The owners have written agreements as to the construction, use, maintenance and repair of the facility and obtain necessary jointly owned easements.

(vii) The facility will cost not more than $50,000 or have a depreciated replacement value that does not exceed $50,000 if such facility is being purchased, enlarged, or improved.

(viii) All funds to be used to finance construction or installation of the joint facility will be deposited in a supervised bank account.

§ 1944.4 Loan restrictions.

(a) A loan will not be made to an applicant who, within the previous 2 years, had a section 502 RH loan but

disposed of the property through sale or transfer unless:

(1) The dwelling sold or transferred was inadequate to meet the applicant's housing needs; or

(2) The applicant was compelled to relocate due to change of employment or health reasons and the property the applicant proposes to buy is in a different trade/market/employment area; or

(3) The housing need is due to a legal separation or divorce.

(b) Loan funds may not be used to:

(1) Buy or improve income-producing land, or buildings to be used for income-producing purposes or buildings not essential for RH purposes.

(2) Pay fees, charges or commissions such as finders' fees, for packaging the application or placement fees for the referral of prospective applicants to FmHA.

(c) A loan will not be made to an applicant whose previous FmHA debts have been settled pursuant to Part 1864 of this chapter (FmHA Instruction 456.1) or by release from personal liability under Subpart A of Part 1955 of this chapter as reflected by the County Office records, or where settlement under such regulation is contemplated, unless failure to pay the indebtedness was the result of circumstances beyond the applicant's control, or the conditions which necessitated the debt settlement or release, other than weather hazards, disasters, or price fluctuations, have been removed or will be removed by making the loan. Before approving the property or causing such an applicant to incur any expense in connection with the loan the County Supervisor will complete Form FmHA 431–2, "Farm and Home Plan," or Form FmHA 431–3, "Household Financial Statement and Budget," and send it with the application, any available case folders, and recommendations to the State Office for a determination as to whether to proceed with the development of the loan docket.

(d) Loans will not be made to a homestead entryman or desert entryman to improve the entry prior to receipt of patent.

§§ 1944.5–1944.7 [Reserved]

§ 1944.8 Income eligibility requirements.

(a) An applicant is eligible for a Section 502 loan only if the following requirements are met:

(1) The adjusted annual income of the applicant's household as defined in § 1944.2(b) does not exceed the applicable income limit in Exhibit C. Exceptions to this requirement may be authorized by the State Director in accordance with § 1944.33 (a) or (b), or by the National Office.

(2) Repayment ability as provided in § 1944.26(e), is demonstrated in the following manner:

(i) The applicant has adequate and dependably available income. The determination of income dependability will include consideration of the applicant's past history of annual income and/or the history of the typical annual income of others in the area with similar types of employment. Such income should be sufficient to meet living expenses, pay taxes, insurance and maintenance costs, and to make required payments on all obligations including the section 502 loan; or

(ii) The applicant obtains a cosigner with dependably available income which will be sufficient to repay the loan. The cosigner must be an individual but may not be a member of the applicant's household.

(b) All adult members of the household whose income must be included to meet the repayment requirements in paragraph (a) (2) (i) of this section will be considered applicants.

(c) Annual income as defined in § 1944.2 (c) will be determined as follows:

(1) The current monthly income times twelve for all adults, including the spouse, will be included for either full-time or part-time employment if presently employed. If the spouse or any other adult is not presently employed but there is a recent history of such employment, that person's income will be considered unless the applicant and the person involved sign a statement that the person is not presently employed and does not intend to resume employment in the foreseeable future or, if interest credit is involved, during the term of the Interest Credit Agreement. The statement will be filed in the borrower's case file.

(2) Current monthly income will include income from all sources except as provided in paragraph (c)(3) of this section. Income such as that from the sources specified in this paragraph will be included in current monthly income (even though not received in the current month) as the estimated annual amount of such income for the current year prorated on a monthly basis. Income sources include, but are not limited to:

(i) Gross income from wages, salaries, and commissions, including that from seasonal type work which can be expected to be repeated.

(ii) Historical receipt of overtime and bonus income which can reasonably be expected to be repeated.

(iii) All net farm and nonfarm business income. Farm or monfarm business losses will be considered as "0" in determining annual income.

(iv) Pensions, Social Security, welfare, and unemployment compensation.

(v) Child support payments and other payments made on behalf of minors.

(vi) The income of an applicant's spouse, unless the spouse has been living apart from the applicant for at least 6 months (for reasons other than military or work assignment), or court proceedings for divorce or legal separation have been commenced.

(vii) GI bill benefits, fellowships, scholarships, and assistantships.

(viii) Alimony, or other spousal support payment.

(ix) Proceeds from the sale of equipment, mineral rights or real estate sold under long-term contract (usually more than 3 years).

(3) The following income will not be included in determining annual adjusted income, although it will be included under § 1944.26 (b)(2) and (e)(2) for documenting repayment ability:

(i) Income received by a full time student (*who is not* the applicant or co-applicant) from employment or income from GI Bill benefits, fellowships scholarships, or assistantships for schooling.

(ii) Proceeds from the sale of equipment, mineral rights, or real estate sold under a short term contract (usually 3 years or less).

(iii) Cash value of food stamps, real estate tax exemptions, or similar types of assistance.

(iv) Payments received for the care of foster children, foster adults or for services rendered as a volunteer on a project sponsored by any of the following programs:

(A) Retired Senior Volunteer Program.

(B) Foster Grandparent and Older American Community Service Programs (as either a foster grandparent, senior health aide or senior companion).

(C) National Volunteer Programs to Assist Small Business and Promote Volunteer Service by Persons With Business Experience.

(D) Peace Corps, VISTA, or any other volunteer program sponsored by ACTION.

(v) Allowances, such as training and travel expenses, paid by the Department of Labor to CETA participants. (Wages paid by the employers of CETA workers will be included.)

(vi) Any payments received by "live in" aides for members of a senior citizen borrower's household paid by state or federal programs which specifically

exclude the cost of shelter from the amount received.

(vii) Funds which a Federal law specifies must not be used as the basis for denying or reducing Federal financial assistance or benefits to which the recipient would otherwise be entitled.

(4) In determining the applicant's annual income the following deductions are allowed:

(i) A deduction may be made in the same manner as outlined in Internal Revenue Service (IRS) regulations for the exhaustion, wear and tear, and obsolescence of depreciable property used in the applicant's trade, business, or farming operation. The applicant must provide an itemized schedule showing the depreciation claimed. The schedule should be consistent with the amount of depreciation actually claimed for these items for Federal income tax purposes.

(ii) A deduction may be made in the same manner as outlined in IRS regulations for necessary work related expenses actually paid by the employee in excess of the amount reimbursed by the employer. The deduction must be reasonable and, in the judgment of the approving official, should be deducted from an employee's income to reflect annual income on an equal basis with other employed persons. Deductions, however, are not permitted for the following:

(A) Transportation to and from work.

(B) Cost of meals incurred on one day business trips.

(C) Educational expenses except those incurred to meet the minimum requirements for the employee's present position.

(D) Fines and penalties for violation of laws.

(iii) A maximum aggregate deduction of $400 per month may be made for child care or disabled dependent care which is necessary to enable the borrower to be gainfully employed. The deduction will be based only on moneys actually paid for care services. Payments for these services may not be made to persons whom the borrower is entitled to claim as dependents for income tax purposes. Full justification for such deduction must be recorded in detail in the applicant's loan docket.

(iv) A maximum aggregate deduction of $400 per month may be made for full time nursing home or institutional type care which cannot be provided in the home for a member of the household. Such care must be expected to be required for a period of six months or more. The deduction will be limited to expenditures actually paid for such services.

§ 1944.9 Other eligibility requirements.

In addition to the income eligibility requirements of § 1944.8, the applicant must:

(a) Qualify as one of the following:

(1) A person who does not own a dwelling which is structurally sound, functionally adequate, and which is large enough to accommodate the needs of the applicant, or

(2) A farmowner without decent, safe and sanitiary housing for the farmowner's own use or for the use of farm tenants, sharecroppers, farm laborers, or farm manager.

(b) Be without sufficient resources to provide the necessary housing or related facilities, and be unable to secure the necessary credit from other sources upon terms and conditions which the applicant could reasonably be expected to fulfill. If the applicant has only an undivided interest in the land to be improved, those co-owners whose execution of the mortagage is required under § 1944.18(b)(8) must also be unable to provide the improvement with their own resources or obtain the necessary credit elsewhere either individually or jointly with the applicant.

(c) Be a natural person (individual) who resides as a citizen in any of the 50 States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands, or a noncitizen who resides in one of the foregoing areas after being legally admitted for permanent residence or on indefinite parole. Permanent residents can verify their status by presentation of Form I–551, "Alien Registration Receipt Card," or any later revison of the form. Those on indefinite parole must present Form I–94, "Arrival/Departure Card," or any later revision of the form. The County Supervisor must further authenticate such information through the Immigration and Naturalization Service if the Authenticity of the information provided is in doubt (See Exhibit B).

(d) Possess legal capacity to incur the loan obligation, and have reached the legal age of majority in the State, or have had the disability of minority removed by court action.

(e) Have the potential ability to personally occupy the home on a permanent basis, if the loan is to provide housing for the applicant's own use. To illustrate, because of the probability of their being transferred or moving after graduation, military personnel on active duty and full-time students will not be granted loans unless:

(1) The applicant, if military personnel, will be discharged at an early date (usually within 1 year). The family must continue to occupy the home in case the borrower is transferred to another duty station before discharge, and

(2) The appliant intends to make the home a permanent residence and there are reasonable prospects that employmnent will be availble in the area after graduation or discharge, and

(3) An adult member of the household will be available to make inspections if the home is being constructed and to sign checks for work performed.

(f) Have a credit history which indicates a reasonable ability and willingness to meet obligations as they become due. The following *will not* indicate an unacceptable credit history:

(1) "No hsitory" of credit transactions by the applicant.

(2) Bankruptcies, foreclosures, satisfied judgments, or delinquent payment records which occurred more than 36 months before the application if no recent similar situations have occurred.

(3) Isolated incidents of delinquent payments which do not represent a general pattern of unsatisfactory or slow payment.

(4) Recent bankruptcy, foreclosure, judgment or delinquent payment when the applicant can satisfactorily demonstrate that:

(i) The circumstances causing any of the above were of a temporary nature, were beyond the applicant's control and have been removed. Examples: loss of job; delay or reduction in government benefits, or other loss of income; increased expenses due to illness, death, etc.

(ii) The adverse action or delinquency was the result of a refusal to make full payment because of defective goods or services or as a result of some other justifiable dispute relating to the goods or services purchased or contracted for.

(g) Possess the ability necessary to carry out the undertakings and obligations required in connection with the loan.

§ 1944.10 Rural area designation.

(a) For the purposes of this Subpart, a rural area is:

(1) Open country which is not part of or associated with an urban area, or

(2) Any town, village, city or place, including the immediately adjacent densely settled area, which is not part of or associated with an urban area and which:

(i) has a population not in excess of 10,000 if it is rural in character, or

(ii) has a population in excess of 10,000 but not in excess of 20,000, and

(A) is not contained within a Standard Metropolitan Statistical Area (SMSA), and

(B) has a serious lack of mortgage credit for low- and moderate-income households as determined by the Secretary of Agriculture and the Secretary of Housing and Urban Development.

(b) A determination that open country, or any town, village, city, or place is not part of or associated with an urban area must include a finding that any densely populated section of the area in question is separated from the densely populated section of any adjacent urban area by open spaces (which are undeveloped, agricultural, or sparsely settled) other than open spaces due to physical barriers, commercial or industrial developments, public parks and similar open spaces, and areas reserved for recreational purposes. This determination should also consider such other factors as:

(1) The existence of known plans for development within the near future (e.g., 3 to 5 years) of a substantial portion of the intervening land between the areas in question and an urban area.

(2) Separate school systems and separate utilities such as water and sewer and solid waste disposal; however, consolidated schools and/or combined facilities do not necessarily indicate being "associated with."

(c) Two or more towns, villages, cities, and places may have contiguous boundaries, and each be considered separately if they are not otherwise associated with each other, as determined after consideration of paragraphs (a) and (b) of this section.

(d) The latest official Bureau of the Census data or more recent official population counts (U.S. Census of Population or other Governmental official counts) will be used in determining population.

(e) The State Director will be responsible for determining boundaries of rural areas and shall issue an appropriate State Supplement to identify such areas by list and maps. Areas in excess of 10,000 population will be identified as "rural areas" in a State Supplement only after written authorization by the National Office and compliance with the requirement of paragraph (a)(2)(ii) of this section.

(f) When a change of designation from rural to nonrural is anticipated, all developers and other interested parties should be notified.

(g) If an area designation is changed from rural to nonrural, loans mauy be made only in the following instances:

(1) Applications received by FmHA prior to the change of designation may be processed.

(2) New conditional commitments may be issued and existing conditional commitments will be honored only in conjunction with the approval of RH loan applications which were received prior to the date the area was designated nonrural.

(3) Credit sales and transfers with assumptions may be processed in such areas as authorized by § 1955.103(e) of Subpart C of Part 1955 of this chapter and § 1872.18(c)(i) of this chapter (FmHA Instruction 465.1, paragraph XVIIIC1a).

(4) Subsequent loans may be made on property in an area where the designation was changed from rural to nonrural after the initial loan was made:

(i) To make necessary repairs.

(ii) To pay equity in connection with an assumption and transfer of an RH loan.

§ 1944.11 Property requirements.

(a) The property on which the loan is made must be located on a farm, or in a designated rural area as defined in § 1944.10 or in an area the designation of which has been changed as provided in § 1944.10(g). A nonfarm tract to be purchased or improved with loan funds must not include or be closely associated with farm service buildings.

(b) Unless an exception is granted by the National Office (notwithstanding the requirement of § 1804.67(b) of this chapter, FmHA Instruction 424.5, paragraph VIIB) the property must be contiguous to and have direct access from an:

(1) All-weather street which has been dedicated to and accepted by a public body which shall be responsible for continuous maintenance, or

(2) Extended driveway if:

(i) The driveway has an all-weather surface,

(ii) The driveway does not potentially serve more than two individual dwellings,

(iii) The applicant obtains title or an easement to the driveway and it is included in the security for the loan, and

(iv) The maintenance cost for the driveway is considered in determining the applicant's repayment ability.

(c) The property on which the loan is made may not be larger than a minimum adequate site, which is the smallest area sufficient for the dwelling, related facilities, and a yard. In determining whether the property is a minimum adequate site the following considerations apply:

(1) In case of a loan to construct a dwelling, or purchase of a new dwelling and site, the site should be not more than one acre of land unless more than one acre is needed to provide for an adequate water supply or waste disposal system.

(2) When an existing dwelling is being purchased or debts are being refinanced, the site may include more than one acre only under the following conditions:

(i) When an existing dwelling is being purchased, the seller will sell the dwelling only with the entire site on which it is located and the cost of extra land is not a substantial portion of the loan, or

(ii) In a refinancing case, the extra land cannot be sold for a significant amount, or

(iii) More than one acre is needed to provide an adequate water supply or waste disposal system.

(3) In all cases, a site of more than one acre must by fully justified and the reasons recorded in the loan docket. In no case may the site include more than three acres unless authorized by the National Office.

(d) Loans made to buy, build, or repair dwellings located in an area having special flood or mudslide hazards are subject to the conditions of Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

§§ 1944.12–1944.14 [Reserved]

§ 1944.15 Ownership requirements.

(a) After the loan is closed, the applicant must have an interest in the property to be purchased, improved, or refinanced, which qualifies as one of the following:

(1) Full marketable title.

(2) The purchaser's interest under a land purchase contract which obligates payment of the purchase price, gives the rights of present possession, control and beneficial use of the property, and entitles the purchaser to a deed upon paying all or a specific part of the purchase price.

(3) An undivided fee interest if the co-owners meet the security requirements imposed by § 1944.18(b)(8).

(4) A life estate interest with rights of present possession, control and beneficial use of the property if the remaindermen meet the security requirements imposed by § 1944.18(b)(9).

(5) Leasehold interest if all of the following conditions are met:

(i) The applicant is unable to obtain fee title to the property and the rent charged for the lease does not exceed the rate being paid for similar leases.

(ii) The lessor owns the fee simple title.

(iii) Neither the leasehold nor the fee simple title is subject to a prior lien, unless the County Supervisor submits complete information to the State Director for review and authorization prior to approval of the loan. The amount of the RH loan plus any prior liens may not exceed the recommended market value of the leasehold.

(iv) The written lease contains the following provisions:

(A) The lessor's consent to the RH mortgage.

(B) Reasonable security of tenure. The borrower's interest must not be subject to summary forfeiture or cancellation.

(C) The right of FmHA to foreclose the RH mortgage and sell without restrictions that would adversely affect the market value of the security.

(D) The right of FmHA to bid at foreclosure sale or to accept voluntary conveyance of the security in lieu of foreclosure.

(E) The right of FmHA, after acquiring the leasehold through foreclosure or voluntary conveyance in lieu of foreclosure, or in event of abandonment by the borrower, to occupy the property or sublet it, and to sell for cash or credit. In case of a credit sale, FmHA will take a mortgage with rights similar to those under the original RH mortgage.

(F) The right of the borrower, in the event of default or inability to continue with the lease and the RH loan, to transfer the leasehold, subject to the RH mortgage, to an eligible transferee with assumption of the RH debt.

(G) Advance notice of at least 90 days to FmHA of lessor's intention to cancel or terminate the lease. Such advance notice will be long enough to permit FmHA to ascertain the amount of delinquencies, the total amount of the lessor's and any other prior interests, and the market value of the leasehold interest and, if litigation is involved, to refer the case with a report of the facts to the United States Attorney for appropriate action.

(H) Express provisions covering the question of liabiltiy of FmHA for unpaid rentals or other charges accured at the time it acquires possession of the property or title to the leasehold, and those which become due during FmHA's possession or ownership, pending further servicing or liquidation.

(I) Any necessary provisions to assure fair compensation to the lessee for any part of the premises taken by condemnation.

(v) The lease has an unexpired term, from the date of loan approval, of at least 50 years (a lease for 25 years with an option to the lessee to renew for an additional 25 years would be considered a 50 year lease) except where:

(A) A lease is granted for the purpose of permitting a person to obtain an RH loan and the time required to process and approve the loan results in the unexpired term of the lease being not less than 49 years, or

(B) a lease is in existence at least 1 year prior to the date of the loan approval, and the unexpired term of the lease is at least 50 pecent longer than the repayment period of the loan. In no case may the unexpired term of the lease be less than 15 years.

(6) Possessory rights on an Indian reservation or State-owned land if the security requirements imposed by § 1944.18(b)(2) are met.

(7) The interest of an Indian in land held in severalty under trust patents or deeds containing restriction against alienation if the security requirements imposed by § 1944.18(b)(3) are met.

(b) If an applicant's title to any part of the property does not qualify as an ownership interest under paragraph (a) of this section and is therefore defective, an RH loan may nevertheless be made if:

(1) The defect cannot be cured at a reasonable cost, and

(2) No improvements to be constructed or repaired with loan funds will be located on the parcel to which title is defective, and

(3) No security value will be accorded to the parcel to which title is defective.

§ 1944.16 Building requirements.

(a) *New dwellings.* Dwellings to be built or purchased new must provide decent, safe and sanitary housing that is modest in size, design and cost, and consistent with the market in the area. Applicants should be counseled regarding the type of housing necessary to meet their needs, however, modest housing may include 3 bedrooms and 1½ bathrooms if such a dwelling is within the applicant's repayment ability and is typical of other dwellings owned or being built in the area by persons with similar incomes.

(1) The dwelling will contain no more than 1,200 square feet of living area. When the size of the household results in an average of more than two persons per bedroom a larger dwelling may be justified to provide adequate sleeping space. For purposes of complying with this paragraph, the following will be considered in determining living area:

(i) Living area will include all finished areas as well as unfinished areas that are designed for or normally considered as living area. This will include those areas which meet or can be improved to meet the Housing and Urban Development (HUD) Minimum Property Standards (MPS) requirements for habitable area.

(ii) Living area will not include such space as a stairway between living areas, enclosed stairway, enclosed entryway, space necessary for utilities in a home without a basement, general storage area, porch not suited for year-round use, solar greenhouse which provides heat to the living area, garage or carport which is attached, detached or in the basement area; basement or other area not designed for or normally considered living area.

(2) Special design features or equipment may be included when necessary because of physical handicap or disability.

(3) Each dwelling shall have an automatic primary or secondary heating system capable of maintaining living spaces at 55 degrees (f).

(4) Two-car garages or carports will not be authorized. Single-car garages or carports may be included if customarily included in other homes in the area.

(5) Energy saving measures which exceed FmHA requirements and cost more than 1 percent of the market value of the property and solar energy systems may be used only after approval by the State Architect/Engineer and authorization by the State Director. Complex systems, such as active solar space heating or cooling, geothermal, hydropower, wind and photovoltaic, that could be considered unconventional, must be submitted to the National Office for concurrence prior to authorization by the State Director.

(6) Fireplaces and other solid fuel burning devices may be authorized only if the loan approval official determines and documents that a dependable and economical fuel supply is available. All fireplaces and other solid fuel burning devices must comply with HUD Minimum Property Standards (4900.1, 610–1.1) and with Exhibit D, paragraph IV D2, of Part 1924, Subpart A. To assure compliance and to remove uncertainties regarding safety and efficency, fireplaces and other solid fuel burning devices are authorized only after approval by the State Architect/Engineer and subsequent authorization by the State Director.

(7) A dwelling for an extended family as defined in § 1944.2(g) may included bedroom area with an exterior entrance and an additional bathroom. This area should be designed in a manner that will not adversely affect the home's potential for resale.

(b) *Existing dwellings.* Existing dwellings purchased with RH funds must be structurally sound, functionally

adequate, either be in good repair or placed in good repair with loan funds and meet the standards required by § 1924.5(d)(l)(ii) of Subpart A of Part 1924 of this chapter. All existing dwellings must meet the thermal performance standards required in Exhibit D, paragraph IV B, of Subpart A of Part 1924. The policies stated in paragraph (a) (1), (5) and (6) of this section may be used as a guide in making a determination of adequate but modest existing dwellings, however, the maximum square footage of living area should be flexible to adjust for modest adequate existing homes that may be available.

(c) *Repairs.* Any dwelling repaired with RH funds must be structurally sound, functionally adequate, and be placed in good repair with loan funds. If the loan is not more than $7,500 and is scheduled for repayment in not more than 15 years from the date of the note, the dwelling may lack some equipment or features such as a complete bath, kitchen cabinets, closets, or completely finished interior in some rooms. Such dwellings must meet the basic housing needs of the applicant and provide decent, safe, and sanitary living conditions when the improvements financed with the loan are complete.

(d) *Improvements.* Improvements financed with loan funds must be on land which, after loan closing, is part of a tract owned by the borrower in accordance with § 1944.15(a), or on an easement appurtenant to such a tract.

§ 1944.17 Maximum loan amounts.

(a) An RH loan to buy or build a dwelling may be made up to the market value of the security less the unpaid principal balance and past-due interest of any other liens against the security property for:

(1) An existing dwelling which is more than a year old or previously occupied as a residence.

(2) A new dwelling when any of the following conditions exist:

(i) A conditional commitment was issued in accordance with § 1944.45.

(ii) The RH loan will be closed prior to the start of construction.

(iii) Construction is financed in accordance with § 1944.46.

(iv) The required construction inspections were made by the Federal Housing Administration (FHA) or Veterans Administration (VA). A complete set of plans and specifications will be submitted together with copies of inspection reports or certification by FHA or VA indicating the dwelling was built in accordance with approved plans and specifications. The builder will also furnish a certification of compliance with FmHA thermal standards for new construction as required by Exhibit D of Subpart A of Part 1924 of this chapter.

(v) The dwelling was constructed under an insured 10-year warranty plan. The builder will provide complete plans and specifications together with a certification that construction was completed in compliance with the plans and specifications, HUD-FHA Minimum Property Standards and FmHA thermal standards for new construction. The cost of the insured warranty will be included in the sale price of the dwelling, if it is to be charged to the borrower. Prior to loan approval the builder must provide evidence that he/she is an approved builder in good standing under a 10-year insured warranty plan.

(b) Except as provided in paragraph (c) of this section a loan will be limited to 90 percent of the market value of the security for any dwelling that does not meet the requirements of paragraph (a) of this section.

(c) A loan which causes the total secured indebtedness to exceed the appraised value of the property securing the loan may be made when the amount exceeding the appraised value is all or part of a lien held by a public body, hospital or welfare institution for advances made for medical bills, welfare payments, or state motor vehicle judgments provided:

(1) The borrower is unable to settle or compromise such lien sufficiently to avoid exceeding the market value, and

(2) The lien securing the excess amount will at all times be inferior to the FmHA mortgage securing the initial loan and any subsequent loan or advances determined by the FmHA to be reasonably necessary to carry out the purpose of the initial loan or to protect the Government's financial interest, and

(3) The existence of the excess lien will not jeopardize the scurity or servicing so as to preclude the making of a sound RH loan, and

(4) The borrower has the ability to meet any payments on the excess debt as they become due or are likely to become due.

§ 1944.18 Security requirements.

(a) *Adequate security.* To protect the interest of FmHA all loans must be adequately secured. Except as provided in paragraph (b) of this section, a loan is adequately secured only when all of the following requirements are met:

(1) FmHA obtains at closing a mortgage on all ownership interests in the entire tract.

(2) No liens prior to the FmHA mortgate exist at the time of closing, and no junior liens are likely to be taken immediately subsequent to or at the time of closing.

(3) The provisions of Part 1807 of this chapter (FmHA Instruction 427.1) regarding title clearance and the use of legal services are complied with.

(b) *Exceptions.* Exceptions to the usual security requirements will be made as follows:

(1) *Note only.* A loan of $2,500 or less scheduled for repayment in not more than 10 years from the date of the note, and that is not subject to recapture of subsidy in accordance with Subpart I of Part 1951 of this Chapter, may be secured by the borrower's promissory note alone when the County Supervisor determines that:

(i) The applicant has a credit history which indicates an ability and willingness to pay debts when they are due;

(ii) The applicant will have sufficient income to readily meet all obligations; and

(iii) The applicant's equity in the real estate as improved equals or exceeds the amount of the proposed loan.

(2) *Mortgage insurance.* When the applicant is the holder of possessory rights on an Indian reservation or State-owned land, adequate security in the form of mortgage insurance guaranteeing payment from a State agency or Indian tribe will be acceptable. Separate State Supplements covering loan approval, title clearance, closing, appropriate loan documents and a Memorandum of Understanding with the State or Indian tribe insuring agency should be developed and used with the approval of the State Director and the concurrence of the Office of General Counsel (OGC). Approval of such supplements by the National Office is required prior to participation in any such program.

(3) *Indian land.* Indian land in trust or restricted status acquired with an RH loan will remain in trust or restricted status. In these cases mortgages must be approved by the Secretary of the Interior. When a lien is to be taken on trust or restricted property, the local Bureau of Indian Affairs (BIA) representative will be requested to furnish advice and information with respect to the property and each applicant. The FmHA State Director should arrange with the BIA Area Director or other appropriate local BIA official as to how the information will be requested and furnished. A State Supplement will be issued to prescribe the actions to be taken by FmHA personnel to implement the making of loans under such conditions.

(4) *Best mortgage obtainable.* Loans of $7,500 or less scheduled for repayment in not more than 15 years from the date of the note must be secured by a mortgage, except as provided in paragraph (b)(1) of this section, but title clearance and the use of legal services in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1) are not required. The best mortgage obtainable without use of these procedures will be sufficient unless the loan approval official determines that the procedures in Part 1807 of this Chapter (FmHA Instruction 427.1) are necessary to assure repayment or accomplish the objective of the loan. Evidence of ownership must comply with § 1944.24(d)(2).

(5) *Leasehold.* When the applicant owns only a leashold interest, FmHA may not require a mortgage on the lessor's interest but will treat the lessee's interest like any other type of ownership interest in determining whether a mortgage on the leasehold is required. The lease must meet the requirements of § 1944.15(a)(5) (iv) and (v). In any State in which applicants are likely to own a leasehold interest, the State Director will issue a State Supplement outlining the technical requirements for making such loans.

(6) *Security by junior lien.* FmHA may take a junior mortgage as security for an RH loan if the tract which will secure the FmHA mortgage provides adequte security for the entire prior lien debt and the RH loan, and

(i) The prior mortgage does not contain provisions that may jeopardize FmHA's securtiy position or the borrower's ability to repay the loan, such as provisions for future advances, forfeiture, cancellation, foreclosure without adequate notice to junior lienholders; or

(ii) Such provisions are satisfactorily limited, modified, or waived.

(7) *Liens junior to FmHA lien.* Liens junior to the FmHA lien will be allowed at closing or immediately subsequent to closing only when:

(i) The junior lien will not interfere with the purposes or repayment of the RH loan, and

(ii) The total amount of the RH loan, the junior lien, and any prior liens will not exceed the market value of the security except as provided in §1944.17(c).

(8) *Undivided interest.* When the applicant owns an undivided interest in the property, the co-owners' interests need not be included in the mortgage in the following cases:

(i) When one or more of the co-owners are not legally competent, or cannot be located, or the ownership rights are divided among such a large number of co-owners that it is not practical for all their interests to be mortgaged, the mortgaging of interests not exceeding 50 percent may be excluded from the security requirement upon prior approval by the State Director. The State Director should review the County Supervisor's recommendation accompanied by a full statement of ownership and conditions which justify the exclusion. All legally competent co-owners using or occupying the property will be required to sign the mortgage. Co-owners will be requiured to sign the note when necessary for a sound loan or to obtain the required security. The loan may not exceed the percentage of the market value of the property represented by the interests of the owners who sign the mortgage. In determining such value, consideration will be given to any adverse effect which might resut from sale of the mortgaged interests separately from the nonmortgaged interests.

(ii) When an applicant owns an undivided interest in part of a farm and seeks a loan to build or improve facilities on another part in which the applicant owns the entire interest, or the applicant owns only an individed interest in building site which will be a part of the farm, the interest of the applicant's co-owners may be excluded from the security requirements upon approval by the State Director if:

(A) The loan will be adequately secured by the applicant's equity in the wholly owned tract,

(B) The market value of the jointly owned tract is at least equal to the debts against it, and

(C) The applicant's participation in the joint ownership of part of the farm and its operations has been is likely to continue to be successful.

(9) *Life estate.* When the applicant owns a life estate interest in the property, the remaindermen's interests need not be included in the mortgage if one or more of the remaindermen are not legally competent or cannot be located or if the remainer rights are divided among such a large number of remaindermen that it is not practicable to obtain the signatures of all the remaindermen. In that case, the mortgaging of remainder interests, not exceeding 50 percent of the total remainder interest may be excluded from the security requirements upon prior approval by the State Director. The State Director should review the County Supervisor's and District Director's recommendations accomanied by a memorandum stating complete ownership information and circumstances which justify the exclusion. In such cases, the loan may not exceed the percentage of market value of the property represented by the interests of those remaindermen who sign the mortgage, determined with due regard to all adverse factors involved. Remaindermen will be required to sign the note when necessary for a sound loan or to obtain the required security.

(10) *Farm dwelling.* When the applicant is the owner of a farm, a mortgage may be taken only on the dwelling and dwelling site provided the following conditions can be met:

(i) The tract to be mortgaged must not include or be close to farm service buildings, must be in a good residential location, be otherwise suitable as a residential type of nonfarm tract, provide adequate security for the loan, be contiguous to and have direct access to a public road, or

(ii) The tract to be mortgaged must contain at least enough land to clearly provide adequate security for the loan and to make the tract readily saleable in the area.

(11) *Land purchase contract.* When the ownership interest is by virtue of a land purchase contract a prior lienholder's agreement must be obtained as required by Part 1807 of this chapter (FmHA Instruction 427.1, paragraph IIF5.)

(c) *Additional security.* When necessary to supplement the applicant's equity in the farm or nonfarm tract on which the dwelling is located, or to facilitate servicing the loan, FmHA may also take a mortgage on other real estate owned by the applicant.

(d) *Assignment of income from real estate to be mortgaged.* Income to be received by the borrower from royalties, leases, or other existing agreements under which the value of the real estate security will be depreciated will be assigned and disposed of in accordance with § 1872.11 of Part 1872 of this chapter (FmHA Instruction 465.1, paragraph XI), and the provisions for written consent of any prior lienholder. In small nonfarm tract cases, the State Director may authorize withholding transmittal of assignments to lessees for execution until production begins. The State Director may, in individual cases, waive the requirement of taking an assignment if repayment of the loan is reasonably assured from other sources.

§§ 1944.19–1944.21 [Reserved]

§ 1944.22 Refinancing debts.

(a) Refinancing of FmHA debts is not authorized.

(b) Loan funds may be used for refinancing non-FmHA debts only if the

debt was incurred by the applicant prior to the date the application was filed and the following conditions can be met:

(1) The debt was incurred for purposes for which a Section 502 RH loan could be made or is a protective advance by the mortgagee for items covered by the mortgage to be refinanced, such as accrued interest, insurance premium or real estate tax advances or preliminary foreclosure costs.

(2) The debt must be a lien against the property which will be security for the RH loan. The promissory note and security instrument for the debt must represent rates and terms that were typical and customary for long-term residential financing in the area at the time the debt was incurred.

(3) A loan to refinance a qualified secured debt may also include short-term or unsecured debts, if necessary to establish a sound repayment ability, if such short-term or unsecured debts were incurred for authorized Section 502 loan purposes and are not a significant portion of the loan.

(4) Payments on the debt are so seriously delinquent, for reasons beyond the control of the applicant, that the applicant is likely to lose the dwelling at an early date if the debt is not refinanced. Such delinquency must be due to loss of employment or income, illness, or such other similar events or unforeseen circumstances.

(5) A statement will be obtained for each debt to be refinanced showing the purpose for which the debt was incurred, the date on which it was incurred, the final due date, interest rate, amount and frequency of installments, amount of delinquency, unpaid principal and accrued interest.

(c) If a loan of $5,000 or more is necessary for repairs to correct major deficiencies to make the dwelling decent, safe and sanitary, an existing lien which meets the requirements of paragraph (b) (1), (2) and (3) of this section may be refinanced regardless of delinquency, if necessary for the applicant to have repayment ability for the existing loan and the requested loan for repairs.

(d) Debts or costs incurred after the date of application may be refinanced if the costs were incurred for:

(1) Fees for legal, architectural and other technical services, or

(2) Materials, construction or site acquisition.

(3) The County Supervisor may authorize the use of RH funds to pay costs provided for in paragraphs (d) (1) and (2) of this section only when all of the following conditions exist:

(i) The costs were incurred after the applicant filed a written application for a loan but before the loan was closed. In the case of a subsequent loan to complete improvements previously planned, the costs must have been incurred after the initial loan was closed.

(ii) The applicant is unable to pay such costs from personal resources or to obtain credit from other sources and failure to authorize the use of RH funds to pay such costs would jeopardize the applicant's capability of repaying the loan.

(iii) The construction or repair work conforms to that shown on the building plans and specifications or Form FmHA 424–1, "Development Plan," when applicable, and the costs were incurred for authorized section 502 loan purposes.

§ 1944.23 Loans to farm ownership (FO), individual soil and water (SW), and recreation (RL) borrowers.

A section 502 loan may may be made to an FO, SW, or RL borrower or simultaneously with an FO loan and a loan from another lender, if all conditions of this Subpart are met. In these cases, the borrower's current FO, SW, or RL loan may be reamortized in accordance with § 1951.40 of Subpart A of Part 1951 of this chapter.

§ 1944.24 Technical services.

(a) *Planning and performing construction work.* Any construction work will be planned and completed in accordance with Subpart A of Part 1924 of this chapter.

(b) *Planning and performing site development work.* Any site development will be planned and completed in accordance with Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5).

(c) *Appraisal.* The value of property securing RH loans will be determined as follows:

(1) When a mortgage will be taken on a nonfarm tract or small farm, or on a leasehold interest in a nonfarm tract or small farm, to secure a total indebtedness of more than $7,500, an appraisal of the security property will be made in accordance with FmHA Instruction 422.3 (available in any FmHA office). A small farm for the purpose of this Subpart is a farm as defined in §1944.2(h) of this subpart which has value primarily as a residence rather than for the production of agricultural commodities, and repayment of the RH loan is not dependent on farm income.

(2) When a mortgage will be taken on a farm tract or leasehold interest in a farm tract to secure a total indebtedness of more than $7,500, an appraisal of the security property will be made in accordance with Subpart A of Part 1809, of this chapter (FmHA Instruction 422.1).

(3) When the total indebtedness will be not more than $7,500, an appraisal of the real estate or leasehold interest is not required, unless the County Supervisor or loan approval official is uncertain as to the adequacy of the security. When an appraisal is not completed the County Supervisor will document in the case file the estimated market value of the property.

(4) When a loan is being made to an FmHA real estate borrower and the FmHA appraisal report in the borrower's case folder indicates the value of the security property is adequate to secure the total real estate indebtedness, including the planned loan, an appraisal is not required.

(5) Real estate mortgaged as additional security will be appraised when it represents a substantial portion of the security for the loan or when requested by the loan approving official.

(d) *Title clearance and legal services.* (1) When real estate will be taken as security except on a best mortgage obtainable basis (including a mortgage on a leasehold), title clearance and legal services for making and closing the loan will be provided in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1). Title clearance and legal services will not be requested until the loan is approved.

(2) When real estate will not be mortgaged or when the best real estate mortgage obtainable is taken as security without title clearance or use of legal services, each applicant will be required to submit evidence of ownership of the farm or nonfarm tract. This may be the original or a certified or photostatic copy of the deed, purchase contract, or other instrument evidencing ownership. When the County Supervisor is uncertain as to whether or not the applicant is a qualified owner, such action will be taken as the County Supervisor considers necessary, such as requiring the applicant to furnish additional information or obtaining the advice of the OGC regarding the evidence of ownership submitted and any further information or action that may be needed. Proof of ownership need not be as much as that required by Part 1807 of this chapter (FmHA Instruction 427.1). For example, it may include such evidence as the levy and payment, in the applicant's name, of taxes on the real estate and affidavits by others in the community to the effect that the applicant has occupied the property as the apparant owner for a given length of

time and is believed and generally reputed to be the owner. No loan will be made if the County Supervisor has actual knowledge that the applicant does not have a valid title to the property.

§ 1944.25 Rates, terms, and source of funds.

(a) *Source of funds.* Insured loan funds from the Rural Housing Insurance Fund (RHIF) will be used for all Section 502 loans.

(b) *Interest rate per annum on unpaid principal.* Loans will be made at the interest rate(s) specified in FmHA Instruction 440.1, Exhibit B (available in any FmHA office). If only one interest rate is so specified, such rate will be the maximum interest rate established for mortgages under Section 203(b) of the National Housing Act by the Secretary of Housing and Urban Development (HUD). If there are two interest rates for Section 502 insured RH loans specified in FmHA Instruction 440.1, Exhibit B, moderate-income borrowers will pay the HUD rate if the annual payments required for principal and interest on existing section 502 RH loans, if any, the annual principal and interest payments on the loan for which application is being made (with payments calculated at the HUD rate), taxes, and insurance are not more than twenty percent (20%) of the borrower's adjusted annual income. In all other cases, moderate-income borrowers will pay the rate specified as the Section 502 rate.

(c) *Amortization.* Each loan will be scheduled for repayment over a period not to exceed 33 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probability of depreciation of the security. A loan for $2,500 or less not secured by a real estate mortgage will be scheduled for repayment over a period not to exceed 10 years from the date of the note.

(d) *Interest credit.* Borrowers may be eligible for an interest credit subsidy which can reduce the borrower's effective interest rate to as low as 1 percent. The policies and procedures for granting and servicing interest credit on RH loans are set forth in § 1944.34.

§ 1944.26 Application processing.

(a) *Processing priorities.* Applications for section 502 RH loans will be processed in accordance with § 1910.4(a) of Subpart A of Part 1910 of this chapter except that applications for the following types of loans will have processing priority:

(1) Loans to refinance qualified debts in accordance with § 1944.22(b). Cases where the applicant is in immediate danger of losing the dwelling may be funded from National Office reserve funds if allocated funds are not available.

(2) Subsequent loans which are necessary to complete transfers by assumption, complete credit sales, or for essential improvements or repairs.

(b) *Application forms.* (1) Applications for section 502 RH loans will be made on Form FmHA 410–4, "Application for Rural Housing Loans (Nonfarm Tract)," or Form FmHA 410–1, "Application for FmHA Services," which are available at local County Offices, and processed in accordance with Subpart A of Part 1910 of this chapter.

(2) If Form FmHA 410–4 does not provide sufficient information to clearly determine the applicant's repayment ability, or if the applicant needs credit counseling, Form FmHA 431–3 will be completed by the applicant and County Supervisor. In preparing Form FmHA 431–3 the following will be considered:

(i) Non-cash items (*e.g.*, food stamps, scholarships, free clothing, or transportation which help reduce the applicant's budgeted expenses) will be properly documented, and budgeted expenses will be reduced accordingly.

(ii) Dependably available income from all sources not used to determine adjusted annual income, such as earnings from employment of minors or full-time students, foster care payments, and similar income items, will be considered to the extent it is used to offset budgeted expenses even though such income will not be included in "annual income."

(3) An applicant who completes Form FmHA 410–1 will also complete Form FmHA 431–2 as prescribed in Subpart B of Part 1924 of this Chapter. In preparing Form 431–2, the provisions of paragraphs (2) (i) and (ii) of this section will apply to allow consideration of all income and non-cash items. When a loan is to be made to an non-operator farmowner, the columns in Tables B and C pertaining to the operator's share will be changed to the owner's share. If an application is being considered early in the crop year for a borrower who has a current Form FmHA 431–2, such form will be revised to show changes in the financial statement and significant changes in the planned operation. However, if the crop year is well advanced or completed, a farm and home plan will be developed for the ensuing year. The applicant will also complete Form FmHA 431–1, "Long-Time Farm and Home Plan," when needed.

(4) When available funds are not adequate to complete the processing of all applications as they are received, a preliminary determination of eligibility will be made in accordance with § 1910.6(c) of Subpart A of Part 1910 of this chapter. Applicants who appear eligible based on information provided at time of application will be advised of the estimated waiting period and that a final determination of eligibility will be made when loan funds are available for the processing of their applications. Exhibit E should be used as a guide to notify applicants of preliminary eligibility. Applicants on the waiting list will be notified when funds are available and will be advised of information necessary to determine final eligibility for loan approval.

(c) *Applicant interview.* A personal interview will be conducted by FmHA employees with all applicants before approval of the requested loan. During the interview, the applicant will verify information, including any submitted by a packager or others, concerning the applicant's employment and income. The applicant will also verify information concerning persons who will occupy the dwelling and on whose income eligibility for the loan and any interest credit is based. The County Supervisor will inform the applicant, and reach an understanding with the applicant, as to the FmHA loan making and servicing authorities, and the responsibilities of the applicant or borrower. The *discussion* will include an explanation of all options of assistance which may be available to the applicant or borrower. A documentation of the items *discussed* will be placed in each applicant case file and will be dated and signed by both the applicant and County Supervisor. A copy will be provided to the applicant or borrower at the time of the personal interview. Exhibit D of this Subpart sets forth items which must be included and may be used as a guide in preparing the required documentation for this purpose. *No housing loan will be approved without such evidence that a personal interview has been completed.*

(d) *Credit counseling.* During the time of the applicant's initial interview and application processing, consultation will be provided as necessary to assist the applicant in preparing and understanding a meaningful budget, Form FmHA 431–2, or Form FmHA 431–3, which will reasonably reflect the applicant's repayment ability. County Supervisors will work closely with applicants to better understand all sources of income and cash substitutes. Credit and financial counseling will also be provided, as needed, to suggest financial management methods by

which the applicant's success as a homeowner may most likely be achieved. When the County Supervisor determines that the applicant does not have sufficient income to repay the requested loan, other alternatives will be considered such as reducing amenities in the dwelling, selecting a less expensive dwelling or site, obtaining a cosigner, reduction of present debt load or, when appropriate, building the dwelling by the self-help method.

(e) *Determining eligibility.* (1) The County Committee will determine eligibility of RH applicants who are also applying for or are indebted for a Farmer Program loan. The County Supervisor will determine eligibility for all other RH applicants.

(2) Repayment ability as outlined in § 1944(a)(2), will be evaluated on the circumstances surrounding the individual case including possible eligibility for interest credits as provided in § 1944.34. Obvious repayment ability may be determined by use of the short budget on Form FmHA 410–4. Form FmHA 431–3 will be completed by the applicant and the County Supervisor if eligibility cannot be clearly determined from the short budget. Under no condition(s) will arbitrary guidelines or "rules of thumb" be used. If the applicant(s) can verify payment of a comparable or greater amount for housing costs for the previous 12 months, the applicant will be presumed to have repayment ability for the requested loan unless:

(i) Current annual income is less than past income,

(ii) Planned expenses are proportionally greater than current expenses, when compared to income, or

(iii) The applicant has increased debts, or failed to pay existing debts in order to maintain the present standard of living.

(3) Credit history will be considered to the extent that it is used in evaluating all applicants for similar types and amounts of credit in accordance with the Equal Credit Opportunity Act. For instance, credit requirements for a female applicant will not differ from those of a male applicant.

(4) The age of the applicant will not be used as a consideration of eligibility, except as provided in § 1944.9(d).

(5) The County Supervisor must determine whether the applicant could obtain housing credit elsewhere as follows:

(i) In any case in which a County Supervisor determines there is no possibility of the applicant's obtaining adequate housing credit elsewhere and, therefore, does not require the applicant to provide evidence that an effort has been made to obtain such credit, the County Supervisor will record that conclusion and the basis for it in the loan docket.

(ii) In any case where there may be a possibility that credit could be obtained from another source, the County Supervisor will require the applicant to make a diligent effort to obtain other credit.

(A) Applicants will be expected to apply for credit from lenders engaged in extending long-term housing credit in the area.

(B) Applicants should be advised to request lenders to indicate the amount, interest rate, and terms of housing credit they would be willing to extend to the applicant.

(C) When appropriate, the County Supervisor should verify evidence presented by an applicant that adequate credit is not available elsewhere.

(D) Letters from the lenders and any other evidence indicating that the applicant is unable to obtain credit elsewhere will be included in the loan docket.

(E) In no case will a loan be made to an applicant who is able to obtain the credit needed from another source at terms that can reasonably be expected to be within the applicant's repayment ability.

(f) *Veterans preference.* Veterans preference will apply when:

(1) There is a shortage of funds,

(2) Obligating forms are ready to be submitted to the Finance Office, and

(3) There is more than one application having the same date.

(g) *Optioning of real estate.* The County Supervisor should advise the applicant with respect to the size, design, quality, cost and location of the dwellings and dwelling sites suitable for the RH program. If possible this should be done before the applicant selects a property to be purchased. Form FmHA 440–34, "Option to Purchase Real Property," should be used; however, other option forms may be used if their provisions are acceptable.

(h) *Application assistance.* Builders, brokers, contractors, and others including organizations such as those providing self-help assistance, who can provide complete information on the applicant and the house that is to be purchased, may assist in the assembly and processing of loan applications. Form FmHA 1944–12, "Rural Housing Loan Application Package," will be used for this purpose. Builders or sellers who received conditional commitments may also assist applicants in applying for an RH loan to buy a house for which a conditional commitment was issued in accordance with § 1944.45. The County Supervisor will meet with such interested parties to explain:

(1) The elegibility requirements of RH loans,

(2) The size, design, cost and location of homes that can be financed,

(3) The requirements of FmHA Instruction 1901–E,

(4) How applications will be handled, and

(5) The type of information that must be submitted. The information to be submitted is listed in Exhibit A of this Subpart which may be used as a guide.

(i) *Appeal.* If the decision on the applicant's request for assistance is unfavorable and was based on appealable actions, the applicant will be notified of appeal rights as required by § 1910.6(b) of Subpart A of Part 1910 and Subpart B of Part 1900 of this chapter.

§§ 1944.27–1944.29 [Reserved]

§ 1944.30 Preparation of loan docket.

(a) Forms and documents will be fastened in the designated filing positions of the case folder as prescribed in Exhibit A of FmHA Instruction 2033–A (available in any FmHA office). Appropriate loan docket forms will be prepared in accordance with the Forms Manual Insert (FMI) for distribution as follows:

Form No.	Name of form	Total number of copies	Number signed by borrower	Loan docket	Copy for borrower
FmHA 410–1	Application for FmHA Services	1	1–O	1–O	
FmHA 410–4	Application for Rural Housing Loans (nonfarm tract)	1	1–O	1–O	
FmHA 1944–12	Rural Housing Loan Application Package	1		1–O	
FmHA 410–5	Request for Verification of Employment	1		1–O	
FmHA 410–7	Notification to Applicant on Use of Financial Information from Financial Institution.	2		1–C	1–O
FmHA 410–8	Applicant Reference Letter	1		1–O	
FmHA 410–9	Statement Required by the Privacy Act	2	2–O and C	1–C	1–O

Form No.	Name of form	Total number of copies	Number signed by borrower	Loan docket	Copy for borrower
FmHA 431-2	Farm and Home Plan	1	1-O	1-O	(In record book).
FmHA 431-1	Long-Time Farm and Home Plan	2	2-O and C	1-C	1-O.
FmHA 431-3	Household Financial Statement and Budget	2	2-O and C	1-C	1-O.
FmHA 440-2	County Committee Certification or Recommendation	1		1-O	
FmHA 427-8	Agreement with Prior Lienholder (or similar form)	[2]3		1-O	1-C.
FmHA 440-34	Option to Purchase Real Property	[3]3	2-O and C	1-O	1-C.
FmHA 424-1	Development Plan (Including any plans, specifications, and cost estimates).	[1]2	1-O	1-O	1-C.
FmHA 422-1	Appraisal Report (farm tract) (with attachments)	1		1-O	
FmHA 427-9	Preliminary Title Opinion	2		1-O	1-C (Designated attorney).
FmHA 1944-6	Interest Credit Agreement (Section 502 RH loans)	3	1-O	1-O	1-C (Finance) 1-C.
FmHA 1940-1	Request for Obligation of Funds	4	2-O and C	1-O	1-C.
FmHA 444-2	Single Family Housing Fund Analysis	4		1-C	
FmHA 440-35	Acceptance of Option	2	1-O	1-C	1-O[4].
FmHA 440-41	Disclosure Statement for Loans Secured by Real Estate	3	(See FMI)	1-C	1-O.
FmHA 440-42	Credit Sale Disclosure Statement	3	(See FMI)	1-C	1-O.
FmHA 440-43	Notice of Right to Rescind	3	(See FMI)	1-C	2-O and C.
FmHA 400-3	Notice to Contractors and Applicants	3		1-C	1-C 1-O (Contractor).
FmHA 400-6	Compliance Statement	3		1-C	1-O (Contractor). 1-C
FmHA 440-9	Supplementary Payment Agreement	2	1-O	1-O	1-C.
FmHA 440-45	Nondiscrimination Certificate (Individual housing)	2	2-O and C	1-O	1-C.

O—original; C—copy.
[1] When contract method will be used, 3 copies of plans and specifications will be required.
[2] Copy to lienholder.
[3] Signed copy of option previously delivered to seller.
[4] Original to seller.

(b) All other documents necessary for approval of the particular loan will be included in the loan docket. This will include the following or others as appropriate:

(1) A copy of Exhibit D, "Rural Housing Applicant Interview," or a similar document executed by the applicant.

(2) Credit report(s) on the applicant(s).

(3) Evidence of ownership such as a certified copy of the applicant's deed, lease, purchase contract, or other evidence specified in § 1944.24(d), or a statement by the County Supervisor that such documents have been reviewed.

(4) Estimates of the value of any security for which a formal appraisal report is not required.

(5) Agreements from prior lienholders, if any, when necessary to comply with § 1944.18(b)(6) and § 1807.2(f) of this chapter (paragraph II F of FmHA Instruction 427.1).

(6) When the loan is to be secured by a junior real estate mortgage, the docket must include a copy of each prior mortgage and, if available, a copy of each secured note or other obligation, furnished by the applicant at the applicant's own expense. The docket must include a current statement signed by the mortgagee showing the amount of unpaid principal secured by the mortgage; the amount of any accrued interest; the amount of any delinquency, with interest and principal shown separately; and, if a copy of the note is not furnished, its maturity date, payment schedule, interest rate, and a summary of any other provisions of the note.

(7) When the applicant obtains a cosigner, the docket must include that cosigner's current financial statement, income statement, and employment or business history. This will be supplemented by a statement from the County Supervisor as to the cosigner's financial condition and reputation for paying debts, and any other information, such as a credit report, that will be of assistance to the loan approval official.

§ 1944.31 Loan approval.

(a) The State Director, District and Assistant District Directors, County and Assistant County Supervisors are authorized to approve or disapprove loans in accordance with FmHA Instruction 1901-A (available in any FmHA office).

(b) The loan approval official is responsible for reviewing the docket to determine that the proposed loan complies with established policies and all pertinent regulations and that funds are available for the loan.

(c) Prior to loan approval a new verification of employment will be required if more than 90 days have elapsed since the date of the last verification of employment, or if evidence is brought to the attention of the loan approval official that indicates the applicant's financial status has changed significantly.

(d) When a loan is approved, the loan approval official will:

(1) Indicate on all copies of Form FmHA 1940-1 any condition that must be met before the loan is closed. Also, the loan approval official will specify all security requirements that the applicant will need to meet, such as a first real estate lien or a junior lien subject to certain prior liens. If title evidence is required in accordance with Part 1807 of this chapter (FmHA Instruction 427.1) or in accordance with any special requirements for the loan but is not included in the docket, the loan may be approved subject to the applicant's furnishing the required title evidence. When the applicant furnishes required title evidence, the County Supervisor will proceed with processing the loan. In those cases in which the title evidence does not comply with the conditions specified by the approval official, the docket will be reconsidered by the loan approval official.

(2) Sign the approval certification on the original and one copy of Form FmHA 1940-1 and insert title in the space provided. The remaining copies will be conformed.

(3) If a loan is not approved after the docket has been developed, the reason for such action with date and initial of the approval official will be shown on the original Form FmHA 1940-1 and the County Supervisor will notify the applicant in accordance with § 1910.6(b) of Subpart A of Part 1910 of this chapter.

(e) After the loan is approved the docket forms will be distributed as outlined below.

(1) *To the Finance Office.*

(i) Form FmHA 1940-1 (first copy);

(ii) Form FmHA 444-2 (original).

(2) *To the State Office.* If the loan is approved by the County Supervisor, or the District Director, an unsigned copy of Form FmHA 1940-1 (unless exempted by State Supplement) and a copy of Form FmHA 444-2 will be sent to the State Office. If the loan is approved in the State Office, an unsigned copy of Form FmHA 1940-1 and a copy of Form FmHA 444-2 will be retained in the State Office.

(3) *To the borrower.* A signed copy of Form FmHA 1940-1, the original of Form FmHA 440-41, and if applicable, the original and copy of Form FmHA 440-43.

§ 1944.32 Actions subsequent to loan approval.

(a) *Requesting a loan check.* (1) A loan check may be requested when all approval conditions can be met and necessary curative actions have been taken to provide a satisfactory title to real estate security. Form FmHA 440–57, "Acknowledgment of Obligated Funds/ Check Request," will be completed and a copy sent to the Finance Office to request the check.

(2) A loan check may be requested at the time of loan approval by entering the amount of the check requested on Form FmHA 1940–1 when one of the following conditions exist:

(i) The loan will be secured by a promissory note only, or

(ii) Real estate security will be taken and the County Supervisor is reasonably certain that satisfactory title evidence can be obtained and the loan can be closed within 21 days from the date of the check request.

(3) When not more than $4,000 of the loan funds will remain unexpended for more than 15 days after loan closing, the total amount of the loan will be requested in a single advance.

(4) If loan funds cannot be expended within 15 days, the County Supervisor will enter in the appropriate "block" of Form FmHA 1940–1 the amount of loan funds to be disbursed at loan closing. Additional loan funds will be requested when, and in amounts, needed by submitting a completed copy of Form FmHA 440–57 to the Finance Office, or by telephone request if the additional funds cannot be received by the date needed using mail service. The County Supervisor should work with borrowers, developers, and others to be sure that funds will be available when needed and to reduce the multiple advances to a reasonable number. Any loan funds not requested by the "amortization effective date" for the loan, will be disbursed by the Finance Office to the County Office by check dated on the amortization effective date. The check will be deposited in the borrower's supervised bank account if it cannot be endorsed directly to a payee within 20 working days from the date of the check.

(b) *Handling loan checks.* (1) When the loan check or borrower's personal funds are to be deposited in the designted loan closing agent's escrow account, this will be done no later than the date of loan closing. If loan funds or borrower's personal funds are to be deposited in a supervised bank account, this will be done in accordance with § 1902.6 of Subpart A of Part 1902 of this chapter no later than the first banking day following the date of loan closing.

(2) If a loan check is received and the loan cannot be closed within 20 working days from the date of the check, the County Supervisor will take appropriate action in accordance with FmHA Instruction 102.1 (available in any FmHA office).

(c) *Cancellation of loan.* Loans may be cancelled before loan closing by the use of Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation," prepared in accordance with the FMI for that form. Checks received in the County Office will be returned with a copy of Form FmHA 440–10 to the Disbursing Center, U.S. Treasury Department, P.O. Box 3329, Kansas City, Kansas 66103. Interested parties will be notified of the cancellation as provided in § 1807.6 of this chapter (FmHA Instruction 427.1). If the cancellation is not a voluntary action by the applicant, the applicant will be notified in accordance with § 1910.6 (b) of Subpart A of Part 1910 of this chapter.

(d) *Increase or decrease in amount of loan.* If it becomes necessary that the amount of the loan be increased or decreased prior to loan closing, the County Supervisor will request that all distributed docket forms be returned to the County Office. The loan docket will be revised accordingly and reprocessed.

(e) *Property insurance.* Buildings on the property which is to be taken as security for the loan will be insured in accordance with Subparts A and B of Part 1806 of this chapter (FmHA Instructions 426.1 and 426.2) when appropriate.

§ 1944.33 Loan Closing.

(a) *Loans approved with interest credit.* If the loan will be closed and Form FmHA 1944–6 or 1944–A6, "Interest Credit Agreement (section 502 RH Loans), "will be executed more than 90 days after the last "Verification of Employment," or if there is evidence to indicate the applicant's financial status has changed signifcantly, a current "Verification of Employment" will be obtained and the amount of interest credit will be determined on the baiss of the applicant's new circumstances. If the adjusted income exceeds the low-income limit set forth in Exhibit C of this Subpart, the loan will not be closed unless authorized by the State Director. Such authorization may be granted if there is documented evidence to clearly indicate other credit is not available. Interest credit will not be granted in any case in which the adjusted income exceeds the moderate-income limit set forth in Exhibit C.

(b) *Loans approved without interest credit.* Further review of the applicant's financial status is not required at the time of closing unless the loan is closed more than 90 days after the date of loan approval, or there is evidence to indicate the financial status has changed significantly. If the adjusted income exceeds the limit for moderate income set forth in Exhibit C of this Subpart, the case will be referred to the State Director. The State Director may authorize closing of the loan if there is documented evidence to clearly indicate other credit is not available.

(c) *Promissory note.* Form FmHA 440–16, "Promissory Note," will be prepared and signed in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1), and the FMI for the form.

(1) The payment alternatives of the note will be completed in accordance with the FMI for the form. Payments of principal and interest will be deferred during the period the dwelling is not expected to be suitable for occupancy as a residence because of construction or repairs to be made. In such cases if the loan is closed before any funds are advanced by the Finance Office or loan funds are distributed by multiple advance, accrued interest is added to principal and repaid in regular amortized installments (payment alternative II) after the deferment period.

(2) The payment provision of the note will be completed in accordance with the FMI for the form and the following:

(i) The monthly payment provision will be used for all borrowers who regularly receive monthly income and who can repay the loan in 12 equal monthly payments.

(ii) The annual payment provision will be used only for borrowers who do not regularly receive monthly income throughout the year. If installments are not to be deferred, the following provisions apply:

(A) The amount of the first installment will be determined by the County Supervisor after considering the immediate debt paying ability of the borrower. The amount of the first installment may be less, but not more, than a regular annual installment.

(B) The amount of the first installment may not be less than the amount equal to interest on the loan from the date of loan closing to the next January 1.

(C) Form FmHA 440–9 should be used to supplement this payment provision to facilitate servicing of loans for borrowers who pay more than one time a year.

(d) *Real estate mortgage.* Form FmHA 427–1, "Real Estate Mortgage for (State)," will be used for loans to be secured by a real estate mortgage. Any

changes made in the text by deletion, substitution, or addition (excluding filling in blanks) will be initialed in the margin by all persons signing the mortgage. Additions will be made on the mortgage in the following cases:

(1) For a loan secured by a mortgage on a leasehold, the following language, or similar language which in the opinion of OGC is legally adequate, will be inserted in the mortgage just before the legal description of the real estate:

All Borrower's right, title, and interest in and to the leasehold estate for a term of — years beginning on ——, 19—, created, executed and established by certain Lease dated ——, 19—, by ———— as lessor(s), and recorded at Book ————, Page — of the ——— Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate:

(2) For a loan secured by a mortgage on a leasehold an additional covenant will be inserted in the mortgage to read as follows:

Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish, without the Government's written consent, any of Borrower's right, title or interest in or to said leasehold estate or under said Lease while this instrument remains in effect.

(3) For all initial and subsequent Section 502 RH loans, until the mortgage forms are revised, the following additional covenant will be inserted above the signature line on the mortgage and be initialed at loan closing by all parties signing the mortgage.

This instrument also secures the recapture of any interest credit or subsidy which may be granted to the borrower(s) by the Government pursuant to 42 U.S.C. 1490a.

(e) *Collection of first installment.* If the annual payment provision of the note is used and payments are not deferred, the first installment of a loan closed during December will be collected at the time of loan closing.

(f) *Direct payments.* Direct payment cards for all new borrowers, including transferees, will be retained in the County Office until the borrower has made at least three monthly payments on time. The cards may then be delivered to the borrower and payments made directly to the Finance Office. The County Supervisor may retain the payment cards for a longer period if such action is considered to be necessary to determine that the borrower is able to make timely payments as agreed. Payments made to the County Office will be forwarded to the Finance Office with the appropriate direct payment card in the Finance Office mail. Cash payments, refunds, and extra payments made by borrowers will be handled in accordance with Subpart B of Part 1951 of this chapter.

(g) *Owner's policy of title insurance.* If an owner's policy of title insurance is obtained, it will be delivered to the borrower as soon as it is received from the title insurance company.

(h) *Real estate mortgage after filing.* When the real estate mortgage is returned by the filing official or loan closing official, the original will be filed in the borrower's case folder. If the original is retained by the filing official in the official records, a copy conformed to show the recording data including the date and place of recording and the book and page number will be filed in the borrower's case folder. A copy of the mortgage will be delivered to the borrower.

(i) *Effective date of loan closing.* A loan secured by a real estate mortgage is closed when the mortgage is filed for record. In other cases a loan is closed when the borrower executes the note and any other required instruments.

(j) *Water stock certificate or other such collateral.* When water stock certificates or other such collateral are part of the security, they will be retained in the County Office. A notation will be made on Form FmHA 1905–1, "Management System Card-Individual," or Form FmHA 1905–5, "Management System Card-Individual (RH Only)," as appropriate, showing that such security has been retained.

(k) *Account record and case folder.* The account record and case folder will be established in accordance with FmHA Instructions 2033–A and 1905–A (available at any FmHA office).

§ 1944.34 Interest credit.

(a) *General.* It is the policy of FmHA to grant interest credit on loans to low-income borrowers to assist them in obtaining decent, safe, and sanitary dwellings and related facilities.

(b) *Definitions.*

(1) *Annual payment borrowers.* Borrowers who signed promissory notes providing for annual payments, including borrowers converted to monthly payments through the use of Form FmHA 451–34, "Direct Payment Plan Change."

(2) *Monthly payment borrowers.* Borrowers who signed promissory notes providing for monthly payments.

(3) *Review period.* The review period for an annual payment borrower will be the months of October and November. The review period for a monthly payment borrower will be the second and third months prior to the anniversary date of the borrower's current Interest Credit Agreement.

(4) *Real estate taxes.* Real estate taxes for interest credit purposes means the amount of real estate taxes and assessments that will actually be due and payable on the dwelling and the dwelling site during the interest credit period, reduced by the amount of any tax exemption available to the borrower, regardless of whether such exemption is actually claimed. Tax exemptions may include such things as homestead exemptions, special exemptions for low-income families, senior citizens, veterans and others.

(c) *Approval authority.* Those FmHA officials who are authorized to approve Section 502 loans are also authorized to approve the Interest Credit Agreement.

(d) *Amount of interest credit.*

(1) Loans qualified to be considered in the interest credit calculation include only those advanced for authorized Section 502 RH purposes and which are a lien against the FmHA security by virtue of a prior mortgage or a junior mortgage consented to by FmHA. Except as provided in paragraph (d)(2) of this section, the amount of interest credit granted will be the lesser of:

(i) The difference between 20 percent of the borrower's adjusted annual income and the sum of the annual installments due at the note interest rate on qualified loans plus the cost of real estate taxes and insurance, or

(ii) The difference between the annual installment due on the FmHA promissory notes eligible for interest credit and the amount the borrower would pay if the loan(s) were amortized at an interest rate of 1 percent.

(2) For repair and rehabilitation loans which meet the requirements of paragraph (f)(6) of this section, interest credit will be granted in an amount to achieve the following effective interest rates:

(i) For borrowers whose adjusted annual income is not more than $5,000, interest credit will be calculated to reduce the effective interest rate to 1 percent.

(ii) For borrowers whose adjusted annual income is more than $5,000 but not more than $7,000, interest credit will be calculated to reduce the effective interest rate to 2 percent.

(iii) For borrowers whose adjusted annual income is more than $7,000 but not more than $10,000, interest credit will be calculated to reduce the effective interest rate to 3 percent.

(3) Borrowers qualifying for interest credit assistance under both paragraphs (d) (1) and (2) of this section will be granted only the one type of interest

credit assistance that is most beneficial to them. Interest credit on initial and subsequent loans will always be the same type. There is no provision for switching from one type of interest credit to the other.

(e) *Recapture.* At the applicant interview, the Country Supervisor will advise all Section 502 RH applicants that interest credit is subject to recapture. Applicants who receive interest credit will be required to sign a "Subsidy Repayment Agreement" (Subpart I of Part 1951 of this Chapter, Exhibit A) at the time the initial interest credit agreement is signed.

(f) *Eligibility.* To be eligible for interest credit, a borrower must qualify for a Section 502 loan, must personally occupy the dwelling, and must meet the following additional requirements:

(1) *Initial loans.* Interest credit may be granted at loan closing if:

(i) The borrower's adjusted annual income does not exceed the applicable low-income limit in Exhibit C.

(ii) The borrower's net worth does not exceed $7,500 (a maximum net worth of $10,000 will be allowed for senior citizens) unless an exception is authorized. The calculation of net worth will exclude the value of the dwelling and dwelling site, cash on hand which will be used to reduce the amount of the loan, and household goods and the debts against them. For the purpose of determining whether an exception is justified, consideration will be given to the nature of the assets, particularly whether they are assets upon which a borrower is currently dependent for a livelihood or which could be used to reduce or eliminate the need for interest credit. The District Director may authorize exceptions of the net worth limitation up to $20,000. Cases recommended by the State Director for which the net worth exceeds $20,000 will be submitted to the National Office for authorization to grant interest credit.

(iii) The term of the loan is for 33 years, unless authorized otherwise by the State Director based on complete documentation of the justifiable reasons on an individual case basis. Interest credit will not be granted on loans with a term of less than 25 years, except as provided in paragraphs (f) (4) and (6) of this section.

(iv) The loan was approved on or after August 1, 1968.

(v) The amount of interest credit will be $5 or more per month or $60 or more annually.

(2) *Subsequent loans.* Interest credit may be granted on subsequent loans which meet the requirements of paragraph (f)(1) of this section or in cases where interest credit is presently being granted on the initial loan and the borrower's adjusted income does not exceed the moderate-income limit set forth in Exhibit C of this subpart.

(3) *Transfers and credit sales.* Interest credit may be granted to a borrower buying an inventory dwelling or assuming an RH loan provided:

(i) The requirements of paragraph (f)(1) of this section are met except that if the loan being assumed was initially approved before August 1, 1968, the assumption must be on new terms.

(ii) The note being assumed is not an above-moderate loan.

(4) *Reamortization.* Interest credit may be granted on loans after reamortization under the following conditions:

(i) If the loan was eligible for interest credit prior to reamortization, interest credit may continue to be granted even though the term of the reamortization period is less than 25 years; or

(ii) If the loan was not eligible for interest credit prior to reamortization, the reamortized term of the loan must be 25 or more years and all other conditions of paragraph (f)(1) of this section must be met.

(5) *Existing loans.* Interest credit may be granted at any time after loan closing if:

(i) The requirements of paragraph (f)(1) of this section are met.

(ii) The loan was approved as a "low or moderate" Section 502 loan on or after August 1, 1968.

(iii) The borrower requests interest credit, or the County Supervisor determines that interest credit is needed to enable the borrower to repay the loan. In the case of married borrowers, when one spouse has left the dwelling due to martial discord, interest credit based on the remaining spouse's income may be extended to the remaining spouse if:

(A) The remaining spouse is occupying the dwelling, owns a legal interest in the property, and is liable for the debt;

(B) The FmHA loan account is put in the remaining spouse's name;

(C) Legal papers have been filed with the appropriate court to commerce divorce or legal separation proceedings, or one spouse has not been living in the dwelling for at least six months. Interest credit will not be granted if separation is due only to work assignment or military order; and

(D) The remaining spouse is informed and agrees that should the spouse begin to live in the dwelling, that spouse's income will then be counted toward annual income and interest credit may be reduced or cancelled.

(6) *Repair and rehabiliation loans.* Interest credit may be granted on Section 502 RH loans made to repair or rehabilitate a dwelling already owned by the applicant provided the following conditions are met:

(i) The initial interest credit will be granted at the time of loan closing and the loan will be secured by a real estate mortgage;

(ii) The dwelling is, or will be, occupied by an eligible borrower after the loan is made;

(iii) The amount of the loan will not exceed $10,000, or be amortized for not more than 25 years;

(iv) The applicant's adjusted annual income does not exceed $10,000;

(v) The repairs will be made to bring a substandard dwelling up to the standards outlined in § 1944.16(c); and

(vi) The net worth requirements in paragraph (f)(1)(ii) of this section are met.

(g) *Processing interest credit.*—(1) *General.* The amount of interest credit for which a borrower may be eligible will be determined by use of Form FmHA 1944–6 or Form FmHA 1944–A6 as outlined in paragraph (d) of this section.

(i) *Determination of income.* The County Supervisor is responsible for determining the borrower's adjusted annual and annual income as defined in § 1944.2, paragraphs (b) and (c) respectively, of this subpart. A borrower interview will be conducted in all cases for granting initial interest credit. Form FmHA 410–5 will be used to verify the earnings from employment of all persons whose income is included in "Annual Income."

(ii) *Effective period.* Interest Credit Agreements on loans made to monthly payment borrowers will be for a 12-month period with the agreement extendable for an additional 12 months if the borrower's circumstances do not change. For annual payment borrowers the agreement will be in effect until the first December 31 after the effective date with the agreement extendable until the second December 31 after the effective date if the borrower's circumstances do not change. The effective date will be as indicated on the FMI for Form FmHA 1944–6.

(iii) *Partial year interest credit.* For an annual payment borrower with an initial installment less than a regular installment, and who will receive less than a full year of interest credit assistance, the interest credit granted will be a pro rata portion calculated on the number of months left in the current calendar year, including the month in which the loan is closed.

(iv) *Advance from the insurance fund.* The repayment schedule for advances made from the Rural Housing Insurance Fund will be computed at the interest rate shown on the promisory note. However, interest will accrue and payments will be applied on the amount advanced at the reduced interest rate in effect at the time of payment.

(v) *Preparation of the transaction record.* For borrowers receiving interest credit, the following changes will be shown on Form FmHA 451–26, "Transaction Record," when prepared by the Finance Office:

(A) Interest rate field. The interest rate field of the form will continue to show the interest rate on the note. The Finance Office will compute the effective interest rate charged the borrower based on the amount of interest credit granted. The computed rate, rounded to the nearest ⅛ of a percent, will be shown as a footnote on the form as "Interest Rate reduced to —— %." Subsequent transactions will be applied to the loan by the Finance Office at the reduced interest rate until such time as renewal, change, or cancellation occurs.

(B) Daily interest accural field. The daily interest accural will be shown at the reduced interest rate and the interest will accrue at the same interest rate until such time as the interest credit is renewed, changed, or cancelled.

(C) Application of credit field. The initial transaction record form will not have an entry in the "Application of Credit" field. The Interest Credit Transaction Code for this method of processing interest credit will be 4 Z.

(D) Payment status field. The payment status field will not reflect the dollar amount of the interest credit granted. No entry will be made for monthly payment borrowers.

(E) Minimum amount due by date shown field. For annual payment borrowers, the amount of the installment, reduced by the amount of interest credit granted, will be shown. For monthly payment borrowers the word "monthly" will be entered in the space provided.

(2) *Initial and subsequent loans.* (i) *County Office action.* The County Supervisor will:

(A) Determine the borrower's adjusted annual income and document the calculations in the case file running record.

(B) Enter on form FmHA 1940–1 the adjusted annual income, the estimated real estate taxes that will become due and payable during the first and second years of agreement, and the amount of the annual property insurance premium for the dwelling.

(C) For initial loans approved with interest credit and closed under the multiple advance feature of the loan disbursement system outlined in Subpart A of Part 1902 of this Chapter, further review of the borrower's financial status is not required unless the Interest Credit Agreement will be approved more than 90 days after the last "Verification of Employment," or there is evidence which indicates the borrower's financial status has changed significantly. If prior to approval of the Interest Credit Agreement the County Supervisor finds that the adjusted income has increased, interest credit will be granted on the basis of the borrower's new circumstances. Interest credit will not be granted if the borrower's adjusted income exceeds the moderate-income limit indicated in Exhibit C of this subpart.

(D) Complete and submit a corrected Interest Credit Agreement to the Finance Office when the loan is closed, or at the amortization effective date, if the borrower's circumstances have changed so that the amount of interest credit would be increased or decreased by at least $5 monthly or $60 annually.

(ii) *Finance Office actions.* The Finance Office will:

(A) Enter the information concerning adjusted annual income, the estimated real estate taxes, and the insurance premium on Form FmHA 440–57.

(B) Calculate the amount of interest credit to be granted to the borrower. The amount of interest credit will be determined from the information initially shown on Form FmHA 1940–1.

(C) Prepare and mail Form FmHA 1944–A6 to the County Office when the final loan check is issued. Upon receipt, the form will be completed and a copy returned to the Finance Office only when indicated on the form.

(D) Prepare and issue payment cards to the County Office.

(3) *Reamortization, credit sales and transfers.* Interest credit to a borrower whose loan is being reamortized, or a borrower who assumes an RH loan or purchases property from inventory will be calculated by the County Office on Form FmHA 1944–6. A copy of Form FmHA 1944–6 will be forwarded to the Finance Office along with the copy of the Reamortization Agreement, Advice of Mortgaged Real Estate Sold, or Assumption Agreement. The Finance Office will issue payment cards to the County Office.

(4) *Existing loans.* Interest credit granted in accordance with paragraph (f)(5) of this section can be processed at any time in the same manner as interest credit on initial loans, except that the County Office will complete Form FmHA 1944–6 and calculate the amount of interest credit assistance the borrower will receive. A copy of Form FmHA 1944–6 will be used to send interest credit information to the Finance Office. The daily interest accrual will be reduced as of the effective date entered on the form or as of the date the last cash credit was made to the account, whichever is later.

(h) *Interest credit modification.*—(1) *Before expiration.* When approving a change in interest credit assistance before the expiration of a current Interest Credit Agreement in accordance with paragraph (i)(3) of this section, the County Supervisor will again interview the borrower, determine the borrower's adjusted annual income and document the findings in the case file running record. A Form FmHA 1944–6 will be completed in accordance with the FMI and a copy of the form will be forwarded to the Finance Office. The Finance Office will adjust the daily interest accrual as of the date entered on the form or as of the date of the last cash credit made to the account, whichever is later.

(2) *Correction of Interest Credit Agreements.* A corrected Interest Credit Agreement will be prepared if the borrower is still eligible to receive interest credit. The corrected agreement will be submitted to the Finance Office only after the borrower's appeal right has expired or, if the borrower has filed an appeal, after a final decision has been made. In such cases, a Form FmHA 1944–6 showing the proper amount of interest credit which the borrower is entitled to receive, together with written authorization from the State Director to reapply any affected payments, will be submitted to the Finance Office to replace the incorrect agreement. The notation "Corrected in accordance with § 1944.34" will be entered on the face of the form. The Finance Office will cancel the incorrect Interest Credit Agreement as of its effective date. Payments made under the previous agreement will be reversed and reapplied at the adjusted interest rate of the new Interest Credit Agreement.

(3) *Interest credit renewal.*—(i) *Initiation of renewal action.* At the beginning of the annual review period, the Finance Office will mail to the County Office a list of borrowers whose Interest Credit Agreements are to be reviewed, together with a package to be mailed by the County Supervisor to each borrower. The package will contain the following:

(A) A letter of explanation and the instructions for completing the Interest

Credit Agreement (Exhibit F of this subpart).

(B) Form FmHA 1944–A6 (3 parts with carbon interleaved). If the renewal Form FmHA 1944–A6 is for the first year review period following the effective date of the agreement, it will contain the following legend:

Subsidy for (*ensuing year*) of $———. Is this correct? ☐

(C) Two Forms FmHA 410–A5, "Request for Verification of Employment." The County Office name and address will be preprinted in the space provided.

(D) Two window envelopes to be used by the employer(s) to mail the Verification of Employment form(s) to the County Office.

(ii) *Borrower responsibility.* Upon receipt of the package, the borrower will give one copy of the Verification of Employment form to the employer or employers of each member of the household who has income to be considered. A window envelope will be provided each employer to facilitate the mailing of the Verification of Employment form directly to the County Office. The borrower will also complete part II of the Interest Credit Agreement form (leaving carbon intact), sign the original form and bring the original and all copies to the County Office.

(iii) *County Office actions.* The County Supervisor, or designee, will:

(A) Maintain the list of borrowers as a record of Interest Credit Agreements processed and sent to the Finance Office.

(B) Conduct an interview with the borrower to review the information on Forms FmHA 1944–A6 and 410–A5 for completeness and accuracy. The interview should, whenever possible, be a personal contact.

(C) Determine the adjusted annual income and document the calculations in the case file running record.

(D) For the first year review period following the effective date of the agreement, place an "X" in the box of the Finance Office legend on the renewal Form FmHA 1944–A6 if there is no change in the amount of interest credit. This will extend the agreement for one year. If there is a change, complete the Interest Credit Agreement and send a copy of the agreement to the Finance Office. For the second review period following the effective date of the agreement, an Interest Credit Agreement will be completed and a copy of the agreement sent to the Finance Office. If an annual note installment borrower is not eligible for interest credit, enter "O" in the blocks which indicate the amount of interest credit and send a copy of the agreement to the Finance Office. For monthly note installment borrowers not eligible for interest credit a copy of the agreement need not be sent to the Finance Office.

(E) If the Form FmHA 1944–A6 is mutilated or unusable, transfer *all* information preprinted on the form to a new Form FmHA 1944–6 to be signed by the borrower and submit the completed form to the Finance Office.

(F) Retain the original of the Interest Credit Agreement and return the other copy to the borrower.

(G) Notify by letter borrowers not eligible for continued interest credit and those whose interest credit has been reduced of the amount of their revised payments. The letter must notify the borrower of the right to appeal as outlined in § 1944.34(1). A new Form FmHA 440–9 will be obtained when needed.

(iv) *Finance Office actions.* The Finance Office will:

(A) Upon receipt of Form FmHA 1944–A6 from the County Office, send the County Office a new set of payment cards.

(B) Before the end of the review period, send the County Office a list of annual installment borrowers for whom a renewal Interest Credit Agreement has not been received. The County Office staff will place a checkmark in the appropriate column of the list to indicate those borrowers who are no longer eligible for interest credit or whose agreements will not be renewed. The original of the completed list will be retained in the County Office and a copy returned to the Finance Office.

(v) *Processing interest credit renewals not received during the review period.* The County Supervisor may approve interest credit renewals not completed during the review period. They will be handled as follows:

(A) The amount of interest credit assistance granted will be based on the borrower's current annual income. The effective date of the Interest Credit Agreement will be as indicated on the FMI for Form FmHA 1944–6.

(B) Payments made by the borrower after the expiration date of the previous Interest Credit Agreement will be applied at the note interest rate until the Finance Office receives a new Form FmHA 1944–6.

(C) Upon receipt of Form FmHA 1944–6, the Finance Office will reduce the daily interest accrual in accordance with the following conditions and limitations:

(*1*) If failure to renew was due to error or oversight by FmHA, the State Director will authorize the Finance Office to reduce the interest accrual as of the effective date entered on the form and reverse and reapply payments processed after the effective date. Such authorization must be in writing.

(*2*) In all other cases the Finance Office will reduce the daily interest accrual as of the effective date entered on the form or as of the date of the last cash credit made to the account, whichever is later.

(i) *Eligibility review.* The eligibility of those borrowers currently receiving interest credit will be reviewed as follows:

(1) *Annual review.* The eligibility of all borrowers will be redetermined annually during the review period.

(i) If the borrower's net worth increases above the applicable eligibility limit, interest credit may nevertheless be renewed unless the increase is sufficient to enable the borrower to graduate to another source of credit.

(ii) Interest credit will not be renewed if:

(A) The amount of interest credit for which the borrower qualifies is less than $5 monthly or $60 annually, or

(B) The borrower's adjusted annual income exceeds the moderate-income limit set forth in Exhibit C of this Subpart.

(iii) Interest credit will not be renewed if the borrower has enlarged or improved the dwelling or added related facilities so that the housing exceeds modest standards for size, design, and cost for previously occupied homes as compared to other housing in the locality for low-and moderate-income families.

(2) *Renewals not completed during the review period.* When the borrower's renewal Interest Credit Agreement is not completed during the review period, it will be processed in accordance with § 1944.34(h)(3)(v).

(3) *Change in borrower's circumstances.* The County Supervisor is not responsible for monitoring whether a borrower's income, family size, real estate taxes, or insurance costs have changed after an Interest Credit Agreement is approved. If, however, it becomes known that the borrower's circumstances have changed significantly, the County Supervisor will take action in accordance with the following:

(i) *Increased adjusted income.* If the County Supervisor determines that the borrower's adjusted income exceeds the moderate-income limit set forth in Exhibit C of this Subpart, the interest credit will be cancelled effective the date the County Supervisor becomes aware of the situation. The borrower

will be notified in accordance with paragraph (l) of this section.

(ii) *Decreased adjusted income.* Changes in interest credit will not be made except in cases where the decrease in income is such that the sum of principal and interest on loans eligible for interest credit computed at 1 percent, amount of annual installments due at the note rate on qualified loans ineligible for interest credit, real estate taxes and insurance exceeds 35 percent of the borrower's adjusted income. If the change is determined within three months prior to the anniversary date of the agreement currently in effect, the change will be effective on the anniversary date.

(j) *Improper interest credit.*—(1) *When to take action.* Servicing under this section will be taken when, at the time of interest credit approval, incorrect information was provided by a borrower or any other person or an error by any FmHA employee results in the borrower receiving improper interest credit of $5 or more per month or $60 or more annually.

(2) *Determining improper interest credit.* Whenever there is a reason to believe a borrower was granted improper interest credit the County Supervisor will immediately reverify the information on which the interest credit was based. The County Supervisor will determine if improper interest credit was granted. If there is reason to believe there may be fraud or fiscal irregularities, the complete case file together with all facts will be submitted to the State Director. If the State Director believes there is indication of fraud or fiscal irregularity, further investigation will be considered as provided in FmHA Instruction 2012–B (available in any FmHA office). If there is no indication of fraud or fiscal irregularity the case will be returned to the County Supervisor for appropriate corrective action.

(3) *Falsification or error by borrower.* The following actions will be taken when it is determined that excessive interest credit was granted because the borrower intentionally or otherwise provided incorrect information.

(i) The County Supervisor will inform the borrower by certified mail (return receipt requested) of the intent to cancel the Interest Credit Agreement and the effective date of such cancellation. The notice to the borrower will include the right to appeal as provided in § 1900.56 of Subpart B of Part 1900 of this Chapter. The borrower will also be informed of the amount of monthly payment required after proper corrections are made. A corrected Interest Credit Agreement will be prepared if the borrower remains eligible for interest credit. The corrected agreement or cancellation will be submitted to the Finance Office only after the borrower's appeal right has expired or if the borrower has filed an appeal and a final decision has been made.

(ii) If the borrower does not appeal, or it is determined that the appeal is not valid, the case will be handled by one of the following methods:

(A) If the Interest Credit Agreement is to be cancelled, the County Supervisor will cancel the Interest Credit Agreement as of the effective date of the current Form FmHA 1944–6, the date of the extension of the agreement, or the earlier Form FmHA 1944–6 as appropriate for the period of review or investigation. The Finance Office will then reapply any affected payments to the account at the note rate of interest and will notify the County Supervisor and borrower of any adjustments made in the account.

(B) If a corrected Interest Credit Agreement is to be prepared, it will be submitted to the Finance Office in accordance with paragraph (h)(2) of this section together with written authorization from the State Director to reapply payments in accordance with the corrected Form FmHA 1944–6. The Finance Office will notify the County Supervisor and borrower of adjustments made in the account.

(C) If the borrower's action appears to have been deliberate and a major error occurred, liquidation may be warranted. For example, such actions may be taken if the information obtained indicates that the borrower was not eligible for an RH loan. Such a borrower will be asked to repay the RH loan by refinancing or otherwise satisfying the account. In other cases, the borrower may already be in default and the fact that the borrower had not correctly reported income may justify liquidation of the loan. The State Director may authorize the account to be repaid under an acceleration agreement if the conditions of § 1872.17(g) of this chapter (FmHA Instruction 465.1, paragraph XVII G) are met.

(D) When falsified information is provided to FmHA in order to qualify the borrower for interest credit (for example, a packager provides information for a borrower), but there is evidence that the borrower is not at fault or definitely did not intend to provide false information, the borrower will be requested to pay the loan in full, including any improper and excessive interest credit that may have been granted. If, however, the borrower is unable to satisfy the account and the State Director determines that the Government's financial interest would not be jeopardized by leaving the loan outstanding, and that it would be inequitable to call it, the loan may be continued.

(E) In cases for which immediate liquidation is not warranted and the State Director determines the loan may be continued, the County Supervisor will make a diligent effort to obtain a lump sum restitution of the improperly advanced interest credit. If the borrower is unable to pay by lump sum payment, Form FmHA 451–37 will be used to establish a new repayment schedule. The borrower will be charged interest on the improperly advanced interest credit at the same rate charged on the principal indebtedness.

(4) *Error by FmHA employee.* (i) When the borrower presented correct information and an FmHA employee erroneously granted excessive interest credit, the following action will be taken:

(A) The County Supervisor will inform the borrower by letter of the action to be taken and of the right to appeal as provided in paragraph (1) of this section. A cancellation of interest credit or a corrected Interest Credit Agreement will be submitted to the Finance Office only after the borrower's appeal right has expired or if the borrower has filed an appeal and a final decision has been made.

(B) If the Interest Credit Agreement is to be cancelled, the County Supervisor will cancel the Interest Credit Agreement effective the date of current Form FmHA 1944–6, the extension of the agreement, or earlier Form FmHA 1944–6 as appropriate for the period of review or investigation. The Finance Office will then reapply any affected payments to the account at the note rate of interest and will notify the County Supervisor and borrower of any adjustments made in the account.

(C) If a corrected Interest Credit Agreement is to be prepared, it will be submitted to the Finance Office in accordance with paragraph (h)(2) of this section together with written authorization from the State Director to reapply payments in accordance with the corrected Form FmHA 1944–6. The Finance Office will notify the County Supervisor and borrower of adjustments made in the account. The amount of improper interest credit will be charged to the borrower's account and become immediately due and payable.

(D) If the Interest Credit Agreement is cancelled, the County Supervisor will make a diligent effort to obtain a lump sum restitution of the improperly advanced interest credit from the

borrower. If this cannot be done, the County Supervisor will take one of the following courses of action:

(1) If the borrower can repay the improperly advanced interest credit over a reasonable period of time, the County Supervisor will use Form FmHA 451–37 to establish a new repayment schedule. The borrower will be charged interest on the improperly advanced interest credit at the same rate charged on the principal indebtedness.

(2) If the County Supervisor determnines that the borrower is unable to repay the improperly granted interest credit, that fact should be documented and the case forwarded to the State Director for review. If the State Director concurs with the findings of the County Supervisor, the case will be forwarded to the National Office with recommendations that the improperly advanced interest credit be forgiven.

(ii) When an error by an FmHA employee results in too little interest credit being granted, a corrected agreement will be prepared effective the date of the error, if the error is $5 or more per month or $60 or more per year.

(k) *Cancellation of interest credit agreements.*—(1) *Reasons for cancellation.* An existing Interest Credit Agreement will be cancelled whenever:

(i) The borrower has never occupied the dwelling and FmHA will not continue with the loan.

(ii) The borrower ceases to occupy the dwelling.

(iii) The borrower sells or conveys the title to the property.

(iv) The borrower has received improper interest credit as outlined in § 1944.34(j) and a corrected Interest Credit Agreement will not be submitted.

(v) The borrower has an increase in income as outlined in § 1944.34(i)(3)(i) and is no longer eligible for interest credit.

(vi) The borrower has enlarged or improved the dwelling or added related facilities so the that housing exceeds modest standards for size, design and cost for previously occupied homes compared to other housing in the locality for low- and moderate-income families.

(2) *Effective date of cancellation.* The effective date of cancellation for paragraph (k)(1)(i) of this section will be date of loan closing. The effective date of cancellation for paragraphs (k)(1) (ii), (iii) and (iv) of this section will be the date on which the earliest action occurs which causes the cancellation. If the date cannot be determined, the date on which the County Supervisor became aware of the situation will be used. The effective date of cancellation for paragraph (k)(1) (v) and (vi) of this section will be the date on which the County Supervisor became aware of the situation. When an account has been accelerated and none of the conditions outlined in paragraph (k)(1) of this section exist, the Interest Credit Agreement will remain in effect until the final foreclosure action is completed. However, if the existing agreement expires before the foreclosure action is completed an interest credit renewal agreement will not be prepared. If foreclosure action is dismissed, withdrawn or terminates without sale of the property or payment of the loan in full a renewal agreement will be prepared with an effective date as of the expiration of the previous agreement.

(3) *Notification to the Finance Office.* The County Supervisor will determine the date of cancellation and notify the Finance Office on Form FmHA 1944–15, "Interest Credit Agreement Cancellation (Section 502 RH Loans)." If there is more than one loan eligible for interest credit represented on the Interest Credit Agreement being cancelled, a separate Form FmHA 1944–15 must be prepared for each loan. The Finance Office will process the cancellation and will accrue interest from the date of cancellation at the rate of interest shown on the promissory note. Prompt notification to the Finance Office, using Form 1944–15, is extremely important, as any transaction affecting the borrower's account subsequent to cancellation will be incorrect if cancellation action has not been completed by the Finance Office.

(l) *Applicant or borrower notice of right to appeal.* All applicants or borrowers who request and are denied interest credit or whose interest credits are reduced, cancelled, or not renewed, will be notified of their appeal rights as required by § 1900.56 of Subpart B of Part 1900 of this Chapter except when:

(1) Interest credit is denied and the borrower acknowledges income is above published limits, or

(2) Interest credit is reduced because of income increases which the borrower acknowledges.

(m) *Submission to National Office.* The State Director may submit to the National Office for determination by the Administrator or a delegate any proposed transaction in which the conditions prescribed in the foregoing paragraphs of this section cannot be met, and it is determined that interest credit is necessary to avoid extreme hardship to the family or prevent foreclosure action. This paragraph is primarily intended to be used for those cases in which the granting of interest credit is necessary for the borrower to retain a dwelling for the borrower's own use, and there are no other means to do so. The State Director will submit to the National Office the County Office files together with full facts, justification, and recommendation.

§§ 1944.35–1944.36 [Reserved]

§ 1944.37 Subsequent Section 502 loans.

Subsequent Section 502 loans may be made to present borrowers for the same purpose and under the same conditions and limitations as initial loans, except as provided in this section.

(a) The subsequent loan will be processed in the same manner as initial loans, except that a new appraisal report will be required in accordance with § 1944.24 only when real estate will be taken as security and at least one of the following conditions exists:

(1) The property was not appraised in connection with the initial loan.

(2) The latest appraisal report of the real estate is over two years old.

(3) The physical characteristics of the property have changed significantly.

(4) The County Supervisor or loan approval official is uncertain of the adequacy of the security and requests a new appraisal report.

(5) The subsequent loan is in connection with a transfer of an existing loan subject to subsidy recapture in accordance with Subpart I of Part 1951 of this chapter.

(b) A subsequent RH loan may be made on a note-only basis, provided the amount of the subsequent loan plus the unpaid principal balance of any prior note—only RH loan or loans does not exceed $2,500. Applicants for such loans must meet the requirements of § 1944.18(b)(1).

(c) When a real estate mortgage is required in connection with a subsequent RH loan, any outstanding RH notes will be described in the mortgage unless an exception can be made in accordance with Exhibit A, paragraph II F, of FmHA Instruction 427.1 (available in any FmHA office).

(d) The subsequent loan will bear interest at a rate determined in accordance with Exhibit B of FmHA Instruction 440.1 (available in any FmHA office).

(e) When necessary to settle a divorce action, a subsequent loan may be made to permit the remaining borrower, if eligible, to purchase the equity of the departing spouse.

(f) When an area designation has been changed from rural to non-rural, subsequent RH loans may be made only in accordance with the provisions of § 1944.10(g)(4).

(g) The loan approval official may authorize reamortization of a prior RH loan at the time a subsequent loan is made in those cases in which it is determined that the borrower cannot reasonably be expected to meet installments due unless the account is reamortized. It will be processed in accordance with Subpart G, § 1951.314, or Subpart A, § 1951.40, of Part 1951 of this chapter.

§ 1944.38 Mutual self-help housing loans.

Applicants who are unable to build modest dwellings by customary methods, because of limited income and repayment ability, may build their homes by participating in a mutual self-help housing project. The County Supervisor will not approve RH loans or proceed in the development of a self-help project without prior authorization of the State Director. If an organization applies for a Technical Assistance (TA) grant, the District Director will submit Form AD–625, "Application for Federal Assistance (Short Form)," and all related information concerning the technical assistance grant to the State Director. If it is determined that the technical assistance grant has been approved for funding, the State Director may issue written authorization for the County Supervisor to approve Mutual Self-Help Housing Loans Exhibit G, "Mutual Self-Help Housing Guildelines," will be used as a guide for developing self-help projects and counseling with participating families. The County Supervisor, in counseling with families participating in self-help housing projects, will determine the anticipated time required for construction.

§ 1944.39 RH loans to FmHA employees and loan closing officials.

FmHA employees, County Committee members, and loan-closing officials, or their spouses may receive a Section 502 RH loan subject to the provisions of this Subpart and the following conditions:

(a) The application will be submitted to the County Office in the usual manner. Written evidence indicating the applicant's inability to obtain the needed credit will be included. The County Office will obtain the verification of employment and credit report and submit the application and related information to the District Director for review. The District Director will forward the applicant's docket, along with written recommendation concerning the applicant's eligibility, to the State Director for eligibility determination.

(b) The State Director will determine the eligibility of the applicant. If eligible, the docket will be returned to the District Director for processing. If the applicant is determined ineligible, the State Director will notify the applicant in writing and will provide the applicant all information required by § 1910.6(b) of Subpart A of Part 1910 of this chapter.

(c) The application will be retained in the County Office and will be processed in the same order as other applications. The District Director will be notified when the application is in order for processing and will be responsible for the complete loan processing.

(d) If the loan applicant works outside the county in which the application is filed, the District Director may permit authorized County Office staff to perform the appraisal function. In all other cases the District Director will appraise the property or have it appraised by a qualified FmHA appraiser from outside the County Office area in which the loan is to be made. The completed loan docket together with the District Director's written recommendation will be submitted to the State Director for consideration of approval.

(e) If the applicant is an employee in the District Office, the State Director will designate another District Director to process the application.

(f) The State Director must, before approving the loan, determine that the applicant has not been and will not be given any advantage because of the FmHA relationship and the making of a loan will not result in a conflict of interest under FmHA Instruction 2045–BB (available in any FmHA office). The dwelling may not exceed the needs of the applicant or be excessive in size, design, or cost when compared to other FmHA financed dwellings in the area.

(g) If the loan is approved, the borrower's case file will not be maintained or serviced in the office where the borrower is or will be employed. If the property is in the area serviced by the office of employment the State Director will designate another District or County Office to service the loan.

(h) If the loan involves any type of construction, the inspections for FmHA will be made by the District Director or another member of the District Director's staff as designated by the District Director. Under no circumstances will the employee receiving the loan make the inspections for FmHA.

(i) Loans, credit sales, or assumption agreements *will not* be approved under this authority for any of the following purposes:

(1) Purchase of inventory property.

(2) Purchase of a dwelling from an RH borrower.

(3) Purchase of FmHA security property being sold at foreclosure sale.

§ 1944.40 Rural housing disaster (RHD) loans.

RHD loans may be made to repair or replace dwellings which were damaged or destroyed by a natural disaster such as earthquake, flood, forest fire, severe windstorm, or lightning.

(a) *Eligibility requirements.*

(1) The applicant must meet the requirements of § 1944.8 and § 1944.9.

(2) Nonfarm applicants must have occupied the dwelling as their permanent residence.

(3) The loss by a nonfarm applicant was not the result of a major disaster designated by the President or a natural disaster designated by the Administrator of the Small Business Administration.

(4) The loss by a farmer was not the result of a major disaster designated by the President or a natural disaster designated by the Secretary of Agriculture.

(5) The loan application must be filed within 12 months after the date the loss occurred.

(6) The applicant must use available assets, including insurance loss payments, and other assistance, to the extent available, to repair or replace the damaged or destroyed buildings.

(b) *Repair or replacement of buildings.* Repair or replacement of any damaged or destroyed building must be consistent with the basic Section 502 loan policies. Changes may be made in the building, but in any case the repaired or replaced building should not be significantly larger or more costly than the original building except as necessary to provide a building which is adequate but modest. Any new dwelling constructed must meet the limitations established by § 1944.16.

(c) *Interest rate and source of funds.*

(1) RHD loans will be made at an interest rate of 5 percent. Interest credit will not be granted for RHD loans.

(2) Insured loan funds will be used for RHD loans

(d) *Approval authorization.* The State Director, County and Assistant County Supervisors are authorized to approve RHD loans in accordance with FmHA Instruction 1901–A (available in any FmHA office) for Section 502 RH loans.

(e) *Deferred payments.* The initial payments of principal and interest, or principal only, may be deferred so as not to become due until as late as the third January 1 for annual payment notes, or the third anniversary date of the note for monthly payment notes, subject to all of the following conditions:

(1) The applicant, as a result of the loss suffered from the disaster, has had a substantial loss of income; or debts, including the proposed RHD loan, have increased substantially as a result of the disaster.

(2) The income loss or increase in debts must be sufficiently great so that the applicant will not likely be able to pay in full the installments that ordinarily would be due during the proposed deferment period and also meet other obligations.

(3) The applicant's other debts must be adjusted by reduction, reamortization, extension, or other means to the extent possible by negotiation with other creditors.

(4) The applicant's income will be sufficient after the deferment period to enable the applicant to meet the payments on the RHD loan and all other obligations.

(f) *Form FmHA 1940–1.* The appropriate assistance code number will be entered in the space provided to indicate the nature of the loss.

§§ 1944.41–1944.43 [Reserved]

§ 1944.44 Borrower graduation.

Borrowers will be requested to apply for refinancing of RH loans if credit may be available from another source at rates and terms prevailing in the area for homeownership loans. The borrower must apply for and, if approved by the lender, accept the refinancing loan. Graduation reviews will be conducted in accordance with Part 1865 of this chapter (FmHA Instruction 451.6).

§ 1944.45 Conditional commitments.

(a) *General.* A conditional commitment is assurance from FmHA to a qualified builder or seller that dwellings to be built or rehabilitated and offered for sale will be acceptable for purchase by qualified RH loan applicants if built in accordance with FmHA approved plans and specifications and priced at not more than a specified maximum amount. The conditional commitment does not reserve funds for a loan nor does it assure that a loan applicant will be available to buy the dwelling.

(b) *Eligibility.* To be eligible for conditional commitments, the builder or seller must:

(1) Be the owner as defined in § 1944.15, before construction is started, of the site on which the dwelling is located or to be built, except as indicated in Subpart G of Part 1822 of this chapter (paragraph VII L of FmHA Instruction 444.8).

(2) Have the experience and ability to complete the type of proposed work in a competent and workmanlike manner.

(3) Be financially responsible and have the ability to finance or obtain financing for the proposed housing or rehabilitation.

(4) Comply with the requirements of Subpart E of Part 1901 of this Chapter and the Equal Credit Opportunity Act as required by § 1910.2 of Subpart A of Part 1910 of this chapter.

(5) Plan to build or rehabilitate dwellings which will qualify for purchase by RH applicants and which will be in compliance with all applicable laws, ordinances, and codes.

(6) Have the legal capacity to enter into the required agreements and the actual capacity to carry them out.

(c) *Limitations.*

(1) Conditional commitments will be issued only in cases where the commitment applicant's selling price does not exceed the commitment price, which will never be more than the appraised value minus customary closing costs.

(2) Conditional commitments will be issued by FmHA only for new homes to be constructed or existing homes to be rehabilitated.

(3) Conditional commitments will not be issued after construction has started.

(4) Number of conditional commitments.

(i) The total number of commitments issued in any locality will not exceed the number of homes for which there is an immediate and ready market in that locality.

(ii) The number of houses on which conditional commitments will be outstanding to a commitment applicant at any time will not exceed 15 in any one county unless authorized by the State Director after the State Director:

(A) Determines that a larger number of commitments must be made to meet the immediate housing needs in the area;

(B) Determines that authorizing more than 15 commitments to one commitment applicant will not reduce the participation of small volume builders in the Rural Housing program; and

(C) Provides guidelines to the County Supervisor to assure that all builders active in the area have equal opportunity to obtain more than 15 conditional commitments.

(iii) The total number of conditional commitments outstanding in the area served by a County Office will not exceed the number on which the County Supervisor can reasonably expect to be able to approve RH loans within 3 months after the houses covered by the commitments are completed, considering the availability of loan funds and the number of applications in the County Office.

(5) The period of the conditional commitment will be for 12 months from the date of issue. The commitment may be extended for an additional 6 months if justified because of (1) unexpected delays in construction caused by such factors as bad weather or materials shortages, or (2) marketing difficulties.

(6) When five or more conditional commitments have been issued during a 12 month period, an affirmative marketing plan will be submitted in accordance with § 1901.203(c) of Subpart E of Part 1901 of this chapter.

(d) *Conditional commitments involving packaging of applications.* A conditional commitment may be made to a builder who packages a Rural Housing application for an applicant to buy the property. In cases when the dwelling is presold and is to be constructed for sale only to a specific applicant and the information on the house and the loan applicant is submitted at the same time, all of the following conditions must be met to avoid misunderstanding of FmHA's obligation to either the RH applicant or the conditional commitment applicant:

(1) The conditional commitment will not be approved until the RH loan has been approved.

(2) Construction will not being until the County Office has received notice from the Finance Office that funds are obligated for the RH loan.

(3) The RH loan will be closed only after the dwelling is constructed or the rehabilitation completed and final inspection has been made.

(e) *Fees.* Each commitment applicant will pay an application fee at the time an application is submitted for a conditional commitment. The fee for each dwelling will be:

(1) For proposed construction of new dwellings—$65.

(2) For existing dwellings to be rehabilitated—$50.

(f) *Processing applications.*

(1) Applications for conditional commitments will be submitted on Form FmHA 1944–36, "Application for Conditional Commitment." Attachments as outlined on the form will be included for each individual dwelling for which a conditional commitment is requested.

(2) *Transmittal of fees.* The County Supervisor will transmit application fees on Form FmHA 451–2, "Schedule of Remittances." The payment will be handled with all other payments for the day in accordance with Subpart B of

Part 1951 of this chapter and the FMI for Form FmHA 451–2.

(3) *Evaluation of applications.* The County Supervisor will take the following actions in the order specified:

(i) Determine whether the commitment applicant meets the requirements of paragraphs (b) and (c) of this section.

(ii) Determine whether the dwelling and site meet the requirements of this Subpart and Subpart A of Part 1924 of this chapter and will comply with all local codes and ordinances. The property must meet the requirements of Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5).

(iii) If the commitment applicant and the dwelling and site have qualified, an appraisal will be made in accordance with FmHA Instruction 422.3 (available in any FmHA office).

(4) *Failure of applicant or dwelling to qualify.* In case any commitment applicant or dwelling does not qualify for a conditional commitment, the documents attached to the application will be returned to the commitment applicant with a letter explaining why the application was not approved. If the application is denied for failure to meet the requirements of paragraph (b) (2) or (3) of this Section, notice of appeal rights will be given as required by § 1900.56 of Subpart B of Part 1900 of this chapter.

(i) The application fee will be refunded if for any reason preliminary inspection of the property or investigation of the commitment applicant indicates that a conditional commitment cannot be issued. For example, the property might be located in a nonrural area or the dwellings may not be of a type that the FmHA can appropriately finance. If a refund is required, a memorandum should be sent to the Finance Office indicating the commitment applicant's name together with the date and amount of fees paid. The memorandum should also indicate the number of commitments being denied and amount of fees to be refunded.

(ii) Application fees will not be refunded for any property on which the appraisal has been made.

(5) *Conditional commitment approval.* The State Director, District Director, County and Assistant County Supervisors are authorized to approve conditional commitments provided the commitment price does not exceed the loan approval authority for Section 502 RH loans as outlined in Subpart A of Part 1901 of this chapter (available in any FmHA office). If the application is approved, the County Supervisor will complete and sign Form FmHA 444–11, "Conditional Commitment." When a qualified applicant applies for a loan to buy a dwelling on which a conditional commitment has been issued, the RH loan docket will be transferred to the conditional commitment folder.

(g) *Inspections.* Inspections of work to be done will be performed in accordance with Subpart A of Part 1924 of this chapter. Failure to correct any deficiencies or to complete the work in accordance with plans and specifications approved by FmHA will be a basis for cancelling the conditional commitment.

(h) *Changes in plans, specifications, and/or commitment price.* The County Supervisor is authorized to approve changes in plans and specifications that are consistent with HUD MPS and Exhibit D of Subpart A of part 1924 of this chapter. If the changes are requested after an option has been executed by a rural housing applicant, the change will be approved only after the applicant and the commitment holder submit a written request for approval. If a change will reduce or increase the appraised value of the property, the County Supervisor will revise the commitment price and inform the commitment holder. Also, in cases when the holder of a commitment reports to the County Supervisor that costs associated with the construction or repair of a dwelling have increased, the approval official may increase the commitment price provided the property has not been optioned by an RH applicant, and the County Supervisor determines that the increase is clearly justified, the circumstances causing the price increase were beyond the commitment holder's control, and the value of the property is adequate to permit the increased commitment price. A revised appraisal report will be prepared. The conditional commitment will be revised, initialed, and dated by the person authorizing the change.

(i) *Cancellation of outstanding conditional commitments.*

(1) Conditional commitments may be cancelled when construction of the dwelling is not begun within 60 days after the commitment is issued.

(2) Conditional commitments will be cancelled when construction is not in accordance with all FmHA requirements, approved plans, specifications, or MPS, and the builder refuses to make corrections necessary for compliance.

(j) *Folder maintenance.* Documents prescribed in this Subpart will be filed in accordance with FmHA Instruction 2033–A (available in any FmHA office).

(k) *Builder's warranty.* The builder or seller, as appropriate, will execute Form FmHA 424–19, "Builder's Warranty," or provide a 10-year insured warranty when construction is completed or the loan to buy the dwelling is closed.

§ 1944.46 Construction financing for builders by private credit sources.

(a) The purpose of this section is to provide a method by which a builder may be able to obtain construction credit from commercial sources of credit. It may eliminate the need to use a supervised bank account and also eliminate the need for the borrower to make payments on the loan during construction.

(b) This method may be used under the following conditions:

(1) A conditional commitment has been or will be issued, an RH loan approved, and funds obligated for the applicant in accordance with § 1944.45, or

(2) The applicant owns a building site and will contract the construction or improvement of the building or buildings. In such a case:

(i) The applicant will retain ownership of the site and not convey title to the builder, and

(ii) The lender providing the construction financing will not take a mortgage on the site owned by the applicant or otherwise require the applicant to secure the construction loan.

(c) This method may not be used if the RH loan is made in participation with an FO or an individual SW loan.

(d) Loan docket forms will be prepared in accordance with § 1944.30 of this subpart. Applicants who own the building site will be required to obtain and submit to the County Supervisor preliminary title evidence in accordance with Part 1807 of this chapter (FmHA Instruction 427.1). Satisfactory title or leasehold interest in the property must be confirmed before execution of Form FmHA 424–6, "Construction Contract," and Form FmHA 444–16, "Notice of Loan Approval."

(e) When Form FmHA 440–57 is received from the Finance Office, the County Supervisor will complete and sign an original and one copy of Form FmHA 444–16. The original of Form FmHA 444–16 will be given to the builder and a copy will be retained in the loan docket.

(f) The builder may present Form FmHA 444–16, Form FmHA 444–11, Form FmHA 440–34, or Form FmHA 424–6, as appropriate, to a commercial lender to obtain construction financing. The County Supervisor will make no commitments to the lender except as indicated on the above forms.

(g) The required inspections will be made by FmHA or a firm or company that will provide a 10 year insured warranty. In all cases the final inspection will be made by FmHA. Copies of Form FmHA 424–12, "Inspection Report," will be provided to the builder and, if requested, to the commercial lender.

(h) The lender is responsible for determining the amount that will be advanced to the builder under the construction financing arrangement, and for determining any measures necessary to protect its interest.

(i) When construction is completed, the loan will be closed in accordance with Subpart A of Part 1807 of this Chapter (FmHA Instruction 427.1), usually within 10 days after satisfactory completion of construction.

§§ 1944.47–1944.50 [Reserved]

Exhibit C [Amended]

2. It is proposed to revise Exhibit C to change the area/county maximum moderate-income limits to $3,000 over the area/county maximum low-income limits with no area/county moderate-income limit to be less than $15,600, or greater than $23,000 with the exception of Alaska.

Exhibit D [Amended]

3. Exhibit D, Item 2, as proposed, is revised to change the wording in the second sentence from "The planned income to be received" to "The current income received." Item 9, as proposed, is revised to change the wording in the last line from "every 2 years" to "every year."

(42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: February 23, 1982.

Frank W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development.

[FR Doc. 82-6555 Filed 3-10-82; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 508

Powerplant and Industrial Fuel Use Act of 1978 Electric Utility Conservation Plan; Proposed Rules

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing proposed rules to implement the new section 808 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, ("FUA"), which was added by section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, ("OBRA"). Section 808 of FUA requires electric utilities which have used natural gas as a primary energy source to submit conservation plans to DOE. The proposed rules set forth the procedures for submission of conservation plans to DOE and establish the substantive requirements for such plans.

DATE: Comments on the proposed rules must be received no later than April 26, 1982.

ADDRESS: Any person wishing to comment should send 10 copies to: Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Room 6114, 2000 M Street, NW., Washington, D.C. 20461. The comments and envelopes in which they are transmitted should be marked, "Proposed Rules—Electric Utility Conservation Plan."

FOR FURTHER INFORMATION CONTACT:

Robert L. Davies, Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, 2000 M Street, NW., Washington, D.C. 20461; (202) 653–3372

Henry Garson, Assistant General Counsel for Coal Regulations (GC–14), Office of the General Counsel, Department of Energy, Room 6B–178, 1000 Independence Ave., SW, Washington, D.C. 20585; (202) 252–2967

SUPPLEMENTARY INFORMATION:

I. Background

Section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, August 13, 1981, ("OBRA") amended the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA"), by adding a new section 808, entitled "Electric Utility Conservation Plan." The section requires utilities which used natural gas as a primary energy source between August 14, 1980 and August 13, 1981 in any electric powerplant and that plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plan to achieve conservation of electric energy. The plan must be designed to achieve conservation at a level equal to ten percent of the electric energy output of the utility which is attributable to natural gas measured against the four calendar quarters ending on June 30, 1981. The plan must be implemented within five years after DOE approves it. The proposed regulations outline the procedures to be followed by utilities in submitting conservation plans to DOE for approval and establish the substantive requirements for the plans.

II. Procedural Matters

A. Written comments. Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to any issues raised by or addressed in this Notice of Proposed Rulemaking. Comments are to be filed with ERA in accordance with the instructions given in the **DATES** section, above, no later than 45 days after publication of this Notice in the **Federal Register.** All comments received will be available for public inspection by contacting the Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, 2000 M Street, NW., Washington, D.C., at (202) 653–3372.

B. Section 102 of the National Environmental Policy Act (NEPA). DOE has determined that these regulations, if finalized, will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of NEPA. Therefore, the preparation of an Environmental Impact Statement for this proposal is not required. Moreover, DOE will to the fullest extent practicable comply with the requirements of NEPA within the 120 day period mandated by section 808 of FUA for final action on a proposed conservation plan. In any event, DOE will evaluate the plans for any potential environmental consequences prior to final action.

C. *Regulatory Flexibility Act.* Section 609 of the Regulatory Flexibility Act, 5 U.S.C. 609, requires the head of an agency proposing a rule that will have a significant economic impact on a substantial number of small entities to prepare an advance Notice of Significant Economic Impact entitled the Initial Regulatory Flexibility Analysis.

For purposes of this rulemaking proceeding, ERA estimates that a very small number of the companies which could be affected by the conservation plan requirement would qualify as "small businesses" under 5 U.S.C. 601. Further, ERA believes that the economic impact of compliance with the regulations, if adopted, would be relatively insignificant for these small concerns. Accordingly, ERA has determined that the publication of an Initial Regulatory Flexibility Analysis is not required for this proceeding but will be pleased to review any comments concerning the impact of these regulations on "small businesses."

D. *Executive Order No. 12291—Regulatory Impact Analysis.* DOE has determined that these proposed regulations are not a major rule under Executive Order 12291, which requires the preparation of a Regulatory Impact Analysis for proposed major regulations. These proposals will not be likely to result in an annual effect on the economy of $100 million or more. DOE foresees no major increase in costs or prices for consumers, industries, geographic regions or Federal, State or local government agencies. DOE does not consider it likely that the proposals will result in significant adverse effects on competition, employment, investment, or productivity. Therefore no Regulatory Impact Analysis is required.

The proposals were submitted to the Office of Management and Budget for review at least 10 days prior to publication in the **Federal Register.**

E. *Paperwork Reduction Act of 1980.* In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3507, the reporting provisions that are included in this final proposed rule have been or will be submitted for approval to the Office of Management and Budget (OMB). They may not become effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulations.

(Department of Energy Organization Act, Pub. L. 95–91 Stat. 585 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8372); E.O. 12006, 42 FR 46267, September 15, 1977; Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, August 13, 1981)

Issued in Washington, D.C., on March 3, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

It is proposed to amend 10 CFR by adding a new Part 508 to read as follows:

PART 508—ELECTRIC UTILITY CONSERVATION

Subpart A—General Provisions

Sec.

508.1 Purpose and scope.
508.2 Applicability.
508.3 Dates for submission of plan.

Subpart B—Procedures

508.4 Procedures for submission of conservation plans to DOE.
508.5 Approval of proposed conservation plan.
508.6 Amendment of approved conservation plan.
508.7 Annual reporting requirement.

Subpart C—Contents of Conservation Plan

Sec.

508.8 Contents of conservation plan.

Authority: Department of Energy Organization Act, Pub. L. 95–91 Stat. 585 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8372); E.O. 12006, 42 FR 46267, September 15, 1977; Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, August 13, 1981.

PART 508—ELECTRIC UTILITY CONSERVATION PLAN

Subpart A—General Provisions

§ 508.1 Purpose and scope.

This part establishes the requirements and procedures for submission to DOE of Electric Utility Conservation Plans ("Plan"), pursuant to section 808 of FUA. Section 508.2 establishes the applicability of the requirement for an Electric Utility Conservation Plan which is imposed by section 808 of FUA. Sections 508.4 and 508.5 outline the procedures for submission to and approval by DOE of conservation plans by electric utilities. Section 508.6 provides for the amendment of plans which have received final approval from DOE, and § 508.7 establishes an annual reporting requirement for utilities subject to the conservation plan requirement. Section 508.8 establishes the requirements for the contents of the conservation plans.

§ 508.2 Applicability.

(a) These regulations apply to any electric utility which:

(1) Owns or operates any existing electric powerplant (for definition of "existing electric powerplant" see 10 CFR 500.2) in which natural gas was used as a primary energy source (for definition of "primary energy source" see 10 CFR 500.2) at any time during the one-year period ending on August 13, 1981; and

(2) Plans to use natural gas as a primary energy source in any electric powerplant (for definition of "electric powerplant" see 10 CFR 500.2).

(b) A public utility holding company may file a plan for all of the public utilities under its direct control or may file separate conservation plans for each such public utility.

§ 508.3 Dates for submission of plan.

(a) Each electric utility subject to this Part must, by August 13, 1982, submit to DOE a conservation plan which satisfies the requirements of § 508.8.

(b) The Director of the Fuels Conversion Division of the Office of Fuels Programs of ERA shall approve such plans pursuant to § 508.5 of this part.

(c) Each utility subject to this part must implement the approved conservation plan during the five-year period beginning on the date of the initial approval of the plan.

Subpart B—Procedures

§ 508.4 Procedures for submission of conservation plans to DOE.

(a) *Filing of Proposed Conservation Plans.* Conservation plans are to be filed with DOE at the following address: Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Washington, D.C. 20461.

(b) *Notice of Receipt of Conservation Plan and Public Comment Period.* Upon receipt of a proposed conservation plan, DOE shall publish in the **Federal Register** a Notice of Receipt of Proposed Conservation Plan. The publication of such notice shall commence a public comment period of thirty (30) days, during which interested persons may submit written comments concerning the content of the proposed plan. The proposed conservation plan shall be available for public inspection during this period at a place or places announced in the Notice.

§ 508.5 Approval of proposed conservation plan.

(a) The Director of the Fuels Conversion Division of the Office of Fuels Programs shall, within 120 days of the submission of the proposed conservation plan, approve or disapprove any proposed conservation plan submitted by an electric utility pursuant to § 508.4. The Director shall approve the proposed plan unless he finds that the plan does not meet the requirements established by § 508.8. Prior to final approval of a proposed conservation plan, DOE shall evaluate the environmental consequence of such plan.

(b) When the Director approves the proposed plan, DOE will publish a Notice of Approval of Conservation Plan in the **Federal Register.** Approval of the plan will be effective upon such publication.

(c) If the proposed plan, as originally submitted, fails to meet the requirements for approval, DOE will notify the utility submitting the plan by letter, setting forth the reasons for such disapproval. The Director shall provide a reasonable period of time for submission of a modified conservation plan. Where the modified plan is not submitted within the specified time period, a Notice of Non-approval shall be published in the **Federal Register** together with the basis for the

determination that the proposed plan fails to meet the requirements of § 508.8.

§ 508.6 Amendment of approved conservation plan.

(a) An electric utility may, at any time, propose an amendment to a conservation plan for which final approval has been received pursuant to § 508.5.

(b) The proposed amended plan shall be submitted in accordance with the procedures established in § 508.4, and shall be subject to approval pursuant to § 508.5 *supra.*

§ 508.7 Annual reporting requirement.

Any electric utility required to submit a conservation plan under section 808 of FUA shall annually submit to the Director of the Fuels Conversion Division a report identifying the steps taken during the preceding year to implement such plan.

Subpart C—Contents of Conservation Plan

§ 508.8 Contents of conservation plan.

(a) Conservation plans submitted pursuant to § 508.4 shall set forth the means determined by the utility to achieve the required conservation of electric energy not later than the fifth year after its initial approval. The amount of electric energy to be conserved must be at least equal to 10 percent of the electric energy output of that utility sold within its own system (including electric energy used directly by the utility) which is attributable to natural gas during the 4 calendar quarters ending June 30, 1981 on an annual basis. A conservation plan may include those conservation measures adopted and conservation benefits achieved in response to the National Energy Act of 1978 and its component parts including the Powerplant and Industrial Fuel Use Act of 1978 and the National Energy Conservation Policy Act of 1978.

(b) The conservation plan shall include

(1) All activities required for such utility by part 1 of Title II of the National Energy Conservation Policy Act of 1978; and

(2) An effective public information program for conservation; and

(3) Any such other measures as the utility may consider appropriate.

(c) The proposed conservation plan shall contain procedures to permit the amounts expended by such utility in developing and implementing the plan to be recovered in a manner specified by the appropriate State regulatory authority (or by the utility in the case of a nonregulated utility). A utility may submit an amended plan for approval pursuant to § 508.5 at any time to reflect changes to the plan which will permit such recovery.

[FR Doc. 82-6549 Filed 3-10-82; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 82-ASW-9]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Model SA330 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) to require an inspection of the three tail rotor transmission attachment bolts for proper installation and possible cracks or for surface damage on Aerospatiale Model SA330 series helicopters. The proposed AD is needed to detect and correct any improper bolt and chamfered washer installation that may result in fatigue cracks and failure of the bolt. Loss of one bolt may cause loss of the tail rotor transmission and tail rotor.

DATES: Comments must be received on or before April 12, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Regional Counsel, Attention: Docket No. 82-ASW-9, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

A copy of the service information may be examined at Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas. A copy of the service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, or James H. Major, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624-4911, extension 502.

SUPPLEMENTARY INFORMATION: Several cases of improper installations of the tail rotor transmission attachment bolts on Aerospatiale SA330 series helicopters have been reported. The chamfered washers were not fitted properly under the heads of the bolts. The washers reportedly marked or dented the radius under the bolt heads. These marks may result in possible cracks and failure of the bolts. Failure of a bolt may cause loss of the transmission and tail rotor. Three bolts are used to attach the tail rotor transmission to the pylon. Since this condition is likely to exist on other helicopters of the same type designs, the notice proposes to issue an AD that would require removal and inspection of the three tail rotor transmission attachment bolts on Aerospatiale Model SA330 series helicopters. Bolts found with dents under the head or scoring or fretting corrosion on the stem or shank or bolts with cracks would be removed before further flight.

Request for Comment

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 triplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Office of Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, 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 docket.

The agency has determined that 20 helicopters could be affected by the proposed AD. It is anticipated that the total expanse of complying with the proposed AD could be $62,750.

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 adding the following new airworthiness directive:

Societe Nationale Industrielle Aerospatiale (SNIAS). Applies to all Model 330 series helicopters certified in all categories.

Compliance is required within 100 hours' time in service after the effective date of this AD unless already accomplished.

To detect damaged or cracked tail rotor transmission attachment bolts and to assure proper matching of the bolts and chambered washers, accomplish the following:

a. Remove the tail rotor transmission assembly and remove the three transmission-to-pylon attachment bolts.

b. Inspect the bolts visually for dents under the head, for scores or fretting corrosion on the bolt stem or shank. Inspect the bolts for cracks using a magnetic particle or equivalent inspection method.

c. Remove from further service, bolts having dents under the head or scoring or fretting on the stem or shank, or bolts having a crack.

d. Install bolts and washers and tail rotor transmission assembly in accordance with SA330 Puma Service Bulletin No. 01.34 dated October 19, 1981, Subparagraph C(4)(b), or FAA approved equivalent.

e. Equivalent means of complying with this AD must be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium. Compliance with Puma Service Bulletin No. 01.34 dated October 19, 1981, satisfies this AD.

(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 11.85)

Note.—The FAA has determined that this proposed regulation is not considered major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that this proposed regulation at promulgation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since 20 helicopters will be affected by the proposal for an anticipated expense of $62,750. A draft regulatory 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 Fort Worth, Texas, on February 19, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-6516 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ACE-03]

Transition Area, Dodge City, Kansas; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to alter the 700-foot transition area at Dodge City, Kansas, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Dodge City, Kansas, Municipal Airport, utilizing the Dodge City Non-Directional Beacon (NDB) as a navigational aid.

DATE: Comments must be received on or before April 15, 1982.

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: Don A. Peterson, 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 the closing date for comments 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, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Dodge City, Kansas. To enhance airport usage, an additional instrument approach procedure to the Dodge City Municipal Airport is being established, utilizing the Dodge City NDB as a navigational aid. The establishment of this new instrument approach procedure, based on this navigational aid, entails alteration of the transition area at Dodge City, 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, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by altering the following transition area:

Dodge City, Kansas

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Dodge City Municipal Airport (Latitude 37°45'44"N, Longitude 99°57'52"W), within 3.5 miles each side of the Dodge City VORTAC (Latitude 37°51'02"N, Longitude 100°00'18"W) 339° radial extending from the 9.5-mile radius area to 12 miles northwest of the VORTAC and within 5 miles each side of the Dodge City VORTAC 355° radial extending from the 9.5-mile radius area to 12 miles north of the VORTAC.

(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)).

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.

Issued in Kansas City, Missouri, on February 25, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-6511 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ACE-02]

Transition Area, Ava, Missouri; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at Ava, Missouri, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Bill Martin Memorial Airport, Ava, Missouri, utilizing a Non-Directional Radio Beacon (NDB) being installed on the airport as a navigational aid.

DATES: Comments must be received on or before April 15, 1982.

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: Dwaine Hiland, 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 the closing date for comments 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 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, 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Ava, Missouri. To enhance airport usage, an additional instrument approach procedure to the Bill Martin Memorial Airport is being established utilizing the Ava NDB as a navigational aid. The establishment of this new instrument approach procedure based on this navigational aid entails alteration of the transition area at Ava, Missouri, 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, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by altering the following transition area:

Ava, Missouri

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bill Martin Memorial Airport (Latitude 36°58'19"N, Longitude 92°40'52"W) and within 2 miles each side of the 107° radial of the Dogwood, Missouri VORTAC, extending from the 5-mile radius area to the VORTAC, within 2.5 miles each side of the 133° bearing from the airport extending from the 5-mile radius area to 6 miles southeast and within 3 miles each side of the 142° bearing from the Ava, Missouri NDB (Latitude 36°58'11"N, Longitude 92°40'38"W) extending from the 5-mile radius area to 8.5 miles southeast of the airport.

(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))

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.

Issued in Kansas City, Missouri, on February 25, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-6512 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ACE-19]

Transition Area—Kaiser, Missouri; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM)

SUMMARY: This notice proposes to alter the 700-foot transition area at Kaiser, Missouri, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Camdenton, Missouri, Municipal Airport utilizing the Sunshine, Missouri, VOR as a navigational aid.

DATES: Comments must be received on or before April 15, 1982.

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: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, 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 the closing date for comments 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, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Kaiser, Missouri. To enhance airport usage, an additional intrument approach procedure to the Camdenton, Missouri, Municipal Airport is being established utilizing the Sunshine, Missouri VOR as a navigational aid. The establishment of a new instrument approach procedure, based on this navigational aid, entails alteration of the transition area at Kaiser, Missouri, 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, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by altering the following transition area:

Kaiser, Missouri

That airspace extending from 700 feet above the surface within a 5–mile radius of the Camdenton Memorial Airport (latitude 37°58'29"N; longitude 92°41'30"W) within a 7-mile radius of Linn Creek-Grand Glaize Memorial Airport (latitude 38°06'38"N; longitude 92°40'50"W), within a 9–mile radius of the Lee C. Fine Memorial Airport (latitude 38°05'44"N; longitude 92°32'56"W), and within 4.5 miles each side of the 133° radial of the Sunshine VOR extending from the 7–mile radius area to 9 miles southeast of the VOR.

(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)

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.

Issued in Kansas City, Missouri, on February 25, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-6513 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-ACE-15]

Transition Area—Hugoton, 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 Hugoton, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Hugoton Municipal Airport, Hugoton, Kansas, utilizing the Hugoton Non-Directional Radio Beacon (NDB) as a navigational aid. This proposed action will change the airport status from VFR to IFR.

DATE: Comments must be received on or before April 15, 1982.

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: Don A. Peterson, 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 the closing date for comments 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, Missiouri 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, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Hugoton, Kansas. To enhance airport usage, a new instrument approach procedure is being developed for the Hugoton, Kansas, Municipal Airport, utilizing the Hugoton NDB 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 Hugoton, Kansas, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment.

The intended effect of this action is to ensure segregation of aircraft using the approach procedure under IFR and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IRF.

The Proposed Amendment

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 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:

Hugoton, Kansas

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Hugoton Municipal Airport (Latitude 37°10'15"N, Longitude 101°22'29"W), and within 3 miles each side of the 190° bearing from the Hugoton NDB (Latitude 37°09'40"N, Longitude 101°22'25"W), extending from the 5.5-mile radius area to 8 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).

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.

Issued in Kansas City, Missouri, on February 25, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82–6514 Filed 3–10–82; 8:45 am]

BILLING CODE 4910–13–M

Coast Guard

33 CFR Part 117

[CGD5 81–18R]

Drawbridge Operation Regulations: Chickahominy River, Barrets Ferry, Va.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Commonwealth of Virginia, Department of Highways and Transportation, the Coast Guard is considering amending the operating regulation for the drawbridge across the Chickahominy River, mile 1.5, at Barrets Ferry, Virginia to further restrict the periods when the bridge may open on signal. This proposal is being made in order to reduce costs of operation for those periods when the attendance of the bridgetender is not justified by the volume of waterway traffic. This action will reduce unnecessary costs of operation for the State and still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before April 26, 1982.

ADDRESS: Comments should be mailed to Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705. The comments and any materials referenced in this notice will be available for inspection or copying at the office of Chief, Aids to Navigation Branch, Room 609, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia. Normal office hours are between 8:00 a.m. and 4:30 p.m. Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: W. A. Pratt, Bridge Specialist, Aids to Navigation Branch, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705, (804) 398–6227.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify this proposed rule by Docket No. or bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The rule may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests are received and it is determined that an opportunity to make oral presentations will aid the rulemaking process.

Discussion of Proposed Rule

The Commonwealth of Virginia Department of Highways and Transportation, owner of this bridge, has requested a change to the existing regulation for the Barrets Ferry Bridge. The current regulation requires that the bridge shall be opened on signal from 7 a.m. to 11 p.m. and shall open on signal from 11 p.m. to 7 a.m. if at least twelve hours notice has been given. The proposed regulation would restrict the bridge to opening on signal for the passage of vessels from 8 a.m. to 8 p.m. every day from April 1 through November 30 and from 9 a.m. to 5 p.m. every day from December 1 through March 31. At all other times the bridge shall open on signal if at least twelve hours notice has been given.

The Commonwealth of Virginia has provided a review of bridge openings which indicates that the proposed reduction in service would affect approximately 4.3 percent of the yearly traffic. Records for the period December 1, 1979 through March 31, 1980 indicate that 3 boats out of a total of 11 vessels would have been affected by the proposed rule to reduce operator

attendance to the hours between 9 a.m. and 5 p.m. For the same period in 1980 and 1981, only 2 vessels out of 14 would have been affected by the requirement for twelve hours notice. A summary of openings for April 1 through November 30, 1979, shows that 5 vessels out of 213 would have been affected by the bridge operator being in attendance only from 8 a.m. to 8 p.m. From April 1 through November 30, 1980, the records show 11 in 254 would have been affected. An operator in attendance when the need for one does not exist or is greatly reduced has not proved cost-effective for the State. The proposed regulation would produce significant savings in operating costs without hindering navigation unreasonably. The proposed regulation reduces operator attendance by four hours a day during the warm months and by eight hours a day during the cooler months when vessel traffic has considerably diminished.

Based on these findings, the Coast Guard proposes to amend the regulation as requested by the Commonwealth of Virginia. It appears that this proposed change may be made without unduly restricting existing water traffic volumes while at the same time relieving the bridge owner of the responsibility of providing operator attendance during the hours of infrequent passage of vessels.

There are no known businesses that will be significantly impacted by the proposed change. The proposed hours of operator attendance include those hours of daylight when the majority of vessels transit the Chickhominy River. Those vessels navigating the Chickhominy after dark and in winter may comply with the 12-hour notice requirement for opening without undue hardship. The Commonwealth of Virginia, Department of Highways and Transportation, will be beneficially affected from an economic standpoint since they will be relieved of providing a salaried operator at times which fail to justify his attendance.

Evaluation

This proposed regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, the proposed regulation is considered to be nonsignificant in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation of the proposal has not been conducted because the expected economic impact is so minimal as to not warrant the evaluation. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Proposed Regulation

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is proposed to be amended as follows:

In 33 CFR 117.245, paragraph (f)(21) is revised to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(21) Chickahominy River, VA; Virginia Department of Highways bridge at Barrets Ferry. The draw shall open on signal except for the periods specified in the following. Every day from April 1 through November 30 the draw shall not open on signal between the hours of 8:00 p.m. and 6:00 a.m. unless at least twelve hours notice has been given. Every day from December 1 through March 31 the draw shall not open on signal between the hours of 5:00 p.m. and 9:00 a.m. unless at least twelve hours notice has been given.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2), 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: February 23, 1982.

John D. Costello,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 82-6726 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 7E1949/P214; PH-FRL-2072-7]

Dimethoate; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for the combined residues of the insecticide dimethoate and its oxygen analog in or on cherries. This proposal to establish a maximum permissible level for the combined residues of dimethoate in or on cherries was submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before March 26, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS–767C), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703) 557–7123.

SUPPLEMENTARY INFORMATION: The Oregon State University Agricultural Experiment Station, Corvallis, OR 97331 originally submitted pesticide petition number 7E1949 to EPA. Later the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, assumed responsibility for this petition on behalf of the Agricultural Experiment Station of Oregon and the IR–4 Technical Committee.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide dimethoate [*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorodithioate] and its oxygen analog *O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorothioate in or on the raw agricultural commodity cherries at 2.0 parts per million (ppm).

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include: a hen delayed neurotoxicity study with a no-observed-effect-level (NOEL) of 130 ppm dimethoate and 240 ppm of the dimethoate oxygen analog; a dog 90-day feeding study with a cholinesterase (ChE) inhibition NOEL of 9 ppm dimethoate; a rat 90-day feeding study with a ChE inhibition NOEL 32 ppm dimethoate; a human volunteer feeding study with a ChE inhibition NOEL of 15 mg/day and lowest-effect-level (LEL) of 30 mg/day; a rat two-year feeding study with a NOEL of 1 ppm for brain, blood and plasma ChE inhibition; two teratogenicity studies (cat and rat), each with a NOEL of 2.8 mg/kg/day; and a mouse reproduction study with a NOEL of 50 ppm. A second chronic feeding study in a non-rodent is lacking.

The acceptable daily intake (ADI) is based on a NOEL of 8.00 ppm (0.2 mg/

kg) for cholinesterase inhibition in human volunteers. Using a ten-fold safety factor, the ADI is calculated to be 0.02 mg/kg of body weight (bw)/day; thus, the maximum permitted intake (MPI) for a 60 kg human is 1.2 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.5108 mg/day; the current action will increase the TMRC by 0.00307 mg/day (0.6 percent). Published and proposed tolerances utilize 42.82 percent of the ADI.

The nature of the residues is adequately understood and an adequate analytical method (gas-liquid chromatography using a flame photometric detector set for the phosphorous mode) is available for enforcement purposes. Residue data are from tests conducted in Oregon. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.204 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, which contains any of the ingredients listed herein, may request on or before March 26, 1982, that this proposed rulemaking be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposed regulation. As provided for in the Administrative Procedure Act (5 U.S.C. 553(d)(3)), the comment period time is shortened to less than 30 days because of the necessity to expeditiously provide a means for control of Western cherry fruit fly on cherries. Comments must bear a notation indicating the document control number, "[PP 7E1949/P214]." All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: March 5, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.204 be amended by reformatting the current entries into alphabetical order and by adding and alphabetically inserting the raw agricultural commodity cherries to read as follows:

§ 180.204 Dimethoate including its oxygen analog; tolerances for residues.

Tolerances are established for total residues of the insecticide dimethoate (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorodithioate) including its oxygen analog (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorothioate) in or on the following raw agricultural commodities:

Commodities	Parts per million
Alfalfa	2
Apples	2
Beans, dry	2
Beans, lima	2
Beans, snap	2
Broccoli	2
Cabbage	2
Cattle, fat	0.02(N)
Cattle, mbyp	0.02(N)
Cattle, meat	0.02(N)
Cauliflower	2
Celery	2
Cherries	2
Collards	2
Corn, fodder	1
Corn, forage	1
Corn, grain	0.1(N)
Cottonseed	0.1
Eggs	0.02(N)
Endive (escarole)	2
Goats, fat	0.02(N)
Goats, mbyp	0.02(N)
Goats, meat	0.02(N)
Grapefruit	2
Grapes	1
Hogs, fat	0.02(N)
Hogs, mbyp	0.02(N)
Hogs, meat	0.02(N)
Horses, fat	0.02(N)
Horses, mbyp	0.02(N)
Horses, meat	0.02(N)
Kale	2
Lemons	2
Lettuce	2
Melons	1
Milk	0.002(N)
Mustard greens	2
Oranges	2
Pears	2
Peas	2
Pecans	0.1
Peppers	2
Potatoes	0.2
Poultry, fat	0.02(N)
Poultry, mbyp	0.02(N)
Poultry, meat	0.02(N)
Safflower seed	0.1
Sheep, fat	0.02(N)
Sheep, mbyp	0.02(N)
Sheep, meat	0.02(N)
Sorghum, forage	0.2
Sorghum, grain	0.1
Soybeans	0.05(N)
Soybeans, forage	2
Soybeans, hay	2
Spinach	2
Swiss chard	2
Tangerines	2
Tomatoes	2
Turnips, roots	2
Turnips, tops	2
Wheat, grain	0.04(N)
Wheat, green fodder	2
Wheat, straw	2

[FR Doc. 82-6758 Filed 3-10-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 799

[OPTS 42008A; TSH-FRL-2073-7]

Phenylendiamines; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking (ANPR); extension of comment period.

SUMMARY: EPA is extending the comment period for 30 days on the ANPR on Phenylenediamines that was published in the **Federal Register** of January 8, 1982 (47 FR 973). The extension is in response to requests by members of the public for additional time for comments beyond the original closing date of March 9, 1982.

DATE: Written comments should be submitted in triplicate, on or before April 8, 1982.

ADDRESS: Written comments should be addressed to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E–401, 401 M St., SW., Washington, D.C. 20460. Comments should bear the identifying notation OPTS 42008A. The administrative record, including comments, is available for public inspection in Rm. E–107 at the address noted above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances,

Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460; Toll free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator–202–554–1404).

Dated: March 4, 1982.

John A. Todhunter,

Assistant Administrotor for Pesticides and Toxic Substances.

[FR Doc. 82-6812 Filed 3-10-82; 8:45 am]

BILLING CODE 6560-31-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

45 CFR Parts 1050, 1067 and 1068

Close Out of Grants Funded by the Community Services Administration

AGENCY: Community Services Office, HHS.

ACTION: Proposed rule.

SUMMARY: The Office of Community Services (OCS) proposes to amend the regulations applicable to grants funded by the Community Services Administration (CSA). Congress abolished CSA effective October 1, 1981, and OCS is responsible for closing out the programmatic activities of CSA. To facilitate the orderly close-out and final audit of CSA grants which do not contain specific termination dates, the proposed rule provides that these grants will expire at the close of each grantee's program account funding period, and that expenses may not be incurred under a CSA grant subsequent to that date. OCS also proposes to amend the regulations to require non-public grantees to submit final audit reports within 60 days following the funding period, thereby expediting the conclusion of the close-out process.

DATE: Comments on the proposed rule must be received on or before April 12, 1982.

ADDRESS: Comments should be directed to Mr. Robert L. Trachtenberg, Acting Director, Office of Community Services, Department of Health and Human Services, 1200 19th Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Mr. Spencer L. Lott, 202–653–9233.

SUPPLEMENTARY INFORMATION: Until October 1, 1981, CSA administered community services grant programs authorized under the Economic Opportunity Act of 1964 ("EOA"). The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) ("OBRA") repealed most provisions of the EOA, abolished CSA, and created a new Community Services Block Grant Program to be administered by the Secretary of HHS through an Office of Community Services (OCS). Regulations implementing the block grant program, which transfers substantial grant-making authority from the Federal government to the States, were published in the **Federal Register** on October 1, 1981 (46 FR 48587).

In addition to administering the block grant program and certain discretionary community services grants, OCS is responsible for continuing the administration of the otherwise repealed community services programs during the fiscal year 1982 transition period in those states that have requested that direct federal funding of such programs be continued. Through a delegation of authority from the Director of the Office of Management and Budget, OCS must also terminate the affairs of CSA, including transferring or otherwise disposing of CSA grants and grant funds as necessary to effectuate the purposes of the block grant program. Pending audits of completed CSA grants must therefore by concluded, and grants with funding periods extending beyond September 30, 1981, must be closed out and audited. In Pub. L. 97–51, section 133, Congress appropriated funds to be used in Fiscal Year 1982 for the cost of carrying out these close-out functions.

Since 1970, CSA has issued two types of grant documents, those with a definite termination date (Column 12 of CSA Form 314) and those with a planned number of months (Column 13 of CSA Form 314). Current regulations provide that if a grant has a termination date, the grantee may not incur expenses under the grant after that date. Grantees may continue to use grant funds indefinitely until they are fully expended if the grant document does not specify a termination date but instead indicates the planned number of months for which funding is provided. The unspecified duration of such grants posed no significant administrative problem for CSA, because generally carry-over balances remaining after the end of a grantee's program account funding period were simply reprogrammed for the grantee's use under its approved program in the following period. However, the indefinite period during which many grantees may continue to expend grant funds is a major impediment to the orderly completion of CSA close-out activities mandated by section 682(e) of the OBRA.

Federal responsibilities with respect to audits and disposition of grant assets (as set out at 45 CFR 1050.110–113) may not be accomplished until program expenditures under a grant have ended. By extending its expenditures under a CSA grant beyond the program account funding period (*i.e.*, the planned number of months), a grantee may postpone final audit of the grant indefinitely, causing corresponding delays in the conclusion of the entire CSA close-out process. Additionally, the efficient use of OCS audit personnel is impeded because federal audits may not be scheduled in advance with any degree of certainty.

OCS therefore proposes to amend the CSA regulations to provide that program activities will end at the expiration of the program account funding period, which is currently defined as the period extending from the effective date of the grant document through the termination date "or expiration of planned number of months for which funding is provided." 45 CFR 1067.30–2(b). Grants awarded for a planned number of months would therefore be treated in the same way as those with termination dates, thereby facilitating an orderly and expeditious close-out of grant activities.

Additionally, OCS proposes to change the regulations which currently provide that CSA grantees must submit annual audit reports within six months of the end of each program year or grant period (45 CFR 1068.42–8), and that final audit reports must be submitted within 90 days after the completion of a grant when funding is not renewed (45 CFR 1050.112, 1050.113). Uniform federal guidelines issued by the Office of Management and Budget in OMB Circular A–110 also allow 90 days for grantees' submission of final audit reports.

To complete as much of the CSA close-out process as possible during fiscal year 1982, the Inspector General, CSA/OCS, has recommended that CSA grants should be audited on an expedited basis. OCS therefore proposes to amend the regulations to require that all annual audit reports for private CSA grantees be submitted to the Inspector General within 60 days of the end of the grantee's program year, and that private grantees submit final close-out audit reports to the Inspector General within 60 days of the grant's expiration. Accordingly, OMB has agreed to waive the applicable guidelines contained in OMB Circular A–110 with respect to deadlines for submission of audit reports from privately operated CSA grantees. Approximately 10 percent of CSA grantees are public entities, which would have 90 days in which to submit audit reports under the proposed regulation.

These proposed changes are intended to facilitate the orderly close-out of CSA grant activities in the most efficient and expedient way possible. Executive Order 12291, which requires the preparation of a regulatory impact analysis for regulations that have an annual effect on the national economy of $100 million or more, is not applicable to these proposed amendments. They will have no appreciable effect on the national economy and do not constitute a "major rule" as defined in the Executive Order.

Neither do the provisions of the Regulatory Flexibility Act of 1980 (5 U.S.C. Ch. 6) apply to these proposed amendments. That statute requires that for each proposed rule with a "significant economic impact on a substantial number of small entities," an economic analysis must be prepared in an effort to anticipate and reduce the impact of rules and paperwork requirements on small businesses. The proposed regulations will have no significant economic impact upon CSA grantees, but will merely facilitate an orderly close-out and final audit process necessary to carry out the congressionally mandated termination of CSA program activities. Accordingly, the Secretary hereby certifies that an initial regulatory flexibility analysis is not required.

For the reasons set out in the preamble, Parts 1050, 1067, and 1068 of Chapter X, Subtitle B, Title 45 of the Code of Federal Regulations are proposed to be amended as follows:

PART 1050—UNIFORM FEDERAL STANDARDS

1. By revising the authority citation for Part 1050 as follows:

Authority: Sec. 602, 78 Stat. 530 (42 U.S.C. 2942); §§ 1050.112 and 1050.113 also issued under sec. 682(e), Pub. L. 97–35, 95 Stat. 519 (42 U.S.C. 9911).

2. By revising paragraph (c) of § 1050.112 to read as follows:

§ 1050.112 Standards.

* * * * *

(c) Within 60 calendar days after the completion of a grant, the grantee shall submit to the Office of Community Services (OCS) all financial, performance, and other reports required as conditions of the grant, except that public grantees shall submit such required reports within 90 days of the grant's completion. (See references (7), (8), and (13) for procedures)

All audit reports must be addressed to the Office of the Inspector General, CSA/OCS, Department of Health and Human Services, Room 548, 1200 19th Street NW., Washington, D.C. 20506. All other required reports must be addressed to the Office of Community Services, Department of Health and Human Services, 1200 19th Street, NW., Washington, D.C. 20506. The appropriate office may approve such extensions as it deems necessary when requested by a grantee.

* * * * *

3. By revising paragraph (b)(1)(i) of § 1050.113 to read as follows:

§ 1050.113 CSA implementing policies and procedures.

* * * * *

(b) *Closeout Audits.*—(1) *Scope of Audit.* (i) Within 60 days after the date of completion of a CSA grant, the grantee must submit a final audit of grant operations, except that the final audit for public grantees shall be submitted within 90 days after the grant's completion. Audit reports must be directed to the Office of the Inspector General, CSA/OCS, at the address specified in § 1050.112(c). Final audits shall be conducted in accordance with the Accounting System Survey and Audit Guide, CSA Manual 2401–1, except that the scope of the audit shall be adjusted as follows: * * *

* * * * *

PART 1067—FUNDING OF CSA GRANTEES

4. By revising the authority citation for Part 1067 as follows:

Authority: Secs. 213, 602, 604, Economic Opportunity Act of 1964, as amended; 81 Stat. 395; 78 Stat. 528; 81 Stat. 715 (42 U.S.C. 2796, 2942, 2944); § 1067.30–3 also issued under sec. 682(e), Pub. L. 97–35, 95 Stat. 519 (42 U.S.C. 9911).

5. By revising paragraph (c) and adding new paragraphs (c)(1) and (c)(2) in § 1067.30–3, as follows:

§ 1067.30–3 Purpose.

This subpart provides for:

* * * * *

(c) Grantees' use of funds through the program account funding period. A grantee may not incur expenses under its program account after the termination date entered in column 12 of CSA Form 314, or after the expiration of the planned number of months for which funding is provided (column 13 of CSA Form 314). Except as provided in paragraphs (e) (1) and (2) of this section, grant funds that are not expended by the end of the program account funding period must be returned to the Office of Community Services (OCS) in accordance with 45 CFR 1050.112(b).

(1) *Exception.* Under a grant with a planned number of months which expires on or before (enter date of publication of final rule in **Federal Register**, funds may be used until expended or until (enter last day of month following month of publication of final rule), whichever occurs first.

(2) *Extensions and Reprogramming.* If a grantee applies for an extension of time in which to use the funds under its approved work program, OCS may extend the program account funding period under such terms and conditions as it deems appropriate. Alternatively, OCS may reprogram unexpended funds as part of a new grant action if the grantee is awarded an OCS grant pursuant to the block grant transition provisions of 42 U.S.C. 9911.

PART 1068—GRANTEE FINANCIAL MANAGEMENT

6. By revising the authority citation for Subpart 1068.42 as follows:

Authority Sec. 602, 78 Stat. 530 (42 U.S.C. 2942); sec. 1068.42–8 also issued under sec. 682(e), Pub. L. 97–35, 95 Stat. 519 (42 U.S.C. 9911).

7. By adding new paragraph (a)(2) to § 1068.42–8 as follows:

§ 1068.42–8 Required annual audit.

(a) * * *

(2) *Audits for Periods Ending on or After October 1, 1981.* With respect to program years or grant periods ending on or after October 1, 1981, the grantee's auditor must submit five (5) copies of the audit report to the Office of the Inspector General, CSA/OCS, at the address specified in § 1050.112(c), within 60 days after the end of the audited program year or grant period, except that audit reports for public grantees shall be submitted within 90 days after the end of the audited period.

* * * * *

Dated: February 11, 1982.

Robert L. Trachtenberg,

Acting Director, Office of Community Services.

Dated: February 18, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82–6314 Filed 3–10–82; 8:45 am]

BILLING CODE 4150–04–M

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

[Docket No. 82-14]

Inquiry Into Regulation of the Domestic Offshore Trades

AGENCY: Federal Maritime Commission.

ACTION: Notice of inquiry.

SUMMARY: The Federal Maritime Commission solicits public comment on a number of issues affecting regulation of rates in the domestic offshore trades. Affected interests have contended that the existence of competitive forces in these trades, if freed from regulation, would achieve the goal of efficient and stable transportation underlying the Intercoastal Shipping Act, 1916. Accordingly, comment is sought on legislative proposals and regulatory concepts affecting domestic offshore carriers.

DATES: Comments on or before May 10, 1982.

ADDRESS: Comments to: Secretary, Federal Maritime Commission, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Room 11101, Washington, D.C. 20573; (202) 523-5725.

SUPPLEMENTARY INFORMATION:

Authority: Intercoastal Shipping Act, 1933; Shipping Act, 1916.

The Commission, pursuant to the Shipping Act, 1916 (46 U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 U.S.C. 843 et seq.), is charged with regulating rates and charges assessed by ocean carriers operating in the U.S. domestic offshore trades, namely: Hawaii, Alaska, Puerto Rico, Guam, Virgin Islands, American Samoa and the Northern Mariana Islands.

The purpose of these statutes is to ensure fair, reasonable, and non-discriminatory transportation rates in these trades. In determining the propriety of these rates, the Commission has traditionally applied the public utility standard and limited the overall revenues of carriers to a reasonable return on investment. In theory, this approach allows the regulated carriers sufficient profit to maintain their financial viability while at the same time ensuring the movement of cargoes at reasonable rates.

Affected interests have contended that the Commission's method of regulation fails to account for efficiency, does not consider the long range viability of the carriers, overly emphasizes cost plus return on investment, discourages entry, and rate competition, and creates unnecessary costs. It is claimed that the existence of competitive forces in the domestic offshore trades would, if freed from regulation, achieve the goal of stable and efficient transportation service underlying the Intercoastal Shipping Act.

Competitive conditions vary substantially in the various domestic offshore trades subject to the Federal Maritime Commission's jurisdiction. However, to the extent there exists substantial competition among carriers serving a given trade, it may well be that the purposes of the Intercoastal Shipping Act could be served by subjecting the rate practices of carriers to competitive forces. A brief synopsis of the number of vessel operators and the existence of market dominance in each trade is presented below.[1]

1. Alaskan Trade

In 1980, 14 carriers in the Alaskan trade filed financial reports with the FMC, none of which accounted for more than 15 percent of FMC regulated traffic gross trade revenues. The Commission does not have jurisdiction over the preponderance of cargo carried by the two largest carriers serving Alaska, both of which publish through rates and are thus subject to the jurisdiction of the Interstate Commerce Commission. There have been a few rate investigations in this trade in the past several years.

2. American Samoa Trade

In 1980, three vessel operators in the American Samoa trade filed final reports with the FMC. Each of the three carriers accounted for approximately one-third of gross trade revenues.

There have been no rate investigations in this trade in the past several years.

3. Guam Trade

In 1980, two vessel operators in the Guam trade filed financial reports with the FMC, one of which accounted for two-thirds of gross trade revenues. There have been few rate investigations in this trade in the past several years.

4. Hawaiian Trade

In 1980, five vessel operators in the Hawaiian trade filed financial reports with the FMC. One operator accounted for over 75 percent of gross trade revenues. There have been a number of rate investigations in this trade in the past several years.

5. Northern Mariana Islands Trade

The Northern Mariana Islands trade is a recent addition to the domestic offshore jurisdiction of the Commission. There is presently no carrier financial data available for this trade. Five vessel operators serve this trade.

6. Puerto Rican Trade

In 1980, five vessel operators in the Puerto Rican trade filed financial reports with the FMC. One operator accounted for over 50 percent of overall gross trade revenues.[2] There have been a number of rate investigations in this trade in the past several years.

7. Virgin Islands Trade

In 1980, the Virgin Islands was served by direct vessel call from ports in Florida and by transhipment from Puerto Rico. Two vessel operations offered direct calls between Florida and the Virgin Islands. One of these carriers accounted for the majority of trade revenues. Gross trade revenues were evenly divided between the two vessel operators offering a transshipment service in the trade. There have been several rate investigations in this trade in the past several years.

The Commission has recently made efforts to reduce or eliminate unnecessary or overly burdensome regulations affecting carriers serving the domestic offshore trades. These include: (1) Eliminating virtually all financial reporting requirements for the 141 non-vessel operating common carriers in these trades; (2) eliminating the filing of annual company-wide financial and operating data of vessel operating carriers; and (3) exempting vessel operating carriers earning less than $10 million annual revenues from filing detailed financial reports concerning domestic offshore operations.

In order to meaningfully evaluate the existing system of regulation, the Commission is seeking comments on a number of issues. The Commission encourages statements on any methodologies or concepts that would enhance the efficiency of regulation of the domestic offshore trades, particularly when accompanied by relevant factual and economic data. After receipt of comments the Commission may schedule public hearings for the presentation and

[1] The number of vessel operators serving a trade has been determined on the basis of those carriers filing fiscal year 1980 data with the FMC pursuant to General Order 11. In most trades, the number of carriers maintaining a tariff on file with the FMC exceeds the number of carriers filing financial data with the FMC.

[2] Recently, one of these carriers cancelled its FMC tariffs and filed through rate tariffs with the ICC.

examination of responsible and feasible proposals.

The Commission is not soliciting comments regarding amendments to the provisions of the Jones Act which restrict entry into the domestic offshore trades to U.S. flag vessels. The implementation of that statute is outside the statutory jurisdiction of the Commission.[3] Appropriate issues for comment are:

Legislative Proposals

(1) Should the Commission recommend to Congress that its regulatory authority in the U.S. domestic offshore trades be eliminated or reduced? What would be the impact of a reduction or elimination of regulatory authority in the domestic offshore trades?

(2) Does the reduction of regulation in the domestic offshore trades require amendment or repeal of the Intercoastal Shipping Act, 1933?

(3) If so, what form should such amendments take and should they permit the FMC to distinguish between competitive and non-competitive trades? Should the Commission have the flexibility to exempt from rate regulation particular trades which are served by a number of competing carriers?

Regulatory Proposals

(4) How should competitive uniformity in rates in the domestic trades be considered in Commission rate investigations? What is the impact of such a pricing policy in the domestic trades?

(5) Should the Commission adopt a dominant carrier methodology whereby the dominant carriers in a trade would serve as the basis for determining the reasonableness of rates in that particular trade? How should dominance be defined?

(6) Should the Commission adopt a dominant carrier methodology whereby the most efficient carrier in a trade (defined in terms of lowest costs per unit of output) would serve as the basis for determining the reasonableness of rates in that particular trade? Under this methodology, rate increases of the most efficient carrier in the trade would be subject to intense scrutiny and an appropriate rate of return developed for that carrier. The rate of return deemed appropriate for the most efficient carrier would then serve as the maximum level which other carriers in the trade would be allowed to earn.

(7) If the Commission is given statutory authority to exempt competitive trades from rate regulation, what should be the criteria for determining the number of carriers and their market shares which would allow the exercise of such exemption authority?

(8) Should the Commission adopt a constructed carrier methodology, whereby an average rate of return for the trade would be constructed with carriers limited to earning no more than that average rate?

(9) In evaluating a carrier's revenue requirements, should a methodology other than return on rate base (i.e., either the fixed charges coverage ratio or some other financial ratio) be utilized in assessing a firm that is tax exempt, totally debt financed, and publicly owned?

(10) What other methods could the Commission implement to effectively carry out its responsibility to the public in regulating the domestic offshore trades and yet eliminate ineffective or counter-productive regulatory practices?

An original and 15 copies of each comment should be directed in writing to the Secretary, Federal Maritime Commission, Washington, D.C. 20573.

By the Commission March 5, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-6523 Filed 3-10-82; 8:45 am]

BILLING CODE 6730-01-M

[3] Section 27, Merchant Marine Act, 1920 (46 U.S.C. 883). However, we will accept suggestions and comments which require an explanation of the effects of the U.S. cabotage laws in order to understand the impact of a possible modification of FMC regulatory authority.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-75; RM-3298]

FM Broadcast Station in Columbia, Jamestown, and Smiths Grove, Ky.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action rescinds previous orders denying the assignment of Channel 228A to Smiths Grove, Kentucky, and reinstates the original Notice of Proposed Rulemaking for comments. A letter, not served on petitioners, had been relied on by the Commission in denying the petition to allocate Channel 228A to Smiths Grove in violation of the Commission's *ex parte* rules. The Commission is therefore reopening the comment period on the Notice of Proposed Rulemaking because of petitioners lack of opportunity to respond to this letter. The original Notice of Proposed Rulemaking in attached for that purpose.

DATES: Comments must be filed on or before April 12, 1982, and reply comments must be filed on or before April 27, 1982.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Order Rescinding Memorandum Opinion and Order and Reinstating the Notice of Proposed Rule Making

Adopted: February 18, 1982.

Released: February 26, 1982.

1. The Commission has before it the "Petition for Reconsideration" filed by Charles M. Anderson and J. Barry Williams ("petitioners") seeking reversal of the Memorandum Opinion and Order released September 17, 1981,[1] which affirmed the denial of the assignment of Channel 228A to Smiths Grove, Kentucky.

2. In its request, petitioners have called our attention to a procedural irregularity which they allege should be corrected. Petitioners indicate that a comment submitted by John B. Begley, President of Tri-County Broadcasting Corporation, was not served on the petitioners yet the Commission relied on this comment in concluding that Channel 228A should not be allocated to Smiths Grove. As such, the comment was an *ex parte* filing prohibited from consideration by the Commission in a rule making proceeding.

3. We agree with the petitioners and shall rescind our previous orders in this proceeding. An *ex parte* presentation is a written "communication going to the merits or outcome of a proceeding" and not served on the parties to the proceeding, § 1.1201(f) and (g). Such presentations are prohibited, § 1.1229 and improper for Commission consideration. In this case, Tri-County, through its President, submitted two letters concerning the merits of this proceeding. The first letter was served on three named persons (none of which were the named petitioners). However, petitioners state that they were aware of the letter and have responded to it. The second letter does not disclose any

[1] The *Report and Order* in this proceeding can be found at 46 FR 8600, published January 27, 1981. The Memorandum Opinion and Order was not published.

service. Petitioners claim they have not seen the second letter. The proper procedure would have been to reject the latter filing of Tri-County.[2] However, we did rely on this comment. Now that we have learned of petitioners lack of opportunity to respond to this letter, we believe the proper course to take is to recommence this proceeding with the original Notice of Proposed Rule Making. The Notice of Proposed Rule Making is attached for that purpose. Any comments from interested parties must be served on the petitioners as set forth in paragraph 4 of the Appendix to the Notice of Proposed Rule Making. See also paragraph 10 to the Notice of Proposed Rule Making. If service is not provided, the comments cannot be given any consideration. In view of this determination, we have not evaluated the substantive arguments made by petitioners in the petition for reconsideration.[3] Rather we advise petitioners to resubmit these allegations as they pertain to the proposal set forth in the attached Notice of Proposed Rule Making.[4]

4. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b).

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Notice of Proposed Rule Making; Second Release

Adopted: February 20, 1980.

Released: February 26, 1980.

1. The Commission herein considers a petition for rule making[5] file by Charles M. Anderson and J. Barry Williams ("petitioners"), which seeks the assignment of Channel 228A to Smiths Grove, Kentucky, as a first FM assignment to the community. In order to accomplish this, it would be necessary to substitute Channel 285A for Channel 228A (now occupied by Station WAIN–FM) in Columbia, Kentucky, and to substitute Channel 228A for Channel 285A (now occupied by Station WJRS(FM), Jamestown, Kentucky.

2. Smiths Grove (population 767)[6], is located in the northeast corner of Warren County (population 71,828) adjacent to Edmonson County (population 9,962) and approximately 22 kilomenters (14 miles) from Bowling Green, Kentucky. There is no local aural broadcast service in Smiths Grove.

3. Petitioners state that Smiths Grove is primarily an agricultural area and includes a number of small businesses. They also assert that the proposed station would provide a first local aural service to parts of Edmonson County as well as Warren County. Petitioners have submitted demographic data in order to demonstrate the need for a first FM asssignment to Smiths Grove.

4. In an engineering study petitioners indicate that Channel 228A can be assigned to Smiths Grove in compliance with the minimum distance separation requirements provided the transmitter sites of Station WAIN–FM (Columbia) and Station WJRS(FM) (Jamestown) are relocated to accommodate the proposed substitution of channels. They state that both the Columbia and Jamestown licensees have agreed to the substitution of channels and to the change in their transmitter locations, predicated upon the full reimbursement of costs by the ultimate licensee of the Smiths Grove station. Petitioners state they have effected agreements with the licensees of Stations WAIN–FM and WJRS(FM) to the required changes and submitted signed letters which reflect the agreements to their proposal. Petitioners also state that the proposed Smiths Grove assignment would represent a very efficient use of the FM spectrum since this area is now saturated.

5. In view of the desirable first local aural broadcast service that could be provided to Smiths Grove and its surrounding area, we shall pursue the proposal for comments. The licensees of Stations WAIN–FM, Columbia, and WJRS(FM), Jamestown, are agreeable to the substitution of channels and change in transmitter locations, subject to reimbursement of costs by the ultimate licensee of the Smiths Grove station. We are told in this regard that both stations could effect considerable improvements in coverage and facilities. Under the circumstances, an order to show cause for modification of license will not be issued since the parties involved have already agreed to the modification of their licenses, if the proposed channel is assigned to Smiths Grove, Kentucky. We are, however, sending copies of this Notice of Proposed Rule Making to the affected licensees.

6. Accordingly, the Commission proposes to amend Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, as follows:

City	Channel No.	
	Present	Proposed
Columbia, Kentucky	228A	285A
Jamestown, Kentucky	285A	228A
Smiths Grove, Kentucky		228A

7. 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.

8. Interested parties may file comments on or before April 12, 1982 and reply comments on or before April 27, 1982.

9. It is ordered, That the Secretary of the Commission shall send a copy of this notice by certified mail, return receipt requested, to Tri-County Broadcasting Corp., Radio Station WAIN–FM, Box 77, Columbia, Kentucky 42728, and Lake Cumberland Broadcasters, Radio Station WJRS(FM), Box 263 Jamestown, Kentucky 42629, the parties to whom the Notice is directed.

10. 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 FR 11549, published February 9, 1981.

11. 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

[2] But see Bastrop and Farmerville, Louisiana, 54 FCC 2d 516 (1975).

[3] Petitioners ask that this proceeding should be reopened and delayed pending the outcome of BC Docket No. 80–90, Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments. Petitioners allege that a channel would become available to Smiths Grove without substitution elsewhere if the proposals in that proceeding were adopted. Although we have reopened the instant case, we shall not delay its resolution pending action in BC Docket 80–90. See Rhinelander, Wisconsin., et al. 49 R.R. 2d 1113 (1981) at par. 10. However, we note that action in BC Docket No. 80–90 may occur before this case is decided and in that event we would consider any new proposal offered.

[4] The Notice of Proposed Rule Making has been updated for population figures and comment deadlines.

[5] Public Notice of petition was given on January 3, 1979, Rept. No. 1157.

[6] Population figures are taken from the 1980 U.S. Census.

the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an ex parte presentation and shall not be considered in the proceeding.

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

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 § 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 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, pleading, 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. 82-6623 Filed 3-10-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-124; RM-3782]

FM Broadcast Station in Honolulu, Hawaii; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes to assign three commercial FM channels to Honolulu, Hawaii, in response to a request from KHVH, Inc.

DATES: Comments must be filed on or before April 22, 1982, and reply comments on or before May 7, 1982.

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

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations (Honolulu, Hawaii), BC Docket No. 82-124, RM-3782.

Adopted: February 25, 1982.

Released: March 8, 1982.

1. The Commission has before it for consideration a petition [1] filed by KHVH, Inc. ("petitioner") to amend § 73.202(b) of the Commission's rules and regulations to assign Channels 253 and/or Channels 258 and 262 to Honolulu, Hawaii.

2. Subsequent to the filing of the petition, the Commission, in a "Report and Order", Gen. Docket No. 80-710, 87 F.C.C. 2d 962 (1981), reallocated the frequency bands 76-88 MHz (VHF television Channels 5 and 6) and 98-108 MHz (FM Channels 251-300) from the Common Carrier Rural Radio Service in Hawaii, to the Broadcast Services in Hawaii. The local telephone company had used the 22 megahertz of spectrum space for nearly thirty years to provide reliable inter-island telephone service. With the passage of time, however, microwave technology progressed, and the telephone Company gradually replaced its VHF equipment with microwave equipment. The frequency bands 76-88 and 98-108 MHz thus became vacant in Hawaii.

3. The instant petition was incorporated into the proceeding in Gen. Docket No. 80-710 along with another petition filed by Lee M. Holmes to assign VHF Channel 5 or 6 to Honolulu (RM-3467). The Holmes petition is being considered separately. It was stated in Gen. Docket No. 80-710 (paragraph 3, *supra*), that "(t)he purpose of this "Report and Order" (sic) is to reallocate the 76-88 and 98-108 MHz bands after which we may * * * allot a television and FM radio channel to certain Hawaiian markets.

4. We now consider in this proceeding the petitioner's request to assign FM Channels 253 and/or Channels 258 and 262 to Honolulu, Hawaii. Petitioner contends, in pertinent part, that Honolulu is entitled to more than the five commercial FM channels, which were assigned when the population was 294,000. See "Revision of FM Rules" (Docket No. 14185. "Fourth Report and Order"), 3 RR 2d 1571, 29 FR 2385 (1964). Petitioner states that the population of the city of Honolulu has grown to an estimated 372,000.[2] According to petitioner, the public interest would be served by amendments to the rules as

[1] Public Notice of the petition was given on November 10, 1980, Report No. 1256.

[2] "Standard Rate and Data Service," Volume 62, No. 6, "State, County, City, Metro Area Data by State," population estimated by Market Data Division of SRDS as of January 1, 1980.

proposed "to enable Hawaii to obtain its full complement of commercial FM channels pursuant to Section 307(b) of the Communications Act of 1934, as amended, which mandates fair, efficient and equitable distribution of radio services among the several states."

5. Presently Honolulu has five commercial FM stations—KQMQ (Channel 226); KMAI (Channel 230); KUMU–FM (Channel 234); KAIM–FM (Channel 238); KDUK (Channel 248); and two noncommercial educational FM stations—KHPR (construction permit—201C) and KTUH (application pending—Channel 212A).

6. Petitioner states that if Channels 253 and/or 258 and 262 are assigned to Honolulu it will file an application for a construction permit to operate on one of those channels.

7. Windward Broadcasting, Inc. filed comments in support of petitioner's proposal and stated that it would file an application for a construction permit to operate an FM station in Honolulu if additional assignments are made.

8. Island Communications, Inc. filed comments opposing the additional assignments on the ground that the Honolulu market is already "over-radioed."

9. Mauna Kea Broadcasting also filed comments opposing the FM assignments, alleging that there is an adequacy of existing broadcast stations. Mauna Kea suggests that, with all the FM channels which are assigned to Hawaii for broadcast use, there are enough channels available so that it would be unnecessary to continue to also use the lower 20 channels for non-commercial educational purposes. Accordingly, Mauna Kea suggests that 50 percent of Channels 251–300 be reserved for noncommercial educational use, and Channels 201–220 be withdrawn from regular FM broadcast use. They could, Mauna Kea states, be reserved for use only if the other FM frequencies become filled. Mauna Kea concludes that in this way there would be an adequate number of channels available for both commercial and noncommercial educational use, "and the Channel 6 interference problem, which has plagued many areas in the United States, will never become a problem in the State of Hawaii." We stated in the "Report and Order" in Gen. Docket No. 80–710 (paragraph 2, *supra*) that "When we address KHVH's petition for assignment in some future proceeding, it will then be appropriate to evaluate Mauna Kea's suggested allotment scheme." Accordingly, it will be considered herein.

10. We see no need for, or advantage in, Mauna Kea's suggestion. No interference problems between Channel 6 and the lower FM channels (201–220) should obtain inasmuch as there is no consideration being given to the assignment of Channel 6 to Honolulu, where noncommercial educational FM stations are operating on the lower channels, and, if Chennel 6 were assigned elsewhere in Hawaii, where an interference question might arise, there are sufficient FM channels in the 251–300 allocation to accommodate reservations there for noncommercial educational stations.

11. We are not persuaded by the allegation of Island Communications, Inc. that the Honolulu market is already "over-radioed" and that no further FM assignments should be made for that market. The threshold consideration is the public interest. We believe that the public would be benefited by additional broadcast facilities.

12. Two interested parties, *i.e.*, the petitioner and Windward Broadcasting, Inc., have stated their intent to apply for FM stations in Honolulu if channels are made available. We would expect that additional parties would come forth with an exspression of interest with the knowledge that we are prepared to make use of the 50 new channels that have become available throughout Hawaii. Although we have only two interested parties at this point, we are willing to propose as many as three new channels in anticipation of more interest. If there is a need for still additional assignments, appropriate counterproposals should be submitted by the comment deadline.

13. Accordingly, we believe it would be in the public interest to propose an amendment of the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Honolulu, Hawaii	226,230, 234, 238, and 248.	226, 230, 234, 238, 248, 253, 258, and 262.

14. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below 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.

15. Interested parties may file comments on or before April 22, 1982, and reply comments on or before May 7, 1982, and are advised to read the Appendix below for the proper procedures.

16. 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 FR 11549, published February 9, 1981.

17. For further information concerning this proceeding, contact Philip S. Cross, Broadcast Bureau, (202) 632–5414. 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. Any comment which has not been served on the petitioner constitutes and *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes and *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 82–124, RM–3782]

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 §§ 0.281(b)(6) and 0.204(b) 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 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, N.W. Washington, D.C.

[FR Doc. 82-6686 Filed 3-10-82; 8:45am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

Atlantic Groundfish (Cod, Haddock, and Yellowtail Flounder); Interim Fishery Management Plan; Initial Approval

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA announces initial approval of the Interim Fishery Management Plan for Atlantic Groundfish (Interim Plan); issues proposed rules to implement the conservation and management measures of the Interim Plan; and requests comments on the Interim Plan and proposed regulations. The Interim Plan is necessary to establish a new management approach for Atlantic groundfish developed by the New England Fishery Management Council (Council). The Interim Plan is intended to reduce regulatory burdens on the fishery and facilitate development of a more reliable data base for making management decisions.

DATES: Comments must be received on or before April 26, 1982.

ADDRESSES: Comments may be mailed to Frank Grice, Chief, Management Division, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930. The Interim Plan and Regulatory Impact Review may be obtained from Mr. Grice. Copies of the "Resource Document for the Interim Groundfish Plan" may be obtained from Douglas Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, Massachusetts 01906.

FOR FURTHER INFORMATION CONTACT: Mr. Peter D. Colosi, Jr., Groundfish Plan Coordinator, 617-281-3600, ext. 272.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Atlantic Groundfish (Interim Plan) has been developed because the Council recognized the need to manage Atlantic groundfish on a basis that accounts for fishery interactions, rather than by the species-by-species approach of the current Fishery Management Plan for Atlantic Groundfish—Haddock, Cod, and Yellowtail Flounder (FMP). The first several years of groundfish management included annual and quarterly catch quotas for individual species, quota allocations by vessel class, and vessel trip or weekly limits on landings as measures to protect and rebuild cod, haddock, and yellowtail flounder stocks from low abundance levels. This approach led to frequent fishery closures of one or more segments of the fishing fleet, which interrupted the normal activity of the industry, and often imposed economic inefficiencies, if not hardship, upon the industry. The Council, therefore, was faced with the need to make frequent short-term adjustments to the FMP that would avert or lessen the adverse economic consequences of management.

During 1979, the Council concluded that this management environment was unsatisfactory for making informed long-term decisions on groundfish management. Constant preoccupation with FMP adjustment precluded the consideration of issues related to development of a total fisheries management plan for all groundfish species, the Atlantic Demersal Finfish Plan (ADF). A significant problem which arose was a breakdown of the fishing industry's support of the FMP. A sign of this breakdown was an erosion of the accuracy of fishery statistics because of widespread misreporting and non-reporting by the industry, in order to circumvent management measures that it viewed as unreasonably restrictive. The Council recognized that no form of management could be entirely successful under these conditions and elected to develop and implement an interim management system under which the industry would be allowed to operate with minimal regulation. The resultant Interim Plan is expected to foster a renewed spirit of industry support for a management program which collects accurate fishery statistics and, by removing the need for constant change, to provide time for decision makers to direct attention to the long-term issues of the ADF Plan.

The Interim Plan does not retain the quotas, trip limits, and vessel class quota allocations which are the basis of the existing FMP. Instead, the Interim Plan proposes what the Council views as a less restrictive regulatory system by eliminating the restrictions that a quota-based management system imposes on the industry. However, the Interim Plan does provide basic conservation measures for the resources designed to: (1) Reduce the risk of recruitment overfishing; (2) enhance fish spawning activity, and (3) acquire more accurate and reliable fishery data in support of developing the ADF.

The management measures to carry out these goals pertain to all cod, haddock, and yellowtail flounder in the Northwest Atlantic within U.S. jurisdiction. Management also will include fish within the territorial sea since coastal States intend to adopt complementary measures. The management measures include:

1. *Optimum Yield* (OY): The current groundfish FMP specified OY as annual numerical quotas; the Interim Plan defines OY as the amount of fish actually harvested by U.S. fishermen in accordance with the management measures listed below.

2. *Minimum Mesh Size Within a Large Mesh Area:* The Intrim Plan

establishes a "large mesh" area in which all trawlers and gill-netters must use nets with a mesh size no smaller than the prescribed minimum. This measure is designed to reduce the risk of recruitment overfishing by decreasing the harvest of undersized fish. It applies to all trawler and gill net vessels that catch any cod, haddock, or yellowtail flounder, unless the vessels enter the optional settlement program (below).

The "large-mesh" area includes shoreward portions of the Gulf of Maine west of Penobscot Bay and Georges Bank, and is defined in the regulations. It encompasses an area where approximately 90 percent of the cod, haddock, and yellowtail flounder are caught. Within this area, all vessels using otter trawls, pair trawls, beam trawls, Scottish seines, and mid-water trawls must use cod ends with mesh measuring at least 5⅛ inches during 1982, and 5½ inches thereafter. Vessels using gillnets must use nets with at least 5½ inch mesh. The Regional Director may subsequently include other types of gear in this regulation if he finds that they are taking significant amounts of groundfish.

3. *Optional Settlement:* The Council recognizes that many fisheries within the large-mesh area require the use of small-mesh nets. Therefore, the Council developed an optional settlement program to allow these small-mesh fisheries to continue to operate. A vessel master or owner wishing to participate in the program must call the National Marine Fisheries Service (NMFS) Regional Office or visit a district law enforcement office and obtain a letter from the NMFS Regional Director.

The total catch of cod, haddock, and yellowtail flounder of a vessel participating in the program may not exceed 15% by weight of its total catch, and 50% of the total catch by weight must be comprised of the small-mesh species on a list maintained by the Regional Director. These percentages are determined at the end of a participation period, which may be as long as six months. The list of small-mesh species initially includes redfish, silver hake, red hake, squid, Atlantic herring, mackerel, northern shrimp, and dogfish. The Regional Director may subsequently add species to the list if he finds that small-mesh gear is necessary for taking that species and that such taking will not result in a significant harvest of cod, haddock, or yellowtail flounder.

4. *Minimum Length:* To reduce further the risk of recruitment overfishing, to complement the minimum-mesh size/large-mesh area measures, and to improve enforcement effectiveness, commercially caught cod and haddock which are retained must be at least 17 inches long (longest possible measured length), and cod and haddock caught recreationally and retained must be at least 15 inches long. All yellowtail flounder retained must be at least 11 inches long, regardless of whether they are recreationally or commercially caught.

The established minimum size requirements will be enforced by prohibiting possession of any undersized fish. Dockside monitoring of possession prohibitions eliminates the necessity of burdensome and expensive at-sea enforcement because authorized enforcement officers will not have the burden of proving where undersized groundfish were taken.

The possession prohibition will apply to fishermen, processors, and dealers. Eliminating trade in undersized groundfish has conservation benefits that greatly outweigh any impacts on those affected by the possession prohibition.

5. *Spawning Area Closures:* The three-month closures of haddock spawning areas in the current FMP are continued, with slight modification of the boundaries of area 1. This measure serves one Interim Plan objective, to enhance spawning activity.

6. *Permits and Enforcement:* Permits are required but may be obtained without cost.

7. *Data Collection:* The Interim Plan adopts a voluntary system of data collection from fishermen; fishermen in the optional settlement program must comply with mandatory reporting requirements. Section 651.5(b) is reserved; regulations will be proposed after the Office of Management and Budget approves the reporting forms. The mandatory recordkeeping requirements for dealers and processors specified in the present groundfish regulations are retained.

8. *Time Frame:* The Plan will be implemented for three years, unless amended to extend the time frame. During this time, the Council intends to develop a mechanism that addresses the possible occurrence of overfishing. This mechanism may be incorporated as an amendment to the Interim Plan.

The Council chose this management approach after two years of development and two rounds of public meetings. The first round of public meetings was held during the summer of 1980, and the second during the summer of 1981. The Council believes that this liberal management system will be cost-effective to administer during the interim period, and will permit the natural economic factors of the fishery to operate with minimal influence from regulation. Close observation of economic fluctuations under the quota-free Interim Plan will contribute significantly to development of the ADF.

The Interim Plan acknowledges that the decline of some stocks of groundfish may occur from fishing during the interim period, but not to a degree that irreparable harm will be done to the resources. The Interim Plan has no specific economic goals. Consequently, it does not propose any measure to address redistribution of revenues that may result within the industry from fishing under the Interim Plan. The Plan does not address in detail the effects on recreational fishing or small vessels. The Canadian Government's formal comments on the Plan are not yet available. The Council explicitly recognizes the potential impacts of its action.

Classification: The Administrator has determined, after reviewing the criteria set forth in Section 1(b) of E.O. 12291, that regulations to implement the Interim Plan are non-major; accordingly, preparation of a regulatory impact analysis is not required. However, the regulations are significant under the Regulatory Flexibility Act; that is, they will have a significant economic impact on a substantial number of small entities. Therefore, an initial Regulatory Flexibility Analysis has been prepared and is available to the public as a Regulatory Impact Review/Regulatory Flexibility Analysis (RIR/RFA) at the Regional Director's office (address above). A final Regulatory Flexibility Analysis will be published with the final regulations. The RIR/RFA describes the problems addressed by the amendment and presents an analysis of the proposed and alternative regulatory systems.

The Interim Plan and implementing regulations minimize the reporting requirements for the industry, while providing for acquisition of improved fishery data. There is a minimum amount of mandatory record keeping and data reporting which constitute "collection of information" under the Paperwork Reduction Act. The regulations require fish dealers and processors to maintain records on all transfers, purchases, and receipts of all fish species; the recording form, NOAA Form 88–154, is the same as the vessel record currently used and already approved by the Office of Management and Budget (OMB) (approval number 0648–0013). The 3-tier voluntary data collection system which the Interim Plan intends to adopt should be operational during 1982. NMFS is in the process of

obtaining necessary approvals from the Department of Commerce and OMB to implement this system. The Optional Settlement Program requires mandatory reporting, but will utilize NOAA Form 88–153 which has been previously approved by OMB (approval number 0648–0016). Entry into the program requires a telephone or personal application to the Regional Director. The additional information collection requirements associated with program entry will be reviewed by OMB.

A draft Environmental Impact Statement (DEIS) has been prepared under section 102(2)(c) of the National Environmental Policy Act of 1969 and section 702(d) of the Act. The DEIS was filed with the Environmental Protection Agency (EPA) and made available to the public on November 20, 1981. Comments were received until January 4, 1982. Comments received will be reviewed and summarized in the final EIS which will be filed with EPA prior to the promulgation of final rulemaking. Copies of the comments will be open for inspection at the Council's office (address above).

Dated: March 8, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

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

For reasons set out in the preamble, Part 651 of Chapter 50 of the Code of Federal Regulations is proposed to be amended as set forth below:

1. The authority citation for Part 651 reads as follows:

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

2. 50 CFR is amended by revising Part 651 to read as follows:

PART 651—ATLANTIC GROUNDFISH (COD, HADDOCK, AND YELLOWTAIL FLOUNDER)

Subpart A—General Provisions

Sec.

651.1 Purpose and scope.
651.2 Definitions.
651.3 Relation to other laws.
651.4 Vessel permits.
651.5 Recordkeeping requirements.
651.6 Vessel identification.
651.7 Prohibitions.
651.8 Enforcement.
651.9 Penalties.

Subpart B—Management Measures

651.20 Large-mesh area and gear limitations.
651.21 Closed areas.
651.22 Optional settlement program.
651.23 Minimum fish size.

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

Subpart A—General provisions

§651.1 Purpose and scope.

The regulations in this Part govern fishing for groundfish by fishing vessels of the United States within that portion of the Atlantic Ocean over which the United States exercises fishery management authority. These regulations implement the Interim Fishery Management Plan for Atlantic Groundfish prepared and adopted by the New England Fishery Management Council, and approved by the Assistant Administrator.

§651.2 Definitions.

Some definitions in the Act have been repeated here to aid understanding of the regulations. In addition to the terms defined in the Act, the terms used in this Part shall have the following meanings:

Act means the Magnuson Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801–1882.

Areas of custody means any vessels, buildings, vehicles, piers or dock facilities where groundfish may be found.

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, or a designee.

Authorized Officer means: (1) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(2) Any Special Agent of the National Marine Fisheries Service;

(3) Any officer deputized by the head of any Federal or State Agency which has entered into an agreement with the Secretary and the Commandant of the United States Coast Guard to enforce the provisions of the Act; or

(4) Any United States Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

Catch, take, or harvest includes, but is not limited to, any activity which results in killing any fish, or bringing any live fish on board a vessel.

Charter and party boats means vessels carrying fishing parties on a per capita basis, or by charter.

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

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

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

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

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

(4) Any operations at sea in support of, or in preparation for, any activity described above.

Fishing vessel means any vessel, boat, ship or other craft which is used for, equipped to be used for, or of a type which is normally used for: (1) Fishing; or (2) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Groundfish means any cod (*Gadus morhua*), haddock (*Melanogrammus aeglefinus*), or yellowtail flounder (*Limanda ferruginea*).

Land means to begin offloading fish, to offload fish, or to arrive in port with the intention offloading fish.

Official number the documentation number issued by the United States Coast Guard or the certificate number issued by a State or the Coast Guard for undocumented vessels in accordance with the Federal Boating Safety Act of 1971.

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

Owner, with respect to any vessel, means:

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

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

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

(4) Any agent designated as such by any person in paragraphs (1), (2), or (3) of this definition.

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

Recreational fishing means fishing for groundfish for any use except sale.

Recreational fishing vessel means any vessel from which recreational fishing is conducted. Party and charter boats are not considered recreational vessels.

Regional Director means the Regional Director, Northeast Region, National Marine Fisheries Service, NOAA, or a designee.

Secretary means the Secretary of Commerce or a designee.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any fishery regulated under the Act.

Vessel of the United States means:

(1) Any vessel officially documented or enrolled and numbered by the U.S. Coast Guard under U.S. law; or

(2) Any vessel under five net tons, which is registered under the laws of any State.

§651.3 Relation to other laws.

Fishing for herring, squid, mackeral and butterfish, which is affected by these regulations, is also governed by other domestic regulations under Chapter VI, Title 50 of the Code of Federal Regulations.

§651.4 Vessel permits.

(a) *General.* Any vessel of the United States fishing for groundfish, except recreational fishing vessels, must have a permit required by this Part on board the vessel.

(b) *Application.* (1) An application for a fishing vessel permit for the groundfish fishery must be submitted and signed by the vessel owner on an appropriate form which may be obtained from the Regional Director. The application must be submitted to the Regional Director prior to the date on which the applicant desires to have the permit made effective.

(2) Applicants must provide all of the following information:

(i) The name, mailing address, and telephone number of the applicant and the vessel's master;

(ii) The name of the vessel;

(iii) The vessel's official number;

(iv) The home port, gross tonnage, and net tonnage of the vessel;

(v) The engine horsepower of the vessel;

(vi) The approximate fish-hold capacity of the vessel in pounds;

(vii) The type and quantity of fishing gear used by the vessel; and

(viii) The size of the crew, which may be stated in terms of a range.

(c) *Issuance.* (1) Upon receipt of a completed application, the Regional Director will issue a permit within 30 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within ten days following the date of notification, the application will be considered abandoned.

(d) *Expiraton.* A permit expires when the owner or name of the vessel changes.

(e) *Duration.* A permit is valid until it expires or is revoked, suspended, or modified under 50 CFR Part 621.

(f) *Alteration.* Any permit which has been altered, erased, or mutilated is invalid.

(g) *Replacement.* Replacement permits may be issued. An application for replacement permit will not be considered a new application.

(h) *Transfer.* Permits issued under this Part are not transferable or assignable. A permit is valid only for the vessel for which it is issued.

(i) *Display.* Any permit issued under this Part must be carried on board the fishing vessel at all times. The permit must be prominently displayed for inspection in the pilot house of the vessel, or in another appropriate place.

(j) *Revocation.* Subpart D of 50 CFR Part 621 governs the imposition of sanctions against a permit issued under this Part. As specified in Subpart D, a permit may be revoked, modified, or suspended if the vessel for which the permit is issued is used in the commission of an offense prohibited by the Act or by this Part; or if a civil penalty or criminal penalty imposed under the Act is not satisfied.

(k) *Fees.* No fee is required for any permit under this Part.

(l) *Change in application information.* Any change in the information specified in paragraph (b) of this section must be reported to the Regional Director within 15 days of the change.

(m) *Optional settlement program.* Any permit holder may request entry into the optional settlement program (§ 651.22) by telephoning 617–281–3600. The permit holder must give his/her name, permit number, and the starting and ending dates for participation in the program.

§ 651.5 Recordkeeping requirements.

(a) *Fish dealer or processor records.* Any person who receives groundfish for a commercial purpose from a fishing vessel subject to this Part shall:

(1) Maintain records on all transfers, purchases, and receipts of all fish;

(2) Permit an Authorized Officer upon demand to inspect and copy any records of transfers, purchases or receipts of all fish.

(b) *Fishing vessel records.* (Reserved)

§ 651.6 Vessel identification.

(a) *Official number.* Each fishing vessel subject to this Part over 25 feet in length must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from above.

(b) *Numerals.* The official number must be permanently affixed to each vessel subject to this Part in contrasting block Arabic numerals at least 18 inches in height for vessels over 65 feet, and at least 10 inches in height for all other vessels over 25 feet in length. The length of a vessel, for purposes of this section, shall be that length set forth in U.S. Coast Guard or State records.

(c) *Duties of operator.* The operator of each vessel subject to this Part shall:

(1) Keep the vessel name and official number clearly legible and in good repair; and

(2) Ensure that no part of the vessel, its rigging, its fishing gear, or any other object obstructs the view of the official number from an enforcement vessel or aircraft.

(d) *Nonpermanent markings.* Vessels carrying fishing parties on a per capita basis or by charter must use markings that meet the above requirements, except for the requirement that they be affixed permanently to the vessel. The nonpermanent markings must be displayed in conformity with the above requirements when the vessel is fishing for groundfish.

§ 651.7 Prohibitions.

It is unlawful for any person to:

(a) Fish within the large-mesh area specified in § 651.20(a) with nets smaller than the minimum size specified in § 651.20(b) or (c), unless the vessel is registered in the optional settlement program established under § 651.22;

(b) Fish in either area specified in § 651.21 during a period in which that area is closed, unless allowed by that section;

(c) While fishing in closed areas I or II, employ any modification to any gear that would, in effect, make it possible to fish for groundfish;

(d) Retain on board, land, or possess any groundfish smaller than the minimum sizes specified in § 651.23.

(e) Use any vessel for taking, catching, harvesting, or landing any groundfish unless the vessel has a valid permit required under this Part, and the permit is aboard the vessel;

(f) Fail to report to the Regional Director, within 15 days, any change in the information contained in a permit application for a vessel;

(g) Falsify or fail to make, keep, or maintain any record or report required by this Part;

(h) Refuse to permit an Authorized Officer to make inspections, to inspect or copy any record relating to the taking, catching, harvesting, landing, purchase or sale of any groundfish;

(i) Make any false statement, oral or written, to an Authorized Officer, concerning the taking, catching, harvesting, landing, purchase, sale or transfer of any fish;

(j) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, or export any groundfish taken in violation of the Act, this Part, or any other regulation promulgated under the Act;

(k) Fail to affix and maintain permanent or nonpermanent markings as required by § 651.6;

(l) Refuse to permit an Authorized Officer to board a fishing vessel, or to enter areas of custody, subject to such person's control, for purposes of conducting any search or inspection in connection with the enforcement of this Act, this Part, or any other regulation promulgated under the Act;

(m) Forcibly assault, resist, oppose, impede, intimidate or interfere with any Authorized Officer in the conduct of any inspection or search described in paragraph (1) of this section;

(n) Resist a lawful arrest for any act prohibited by this Part;

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

(p) Interfere with, obstruct, delay, or prevent by any means the lawful investigation or search in the process of enforcing this Act;

(q) Fail to comply with enforcement and boarding procedures specified in § 651.8;

(r) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested fish to any foreign fishing vessel within the FCZ unless the foreign vessel has been issued a permit which authorizes the receipt by such vessel of U.S.-harvested fish of the species concerned;

(s) Violate any provision of the optional settlement program specified in § 651.22; or

(t) Violate any other provision of this Part, the Act, or any other regulation promulgated under the Act.

§ 651.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this Part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch for purposes of enforcing the Act and this Part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" means "You should stop your vessel instantly,"

(2) "SQ3" means "You should stop or heave to; I am going to board you," and

(3) "AA AA AA etc.," is the call to an unknown station, to which the signaled vessel must respond by illuminating the vessel identification required by § 651.6(a).

(c) *Boarding.* The operator of a vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way so as to permit the Authorized Officer and the boarding party to come aboard;

(2) Provide a ladder for the Authorized Officer and the boarding party;

(3) When necessary to facilitate the boarding, provide a man rope, safety line, and illumination for the ladder;

(4) Take such other actions as the Authorized Officer deems necessary to ensure the safety of the Authorized Officer and the boarding party and to facilitate the boarding.

§ 651.9 Penalties.

Any person or fishing vessel found to be in violation of this Part will be subject to the civil and criminal penalty provisions and forfeiture provisions of the Act, and to Parts 620 (Citations) and 621 (Civil Procedures) of this title, and other applicable Federal law.

Subpart B—Management Measures

§ 651.20 Large-mesh area and gear limitations.

(a) The mesh sizes stated in paragraphs (b) and (c) of this section will apply to all vessels fishing within an area, shown in Appendix A, which is bounded by straight lines connecting the following coordinates in the order stated:

The point at which a line drawn on 69° 20′W. longitude intersects the outer boundary of the territorial sea;
(A) 43°40′ N. latitude, 69°20′ W. longitude;
(B) 43°40′ N. latitude, 69°40′ W. longitude;
(C) 41°50′ N. latitude, 69°40′ W. longitude;
(D) 41°50′ N. latitude, 69°30′ W. longitude;
(E) 41°40′ N. latitude, 69°30′ W. longitude;
(F) 41°40′ N. latitude, 69°20′ W. longitude;
(G) 41°30′ N. latitude, 69°20′ W. longitude;
(H) 41°30′ N. latitude, 68°40′ W. longitude;
(I) 41°40′ N. latitude, 68°40′ W. longitude;
(J) 41°40′ N. latitude, 68°30′ W. longitude;
(K) 41° 50′N.latitude, 68° 30′W.longitude;
(L) 41°50′ N. latitude, 68°10′ W. longitude;
(M) 42°00′ N. latitude, 68°10′ W. longitude;
(N) 42°00′ N. latitude, 67°40′ W. longitude;
(O) 42°10′ N. latitude, 67°40′ W. longitude;
(P) 42°10′ N. latitude, 66°00′ W. longitude;
(Q) 41°00′ N. latitude, 66°00′ W. longitude;
(R) 41°00′ N. latitude, 67°00′ W. longitude;
(S) 40°50′ N. latitude, 67°00′ W. longitude;
(T) 40°50′ N. latitude, 67°40′ W. longitude;
(U) 40°30′ N. latitude, 67°40′ W. longitude;
(V) 40°30′ N. latitude, 70°00′ W. longitude;
and the point where a line drawn on 70°00′ W. longitude intersects the outer boundary of the territorial sea south of Nantucket Island. The shoreward boundary of the large-mesh area is the outer boundary of the territorial sea.

(b) *Trawl nets.* Except as provided for in § 651.22, the minimum mesh size for any trawl net or scottish seine used by a vessel fishing in the large-mesh area described in paragraph (a) of this section is 5⅛ inches in the cod end, and 4½ inches in the body of the net until December 31, 1982. Beginning on January 1, 1983, the minimum cod-end mesh size will be 5½ inches and the minimum size for the net body will remain 4½ inches.

(c) *Gill nets.* Except as provided for in § 651.22, the minimum mesh size for any gill net used by a vessel fishing in the large-mesh area described in paragraph (a) of this section is 5½ inches.

(d) *Mesh measurements.* (1) Mesh sizes are measured when wet after use by a wedgeshaped gauge having a taper of two centimeters in eight centimeters and a thickness of 2.3 millimeters, inserted into the meshes under pressure or pull of five kilograms. The mesh size of the body of the net will be the average of the measurements of any series of 20 consecutive meshes. The cod end will be measured in the same manner at least 10 meshes from the lacings, beginning at the after end and running parallel to the long axis.

(2) No fishing vessel may use any device or method which would have the effect of reducing mesh size, except that:

(i) Chafing gear which does not obstruct the meshes of the cod end may be attached, and

(ii) Net strengtheners may be attached to the cod end of trawl nets, providing such net strengtheners consist of mesh similar to the material of the cod end and have a mesh size of at least twice the authorized minimum mesh size.

§ 651.21 Closed areas.

(a) *General.* Except as allowed by paragraph (b) of this section, no person may fish within the following areas

during the months of March, April, and May:

(1) An area known as Closed Area I bounded by straight lines connecting the following coordinates in the order stated:

(A) 41°50′ N. latitude, 69°45′ W. longitude;
(B) 40°55′ N. latitude, 68°55′ W. longitude;
(C) 41°35′ N. latitude, 68°30′ W. longitude;
(D) 41°50′ N. latitude, 68°45′ W. longitude;
(E) 41°50′ N. latitude, 69°45′ W. longitude;

(2) An area known as Closed Area II bounded by straight lines connecting the following coordinates in the order stated:

(A) 42°20′ N. latitide, 67°00′ W. longitude;
(B) 41°15′ N. latitide, 67°00′ W. longitude;
(C) 41°15′ N. latitide, 65°40′ W. longitude;
(D) 42°00′ N. latitide, 65°40′ W. longitude;
(E) 42°20′ N. latitide, 66°00′ W. longitude;
(F) 42°20′ N. latitide, 67°00′ W. longitude;

(b) *Exceptions.* Paragraph (a) of this section does not apply to:

(1) Longline vessels that fish in Closed Area I with hooks having a gape of not less than 1.18 inches;

(2) Vessels that fish in Closed Area I or II using only the following fishing gear:

(i) Pot gear designed and used to take lobsters; or

(ii) Dredges designed and used to take scallops.

§ 651.22 Optional settlement program.

(a) *General.* The Regional Director will establish and implement an optional settlement program to allow fishing vessels to engage in legitimate small-mesh fisheries within the large-mesh area defined in §651.20(a). The Regional Director will maintain a list of small-mesh species to which the optional settlement program applies. He may add a species to the list if he finds that fishing for that species requires small-mesh gear and does not result in a significant harvest of groundfish. Notice of addition to the list will be mailed to all permit holders.

(b) *Entry.* (1) Any person holding a valid Federal fishing permit may apply to fish under the optional settlement program by following the procedures set forth in § 651.4(m).

(2) The period of participation must be for at least 30 days, but not longer than six months. There is no limit on the number of times a vessel can apply to participate in the optional settlement program.

(c) *Certification.* (1) The Regional Director may certify in writing the entry of the applicant into the optional settlement program. Entry may be denied to an applicant based upon previous violations of the Act. Any applicant denied entry into the optional settlement program may request a hearing. The hearing will be conducted in accordance with the procedures of 50 CFR §651.56. Mail requests to the Assistant Administrator for Fisheries.

(2) Entry of the applicant into the optional settlement program cannot occur until the applicant receives written certification from the Regional Director.

(d) *Commencement of fishing.* Fishing under the optional settlement program may begin after the applicant has received the certification from the Regional Director, provided that a copy of the certification is retained on board the vessel and displayed for inspection upon the request of any Authorized Officer.

(e) *Limitations.* (1) During the participation period, the total catch of a participating vessel must be at least 50 percent by round weight of the species on the Regional Director's list under § 651.22(a).

(2) During the participation period, a participating vessel may not land groundfish in quantities exceeding 15 percent of its total catch of all other species. This means that the combined total catch of cod, haddock, and yellowtail flounder cannot exceed 15 percent of the vessel's total catch of all other species, regardless of the area of the Northwest Atlantic in which they were caught.

(3) The Regional Director may increase this percentage of combined cod, haddock, and yellowtail flounder by publication in the **Federal Register** if he finds that a different percentage is necessary to conduct the small-mesh fisheries.

(f) *Recordkeeping and reporting.* The participant shall mail or deliver to the Regional Director, a NOAA Form 88–153 "Fishing Vessel Record" listing in pounds, all fish caught during the participation period within one week from the end of each such period. The participant shall maintain landing records throughout this period, and, if requested, shall present such records to any Authorized Officer within a reasonable time, not to exceed two working days.

(g) *Expiration or withdrawal.* Participation in the program expires at the end of the participation period, when the owner or vessel name changes, or when the participant notifies the Regional Director of his/her intent to withdraw from the program. Such withdrawal will become effective upon notice of receipt of a withdrawal from the Regional Director.

(h) *Revocation.* The Regional Director may end the participation of the applicant in the optional settlement program after issuance of a notice of violation and assessment for violating any provisions of the program or the Act. Notification will be in writing and take effect upon receipt by the participant. Any applicant whose certification is revoked may request a hearing. The hearing will be conducted in accordance with the procedures of § 621.56. Mail requests to the Assistant Administrator for Fisheries, NMFS, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

§ 651.23 Minimum fish size.

(a) The minimum size (total length) for any groundfish is:

(1) *Commercial.*

Cod and haddock: 17 inches.
Yellowtail flounder: 11 inches.

(2) *Recreational fishing vessels, charter and party boats.*

Cod and haddock: 15 inches.
Yellowtail flounder: 11 inches.

(b) The minimum lengths allowed by paragraph (a) of this section are measured on a straight line from the tip of the snout to the end of the tail.

[FR Doc. 82-6592 Filed 3-8-82; 3:31 pm]
BILLING CODE 3510-22-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 387-399

[BMCS Docket No. MC-101; Notice No. 82-4]

Regulatory Cost Accounting Program (RCAP); Public Meeting and Request for Comments

Note.—This document originally appeared in the **Federal Register** for Tuesday March 9, 1982. It is reprinted in this issue to meet requirements for publication on the Monday/Thursday schedule assigned to the Department of Transportation.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting and request for comments.

SUMMARY: Comments and information are solicited to assist the FHWA in its effort to access the economic burden placed on the motor carrier industry by the Federal Motor Carrier Safety Regulations (FMCSR). A public meeting will be held on March 18 to receive comments.

DATE: Comments must be received on or before April 8, 1982.

ADDRESS: Submit comments, preferably in triplicate, to BMCS Docket No. MC-

101; Notice No. 82–4, Room 3404, Bureau of Motor Carrier Safety (BMCS), 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. James K. O'Steen, Bureau of Motor Carrier Safety, (202) 426–1700; or Mr. Stanley H. Abramson, Office of the Chief Counsel, (202) 426–0762, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA's Bureau of Motor Carrier Safety (BMCS) has been asked by the Office of Management and Budget (OMB) to participate in a pilot program for the purpose of testing the feasibility of a Regulatory Cost Accounting Program (RCAP). The objective of the RCAP is to identify the cost components of each regulatory requirement on the regulated industry, then aggregate those components to determine the total cost burden associated with any part of each agency's regulatory program. These cost data could then be used to identify those regulations that impose particularly costly burdens on the industry.

In order to accomplish a task of this magnitude with an acceptable degree of reliability by the end of August 1982, it is essential to have input from motor carriers, drivers, manufacturers and other interested parties. This notice serves as a request for such input, either in the form of written comments to the docket (address above) or, orally at a public meeting scheduled for March 18, Room 6336, DOT Headquarters, 400 Seventh Street, SW., Washington, D.C., 9:00 a.m. to 4:00 p.m. Such input should assist the BMCS in evaluating the economic burden created by the FMCSR on the affected industry. Advance notification of the public meeting is necessarily short because of the time constraints placed on this project.

The data needed to accomplish this effort should focus on the direct costs incurred as a result of a regulation. The BMCS has structured this evaluation such that four primary types of burden will be considered. For the purpose of this exercise, burden is defined as the "cost borne by the industry to stay in compliance with the FMCSR." The four types of burden to be addressed are:

1. Paperwork burden which includes any paperwork preparation and filings necessitated by the FMCSR;
2. Operational burden which includes any time a qualified driver and/or vehicle, both of which are in compliance with the FMCSR, are restricted totally or in part from a revenue generating activity;
3. Hardware burden which includes capital costs directly attributable (at least in part) to the FMCSR; and
4. Overhead burden which includes costs incurred as a result of the FMCSR and not defined in the other three burdens, e.g., mechanical maintenance, file maintenance, administrative, etc., excluding paperwork.

Certain considerations should be made when attempting to determine costs directly attributable to the FMCSR. For example, Section 393.13 of the FMCSR requires that a truck tractor have two operational headlamps. The question arose: Has this requirement been institutionalized to the extent that industry would continue to install two operational headlamps on vehicles if this requirement did not exist? If so, how much (if any) of the compliance cost is attributable to the FMCSR?

Similar questions, concerning those regulations which have been adopted by some or all of the States, were encountered. In such cases, should the cost burden be attributed to the FMCSR or to the State regulation, or a percentage of the burden to each. If a percentage allocation approach is recommended, what percentage should be allocated to each? Without the FMCSR, would the cost burden decrease or would the nonuniformity of State requirements increase the cost burden.

Many of the FMCSR requirements are based on good accident prevention management principles. Would such practices be used by most motor carriers without the FMCSR requirements?

Comments to these considerations are requested to assist in the development of an approach which is mutually agreeable to both the regulated industry and the BMCS.

Additional comments are requested concerning the RCAP process: Along with comments concerning the scope and methodology of this effort, specific data is needed to identify the cost components of each regulatory requirement on the motor carrier industry. Please provide cost data, if possible, by FMCSR part and section in accordance with the four burden types defined in this notice and estimate the degree of reliability of such data.

All comments submitted will be available, both before and after the closing date, for examination by interested persons in the Docket Room of the BMCS, Room 3404, 400 Seventh Street, SW., Washington, D.C. 20590.

(49 U.S.C. 304; 49 CFR 1.48(b) and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on March 5, 1982.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 82-6379 Filed 3-8-82; 8:45 am]

BILLING CODE 4910-22-M

Notices

Federal Register
Vol. 47, No. 48
Thursday, March 11, 1982

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

Toiyabe National Forest Grazing Advisory Board; Notice of Meeting

The Toiyabe National Forest Grazing Advisory Board will meet at 1:00 p.m. April 22, 1982 in the Lander County Courthouse, Austin, Nevada. The purpose of this meeting is to discuss:

1. Allotment Management Planning.
2. Utilization of Range Betterment Fund.

The meeting will be open to the public. Persons who wish to attend should notify Forest Supervisor, Toiyabe National Forest, 111 N. Virginia St., Room 601, Reno, Nevada 89501. Telephone: (702) 784–5331. Written statements may be filed with the committee before or after the meeting.

Hugh G. Pangman,
Deputy Forest Supervisor.
March 4, 1982.
[FR Doc. 82-6571 Filed 3-10-82; 8:45 am]
BILLING CODE 3410-11-M

CIVIL RIGHTS COMMISSION

North Carolina 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 North Carolina Advisory Committee to the Commission will convene at 1:00 p.m., and will end at 4:00 p.m., on March 30, 1982, at the Hyatt Winston-Salem, 300 West 5th Street, Room 233–234, Winston-Salem, North Carolina 27102. The purpose of this meeting is to discuss voting rights issues, and tax exempt status of North Carolina universities that allegedly discriminate against minorities and program planning for the remaining period of fiscal year 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Tommie Young, 4303 King Arthur Place, Greensboro, North Carolina 27405,(919) 379–7783 or the Southern Regional Office, Citizens Trust Bank Building, 73 Piedmont Avenue, N.E., Room 363, Atlanta, Georgia 30303, (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 5, 1982.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 82-6532 Filed 3-10-82; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign Trade Zones Board

[Order No. 184]

Approval for Expansion of Foreign-Trade Zone 32, Miami, Fla

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Greater Miami Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone No. 32, has applied to the Board for authority to expand its general-purpose zone, located near Miami International Airport, to include an industrial park site in the City of Homestead, Florida, adjacent to the Miami Customs port of entry;

Whereas, the application was accepted for filing on November 2, 1981, and notice inviting public comment was given in the **Federal Register** on November 9, 1981 (46 FR 55296);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to provide zone services to users whose operations cannot be accommodated within existing zone space; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's Regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application field November 2, 1981. The grantee shall notify the Executive Secretarty of the Board for approval prior to the commencement of any manufacturing operations not mentioned in the application. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 3rd day of March 1982.

Malcolm Baldrige,
Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,
Executive Secretary.
[FR Doc 82-6546 Filed 3-10-82; 8:45 am]
BILLING CODE 3510-25-M

Foreign-Trade Zones Board

[Docket No. 9-82]

Foreign-Trade Subzone 46B, Union County, Ohio; Application for Expansion

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Cincinnati Foreign-Trade Zone, Inc., a non-profit Ohio corporation, and grantee of Foreign-Trade Subzone 46B, requesting authority to expand the subzone to include an adjacent site for automobile manufacturing operations. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 1, 1982. The applicant is authorized to make this proposal under § 1743.11 of the Ohio Revised Code.

On January 12, 1979, the GCFTZ received authority from the Board to establish a foreign-trade zone project with public facilities in the Cincinnati port of entry area and subzone facilities

in the Columbus, Ohio, port of entry area at the motorcycle assembly plant of Honda of America Manufacturing, Inc. (Board Order 141, 44 FR 4003, 1/19/79). The Honda subzone covers 214 acres on route 33 near Marysville in Union County, Ohio. Motorcycle assembly operations began in September 1979 and zone procedures were initiated the following March. The facility provides employment for over 500 persons.

The applicant now requests subzone status for an additional 650 acres, immediately adjacent to the motorcycle plant, for Honda's automobile manufacturing and assembly operations, scheduled to begin in late 1982. Operations will involve stamping, welding, painting, plastic injection molding and assembly of automobiles and related parts. The company plans to purchase over 50 percent of the material and parts from domestic sources, including items such as tires, batteries, glass, interior parts, and steel for body parts and exhaust systems. At full production the plant would produce 10,000 cars per month, employing 2,500 persons.

Zone procedures will allow Honda to avoid duty and drawback procedures on its exports. On its domestic sales, the company will be able to take advantage of the same duty rate available to importers of finished autos which is currently 2.9 percent ad valorem. The average duty rate for components is estimated to be about 4.0 percent. Honda has indicated that its experience with the benefits from zone procedures at the motorcycle plant was an important factor in its decision to locate the auto plant in the U.S.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report to the Board. The committee consists of Dennis Puccinelli (Chairman). Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Donald L. Cavanaugh, District Director, U.S. Customs Service, Region IX, 55 Erieview Plaza, Plaza 9 Building, Cleveland, Ohio 44114; and Colonel James H. Higman, District Engineer, U.S. Army Engineer District Huntington, P.O. Box 2127, Huntington, West Virginia 25721.

Comments concerning the proposed subzone expansion are invited in writing from interested persons and organizations. Submissions shall include 12 copies. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before April 5, 1982.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, Region IX, 85 Marconi Boulevard, 234 New Federal Office Building, Columbus, Ohio 43214

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3721, 14th and Constitution, N.W., Washington, D.C. 20230.

Dated: March 5, 1982.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-6570 Filed 3-10-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Cadmium From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on cadmium from Japan. The review covers the seven known exporters of this merchandise and the period September 5, 1979 through July 31, 1981.

There were no known exports of cadmium by these seven firms to the United States during the period of review. All seven repeated their request for revocation of the finding. The Department preliminarily determines not to revoke the finding. There is some evidence of likelihood of resumption of sales at less than fair value. We have also preliminarily determined to continue the waiver of cash deposit for the seven firms. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3814/5289).

SUPPLEMENTARY INFORMATION:

Background

On October 8, 1981, the Department of Commerce ("the Department") published in the Federal Register (46 FR 50815) the final results of its first administrative review of the antidumping finding on cadmium from Japan (37 FR 15760, August 4, 1972) and announced its intent to conduct the next administrative review by the end of August 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

The imports covered by the review are shipments of cadmium, currently classifiable under items 632.1420 and 632.1440 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of seven exporters of Japanese cadmium to the United States. The review covers the period September 5, 1979 through July 31, 1981. There were no known shipments to the United States by these seven firms during the period of review. One small shipment that could not be associated with any particiular Japanese firm was imported in late 1979 but was inadvertently liquidated by the Customs Service. All seven firms repeated their request for revocation of the finding. There are no know unliquidated entries.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that we will not revoke the finding. On the basis of recent market data presented in the last review, there is some evidence that sales, if they were to occur, would likely be at less than fair value.

Interested parties may submit written comments on these preliminary results on or before April 12, 1982 and may request disclosure and/or a hearing on or before March 22, 1982. Any hearing, if requested, will be held 25 days after publication of this notice or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its anlysis of any such comments or hearing.

As provided for in § 353.48(b) of the Commerce regulations, we preliminarily determine to waive the cash deposit requirement for any entries, or withdrawals from warehouse, for consumption of Japanese cadmium on or after the date of publication of the final results. This waiver shall remain in effect until publication of the final results of the next adminsitrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)

and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration

March 2, 1982.

[FR Doc. 82-6568 Filed 3-10-82; 8:45 am]

BILLING CODE 3510-25-M

Calcium Pantothenate From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On January 28, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on calcium pantothenate from Japan. The review covered two new third-country shippers of Japanese calcium pantothenate to the United States for the period January 1, 1981 through June 30, 1981. Interested parties were given an opportunity to submit written or oral comments on these preliminary results. We received no comments.

EFFECTIVE DATE: March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Susan M. Crawford or Sheila Forbes, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2209/5255).

SUPPLEMENTARY INFORMATION:

Background

On January 17, 1974, an antidumping finding with respect to calcium pantothenate from Japan was published in the **Federal Register** as Treasury decision 74-34 (39 FR 2088). On January 28, 1982, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the finding (47 FR 4105-06) for two new third-country shippers. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of calcium pantothenate, a member of the B-complex vitamin family which is produced in two grades: D-Cal Pan (USP grade, which is used for human nutrition in the form of multi-vitamin tablets) and DL Cal Pan (feed grade, which is used as a food supplement for swine and poultry). Both grades of calcium pantothenate are currently classifiable under item 437.8225 of the Tariff Schedules of the United States Annotated (TSUSA). The review covered two new third-country shippers of Japanese calcium pantothenate to the United States, Peak International Products, b.v., Netherlands and Kompanie Ultramar Sievers & Co., West Germany, and the period January 1, 1981 through June 30, 1981.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results of our review are the same as those presented in the preliminary results of review. No dumping margin exists for either of the firms for the period January 1, 1981 through June 30, 1981. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Since there is no margin for either firm, the Department shall not require a cash deposit, as provided for in section 353.48(b) of the Commerce Regulations, on any shipment of Japanese calcium pantothenate exported by Peak International or Kompanie Ultramar Sievers & Co. entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This zero deposit rate shall remain in effect until publication of the final results of the next administrative review for these two firms. The Department intends to conduct the next administrative review for these two firms by the end of January 1983. For any shipment from a new exporter not covered in this review or in the final results of the initial administrative review of the finding published on February 3, 1981 (46 FR 10518-10519), unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period covered by the initial review. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

March 8, 1982.

[FR Doc. 82-6569 Filed 3-10-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Allocation of Watch Quotas for Calendar Year 1982 Among Producers Located in the Virgin Islands, Guam, and American Samoa

AGENCY: International Trade Administration, Commerce; Office of the Assistant Secretary for Territorial and International Affairs, Interior.

ACTION: Final annual rules.

SUMMARY: Pursuant to Section 3 of the Department's Codified Watch Quota regulations (15 CFR Part 303), annual rules for calendar year 1982 are being adopted. The Departments are making several changes from the 1981 provisions.

DATE: These rules are effective on March 10, 1982.

FOR ADDITIONAL INFORMATION CONTACT: Mr. Frank W. Creel, who can be reached on 202-377-1660.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291 dated February 17, 1981, the departments of Commerce and the Interior have determined that these rules do not constitute a "major rule" as defined by Section 1(b) of the Order. They are not likely to result in:

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

(2) A major increase in costs or prices in either the public or private sector; or

(3) Significant adverse impact on the domestic economy or on the ability of U.S. enterprises to compete with foreign enterprises.

The General Counsel of the Department of Commerce has certified that this action will not have a significant economic impact on a substantial number of small entities. Finally, the Departments have determined that publication of these rules will impose no change in the information collection burden on the public. That burden is limited solely to those entities receiving the associated federal benefits and the information collection is made on ITA from 334P under OMB approval number 0625-0040. Accordingly, publication of these rules is consistent with the Departments' responsibilities under the Paperwork Reduction Plan Act of 1980.

The Departments published these rules in proposed form on December 10, 1981 (46 FR 60488 (1981)) and invited comments from the public. The only comment received was from the American Watch Association (AWA), a watch industry association of importers,

assemblers, manufacturers and their suppliers.

The Departments had proposed to modify the so-called two-tier allocation system, originally adopted in the 1979 rules, by applying the special incentives they contained only to the reallocation of quota. The Departments noted that reliance on largely preassembled components, which the two-tier system was designed to discourage, was not a current problem. We also pointed to the additional safeguards against such "passthrough" operations adopted by the U.S. Customs Service in 1980.

The AWA urged the Departments not to "jettison" the tow-tier system so that it would be "available in future years." The AWA noted that the system "is doing no apparent harm, and, indeed, stands as an important symbol of the Departments' continuing determination to maintain the highest possible standards for local labor contributions."

The Departments' proposal relates to a provision of the annual rules, and the two-tier system could be readopted if a need were shown to exist in future years. We agree, however, with the AWA's points about the harmlessness and symbolic significance of the two-tier system. In view of these points and the fact that no comments favoring the proposed change were received, we have decided to retain the two-tier system.

The AWA also commented on the Departments' proposal to raise their ceiling on creditable wages from $17,000 to $18,000. The AWA suggested that a ceiling of $23,000 would be "much more closely in line with the GNP deflator over the past decade."

Until the 1976 allocation, the Departments credited wages up to the FICA maximum. In that year, the Departments adopted an independent ceiling lower than the FICA maximum in order "to provide an additional incentive for the employment and training of territorial residents in skilled labor and supervisory positions." (40 FR 54274 (1975).) Adoption of a 1982 ceiling of $18,000 would represent an increase since 1976 of 36%. In the same period the FICA maximum has increased by almost 111%. Adoption of AWA's suggestion to increase the 1982 ceiling to $23,000 would result in an increase of 74% over the 1976 ceiling. The ceiling would then be equal to about 77% of the current FICA maximum.

While the additional incentive sought by the Departments since 1976 would clearly be greater with adoption of the proposed ceiling of $18,000, the above analysis shows that adoption of the AWA's suggestion would not mean the effective abandonment of the Departments' policy. The difference between the ceiling and the current FICA maximum would still be substantial enough to encourage producers to consider the availability of territorial residents for positions requiring special skills and supervisory ability. Accordingly, the final rule establishes a new ceiling of $23,000.

The AWA also recommended that the Departments conduct an "examination" of the need to revise their assembly criteria with respect to quartz analog watches and to establish a standard not "less stringent" than the existing standard.

This recommendation was not phrased as a suggestion for revising the 1982 rules but as a project to be undertaken. We agree that there is such a need. The Departments will welcome, during 1982, specific recommendations for a new standard for possible inclusion in the 1983 rules.

No other comments were received. The proposed rules, modified to reflect the foregoing discussions, are adopted in final as shown below.

Section 1. (a) A portion of the 1982 Virgin Islands quota determined in accordance with subsection (c) below will be allocated on the basis of (1) the net dollar amount of economic contributions to the Virgin Islands consisting of the dollar amount of wages, up to a maximum of $23,000 per person, paid by each producer during calendar year 1981 to Virgin Islands residents and attributable to each producer's headnote 3(a) watch and watch movement assembly operations plus the dollar amount of income taxes paid by each producer during calendar year 1981 attributable to its headnote 3(a) watch and watch movement assembly operations (excluding penalty and interest payments and deducting income tax refunds and subsidies paid by the Virgin Islands government during calendar year 1981), and (2) the number of units of watches and watch movements assembled in the Virgin Islands and entered by each producer duty-free into the customs territory of the United States during calendar year 1981.

(b) In making allocations under this formula, a weight of 80 percent will be assigned to the economic contributions factor and a weight of 20 percent will be assigned to the shipments factor. In calculating each producer's economic contributions, the Departments shall deduct from creditable wages any negative tax balances. That is, if the total of a producer's income tax payments during 1981 (excluding penalties and interest charges) is smaller than the total of refunds and subsidies received from the Virgin Islands government during 1981, the difference of the two sums shall be deducted from the producer's creditable wages for allocation purposes.

(c) An amount representing that portion of the 1982 Virgin Islands quota equal to the ratio of general headnote 3(a) shipments of watches and watch movements from the territory during 1981 to the total 1981 Virgin Islands quota will be allocated among the producers in the Virgin Islands, in accordance with the allocation factors and weights specified in (b) above.

Section 2. Sixty percent of the 1982 Guam quota may be allocated, pursuant to § 303.5(a)(4) of Title 15 of the Code of Federal Regulations, to the single Guam producer (see also subsection 3(B) and Section 6, below).

Section 3. (A) The portion of the Virgin Islands quota not allocated pursuant to Section 1, except as specified in Section 4, will be allocated among firms meeting the requirements of paragraphs (1) or (2) of this section. Eligible firms will be allocated quota in accordance with the factors and weights specified in Section 1. Allocation of the portion of the Virgin Islands quota under this Section will be made to firms which: (1) Assembled all watch movements shipped during 1981 from unasssembled movements having at least 26 discrete components and all watches (that is, cased movements) during 1981 from at least 29 discrete components, including at least 26 movement components and at least 3 case components; or (2) Made wage payments during 1981 in the territory averaging not less than $.75 per watch movement and $.95 per watch assembled and shipped into the customs territory of the United States. In determining a firm's eligibility under this criterion, the Departments may make appropriate data adjustments to take into account wages paid for the assembly of units not shipped during 1981 and shipments assembled prior to 1981.

(b) Allocation of the portion of the Guam quota not allocated pursuant to Section 2 may be allocated pursuant to § 303.5(b) of Title 15 of the code of Federal Regulations.

Section 4. Quota set aside for new firms in the Virgin Islands under subsection 5(b) shall be subtracted from the quota amount allocable under Section 3, before allocation are made pursuant to that subsection.

Section 5. (a) Applications from new firms are invited for the calendar year 1982 American Samoa quota. Due to the limited size of the American Samoa quota, the Departments will allocate

that quota to the single firm which offers the best prospect of a meaningful long-term contribution to the economy of the territory.

(b) Applications from new firms are invited for 2,000,000 units of the calendar year 1982 Virgin Islands quota.

(c) Applicants for new-entrant quotas must complete applicable sections of Form ITA–334P, copies of which may be obtained from the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Detailed instructions for completing ITA–334P will be provided by the Statutory Import Programs Staff together with copies of the application form.

(d) The Departments will consider new entrant applications only from firms which certify to the Departments that they are able and willing to meet the minimum assembly or wage contribution criteria established in Section 3. Following the Secretaries' determination that a qualifying application has been received, an announcement will be published in the **Federal Register** establishing a closing date for further applications. The closing date shall be 30 days from the date of such notice. If the Departments do not receive prior to September 1, 1982, a qualifying application for quota set aside by subsection (b) above, that quota may be reallocated among eligible producers pursuant to § 303.5(b) of Title 15 of the Code of Federal Regulations.

Section 6. Reallocation of calendar year 1982 quota that becomes available will be restricted to those firms satisfying the criteria established in subsection 3(a), to any new entrant firms selected pursuant to Section 5 above, and to the new Guam firm, provided its operations at the time of the reallocation satisfy the criteria established in subsection 3(a).

Section 7. As used in Section 3 of these rules:

(a) "Wages" means all wages up to $23,000 per person paid to residents of the territories employed in a firm's headnote 3(a) watch and watch movement assembly operations. Excluded, however, are wages paid (i) accountants, lawyers, or other professional personnel who may render special services to the firm, (ii) persons assembling non-headnote 3(a) watches and watch movements, (iii) persons engaged in the repair of non-headnote 3(a) watches and watch movements, and (iv) persons engaged in the strapping and packaging of watches. Wages paid to persons engaged in both headnote 3(a) and non-headnote 3(a) assembly and repair activities shall be credited proportionately for their headnote 3(a) activities, provided the firm maintains production and payroll records adequate for the Departments' verification of the headnote 3(a) portion.

(b) "Discrete movement components" means screws, parts, components and subassemblies not assembled together with another part, component or subassembly at the time of importation into the territory. (A mainplate containing set jewels or shock devices, together with other parts, would be considerd a single discrete component, as would a barrel bridge subassembly.) Excluded are dials, dial washer, dial screws, hour wheels, hands, automatic mechanisms and related parts, day-date mechanisms and calendar features, and jewels.

Section 8. (a) All firms must, as a condition for receipt of allocations or reallocations based on subsection 3(a) criteria, certify to the Departments that they will not alter assembly operations during calendar year 1982 in a manner which would result in their failure to satisfy the respective criteria.

(b) If the Departments have reason to believe that a producer has not complied with or is not complying with the certification required by subsection (a) of this section, they may issue an order requiring the producer to show cause within 30 days of receipt of the order why the duty-free quota to which it would otherwise be entitled should not be cancelled or reduced by the Departments.

Section 9. (a) The quarterly reporting requirements of § 303.8(a) of the Code of Federal Regulations are suspended for calendar year 1982, and copies of Form ITA–321P will not be forwarded to producers at the times specified by that provision.

(b) Each producer must comply with § 303.8(b) of the Code of Federal Regulations and report any changes in ownership, interest and control which have occurred during any quarter by April 15, July 15 and October 15, respectively, but may do so by letter.

(Pub. L. 89–805, 80 Stat. 1521 (19 U.S.C. 1202) as amended 15 CFR Part 303)

Issued at Washington, D.C. on March 4, 1982.

John L. Evans,

Acting, Deputy Assistant Secretary for Import Administration, Department of Commerce.

Pedro A. Sanjuan,

Assistant Secretary for Territorial and International Affairs, Department of the Interior.

[FR Doc. 82-6545 Filed 3-10-82; 8:45 am]

BILLING CODE 4310-10-M
BILLING CODE 3510-25-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Current Schedule of Reviews of Government Versus Contract Operation of Commercial or Industrial Activities and Service Contracts

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notification of current schedule of reviews.

SUMMARY: Pursuant to Office of Management and Budget (OMB) Circular A–76 and the Department of Commerce Administrative Order 201–41 implementing OMB Circular A–76, notice is hereby given that the National Oceanic and Atmospheric Administration (NOAA) intends to conduct reviews of the feasibility and/or cost of contract operation versus Government operation of commercial and industrial activities listed below under Supplemental Information. Specific invitation for bids or request for proposals will be announced in the Commerce Business Daily. A contract or contracts may or may not result from each feasibility or cost comparison study. Results of each study will be made available to responding bidders or offerors and other interested parties. This partially revised schedule replaces the notice of reviews published in the **Federal Register**, Volume 45, No. 154, Thursday, August 7, 1980, p. 52438.

DATES: See specific dates in table under Supplemental Information.

FOR FURTHER INFORMATION CONTACT: Samuel A. Lawrence, Assistant Administrator for Management and Budget, 6010 Executive Boulevard, Rockville, Maryland 20852, 443–8134.

SUPPLEMENTARY INFORMATION: Studies to be made are identified in the following tabulation:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

[Commercial and Industrial Activities]

Name of activity	Location of activity	Review start date	Review end date
Operation of Ship Chapman	Seattle, Washington	July 31, 1985	July 31, 1986.
Imagery Processing Laboratory	Washington, D.C.	July 31, 1980	Sept. 30, 1982.
Central Distribution	Rockville, Maryland	Mar. 1, 1981	Apr. 1, 1982.
Data Entry	Asheville, North Carolina	Oct. 1, 1980	June 1, 1982.
Repair of Weather Equipment	Kansas City, Missouri	Oct. 1, 1980	Dec. 1, 1982.
Airport Obstruction Surveys	Rockville, Maryland	Oct. 31, 1980	Jan. 4, 1983.
Aeronautical Drafting	Silver Spring, Maryland	Dec. 1, 1980	July 30, 1982.
NOAA Logistics Supply Center	Kansas City, Missouri	Dec. 1, 1981	Apr. 4, 1983.
Photography Laboratory	Suitland, Maryland	Mar. 1, 1981	Sept. 1, 1982.
Radiosonde Reconditioning	Kansas City, Missouri	Mar. 1, 1981	Jan. 1, 1983.
NWR Console Maintenance	Nationwide	Feb. 3, 1981	Dec. 15, 1982.
Operation of Computer Facilities	Asheville, North Carolina	Oct. 1, 1981	Dec. 30, 1982.
NOS Distribution Services	Riverdale, Maryland	Oct. 1, 1981	Feb. 28, 1983.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

[Service Contracts]

Description of activity	Location of activity	Contract end date	Option end date	Review start	Review end
Photographic reproduction of imagery from environmental and experimental satellites.	Prince Georges County, MD	Sept. 30, 1982	Sept. 30, 1983	Sept. 30, 1982	Sept. 30, 1983.
Operation and maintenance of the GOES Central Distribution System	Various locations across the United States.	Sept. 30, 1984	Sept. 30, 1985	June 1, 1984	Sept. 30, 1985.
Operation and maintenance of control tide stations	Various parts of Florida	Nov. 1, 1981	Oct. 31, 1982	Oct. 27, 1981	Aug. 13, 1982.
Maintenance of UNIVAC 1100/10 Computer System	Asheville, NC	Sept. 30, 1980	Sept. 30, 1983	June 30, 1982	June 30, 1983.
Calibration of oceanographic instruments	Bellevue, WA	Oct. 31, 1980	Oct. 31, 1984	June 1, 1983	June 1, 1984.
Technical support services for the NOAA Data Buoy Office	Bay St. Louis, MS	Apr. 30, 1981	Mar. 31, 1985	Dec. 31, 1983	Dec. 31, 1984.
Maintenance & repair services for NOAA Weather Radio RF Transmitters.	Nationwide	June 30, 1980	June 30, 1986	June 30, 1984	Mar. 30, 1985.

Dated: March 3, 1982.

Francis J. Balint,

Director, Office of Management and Computer Systems.

[FR Doc. 82-6573 Filed 3-10-82; 8:45 am]

BILLING CODE 3510-08-M

Intent To Discontinue Reviews of Government Versus Contract Operation of Microfilming at the National Geophysical and Solar-Terrestrial Data Center, Boulder, Colorado

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of intent to discontinue reviews.

SUMMARY: Notice is hereby given pursuant to Office of Management and Budget (OMB) Circular A-76 and the Department of Commerce Administrative Order 201-41 implementing OMB Circular A-76 that the National Oceanic and Atmospheric Administration (NOAA) intends to remove the microfilming activity conducted at the National Geophysical and Solar-Terrestrial Data Center (NGSDC), Boulder, Colorado, from the inventory of commercial and industrial activity required by OMB Circular A-76. This action is being taken because less than $100,000 per year is being used for the operation, and activities of this magnitude do not require a cost comparison study prior to contracting under provisions of OMB Circular A-76. Reviews of microfilming at the NGSDC will be discontinued when the activity is removed from the inventory maintained by NOAA.

FOR FURTHER INFORMATION CONTACT: Samuel A. Lawrence, Assistant Administrator for Management and Budget, 6010 Executive Boulevard, Rockville, Maryland 20852, 301/443-8134.

Dated: March 3, 1982.

Francis J. Balint,

Director, Office of Information and Management Services.

[FR Doc. 82-6572 Filed 3-10-82; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of meeting: Tuesday, 30 March 1982; Wednesday, 31 March 1982

Times: 0830-1700 hours, 30 March 1982 (Closed); 0830-1600 hours, 31 March 1982 (Closed)

Place: The Pentagon, Washington, D.C., Room 1A1079 on 30 March; and Rooms 3A486, 3E360, and 1E420 on 31 March.

Agenda

The Army Science Board 1982 Summer Study Group on Science and Engineering Personnel will meet on 30 March to be given observations from the Navy and Air Force on the science and engineering situation in those Services. On 31 March the Group will break up into the three working groups for this effort: (1) Civilian Engineers, (2) Civilian Scientists, and (3) Uniformed Scientists and Engineers. The Summer Study addresses the Army's problem of recruiting, retaining, and maintaining a reasonably balanced age profile of civilian S&E personnel. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for

further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-6560 Filed 3-10-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Management and Administration Review of Advisory Committees

The Department of Energy (DOE) is conducting a comprehensive review of its advisory committees in accordance with Office of Management and Budget Circular No. A-63, Transmittal Memorandum No. 5. Public comment is invited.

All agencies have been directed to conduct this review for each committee which was in existence on December 31, 1981, to determine (a) whether such committee is carrying out its purpose; (b) whether consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised; (c) whether it should be merged with other advisory committees; or (d) whether it should be abolished.

DOE is now in the process of conducting this review for the following advisory committees:

Consumer Affairs Advisory Committee
DOE/NSF Nuclear Science Advisory Committee
Dose Assessment Advisory Group
Energy Research Advisory Board
Environmental Advisory Committee
Fossil Energy Advisory Committee
High Energy Physics Advisory Panel
Minority Advisory Committee on Energy
National Energy Extension Service Advisory Board
National Petroleum Council
Solar Photovoltaic Energy Advisory Committee

The following committees were terminated on the dates indicated below and therefore are not included in this review:

Advisory Committee on Atmospheric Carbon Dioxide—September 30, 1981
Energy Policy Task Force—June 30, 1981
Federal Photovoltaic Utilization Program Advisory Committee—October 1, 1981
Food Industry Advisory Committee—March 16, 1981
State Planning Council on Radioactive Waste Management—August 12, 1981

DOE is required to complete its review and submit its determination to the Committee Management Secretariat, General Services Administration, not later than April 15, 1982. Therefore, any public comments and recommendations should be provided to DOE not later than March 26, 1982. Interested persons should direct their comments to Gloria Decker, Information Management Systems Analysis Branch, MA-241, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (telephone: 202-252-5187).

Issued at Washington, D.C. on March 8, 1982.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 82-6618 Filed 3-10-82; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

Draft National Plan for Siting High-Level Radioactive Waste Repositories and Environmental Assessment

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy's draft National Plan for Siting High-Level Waste Repositories describes the process the Department of Energy is using to find sites suitable for disposal of high-level radioactive waste. This Plan is one element of the Department of Energy's National Waste Terminal Storage (NWTS) Program being conducted to develop the necessary technology and to qualify sites to establish mined geologic repositories for these wastes. The draft Plan describes existing and planned activities for screening successively smaller portions of land within the United States to identify suitable candidate sites and for subsequently selecting one or more of these sites for a licensed, permanent disposal facility. A draft of the Plan is now available for public review and comment prior to adoption by the Department.

An Environmental Assessment (EA) has been prepared as input to the decision to adopt or modify the draft National Plan for Siting High-Level Radioactive Waste Repositories. Environmental effects of the anticipated range of field studies to characterize various land areas and of reasonable alternative siting strategies are assessed. The EA will provide the basis for a finding of whether adoption and implementation of this Plan will result in significant environmental impacts. This finding will be made by DOE after public review of the draft Plan. DOE has prepared this EA in compliance with the Council on Environmental Quality regulations pursuant to the National Environmental Policy Act (NEPA) of 1969 as amended. DOE has published the EA in the same volume as the draft Plan. Site specific environmental impacts of constructing exploratory shafts, test facilities, and repositories will be assessed in subsequent environmental reviews.

The Department will consider timely comments received on the draft Plan and EA prior to a decision to adopt or modify it for the NWTS Program. It is expected that the Plan will continue to evolve, as details of the siting process are further developed. Consequently, the Department anticipates that the Plan and the accompanying EA may be revised as necessary to reflect future program developments. The public would be afforded additional opportunity for review and comment prior to the adoption of any significant changes to the Plan.

Availability

Copies are available from the Office of Nuclear Waste Isolation Library, 505 King Avenue, Columbus, Ohio 43201. Telephone: (614) 424-7697.

DATES: Written comments on the draft Plan and Environmental Assessment are due on or before April 30, 1982.

ADDRESS: Comments should be sent to: Mr. Critz George, Office of Waste Isolation, NE-330, U.S. Department of Energy, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

On the NWTS Program: Mr. Critz George at the above address. Phone 301-353-3014

On the DOE, NEPA Process: Ms. Nan Evans, Environmental Compliance Division, EP-33, U.S. Department of Energy, Washington, D.C. 20545. Phone 202-252-4610 or, Mr. Robert Mussler, Office of the General Counsel, GC-33, U.S. Department of Energy, Washington, D.C. 20545. Phone 202-252-6947

For the United States Department of Energy.

William A. Vaughan,

Assistant Secretary for Environmental Protection, Safety and Emergency Preparedness.

Dated: March 1, 1982.

Franklin E. Coffman,

Deputy Assistant Secretary for Nuclear Waste Management and Fuel Cycle Programs, Office of Nuclear Energy.

Dated: February 11, 1982.

[FR Doc. 82-6617 Filed 3-10-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 5981-000]

City of Arcata; Application for Preliminary Permit

March 10, 1982.

Take notice that the City of Arcata (Applicant) filed on February 16, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5981 to be known as the Cannon Creek Water Power Project located on Cannon Creek in Humboldt, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. R. Robinson, City Manager, City of Arcata, 736 F Street, Arcata, California 95521.

Project Description—The proposed project would consist of: (1) a 3-foot high, 15-foot long diversion structure; (2) a 36-inch diameter, 15,000-foot long conduit; (3) a 30-inch diameter, 7,000-foot long penstock; (4) a powerhouse containing a turbine-generating unit with a rated capacity of 700 kW; and (5) a 6.5-mile long 12–kV transmission line connecting to an existing Pacific Gas and Electric Line. The Applicant estimates a 2.1 million kWh annual energy production.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, and geological, environmental and economic feasibility studies. The cost of forementioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies and preparing a license application is estimated by the Applicant to be $80,000. Power would be sold to Pacific Gas and Electric Company.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 17, 1982, the competing application itself or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 17, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 15, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–6624 Filed 3–10–82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5974-000]

City of Arcata; Application for Preliminary Permit

March 10, 1982.

Take notice that the City of Arcata (Applicant) filed on February 12, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5974 to be known as the Maple Creek Water Power Project located on Maple Creek in Humboldt, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. R. Robinson, City Manager, City of Arcata, 736 F Street, Arcata, California 95521.

Project Description.—The proposed project would consist of: (1) a 3-foot high, 15-foot long diversion structure; (2) a 36-inch diameter, 5,000-foot long conduit; (3) a 30-inch diameter, 5,000-foot long penstock; (4) a powerhouse containing a turbine-generating unit with a rated capacity of 750 kW; and (5) a 12,000-foot long, 12–kV transmission line connecting to an existing Pacific Gas and Electric Line. The Applicant estimates a 2.2 million kWh annual energy production.

Proposed Scope of Studies under Permit.—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, and geological, environmental and economic feasibility studies. The cost of forementioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies and preparing a license application is estimated by the Applicant to be $80,000. Power would be sold to Pacific Gas and Electric Company.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 17, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 17, 1982, and should specify the type of application

forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 15, 1982.

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 17, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS" "NOTICE OF INTENT TO FILE COMPETING APPLICATION" "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6625 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-130-000]

Consolidated Gas Resources, Inc.; Application for Approval of Rates

March 9, 1982.

Take notice that on January 13, 1982, Consolidated Gas Resources, Inc. (Applicant), 8561 Long Point Road, Suite 100, Houston, Texas 77055 filed in Docket No. ST82-130-000 an application pursuant to Part 284.123(b)(2)(i) of the Commission's regulations for approval of rates charged for the transportation of natural gas on behalf of United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that on November 24, 1981, Applicant and United entered into an agreement whereby Applicant would gather and transport gas for the account of United at the wellsite of each well from which United has purchased natural gas in the West Sinton Field Area of San Patricio County, Texas, to be redelivered to United at the point of interconnection of Applicant's pipeline with United's 24-inch pipeline near the City of Sinton, San Patricio County, Texas. Applicant submits that the aforestated services being rendered by Applicant on behalf of United commenced on December 10, 1981. It is asserted that during the primary term Applicant would gather, transport and redeliver up to 1,000 Mcf per day while the average daily quantity of gas transported during the first year is estimated to be 500 Mcf per day and the initial rate of delivery was 135 Mcf per day.

For said service, Applicant proposes to charge United an initial amount of 18.57 cents per million Btu of gas transported.

Applicant has included its request for Commission approval of the proposed charges in the filing of its Initial Full Report pursuant to Section 284.126 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in a hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6626 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5667-000]

East Coast Engineering; Application for License (5 MW or Less)

March 10, 1982.

Take notice that East Coast Engineering (Applicant) filed on November 17, 1981, an application for license pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r) for construction and operation of a water power project to be known as the Weare Reservior Project No. 5667. The project would be located on the Piscataquog River in the Town of Weare, Hillsborough County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. James M. Rea, East Coast Engineering, P.O. Box 25, Barrington, New Hampshire 03825.

Project Description—The proposed project would consist of: (1) an existing concrete gravity dam, with a total overall length of 340 feet, a maximum height of 34 feet, and a 157-foot long spillway; (2) a pool covering 330 acres with a storage capacity of 6,300 acre-feet; (3) a new 100-foot long, 36-inch diameter penstock connected to an existing 36-inch diameter discharge pipe; (4) a new 12 by 12-foot powerhouse containing one 114-kW turbine/generator unit operating under a head of 30 feet; (5) a new tailrace; (6) a new 140-foot long, 2.3-kV transmission line; and (7) appurtenant facilities.

Purpose of Project—The average annual generation of 500,000 kWh would be sold to the Public Service Company of New Hampshire.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the

issuance of a license. A copy of the application may be obtained directly from the Applicant. If an aqency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 17, 1982, either the competing application itself (See 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. PLumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6627 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-183-000]

Eastern Shore Natural Gas Co.; Application

March 9, 1982.

Take notice that on January 28, 1982, Eastern Shore Natural Gas Company (Applicant), P.O. Box 615, Dover, Delaware 19901, filed in Docket No. CP82-183-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of additional tap facilities connecting Applicant's existing transmission lines to the Chesapeake Utilities Corporation, Delaware Division, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization herein for the construction and operation of tap facilities to connect its existing transmission lines to the Chesapeake Utilities Corporation. Applicant states that the sole purpose of the tap, which connects Delaware Division transmission lines with Applicant's existing transmission line on West Street in Dover, Delaware, is to remedy a severe pressure problem on a portion of the Delaware Division system that threatened to cause an immediate loss of heat in approximately one hundred residences. Applicant submits that the tap was installed on January 11, 1982, at an approximate cost of $2,600. Such cost, it is asserted, would be financed from funds generated through operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6628 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5751-000]

Hydroelectric Development, Inc.; Application for Preliminary Permit

March 10, 1982.

Take notice that Hydroelectric Development, Inc. (Applicant) filed on December 14, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5751 to be known as the Collbran Water Power Project located on Mesa Creek in Mesa County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Allen Mauzy, CH2M Hill, P.O. Box 22508, Denver, Colorado 80222.

Project Description—The proposed project would utilize the Bureau of Reclamation's the existing 32.8-mile long Southside Canal which extends from Vega Reservoir to Mesa Creek and would consist of: (1) a new powerhouse containing one or more generating units with a rated capacity of 1,420 kW; (2) a new 4-mile, 115-kV transmission line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 4,325,000 kWh. The most likely market for the derived energy would be a local power supplier (i.e., REA, Public Services).

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant

would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $35,000 to $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself (see: 18 CFR 4.30 et. seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 17, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6629 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-19-003]

Mountain Fuel Supply Co.; Petition To Amend

March 9, 1982.

Take notice that on February 17, 1982, Mountain Fuel Supply Company (Petitioner), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP79-19-003 a petition to amend the order issued June 5, 1979, as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an additional delivery point for the receipt of gas from Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that by order issued June 5, 1979, Petitioner was authorized to construct and operate certain facilities and transport natural gas for Panhandle from the Moxa Arch area of Sweetwater County, Wyoming, to a point of interconnection with the system of Colorado Interstate Gas Company (CIG) where such natural gas is delivered to CIG for further transportation and ultimate delivery to Panhandle. It is further stated that the order was amended on October 28, 1980, so as to authorize four new receipt points and to change the point of deliver of the gas to CIG for the account of Panhandle to the Kanda exchange point.

Petitioner proposes herein to add an additional point of receipt of gas from Panhandle, the Nitchie Gulch delivery point in Sweetwater County. Petitioner notes that no increased in the volumes authorized to be transported is proposed.

It is asserted that the only facility required to effectuate the receipt of gas from the additional delivery point would be a tap on Petitioner's existing mainline No. 25. Applicant states that it would construct the proposed tap pursuant to budget-type authorization.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6631 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-192-000]

Northwest Pipeline Corp.; Application

March 9, 1982.

Take notice that on February 5, 1982, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84111, filed in Docket No. CP82-192-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has assigned its gas processing rights under gas purchase contracts covering purchases in the Foundation Creek and Trail Canyon gathering systems to NGL Production Company (NGL). Applicant explains that NGL plans to install a 15 Mcf per day gas processing plant at the site of Applicant's existing Foundation Creek compressor station and that the plant would be designed to recover a single liquid product containing approximately 31 percent of the propane, 61 percent of the butane and 90 percent of the gasoline content of the compressor station discharge stream.

To enable NGL's plant to receive gas from and redeliver processed volumes to Applicant's pipeline facilities, Applicant proposes the construction and operation of a 6-inch automatic diverter valve in its Foundation Creek compressor station

discharge line, a 6-inch automatic block valve in both the processing plant inlet line and outline line and associated tie-in piping.

The facilities proposed to be constructed would be located on the site of Applicant's existing Foundation Creek compressor station in Rio Blanco County, Colorado, it is stated. The estimated cost of constructing these facilities is $7,500. It is noted that NGL would reimburse Applicant for the actual cost of construction of the proposed facilities.

It is stated that NGL, or any other party for whom gas may be processed at the plant, would fully compensate Applicant for the processing fuel and shrinkage which would be deducted from Applicant's gas stream.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6632 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-194-000]

Pacific Interstate Offshore Co.; Application

March 9, 1982.

Take notice that on February 5, 1982, Pacific Interstate Offshore Company (Applicant), 720 West Eighth Street, Los Angeles, California 90017, filed in Docket No. CP82-194-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and sale of natural gas to Pacific Lighting Gas Supply Company (PLGS) and construction and operation of natural gas facilities and pipelines, all as more fully set forth in the application which is on file with the commission and open to public inspection.

Applicant specifically proposes to construct and operate a 12-inch diameter pipeline from Texaco Inc.'s (Texaco) Platform Habitat in the Pitas Point Unit, offshore Carpinteria, California, to shore, then extending 530 feet inland. It is stated that the proposed pipeline would connect with a metering and odorization facility to be owned by PLGS and a 12-inch diameter onshore pipeline approximately 1,840 feet in length also to be owned by PLGS.

Applicant submits that the total cost of the proposed facilities is approximately $15,734,000 of which 70 percent would be financed from debt issuance with the remaining costs to be funded through equity investments from Applicant's parent company, Pacific Interstate Company.

Applicant also proposes to transport and sell to its affiliate, PLGS, the natural gas purchased from Texaco and Union Oil Company of California. It is stated that PLGS would be charged a cost-or-service rate under its proposed Rate Schedule G-10 to its proposed FERC Gas Tariff, Original Volume No. 1. Applicant explains that PLGS would sell the natural gas to Southern California Gas Company, an affiliate.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6633 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP77-17-006]

Panhandle Eastern Pipe Line Co., Trunkline Gas Co.; Petition To Amend

March 9, 1982.

Take notice that on January 28, 1982, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77-17-006 a petition to amend the orders issued August 29, 1977,[1] and October 28, 1977, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the utilization of 5 additional points of redelivery by Petitioners to Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), all as more fully set forth in the petition to amend

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

which is on file with the Commission and open to public inspection.

It is stated that Petitioners and Northern are parties to a currently effective transportation agreement dated September 24, 1976, which provides that Trunkline would receive up to 175,000 Mcf of natural gas per day for the account of Northern at its Longville, Louisiana, compressor station and redeliver such gas, less fuel, to Panhandle at the interconnection between Petitioners' facilities in Douglas County, Illinois, for further delivery by Panhandle to Northern in Kiowa County, Kansas.

Petitioners propose herein to include five additional points of redelivery for the transportation of natural gas as provided by an amendment to the aforementioned agreement dated October 22, 1981. It is submitted that the additional redelivery points would permit Northern to make certain sales in Texas and Louisiana. Petitioners explain that all five points are existing points of interconnection on Petitioners' pipeline system so no new facilities are required.

Petitioners state that two of the proposed points are Centerville and Olla located in St. Mary Parish, Louisiana, and LaSalle Parish, Louisiana, respectively. It is stated that at these points Trunkline would deliver up to 100,000 Mcf of gas per day to United Gas Pipe Line Company. Petitioners indicate the second pair of points to be Beauregard and Allen located in Beauregard Parish, Louisiana, and Allen Parish, Louisiana, respectively. Petitioners submit that Trunkline would redeliver up to 50,000 Mcf of gas per day to Texas Eastern Transmission Corporation at these points. It is further proposed that at Katy located in Waller County, Texas, Trunkline would redeliver up to 100,000 Mcf of natural gas per day to Houston Pipe Line Company for the account of Northern.

Petitioners assert that the five redelivery points would be provided to Northern at Petitioners' sole discretion. It is also asserted that the total maximum daily obligation of the five proposed redelivery points and two existing redelivery points would remain at 175,000 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6634 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5888-000]

Springfield Utility Board; Application for Preliminary Permit

March 10, 1982

Take notice that Springfield Utility Board (Applicant) filed on January 18, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5888 to be known as the Wiley Power Project located on Wiley Creek within the Willamette National Forest in Linn County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Steve L. Loveland, Springfield Utility Board, P.O. Box 300, Springfield, Oregon 97477.

Project Description—The proposed project would consist of: (1) a 40-foot high, 200-foot long dam; (2) a reservoir; (3) a 759-foot long penstock; (4) a powerhouse to contain a generating unit with an installed capacity of 1,700 kW operating under a head of 160 feet; and (5) a 7-mile long, 34.5-kV transmission line to connect to an existing line. The average annual energy output is 6,700,000 kWh.

Proposed Scope of Studies under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a preliminary permit for a period of 36 months, during which it would conduct engineering, environmental, and economic feasibility studies and prepare an application for an FERC license. No access roads would be required. The estimated cost for conducting these feasibility studies and preparing an application for an FERC license is $80,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 17, 1982, the competing application itself or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued Ocotober 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 17, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 15, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on-or before May 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing

application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6635 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5887-000]

Springfield Utility Board; Application for Preliminary Permit

March 10, 1982.

Taken notice that Springfield Utility Board (Applicant) filed on January 18, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5887 to be known as the North Power Project #2 located on North Fork of the Middle Fork of the Willamette River within the Willamette National Forest in Lane County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Steve L. Loveland, Springfield Utility Board, P.O. Box 300, Springfield, Oregon 97477.

Project Description—The proposed project would consist of: (1) an 80-foot high, 1,100-foot long dam; (2) a reservoir; (3) a 700-foot long penstock; (4) a powerhouse to contain a single generating unit with a rated capacity of 5,300 kW operating under a head of 160 feet; and (5) a 10-mile long, 34.5-kV transmission line extending to an existing line. The average annual energy output is 20,900,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a preliminary permit for a period of 36 months, during which it would conduct engineering, environmental, and economic feasibility studies and prepare an application for an FERC license. No new roads will be needed. The estimated cost for conducting these feasibility studies and preparing an application for an FERC license is $80,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 17, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 17, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 15, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6636 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5886-000]

Springfield Utility Board; Application for Preliminary Permit

March 10, 1982.

Take notice that Springfield Utility Board (Applicant) filed on January 18, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5886 to be known as the North Power #1 located on North Fork of the Middle Fork of the Willamette River within the Willametter National Forest in Lane County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Steve L. Loveland, Springfield Utility Board, P.O. Box 300, Springfield, Oregon 97477.

Project Description—The proposed project would consist of: (1) an 8-foot high diversion structure; (2) a 7,000-foot long circular penstock; (3) a powerhouse to contain a single generating unit with a rated capacity of 11,400 kW, operating under a head of 320 feet; (4) a 50-foot long tailrace discharging into the river, and (5) an 11.5-mile long, 34.5-kV transmission line extending to an existing line. The average annual energy output is 44,900,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a preliminary permit for a period of 36 months, during which it would conduct engineering, environmental, and economic feasibility studies and prepare an application for an FERC license. No new roads will be needed. The estimated cost for conducting these feasibility studies and preparing an application for an FERC license is $200,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 17, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981)); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response

to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 17, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 15, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6637 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5698-000]

Triton Power Co.; Application for License (5 MW or Less)

March 10, 1982.

Take notice that Triton Power Company (Applicant) filed on November 27, 1981, and revised on February 2, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for construction and operation of a water power project to be known as the High Falls Hydroplant Project No. 5698. The project would be located on the Chateaugay River in Franklin County, New York. Correspondence with the Applicant should be directed to: Mr. Keith F. Corneau, Little Tov Road, P.O. Box 145, Wilmington, New York 12997 and Mr. Peter C. Kissel, O'Connor & Hannan, 1919 Pennsylvania Avenue, NW., Suite 800, Washington, D.C. 20006.

Project Description—The proposed project would consist of: (1) an existing concrete and masonry dam about 90 feet long and 64 feet high owned by the New York State Electric & Gas Corporation; (2) an existing reservoir with negligible storage capacity and water surface elevation at 962.7 feet m.s.l.; (3) a new intake structure; (4) a new 6-foot diameter and 190-foot long penstock; (5) a new buried concrete powerhouse to contain a turbine-generator unit with an installed capacity of 1,750 kW; (6) a new underground transmission line, 80 feet long; and (7) other appurtenances. Applicant estimates an annual generation of 10,500,000 kWh.

Purpose of Project—Project energy would be sold to New York State Electric & Gas Corporation.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Long Lake Energy Corporation's application for Project No. 4332-001 filed on September 16, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing applications for licenses or exemptions, or notices of intent to file competing applications, will be accepted for filing in response to this notice. [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6638 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5624-000]

Zoes J. Dimos and James C. Katsekas; Application for Preliminary Permit

March 10, 1982.

Take notice that Zoes J. Dimos and James C. Katsekas (Applicant) filed on November 2, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5624 to be known as the Cotton Mill Dam Power Project located on the Winnipesaukee River in Belknap and Merrimack Counties, New Hampshire. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Zoes J. Dimos and James C. Katsekas,
c/o Engineering Design Services, Route 102—Londonderry Professional Center, Londonderry, New Hampshire 03053.

Project Description.—The proposed project would be run-of-the river and would consist of: (1) an existing dam, 120 feet long and 10 feet high, constructed of timber A-frames with a breached spillway section—all in need of extensive repair; (2) a reservoir having minimal pondage; (3) a new penstock; (4) a new powerhouse, at the left river bank, containing a generating unit having a total rated capacity of 260 kW; (5) a tailrace; (6) a new transmission line; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,000,000 kWh. Project energy would be sold to the Public Service Company of New Hampshire. The Applicant proposes to study an alternative plan whereby Cotton Mill Dam would be removed entirely in favor of an increased height and capacity of the Clement Dam Hydro Project located immediately downstream.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of one year, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $10,000.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 15, 1982, and should specify the type of application forthcoming. Applicantions for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 15, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-6630 Filed 3-10-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-353-000]

Carolina Power & Light Co.; Filing

March 8, 1982.

Take notice that Carolina Power & Light Company (CP&L) on March 1, 1982, tendered for filing a new Service Schedule E–Term Energy Exchange and a Letter of Agreement between CP&L and TVA revising the Interchange Agreement with Tennessee Valley Authority CP&L FERC No. 95. The Letter of Agreement revises the contract by upgrading the interconnection facilities at the Douglas-Walters interconnection to 161 kV and extending the term of the Interchange Agreement to May 1, 1991. Service Schedule E enables the parties to share cost savings through more efficient use of resources.

According to CP&L copies of this filing have been send to the Tennessee Valley Authority, North Carolina Utilities Commission, and South Carolina Public Service Commission.

CP&L states that the Schedule and Agreement are proposed to become effective sixty days after filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-6639 Filed 3-10-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5954-000]

City of Hood River; Application for Preliminary Permit

March 9, 1982.

Take notice that the City of Hood River (Applicant) filed on February 8, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5954 to be known as the Hood River City Hydro #1 Power Project located on Hood River in Hood River County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Bruce Erickson, City Administrator, P.O. Box 27, Hood River, Oregon 97031.

Project Description—The proposed project would consist of: (1) An intake system consisting of four 6 to 16-inch diameter pipes, 50 to 200-foot long feeding into a 14-foot wide, 10-foot high central collection chamber; (2) a 30-inch diameter, 7.9-mile long penstock; (3) a powerhouse containing a turbine-generating unit with a rated capacity of 2,000 kW; and (4) a 1,400-foot long 7.2-kV transmission line connecting to an existing Pacific Power and Light Company line. The Applicant estimates a 17.768 million kWh annual energy production.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested an 18-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental and economic feasibility studies. The cost of forementioned activities, along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, and preparing a license application is estimated by the Applicant to be $35,000. Power will be sold to Pacific Power and Light Company.

Competing Appplications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 24, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 24, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 22, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 24, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6653 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5975-000]

City of Northampton; Application for Preliminary Permit

March 9, 1982.

Take notice that City of Northampton (Applicant) filed on February 16, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5975 to be known as the Mill River Project located on the Mill River in the town of Northampton, Hampshire County, Massachusetts. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Jonathan Wright, Energy Resources Commission, City Hall, 210 Main Street, Northampton, Massachusetts 01060.

Project Description—The proposed project would consist of five developments described from downstream to upstream as follows:

(A) The Smith College development would consist of: (1) An existing 15-foot high, 120-foot long concrete and masonry dam; (2) a 15 acre pond at elevation 137 feet m.s.l. with unknown storage capacity; (3) a new 30-foot long penstock of undetermined diameter; (4) a new powerhouse with a single 120 kW turbine-generator; and (5) appurtenant facilities. Smith College would generate up to 570,000 kWh annually.

(B) The Pro Bush development would consist of: (1) An existing 15-foot high, 120 foot long masonry dam; (2) a 500-foot long reservoir at elevation 235 feet m.s.l. with unknown storage capacity; (3) a new 50-foot long penstock of undetermined diameter; (4) a new powerhouse containing a single 200 kW turbine-generator; and (5) appurtenant facilities. Pro Bush would generate up to 845,000 kWh annually.

(C) The Cookes development would consist of: (1) An existing dam, in two sections, joined by a rock outcrop and constructed of masonry, 80 feet long and 20 feet high on the north section and 30 feet long and 6 to 8 feet high on the south section; (2) a reservoir with unknown storage capacity at elevation 300 feet m.s.l.; (3) a new penstock up to 3,000 feet in length of undetermined diameter; (4) a new powerhouse containing a turbine-generator with a rated capacity of up to 380 kW; and (5) appurtenant facilities. Cookes would generate up to 2,080,000 kWh annually.

(D) The Button Shop development would consist of: (1) An existing dam in two sections constructed of masonry, both 80 feet long and 10 feet high, separated by an island; (2) a reservoir with unknown storage capacity at elevation 312 feet m.s.l.; (3) a new 100-

foot long penstock of undetermined diameter; (4) a new powerhouse containing a single 65 kW turbine-generator; and (5) appurtenant facilities. Button Shop would generate up to 315,000 kWh annually.

(E) The Chartpak development would consist of: (1) An existing 150-foot long, 28-foot high masonry dam; (2) a reservoir of unknown storage capacity at elevation 355 feet m.s.l.; (3) a new powerhouse containing a single 235 kW turbine-generator; and (4) appurtenant facilities. Chartpak would generate up to 850,000 kWh annually.

The project property is owned by Smith College, Chartpak Company, Massachusetts Electric Company, The Pro Corporation, Meadow Trust Company, Stephen B. Monsein, Gerold B. Jackson and George and Margaret Tobin.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be up to $19,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6654 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-205-000]

Columbia Gas Transmission Corp.; Application

March 9, 1982.

Take notice that on February 18, 1982, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP82-205-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of 30 interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the following new points of delivery for the following wholesale customers:

(1) Columbia Gas of Kentucky, Inc, 2 taps for residential service—Estimated annual usage of 300 Mcf.

(2) Columbia Gas of Ohio, Inc, 16 taps for residental service—Estimated annual usage of 2,550 Mcf.

(3) Columbia Gas of Pennsylvania, Inc, 3 taps for residential service—Estimated annual usage of 450 Mcf.

(4) Columbia Gas of West Virginia, Inc, 9 taps for residential service—Estimated annual usage of 1,350 Mcf.

It is estimated that the total cost of the interconnections proposed herein is $9,100 to be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6640 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-357-000]

Commonwealth Edison Co.; Proposed Tariff Change

March 8, 1982.

Take notice that on March 1, 1982, Commonwealth Edison Company (CE) tendered for filing proposed changes in its FERC Electric Tariff. The proposed changes amend the Electric Service Contract between CE and the City of Geneva, Illinois, to provide an additional metering installation in an existing point of electric supply to the City by CE.

A copy of the filing has been served upon the City of Geneva, Illinois.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6641 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-342-000]

Connecticut Light & Power Co.; Filing

March 5, 1982.

Take notice that on February 24, 1982, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Service Agreement dated as of May 1, 1981 between CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and Taunton Municipal Lighting Plant (TMLP).

CL&P states that the Transmission Service Agreement provides for transmission service to TMLP for the wheeling of TMLP's entitlement in the Vermont Yankee nuclear generating facility during the period commencing May 1, 1981 and terminable upon thirty (30) days written notice by any party.

The transmission charge rate is an annual rate equal to the annual average cost of transmission service on the Northeast Utilities system, determined in accordance with Schedule A and Exhibits I, II and III of the Transmission Service Agreement. The monthly transmission charge is the sum of the transmission charge for each weeks durig such months as determined by the product of (i) the annual transmission charge rate divided by 52 and (ii) the maximum number of kilowatts which TMLP is entitled to receive in any hour during such week during such month. The monthly transmission charges is reduced by 50% to give due recognition for payments made by TMLP to other systems also providing transmission service to TMLP.

CL&P requests an effective date of June 13, 1981, and therefore requests waiver of the Commission's notice requirements.

CL&P states that copies of this filing have been mailed to HELCO, WMECO, and TMLP.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before March 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6655 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-345-000]

Connecticut Light & Power Co.; Filing

March 5, 1982.

Take notice that on February 25, 1982, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Service Agreement dated July 1, 1981 between CL&P, the Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO), and Braintree Electric Light Department (BELD).

CL&P states that the Transmission Service Agreement provides for a transmission service to BELD for the wheeling of BELD's entitlement in the Vermont Yankee nuclear generating facility during the period from July 1, 1981 to October 31, 1981 obtained by contractual arrangement with the Village of Lyndonville, Vermont.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with Schedule A and Exhibits I, II, and III thereto of the Transmission Service Agreement. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW/month), and (ii) the number of kilowatts of BELD's entitlement in the Vermont Yankee nuclear generating facility during such month. The monthly transmission charge is reduced by 50% to give due recognition for payments made by BELD to intervening systems providing transmission service.

CL&P requests that the Commission waive its customary notice period and permit the Transmission Service Agreement to become effective on July 1, 1981.

CL&P states that copies of this filing have been sent to HELCO, WMECO and BELD.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 23, 1982. Protests will be considered by the Commission in determining the appropiate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6656 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-343-000]

Connecticut Light & Power Co.; Filing

March 5, 1982.

Take notice that on February 24, 1982, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Service Agreement dated as of May 1, 1981 between CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and Village of Northfield Electric Department (Northfield).

CL&P states that the Transmission Service Agreement provides for transmission service to Northfield for the wheeling of Northfield's entitlement in the Cleary Unit No. 8 generating facility during the period commencing May 1, 1981 and terminable upon thirty (30) days written notice by any party.

CL&P further states that the transmission charge rate is an annual average cost of transmission service on the Northeast Utilities system, determined in accordance with Schedule A and Exibits I, II and III of the Transmission Service Agreement. The monthly transmission charge is the sum of the transmission charges for each week during such month as determined by the product of (i) the annual transmission charge rate divided by 52 and (ii) the maximum number of kilowatts which Northfield is entitled to receive in any hour during such week. The monthly transmission charge is reduce by 50% to give due recognition for payments made by Northfield to other systems also providing transmission service to Northfield.

CL&P requests that the Commission waive its customary notice period and permit the Transmission Agreement to become effective on June 13, 1981.

CL&P states that copies of this rate schedule have been mailed or delivered to HELCO, WMECO and Northfield Village.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6657 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-351-000]

The Dayton Power & Light Co.; Filing

March 8, 1982.

Take notice that on March 1, 1982, the Dayton Power and Light Company (Dayton) tendered for filing a proposed revision to its FERC Electric Tariffs, Original Volume No. 1 and Original Volume No. 2. The proposed revision is to recognize a permanent increase of .25% including recovery of the uncollected portion thereof, a temporary increase of .25% and a temporary surtax of approximately .21% in the excise tax on gross receipts imposed by Section 5727.38 of the Ohio Revised Code pursuant to the Tax Adjustment Clauses contained in Dayton's FERC Electric Tariffs. The proposed revision shall become effective with billings on and after May 1, 1982 and is limited to recognition of the .25% permanent increase and to the recovery of the temporary increases.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protects should be filed on or before March 25, 1982. Protects will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6642 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-352-000]

The Dayton Power & Light Co.; Filing

March 8, 1982.

Take notice that on March 1, 1982, Dayton Power & Light Company (Dayton) requested authority to recognize a permanent increase of .25% including recovery of the uncollected portion thereof, a temporary increase of .25% and a temporary surtax of approximately .21% in the excise tax on gross receipts imposed by Section 5727.38 of the Ohio Revised Code pursuant to the Tax Adjustment provision contained in Dayton's Rate Schedule FERC No. 34 (City of Piqua, Ohio). The proposed revision shall become effective with billings on and after May 1, 1982 and is limited to recognition of the .25% permanent increase and to the recovery of the temporary increases.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6643 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-350-000]

Florida Power & Light Co.; Filing

March 8, 1982.

Take notice that Florida Power & Light Company (FPL), on March 1, 1982, tendered for filing as an initial rate an executed contract entitled "Contract for Interchange Service Between Florida Power & Light Company and City of Lakeland, Florida." FPL states that under the contract, FPL and the City of Lakeland will engage in the interchange of electric capacity and energy indirectly through the electric transmission systems of other utilities.

FPL respectfully requests that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed Contract be made effective immediately.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests

should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6644 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-39-000]

Gulf States Utilities Co.; Application

March 5, 1982.

Take notice that on February 25, 1982, Gulf States Utilities Company (Applicant) filed an application seeking an order under section 204(a) of the Federal Power Act authorizing the Applicant to issue up to 1,000,000 additional shares of Common Stock, without par value, pursuant to its Employee Stock Ownership Plan.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 19, 1982, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6658 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-40-000]

Gulf States Utilities Co.; Application

March 5, 1982.

Take notice that on February 25, 1982, Gulf States Utilities Company (Applicant) filed an application seeking an order under Section 204 of the Federal Power Act authorizing the Applicant to issue up to 2,000,000 additional shares of Common Stock, without par value, pursuant to its Employee Thrift Plan.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 19, 1982, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6659 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-360-000]

Gulf States Utilities Co.; Filing

March 8, 1982.

Take notice that Gulf States Utilities Company (Gulf States) on March 1, 1982, tendered for filing a Letter of Agreement between itself, Sam Rayburn Electric Cooperative, Inc. and the City of Liberty. The Letter of Agreement would cancel Rate Schedule LRS and replace it with Rate Schedule WSM for service by Gulf States at the City of Liberty's National Substation delivery point. The Letter of Agreement would add the National Substation delivery point to other already existing agreements between Gulf States, Sam Rayburn Dam Electric Power Cooperative, Inc., Sam Rayburn G&T, Inc. and Sam Rayburn Municipal Power Agency.

Gulf States states that the changes were requested by the City of Liberty so that the National Substation delivery point can be served from Sam Rayburn owned generation and that Rate Schedule WSM is a standard rate of Gulf States that has previously been approved for such service by the Commission. Gulf States requests an effective date of April 30, 1982.

According to Gulf States, copies of the filing have been served upon the City of Liberty, Sam Rayburn Dam Electric Power Cooperative, Inc., Sam Rayburn G&T, Inc., Sam Rayburn Municipal Power Agency, the Public Utility Commission of Texas and the Louisiana Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6645 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5994-000]

Hydro Management, Inc.; Application for Preliminary Permit

March 9, 1982.

Take notice that Hydro Management, Incorporated (Applicant) filed on February 18, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5994 to be known as the Sullivan Creek Power Project located on Sullivan Creek, within Kootenai National Forest in Lincoln County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: W. H. Edelman III, President, Hydro Management, Inc., Route 1, Box 169, Ronan, Montana 59864.

Project Description—The proposed project would consist of: (1) A native rock diversion structure 3 feet high at elevation 4,600; (2) a penstock 12" in diameter and 18,500 feet long; (3) a powerhouse containing a turbine generator with 570 kW capacity and 3,347 MWh annual energy output; and (4) transmission line 5 miles long. The proposed market for power output is the Lincoln Electric Cooperative or Bonneville Power Administration.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 36 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estmated cost of permit activities is $6,000.

Competing Applications—This application was filed as a competing application to Homestake Consulting and Investments, Inc.'s application for Project No. 5485 filed on October 13, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this

notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6660 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-346-000]

Indiana & Michigan Electric Co.; Filing

March 8, 1982.

Take notice that American Electric Power Service Corporation (AEP) on February 25, 1982, tendered for filing on behalf of its affiliate Indiana & Michigan Electric Company (I&ME) Modification No. 18 dated January 1, 1982 to the Interconnection Agreement dated November 1, 1961 between Northern Indiana Public Service Company and I&ME, I&ME's Rate Schedule FERC No. 22.

Sections 1 and 2 of Modification No. 18 provide for an increase in the demand charge for Short Term and Limited Term Power to $1.25 per kilowatt per week and $6.50 per kilowatt month respectively, when I&ME is providing the service. Both schedules proposed to become effective January 1, 1982. These demand rates are substantially the same as the recently filed Short Term and Limited Term demand charges between Indiana & Michigan Electric Company and Illinois Power Company (Docket No. ER81-774-000) which has been accepted by the Commission and made effective January 1, 1982 by letter Order dated November 1981.

AEP requests an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Michigan Public Service Commission, the Illinois Commerce Commission, and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 24, 1982.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6646 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-354-000]

Niagara Mohawk Power Corp.; Filing

March 8, 1982.

Take notice that Niagara Mohawk Power Corporation (Niagara), on March 1, 1982, tendered for filing as a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (Rochester) date June 8, 1981.

Concurrently with this filing, Niagara is filing an agreement with Rochester dated July 3, 1980. This agreement is for the transmission of Rochester's share of the Oswego #6 generation unit over Niagara's transmission system to Rochester.

The July 8, 1981 agreement contained in this filing revises the transmission rate for transmitting Oswego Unit #6 power and energy from the Oswego Unit #6 generating station to Rochester as provided for in the terms of the original agreement.

Niagara requests waiver of the Commission's notice requirements in order to allow said agreement to become effective as of July 1, 1981.

Copies of this filing were served upon Rochester Gas and Electric Corporation and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6647 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-344-000]

Niagara Mohawk Power Corp.; Filing

March 5, 1982.

Take notice that Niagara Mohawk Power Corporation (Niagara), on February 24, 1982, tendered for filing as a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (Rochester) dated July 28, 1981.

Niagara presently has on file an agreement with Rochester dated February 14, 1975. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 92. This new agreement is being transmitted as a supplement to the existing agreement.

This supplement revises the transmission rate for transmitting FitzPatrick power and energy from the Power Authority of the State of New York to Rochester as provided for in the terms of the original agreement.

Niagara requests waiver of the Commission's prior notice requirements in order to allow said agreement to become effective as of September 1, 1981.

Copies of this filing were served upon the Rochester Gas and Electric Corporation and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6661 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL82-5-000]

Nornev Demonstration Geothermal Co.; Filing

March 8, 1982.

Take notice that on December 28, 1981, Nornev Demonstration Geothermal Company (Nornev) filed a petition requesting the Commission to disclaim jurisdiction over Nornev.

Nornev is a nonprofit cooperative corporation organized under laws of the State of Oregon. The participants in the nonprofit cooperative are Pacific Power & Light Company (Pacific), Sierra Pacific Power Company (Sierra Pacific), Eugene Water & Electric Board (EWEB), and Sacramento Municipal Utility District (SMUD). Nornev proposes to own and operate a 13.5-MW, 10-MW net, binary cycle geothermal electric power production facility to be located at the Beowawe Geothermal Field in northern Nevada. Under optimal conditions, the project could be on line by mid-1983.

Nornev contends the unresolved question of whether Nornev would be subject to Commission economic regulation under Subchapter II of the Federal Power Act has jeopardized both the construction and the long-term financing of the project, thereby hindering the development of both geothermal technology and resources. In addition, Nornev contends, being subject to Commission rate regulation under Subchapter II would threaten certain project tax advantages, thereby increasing project costs and ultimately driving up the cost of power from the project.

Nornev states that it is exempt from Subchapter II regulation because Nornev is a nonprofit cooperative. Nornev contends that because EWEB and SMUD are exempt from Commission economic regulation, and because Pacific and Sierra Pacific are already subject to extensive state and federal economic regulation, no public purpose would be served by the Commission's extension of jurisdiction over Nornev.

Nornev requests an order from the Commission that Nornev would not be subject to the Commission's jurisdiction under Subchapter II of the Federal Power Act.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before April 9, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6648 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-348-000]

Public Service Company of Indiana, Inc.; Filing

March 8, 1982.

Take notice that the Public Service Company of Indiana (PSCI) on March 1, 1982, tendered for filing pursuant to the Interconnection Agreement between PSCI and Cincinnati Gas & Electric Company an Eighth Supplemental Agreement to become effective April 27, 1982.

PSCI states that said Supplemental Agreement increases the demand charge for Short Term Power from 85¢ per kilowatt per week to $1.05 per kilowatt per week.

Copies of the filing were served upon Cincinnati Gas & Electric Company, Public Utilities Commission of Ohio and Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20406, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6649 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01

[Project No. 5976-000]

Public Utility District No. 1 of Jefferson County, Wash.; Application for Preliminary Permit

March 9, 1982

Take notice that Public Utility District No. 1 of Jefferson County, Washington (Applicant) filed on February 16, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5976 to be known as the Fulton Creek Hydroelectric Project located on Fulton Creek in Jefferson County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. J. R. Kint, Manager, Public Utility District No. 1 of Jefferson County, Jefferson County Courthouse, Jefferson & Cass Streets, Port Townsend, Washington 98368.

Project Descripton—The proposed project would consist of: (1) A 6-foot high diversion structure on Fulton Creek; (2) a 2,650-foot long, 4.5-foot diameter diversion pipeline; (3) a 1,060-foot long, 2.5-foot diameter penstock; (4) a powerhouse with a total installed capacity of 1.3 MW; and (5) a 660-foot long transmission line from the powerhouse to an existing 12.47-kV transmission line owned by the Mason

County Public Utility District. The Applicant estimates that the average annual energy production would be 5.1 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct the technical, environmental and economic studies, and also prepare an FERC license applicacion. The Applicant estimates that the cost of undertaking these studies would be $80,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 20, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 20, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 20, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 20, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6663 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5980-000]

Public Utility District No. 1 of Jefferson County, Wash.; Application for Preliminary Permit

March 9, 1982.

Take notice that Public Utility District No. 1 of Jefferson County, Washington (Applicant) filed on February 16, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5980 to be known as the Lena Creek Hydroelectric Project located on Lena Creek in Jefferson and Mason County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. J. R. Kint, Manager, Public Utility District No. 1 of Jefferson County, Jefferson County Courthouse, Jefferson and Cass Streets, Port Townsend, Washington 98368.

Project Description—The proposed project would consist of: (1) A 6-foot high diversion structure on Lena Creek; (2) a 3,725-foot long, 3.3-foot diameter diversion pipeline; (3) a 2,100-foot long, 3.3-foot diameter penstock; (4) a powerhouse with a total installed capacity of 5.7 MW; and (5) a 6-mile long transmission line from the powerhouse to an existing 115-kV transmission line owned by the Bonneville Power Administration. The Applicant estimates that the average annual energy production would be 23.7 million kWh. The project is located on land owned by the U.S. Forest Service.

Proposed Scope of Studies under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which it would conduct the technical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $150,000.

Competing Applications.—This application was filed as a competing application to Hydro Resource Company's application for Project No. 5549 filed on October 21, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have not comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the

above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB, at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6664 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5708-000]

Seaward Development—Chase Island, Inc.; Application for Preliminary Permit

March 9, 1982.

Take notice that Seaward Development—Chase Island, Inc. (Applicant) filed on December 1, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r) for Project No. 5708 to be known as the Chase Island Project located on the Connecticut River in Windsor County Vermont and Sullivan County, New Hampshire. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Gus Garceau, Seaward Construction Company, P.O. Box 1011, Portsmouth, New Hampshire.

Project Description—The proposed project would consist of: (1) The proposed Chase Island Dam, a concrete Dam with earthen dikes and having a height of 24 feet and length of 1,000 feet to 1,500 feet; (2) a reservoir having a surface area of approximately 1,442 acre and storage capacity of 14,420 acre-feet at a normal water surface elevation of 30.2 feet msl; (3) a proposed powerhouse having units with an installed generating capacity of approximately 18,300 kW; (4) a new transmission line approximately 1,500 feet long; and (5) appurtenant facilities. The Applicant estimates the annual energy production would be 109,000 kW–HR. Project energy would be sold to local utilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of three years during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates cost of the studies under the permit would be $250,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission on or before May 14, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 12, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6665 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5735-000]

The Town of Hopkinton, N.H.; Application for Preliminary Permit

March 9, 1982.

Take notice that The Town of Hopkinton, New Hampshire (Applicant) filed on December 10, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5735 to be known as the Hopkinton Power Project located on the Contoocook River in Merrimack County, New Hampshire. The application is on file with Commission and is available for public inspection. Correspondence with the Applicant should be directed to: John Prewitt, Chairman, Hydro Committee, Town of Hopkinton, c/o Selectmen's Office, Hopkinton, New Hampshire 03301.

Project Description—The proposed run-of-river project would consist of: (1) The existing timber crib Contoocook River Dam, 283 feet long and 21 feet high, owned by the Applicant; (2) a new integrated intake and powerhouse with an installed capacity of 740 kW; (3) a new tailrace; (4) a new 200-foot long transmission line; and (5) other appurtenances. Applicant estimates annual generation to be 4,862,000 kWh. Project energy would be sold to the Public Service Company of New Hampshire.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant

would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $16,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 21, 1982, the competing application itself [see 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 19, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 19, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6662 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5969-000]

The Town of Kemmerer, Wyo.; Application for Preliminary Permit

March 9, 1982.

Take notice that the Town of Kemmerer, Wyoming (Applicant) filed on February 11, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5969 to be known as the Viva Naughton Hydroelectric Project located on the Hams Fork in Lincoln County, Wyoming. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Phillip J. Movish, Senior Project Engineer, Daverman Associates, Inc., 500 South Salina Street, Syracuse, New York 13202.

Project Description—The proposed project would consist of: (1) The existing rolled earthfill Viva Naughton Dam which is 3,200 feet long and 90 feet high and is owned by the Utah Power and Light Company; (2) an existing reservoir with a surface area of 2,100 acres at a surface elevation of 7,240 feet m.s.l.; (3) an existing intake structure; (4) an existing 66-inch diameter, 400-foot long penstock; (5) a new powerhouse with an installed capacity of 800 kW; (6) a new 1,200-foot long transmission line; and (7) other appurtenances. The estimated annual generation would average about 3,278,000 kWh. Project energy would be used for municipal purposes.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 3 years during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $25,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's

regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kennth F. Plumb,

Secretary.

[FR Doc. 82-6867 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-349-000]

Tucson Electric Power Co.; Filing

March 8, 1982.

Take notice that Tucson Electric Power Company ("Tucson") on March 1, 1982, tendered for filing a 1982-1984 Power Sale Agreement between Tucson and the Los Angeles Department of Water and Power ("Los Angeles"). The primary purpose of this Agreement is to provide the terms and conditions relating to the sale by Tucson to Los Angeles of 73 megawatts of capacity and associated energy. Tucson states that copies of the filing were served upon Los Angeles.

Any person desiring to be heard or to make any application with reference to said Agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6650 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-10-000]

Western Continental Operating Co.; Application for Staff Adjustment

Issued: March 8, 1982.

On February 11, 1982, Western Continental Operating Company (Western) filed an application for staff adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3412(c) (Supp. III 1979), and § 1.41 of the Federal Energy Regulatory Commission (Commission) Rules of Practice and Procedure.

Western claims special hardship, inequity, or unfair distribution of burdens and irreparable injury if unable to retroactively collect from Pacific Gas and Electric Company (PG&E) the difference between the section 102 and section 109 NGPA price on the Nunn #2 Well for the period of February 13, 1981 through July 21, 1981.

Western states that the Nunn #2 Well produces gas from a stratigraphic and structural reservoir identical to that of its Nunn #1 Well, which has been classified by the California Division of Oil and Gas (California) as a section 102 well. Western alleges that it was advised by the Commission Office of Pipeline and Producer Regulation that it would not be required to file for a well category determination to quality for section 102 pricing for the Nunn #2 provided the Nunn #2 produces from the same stratigraphic and structural reservoir as the Nunn #1. Accordingly, Western did not file for a well category determination, but drafted a summary letter dated February 13, 1981 to the purchaser, Natural Gas Corporation of California (NGC), a wholly owned subsidiary of PG&E, detailing the Commission's oral opinion and decision.

Western states that on or about July 7, 1981, the Commission staff advised PG&E that it never rendered an oral opinion instructing Western not to file for a well category determination. Subsequently, NGC began paying the section 109 price for the gas in June 1981. In September 1981, NGC deducted the difference between the section 102 and section 109 price for all Nunn #2 production prior to June 1981. Western then promptly filed for a well category determination by California on July 21, 1981.

Western now maintains that it should be granted an adjustment from the normal operation of 18 CFR 273.204, the retroactive collection requirements. Western states that it would have filed the required application for a well category determination on or about February 13, 1981 if it had not been advised that such a filing was not required by the Commission. Western further maintains that the failure to file for a determination at the proper time was not a result of its shortcomings, but a result of factors beyond its control. Accordingly, Western maintains that it would be inequitable to strictly apply § 273.204 in the instant case, and that it should be allowed to retroactively collect the difference between section 102 and section 109 pricing.

Alternatively, Western urges that it be granted an adjustment relative to 18 CFR 274.202, the filing requirements for section 102 determinations. Western maintains that the failure to timely file for a well category determination is excusable error given the advice from the Commission staff against such a filing. Nevertheless, Western maintains that sending a copy of the February 13, 1981 letter to California along with supporting materials was effectively a constructive filing which should be exempted from technical filing provisions and which met substantive requirements. Western urges further that it should be deemed to have filed all the requisite documents to qualify for section 102 pricing on February 13, 1981. Western therefore requests an adjustment be issued to allow it to collect the difference between the section 102 and section 109 price retroactive to that date.

The procedures applicable to the conduct of this adjustment proceeding are found in 18 CFR 1.41 (44 FR 18961, March 30, 1979). Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before March 26, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6651 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL82-7-000]

Wheelabrator-Frye Inc.; Filing

March 5, 1982.

Take notice that on February 12, 1982, Wheelabrator-Frye Inc., A Delaware corporation (WFI), on behalf of itself, its wholly-owned subsidiary, WESI Westchester Inc., A Delaware corporation (WESI Westchester), and a partnership to be formed by WESI Westchester and certain additional partners (Westchester RESCO), filed a petition for a Declaratory Order that the Commission will not assert jurisdiction under the Federal Power Act (FPA) over WESI Westchester and Westchester

RESCO, which will construct, own and operate a solid waste refuse-to-energy facility (the Facility) to be located in Westchester County, New York, when the Facility generates electricity for sale to the Consolidated Edison Company of New York, Inc. (Con Ed), pursuant to a contract (the Energy Purchase Agreement) between WESI Westchester and Con Ed.

According to WFI, its request is necessary because, although the Facility will be a qualifying small power production facility under section 3(17)(C) of the FPA, it will have a capacity greater than 30 MW, and therefore it is not automatically exempted from regulation under the FPA.

If the Commission asserts FPA jurisdiction, WFI petitions for a Declaratory Order holding that the rates for power sales by the Facility will be established under section 210 of PURPA, rather than sections 205 and 206 of the FPA; and that, because it has been established pursuant to a negotiated agreement, the rate set forth in the Energy Purchase Agreement for the sale of electricity is not subject to adjustment by the Commission.

If the Commission concludes that sections 205 and 206 of the FPA apply, WFI requests the Commission to declare that:

(1) The rate set forth in the Energy Purchase Agreement will be accepted for filing;

(2) The Commission will not, on its own motion, subject the rate to investigation; and,

(3) The Commission will not subject changes in the rates pursuant to the formula rate established in the Energy Purchase Agreement to its procedures under section 205 of the FPA.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before April 9, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth, F. Plumb,

Secretary.

[FR Doc. 82-6666 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-347-000]

Wisconsin Electric Power Co.; Filing

March 8, 1982.

Take notice that Wisconsin Electric Power Company (WEP) on February 26, 1982, tendered for filing proposed changes in its rates and charges for sales for resale to its 10 wholesale customers. The proposed increase is $7,347,326 or 12.9% on a calendar year 1982 (Period II) basis.

The Company requests that the proposed changes become effective on April 27, 1982, and requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon the Company's jurisdictional customers. Copies have also been mailed to the Michigan Public Service Commission and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 24, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6652 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on Preparations for the ITU 1982 Region 2 Broadcasting Satellite Service Planning Conference

March 5, 1982.

Meeting

Friday, March 26, 1982, 9:30 A.M., Federal Communications Commission, 1919 M Street, N.W., Room 856, Washington, D.C.

Agenda

(1) Approval of Agenda.

(2) Approval of Minutes of previous meeting.

(3) Presentation of Draft Report, including questions of clarification.

(4) Discussion of Draft Report.

(5) Preview of remaining Committee tasks.

(6) Other Business.

(7) Adjournment.

William J. Tricarico,

Secretary.

[FR Doc. 82-6562 Filed 3-10-82; 8:45 am]

BILLING CODE 6712-01-M

National Industry Advisory Committee, Amateur Radio Service Subcommittee; Meeting

Pursuant to the provisions of Pub. L. 92-463, announcement is made of a public meeting of the Amateur Radio Service Subcommittee of the National Industry Advisory Committee (NIAC) to be held Friday, March 26, 1982. The Subcommittee will meet at the Federal Communications Commission Annex Building, Room A-110, 1229 20th Street, N.W., Washington, D.C. at 9:30 A.M.

Purpose: To consider emergency communications matters.

Agenda: As follows:

Items

1. Opening of meeting by Chairman including introduction of new members and review of minutes of the September 25, 1981 meeting.—Mr. Dunn.
2. Report on NIAC Executive Committee meeting.—Mr. Green.
3. Report of status of emergency plans.—FCC Staff.
4. Report on Citizens Band emergency plan and Amateur coordination.—Mr. Flinn; Mr. Lindholm.
5. Report on status of contacts with the FCC Private Radio Bureau concerning rebroadcast of amateur transmissions during emergencies when the Emergency Broadcast System is activated, and retransmission by Amateurs of the 2-tone EBS alerting signal.—Mr. Imlay; Mr. Payne.
6. Review of FCC Rules requirements for implementation of the Amateur Radio Emergency Plans.—Mr. Imlay.
7. Report on meetings of Subcommittee members with FCC Commissioners.—Mr. Green.
8. Report on the National Traffic Net.—Mr. Lindholm.
9. New business.
10. Adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the

public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the Emergency Communications Division, FCC, (202) 632–7232.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-6561 Filed 3-10-82; 8:45 am]

BILLING CODE 6712-01-M

National Industry Advisory Committee Maritime Communications Services Subcommittee; Meeting

March 4, 1982.

Pursuant to the provisions of Pub. L. 92–463, announcement is made of a public meeting of the Maritime Communications Services Subcommittee of the National Industry Advisory Committee (NIAC) to be held on Wednesday, March 24, 1982. The Subcommittee will meet at the RCA Corporation, located at 1800 K Street, NW., Washington, D.C., in Room 810 at 1:30 P.M.

Purpose: To consider emergency communications matters.

The meeting agenda is as follows:

1. Chairman's opening remarks.
2. Requirements for emergency communications.
   a. Navy.
   b. Maritime Administration.
3. Determination of action to be taken by the Subcommittee to meet emergency requirements.
4. Other business.
5. Adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the Emergency Communications Division, FCC, (202) 632–7232.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82 6563 Filed 3-10-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Agreements Nos. 10435 and 10437]

Availability of Findings of No Significant Impact

Upon completion of environmental assessments, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decisions on Agreements Nos. 10435 and 10437 will not constitute major Federal actions significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of environmental impact statements are not required.

Agreement No. 10435 permits Transconex, Inc., and Tuya International Corp., both Non-Vessel Operating Common Carriers by Water, to jointly load cargo for transportation from ports in Florida to ports in El Salvador, Guatemala, Honduras and Venezuela.

Agreement No. 10437 between Transconex, Inc. and Econocaribe Consolidators, Inc., both Non-Vessel Operating Common Carriers by Water (NVO) provides for joint loading of cargo to be transported from ports in Florida to ports in Aruba, Barbados, Curacao, Dominican Republic, Haiti, Jamaica, Panama, Surinam and Trinidad.

Both agreements also allow one participating NVO carrier, upon authorization of the other, to accept and receipt shipments on behalf of the other for consolidation and forwarding.

These Findings of No Significant Impact (FONSI) will become final on or before March 31, 1982 unless petitions for review are filed pursuant to 46 CFR 547.6(b).

The FONSI's and related environmental assessments are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 82-6544 Filed 3-10-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Cairo Banchshares, Inc.; Formation of Bank Holding Company

Cairo Banchshares, Inc., Cairo, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 per cent or more of the voting shares of Cairo Banking Company, Cairo, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

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 April 4, 1982. 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, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6533 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

First National Bankshares, Inc.; Formation of Bank Holding Company

First National Bankshares, Inc., Houma, Louisiana, has applied for the Board's approval under section 3 (a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of First National Bank of Houma, Houma, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any commenter wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 4, 1982. 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, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6534 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

Gulf Coast Holding Corp.; Formation of Bank Holding Company

Gulf Coast Holding Corp., Panama City, Florida, has applied for the Board's approval under section 3 (a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company by acquiring 80 percent or

more of the voting shares of First National Bank, Panama City, Florida. The factors that are considered in acting on the application are set forth in section 3 (c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later that April 4, 1982. 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, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6535 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

Hawkeye Bancorporation; Acquisition of Bank

Hawkeye Bancorporation, Des Moines, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Ankeny Bancshares, Inc., Ankeny, Iowa, and thereby indirectly to acquire 80.4 percent of the voting shares of Ankeny National Bank, Ankeny, Iowa ("Bank") and to directly acquire up to 19.6 percent of the voting shares of Bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than April 2, 1982. 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, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6536 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

NBC Bank Corp.; Formation of Bank Holding Company

NBC Bank Corp., El Dorado, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of National Bank of Commerce of El Dorado, El Dorado, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 4, 1982. 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, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6537 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

Oswego Bancshares, Inc.; Formation of Bank Holding Company

Oswego Bancshares, Inc., Oswego, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent less directors' qualifying shares of the voting shares of the successor by merger to Oswego Community Bank, Oswego, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 4, 1982. 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, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6538 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

State National Corp.; Formation of Bank Holding Company

State National Corporation, New Iberia, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The State National Bank, New Iberia, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 4, 1982. 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, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6539 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

Stockmens Financial Corp.; Formation of Bank Holding Company

Stockmens Financial Corporation, Cotulla, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80

percent or more of the voting shares of Stockmens National Bank in Cotulla, Cotulla, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 4, 1982. 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, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6540 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

Victoria Bankshares, Inc.; Acquisition of Bank

Victoria Bankshares, Inc., Victoria, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of The First National Bank of Gonzales, Gonzales, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than April 1, 1982. 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, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6541 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

Williamsburg Holding Co.; Formation of Bank Holding Company

Williamsburg Holding Company, Omaha, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Security Savings Bank, Williamsburg, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 4, 1982. 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, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6542 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

Winnsboro Bancshares, Inc.; Formation of Bank Holding Company

Winnsboro Bancshares, Inc., Winnsboro, Louisiana, 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 percent or more of the voting shares of Winnsboro State Bank & Trust Company, Winnsboro, Louisiana. 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 April 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentaton 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, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6543 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-82-1113]

President's Commission on Housing; Schedule of Meetings

The President's Commission on Housing announces a revised schedule of meetings for the Commission through April 7, 1982 (Appendix A). The Full Commission Meetings, scheduled for March 22–23 and April 14–15 have been cancelled. Due to the possibility of changes, those persons interested in attending the meetings should call the Commission offices to confirm the date, location and time of each meeting. All Commission and Committee meetings are open to the public.

Further information may be obtained by calling Jean M. Freeze, President's Commission on Housing, 730 Jackson Place, N.W., Washington, D.C. 20503, (202) 395–5832.

(Sec. 10(a)(2), Federal Advisory Committee Act, as amended (5 U.S.C. App. I))

Dated: March 4, 1982.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

APPENDIX A.—TENTATIVE SCHEDULE OF MEETINGS THRU APRIL 30, 1982[1]

Date	Commission/committee	Place	Time
Tuesday, April 6	Full Commission meeting	NEOB, room 2010, Washington, D.C.	9:00 a.m.
Wednesday, April 7	Full Commission meeting	NEOB, room 2010, Washington, D.C.	9:00 a.m.

[1] Meetings, dates, times, and locations are subject to change. Confirmation of the above information should be obtained prior to attendance at a meeting by calling the Commission offices at (202) 395–5832.

NOTE.—The March 22-23 and the April 15-16 full Commission meetings have been cancelled.

[FR Doc. 82-6556 Filed 3-10-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Citizen Band of Potawatomi Indians of Oklahoma; Ordinance Regulating the Sale and Use of Liquor and Tobacco Products

February 19, 1982.

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161 (1976). I certify that the following Resolution and Ordinance relating to the application of the Federal Indian tobacco and liquor laws on the tribal trust lands of the Citizen Band of Potawatomi Indians of Oklahoma were adopted on February 2, 1981, by the Citizen Band of Potawatomi Indians of Oklahoma Business Committee which has jurisdiction over the area of Indian country defined in the Ordinance reading as follows:

Kenneth Smith,

Assistant Secretary—Indian Affairs.

Citizen Band Potawatomi Indians of Oklahoma

Shawnee, Oklahoma

February 2, 1981

Resolution 81–19

A Resolution establishing the Citizen Band of Potawatomi Indians of Oklahoma ordinance regulating the distribution and sale of tobacco products and/or liquor and beer products

Whereas, the Citizen Band Potawatomi Indians of Oklahoma Business Committee, as the governing body of the Citizen Band Potawatomi Indians of Oklahoma, is charged by the Tribal Constitution and By-laws to transact business and otherwise speak or act on behalf of the Tribe in all matters on which the Tribe is empowered to act; and,

Whereas, the Citizen Band Potawatomi Indians of Oklahoma Business Committee has the responsibility of protecting the health, security, and general welfare of the Tribe and its members; and,

Whereas, the State of Oklahoma is without jurisdiction on tribal trust lands of the Citizen Band Potawatomi Indians of Oklahoma to regulate and control Indian smoke shops, liquor outlets, or other outlets operated by the Tribe or by tribal members; and,

Whereas, the Citizen Band Potawatomi Indians of Oklahoma Business Committee deems it essential to the health, security, and general welfare of the Citizen Band Potawatomi Indians of Oklahoma and its members to enact a comprehensive tobacco and liquor ordinance relating to the sale and distribution of cigarettes, other tobacco products and liquor products and levying an excise tax upon such sale and distribution on the Tribal Trust Lands of the Citizen Band Potawatomi Indians of Oklahoma; NOW.

Therefore, be it resolved: The Citizen Band Potawatomi Indians of Oklahoma does hereby promulgate the attached ordinance entitled "The Citizen Band Potawatomi Indians of Oklahoma Tobacco and Liquor Regulations."

Certification

We, Wanita R. Clifford, Tribal Chairperson and Christine Gifford, Secretary-Treasurer, of the Citizen Band Potawatomi Indians of Oklahoma do hereby certify that the above resolution POTT # 81–19 is a true and exact copy as approved by the Business Committee, with 3 voting for, 0 opposed and 1 abstention.

Wanita R. Clifford,

Acting Tribal Chairperson.

Mary Lynn Hillmeyer,

Acting Tribal Chairperson, Secretary-Treasurer.

The Citzen Band Potawatomi Indians of Oklahoma

Tobacco and Liquor Regulations

1–1 Title and Purpose.

1–1.01 This document shall be known as the Citizen Band Potawatomi Indians of Oklahoma Tobacco and Liquor Regulations. These regulations are enacted to regulate the sale and distribution of tobacco products and/or liquor and beer products on Tribal Trust Lands of the Citizen Band Potawatomi Indians of Oklahoma, and to generate revenue to fund needed tribal programs and services.

1–2 Definitions.

1–2.01 Unless otherwise required by the context the following words and phrases shall have the designated meanings:

(1) "Tribe" shall mean the Citizen Band Potawatomi Indians of Oklahoma, Route 5, Box 151, Shawnee, OK 74801.

(2) "Business Committee" shall mean the Citizen Band Potawatomi Indians of Oklahoma Business Committee as constituted by Article V of the Constitution and By-laws of the Citizen Band Potawatomi Indians of Oklahoma.

(3) "Tribal Trust Lands" shall mean the lands and waters lying within the boundaries of the property described below:

Tract Numbered 1

The northeast quarter northeast quarter, southeast quarter northeast quarter, southwest quarter northeast quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, containing 120.00 acres, more or less.

Tract Numbered 2

That part of the northwest quarter southeast quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, described as: Beginning at the southwest corner of said northwest quarter southeast quarter; thence east 1,320 feet; thence north 1,320 feet; thence west 1,320 feet to the center of said section; thence south 167 feet; thence east 183 to the intersection with the west line of the Atchison, Topeka, and Santa Fe Railroad right-of-way; thence southwesterly along the west right-of-way line a distance of 856 feet to the intersection with a point in the west line of the northwest quarter southeast quarter, said point being 983 feet south of the center of section 31; thence south along the west line of the northwest quarter southeast quarter, a distance of 337 feet, to the point of beginning; containing 38.29 acres, more or less.

Tract Numbered 3

That part of the southeast quarter northwest quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, described as: Beginning at the northeast corner of said southeast quarter northwest quarter; thence south 1,320 feet to the center of said section 31; thence west along the south line of said southeast quarter northwest quarter a distance of 1,255.4 feet to the intersection with the centerline of Oklahoma State Highway Numbered 18; thence northwesterly along the centerline of the highway a distance of 660.58 feet to a point on the south line of the northwest quarter southeast quarter northwest quarter; thence east 38 feet to the intersection with the east right-of-way line of Oklahoma State Highway Numbered 18; thence northwesterly along the east right-of-way line to a point in the north line of said southeast

quarter northwest quarter, said point being 58 feet east of the northwest corner of said southeast quarter northwest quarter; thence east a distance of 1,262 feet to the point of beginning; containing 38.63 acres more or less.

Tract Numbered 4

That part of the northeast quarter southwest quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, described as: Beginning at the northeast corner of said northeast quarter southwest quarter, said point being the center of section 31; thence south 167 feet; thence west 1,302 feet to the intersection with the west line of the right-of-way of Oklahoma State Highway Numbered 18; thence northeasterly along the west right-of-way line a distance of 167 feet to the north line of said northeast quarter southeast quarter; thence east along said north line a distance of 1,297.4 feet to the point of beginning; containing 4.678 acres, more or less.

Tract Numbered 5

That part of the northeast quarter southwest quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, described as: Beginning at the southeast corner of said northeast quarter southwest quarter; thence north along the east line of said northeast quarter southwest quarter a distance of 337 feet to the intersection with the west right-of-way line of the Atchison, Topeka, and Santa Fe Railroad right-of-way; thence southwesterly along said west right-of-way line a distance of 367 feet to the intersection with the south line of said northeast quarter southwest quarter; thence east along the south line a distance of 129 feet to the point of beginning; containing .498 acre, more or less.

Tract Numbered 7

That part of lot 1 (northwest quarter of northwest quarter) and north half of lot 2 (north half of southwest quarter of northwest quarter) and the part of the north half of the southeast quarter of the northwest quarter lying west of the east right-of-way line of Oklahoma State Highway Numbered 18, all in section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, containing 57.99 acres, more or less, subject to the right of the Absentee Shawnee Tribe of Indians of Oklahoma, the Sac and Fox Tribe of Indians of Oklahoma, the Kickapoo Tribe of Indians of Oklahoma, and the Iowa Tribe of Indians of Oklahoma to use the Pottawatomie community house that may be constructed and maintained thereon.

(4) "Member" shall mean any person whose name appears on the official roll of the Citizen Band Potawatomi Indians of Oklahoma.

(5) "Commercial Sale" shall mean the transfer, exchange or barter, in any or by any means whatsoever for a consideration by any person, association, partnership, or corporation, of cigarettes, tobacco products and/or liquor and beer products.

(6) "Wholesale Price" shall mean the established price for which cigarettes, tobacco products and/or liquor and beer products are sold to the Citizen Band Potawatomi Indians of Oklahoma or any licensed operator by the manufacturer or distributor, exclusive of any discount or other reduction.

(7) "Tobacco Products" shall mean cigars, cheroots, stogies, granulated, plug cut, crim cut, ready rubbed, and other smoking tobacco, snuff, cavendish, snuff flour, plug and twist tobacco, five cut and other chewing tobacco shorts and other kinds and forms of tobacco prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for smoking and chewing. Tobacco products shall include cigarettes.

(8) "Cigarette" shall mean any roll for smoking made wholly or in part of tobacco being flavored, adulterated, or mixed with any other ingredient where such wrapper is wholly or in any part made of paper or any material except where such is wholly or in the greater part made of natural leaf tobacco in its natural state.

(9) "Tobacco Outlet" shall mean a tribally licensed retail sales business selling tobacco products on tribal trust lands of the Citizen Band Potawatomi Indians of Oklahoma.

(10) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance.

(11) "Beer" means any beverage obtained by the alcohol fermentation of an infusion or decoction of pure hops, or pure extract of hops, and malt and sugar in pure water containing not more than 6% of alcohol by weight.

(12) "Liquor Outlet" shall mean a tribally licensed retail sale business selling liquor or beer on tribal trust lands.

(13) "Operator" shall mean all enrolled members of twenty-one years of age and over, of the Citizen Band Potawatomi Indians of Oklahoma or enrolled members of twenty-one years of age and over, of another federally recognized Tribe of American Indians licensed by the Citizen Band Potawatomi Indians of Oklahoma to operate a tobacco and/or liquor and beer outlet.

1.3 Licensing of Tobacco or Liquor and Beer Outlets.

1–3.01 Licensing. The Citizen Band Potawatomi Indians of Oklahoma Business Committee shall be the Citizen Band Potawatomi Indians of Oklahoma Tobacco, Liquor and Beer Control Commission. The Commission is empowered to:

(1) Administer these regulations by exercising general control, management, and supervision of all tobacco and/or liquor and beer sales, places of sale and sales outlets as well as exercising all powers necessary to accomplish the purposes of these regulations.

(2) Adopt and enforce rules and regulations in furtherance of the purpose of these regulations and in the performance of its administrative functions.

1–4 Nature of Outlet.

1–4.01 Nature of Outlet. Each tobacco and/or liquor and beer outlet, license granted by the Commission, hereunder, shall be managed pursuant to a Federal Indian Trader's License provided in Section 1–7 hereof.

1–5 Application for Tobacco Outlet License or Liquor and Beer Outlet License.

1–5.01 Application. Any enrolled member, twenty-one years of age and older, of the Citizen Band Potawatomi Indians of Oklahoma or an enrolled member, twenty-one years of age and older, of a federally recognized Tribe may apply to the Commission for a tobacco outlet license and/or a liquor and beer outlet license.

1–5.02 Processing of Application. The Tribal Secretary-Treasurer shall receive and process applications and be the official representative of the Tribe and Commission in matters relating to tobacco and/or liquor and beer excise tax collections and related matters. The Commission or its authorized representative shall obtain additional information as deemed appropriate. If the Commission or its authorized representative is satisfied that the applicant is a suitable and respectable person, the Commission or its authorized representative may issue a license for the sale of tobacco products and/or liquor and beer products.

1–5.03 Application Fee. Each application shall be accompanied by an application charge or fee of twenty-five

dollars ($25.00). An application for both a tobacco outlet license and a liquor and beer outlet license shall be considered to be two applications with an application charge of twenth-five dollars ($25.00) each.

1–6 Tobacco Outlet Licenses. Liquor and Beer Licenses.

1–6.01 Upon approval of an application, the Commission shall issue the applicant a tobacco outlet license and/or a liquor and beer outlet license, whichever the case may be, for one year from the date of issuance, which shall intitle the operator to establish and maintain only the type outlet being permitted. This license shall not be transferable. It shall be renewable at the discretion of the Commission by submission of the licensee of subsequent application form and payment of application fee as provided in Section 1–5.

1–7 Trader's License.

1–7.01 Trader's License. No tobacco outlet license or liquor and beer outlet license shall be issued to any operator unless he/she has obtained a Federal Indian Trader's License from the Superintendent of the Shawnee Agency, Bureau of Indian Affairs. Revocation of the Federal Indian Trader's License shall be grounds for the revocation of their operator's tobacco outlet license and/or liquor and beer outlet license by the Commission.

1–8 Regarding Sales by Liquor Wholesales and transport of Liquors upon Tribal Trust Lands.

1–8.01 Right of Commission Scrutinize Suppliers. The operator of any licensed outlet shall keep the Commission informed in writing of the identity of suppliers and/or wholesalers who supply or are expected to supply tobacco or liquor stocks to the outlet(s). The Commission may, at its discretion, for any reasonable cause limit or prohibit the purchase of said stock from a supplier or wholesaler.

1–8.02 Freedom of Information From Suppliers. Operators shall in their purchase of stock and in their business relations with suppliers cooperate with and assist the free flow of information and data to the Commission from suppliers relating to the sales and business arrangements between the suppliers and operators. The Commission may, at its discretion, require the receipts from the supplies of all invoices, bills of lading, billings or other documentary receits of sales to the operator.

1–9 Sales by Retail Operators.

1–9.01 Commission Regulations. The Commission shall adopt procedures which shall supplement these Regulations and facilitate their enforcement. These procedures shall include limitations on sales to minors, where liquor may be consumed, persons not allowed to purchase alcoholic beverages, hours and days when outlets may be open for business, and other appropriate matters and controls.

1–9.02 Sales to Minors. No Tribal operator shall give, sell, or otherwise supply liquor to any person under twenty-one (21) years of age either for his or her own use or for the use of his or her parents or for the use of any other person.

1–9.03 Consumption of Liquor Upon Licensed Premises. No Tribal operator shall permit any person to open or consume liquor on his or her premises or any premises adjacent thereto and in his or her control; Provided, the Commission will identify specific locations upon Tribal Trust Lands where beer and/or alcohol may be consumed.

1–9.04 Conduct on Licensed Premises.

(1) No Tribal operator shall be disorderly, boisterous or intoxicated on the licensed premises or on any public premises adjacent thereto which are under his or her control, nor shall he or she permit any disorderly, boisterous or intoxicated person to be thereon: nor shall he or she use or allow the use of profane or vulgar language thereon.

(2) No operator shall permit suggestive, lewd, or obscene conduct or acts on his or her premises. For the purpose of this section, suggestive, lewd, or obscene acts or conduct shall be those acts or conduct identified as such by the laws of the State of Oklahoma.

1–9.05 Employment of Minors. No person under the age of twenty-one (21) years of age shall be employed in any service in connection with the sale or handling of liquor, either on a paid or voluntary basis, except as otherwise provided herein. Employees eighteen (18) years or older may sell or handle beer or wine provided that there is direct supervision by an adult twenty-one (21) years of age or older.

1–9.06 Operator's Premises Open to Commission Inspection. The premises of all operators, including vehicles used in connection with liquor sales, shall be open at all times to inspection by the Citizen Band Potawatomi Indians of Oklahoma Tobacco, Liquor and Beer Control Commission or its designated representative.

1–9.07 Operator's Records. The originals or copies of all sales slips, invoices, and other memoranda covering all purchases of liquor by operators shall be kept in file in the retail premises of the operator purchasing the same for at least five (5) years after each purchase, and shall be filed separately and kept apart from all other records, and as nearly as possible shall be filed in consecutive order and each month's records kept separate so as to render the same readily available for inspection and checking. All cancelled checks, band statements and books of accounting covering or involving the purchase of liquor, and all memoranda, if any, showing payment of money for liquor other than by check, shall be likewise preserved for availability for inspection and checking.

1–9.08 Records Confidential. All records of the Citizen Band Potawatomi Indians of Oklahoma Tobacco, Liquor and Beer Control Commission showing purchase of liquor by any individual or group shall be confidential and shall not be inspected except by members of the Commission or its authorized representative.

1–9.09 Conformity With State Law. Operators shall comply with State of Oklahoma liquor standards to the extent required by 18 USC 1161. However, total jurisdiction over the sale of liquor and beer products is reserved to and exercised by the Citizen Band Potawatomi Indians of Oklahoma Tobacco, Liquor and Beer Control Commission within the boundaries of Tribal Trust Lands.

1–10 Tribal Excise Tax Imposed Upon Distribution of Tobacco and Liquor.

1–10.01 Tribal Excise Taxes. The Commission shall by resolution include a provision for the taxing of sales of cigarettes, tobacco and liquor and beer products to the consumer or purchaser. Such tax shall be in amounts equal to at least 5% of all retail sales prices, but the Commission may establish tax rates in excess of that 5% for any given class of merchandise.

1–10.02 Added to Retail Price. The excise tax levied hereunder shall be added to the retail selling price of tobacco products and/or liquor and beer products sold to the ultimate consumer.

1–11 Liability for Bills.

1–11.01 Liability for Bills. The Tribe shall have no legal responsibility for any unpaid bills owed by a tobacco outlet and/or liquor and beer outlet to a wholesale supplier or any other person.

1–12 Other Business By Operator.

1–12.01 Other Business by Operator. An operator may conduct another business simultaneously with managing a tobacco outlet and/or liquor and beer outlet, PROVIDED, such other business must be approved prior to initiation by majority vote of the Citizen Band Potawatomi Indians of Oklahoma Business Committee. Said other business may be conducted on the same

premises as a tobacco outlet and/or liquor and beer outlet, but the operator shall be required to maintain separate books of account for the other business.

1–13 Tribal Liability and Credit.

1–13.01 Operators are forbidden to represent or give the impression to any supplier or person with whom he or she does business that he or she is an official representative of the Tribe or the Commission authorized to pledge tribal credit or financial responsibility for any of the expenses of his or her business operation. The operator shall hold the Citizen Band Potawatomi Indians of Oklahoma harmless from all claims and liability of whatever nature. The Commission shall revoke an operator's outlet license(s) if said outlet(s) is not operated in a businesslike manner or if it does not remain financially solvent or does not pay its operating expenses and bills before they become delinquent.

1–13.02 Insurance. The operator shall maintain at his or her expense adequate insurance covering liability, fire, theft, vandalism, and other insurable risks. The Commission or the Business Committee may establish, as a condition of any license, the required insurance limits and any additional coverages deemed advisable.

1–14 Audit and Inspection.

1–14.01 All of the books and other business records of the outlet shall be available for inspection and audit by the Commission or its authorized representative for any reasonable time.

1–14.02 Bond For Excise Tax. The excise tax together with reports on forms to be supplied by the Commission shall be remitted to the Tribal office monthly unless otherwise specified in writing by the Commission. The operator shall furnish a satisfactory bond to the Tribe in an amount to be specified by the Commission guaranteeing his or her payment of excise taxes.

1–15 Revocation of Operator's License.

1–15.01 Revocation of Operator's License. Failure of an operator to abide by the provision of these regulations and any additional regulations or requirements imposed by the Commission will constitute grounds for revocation of the operator's license as well as enforcement of the penalties provided in 1–16.

1–16 Violation—Penalties.

1–16.01 Any Indian violating these Regulations shall be guilty of an offense and subject to a fine of not less than fifty dollars ($50.00) and not to exceed a maximum of two hundred-fifty dollars ($250.00). Any operator who violates the provisions set forth herein shall forfeit all of the remaining stock in the outlet(s). The Tribe shall be empowered to seize forfeited products.

1–17 Separability.

1–17.01 If any provision of the Regulations in its application to any person or circumstance is held invalid, the remainder of the Regulations and their application to other persons or circumstances is not affected.

[FR Doc. 82–6576 Filed 3–10–82; 8:45 am]
BILLING CODE 4310–02–M

Bureau of Land Management

[AA–6680–B and AA–6680–C]

Alaska Native Claims Selection

On May 3, 1968, the Corps of Engineers, acting on behalf of the United States Air Force, made application for withdrawal of certain lands in the vicinity of Naknek. These lands were selected by Paug-Vik Incorporated, Limited, for the Native village of Naknek, in selection applications AA–6680–B and AA–6680–C, filed December 4, 1974, under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA).

On August 12, 1977, the Corps of Engineers filed a request for an ANCSA Sec. 3(e) determination, which was serialized as AA–19276. The Alaska Native Claims Appeal Board has held that lands under application for withdrawal for defense purposes which are not withdrawn or reserved as of December 18, 1971, are subject to a determination pursuant to Sec. 3(e) of ANCSA which states:

> "Public lands" means all Federal lands and interests therein located in Alaska except: (1) The smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installation * * *

On July 8, 1981 (as amended), the Bureau of Land Management made a determination that the following described lands are the smallest practicable tracts enclosing lands actually used in connection with the administration of this United States Air Force facility:

Seward Meridian, Alaska

T. 17 S., R. 44 W. (Surveyed),
Sec. 33, S½NW¼, N½N½SW¼.
Containing 120 acres.

T. 17 S., R. 45 W. (Partially Surveyed),
Sec. 22, N½NW¼SE¼, N½S½NW¼SE¼;
Sec. 23, NE¼, N½NW¼, SE¼NW¼, N½SE¼.
Containing approximately 390 acres.
Aggregating approximately 510 acres.

The remaining lands in Sec. 3(e) case file AA–19276 have been determined to be public lands and will be approved for conveyance to Paug-Vik, Incorporated, Limited, in this document. No further Sec. 3(e) determination is required for lands within case file AA–19276.

As to the lands described below, applications AA–6680–B and AA–6680–C submitted by Paug-Vik Incorporated, Limited, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating 970.90 acres, is considered proper for acquisition by Paug-Vik Incorporated, Limited, and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Surveyed)

T. 17 S., R. 44 W.,
Sec. 27, S½SW¼;
Sec. 28, NW¼SW¼, S½S½;
Sec. 29, E½E½SW¼, SE¼;
Sec 30, E½E½NE¼NE¼SW¼,
E½NE¼SE¼NE¼SW¼,
W½NW¼NW¼SE¼,
NW¼SW¼NW¼SE¼;
Sec. 32, lot 8, NE¼, E½NE¼NW¼,
N½N½SE¼;
Sec. 33, N½N½;
Sec. 34, N½NW¼.
Containing 970.90 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in case file AA–6680–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: Travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

Utility Easement—The uses allowed for a communication cable are those uses associated with the construction, operation, and maintenance of a communication cable.

a. (EIN 12 C3, D1, D9, L) An easement sixty (60) feet in width for an existing road from King Salmon easterly to the Katmai National Monument in Sec. 30, T. 17 S., R. 43 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

b. (EIN 12a C3, D1, D9, L) An easement sixty (60) feet in width for an existing road from EIN 12 C3, D1, D9, L, in Sec. 32, T. 17 S., R. 44 W., Seward Meridian, southerly to a military camp and the Naknek River in Sec. 4, T. 18 S., R. 44 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

c. (EIN 34 K) An easement twenty (20) feet in width for existing communication cable from the Air Force Main Base Area at King Salmon in Sec. 23, T. 17 S., R. 45 W., Seward Meridian, southeasterly to the Air Force Demolition Area in Sec. 33, T. 17 S., R. 44 W., Seward Meridian. The uses allowed are those listed above for a utility easement.

The grant of the above-described lands shall be subject to:

1. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

2. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Paug-Vik Incorporated, Limited is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 105,199 acres of this entitlement have been approved for conveyance. The remaining entitlement of approximately 10,001 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be granted to the Bristol Bay Native Corporation when conveyance is granted to Paug-Vik Incorporated, Limited, for the surface estate, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until April 12, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

U.S. Department of the Army, Alaska District Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Paug-Vik Incorporated, Limited, P.O. Box 61, Naknek, Alaska 99633

Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Ruth Stockie,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-6564 Filed 3-10-82; 8:45 am]

BILLING CODE 4310-84-M

Las Cruces District Advisory Council Meeting

March 2, 1982.

AGENCY: Las Cruces District, Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Agenda.

DATE: April 8, 1982.

ADDRESS: Desert Room, Best Western of Las Cruces, 901 Avenida de Mesilla, Las Cruces, New Mexico.

FOR FURTHER INFORMATION CONTACT: Daniel C. B. Rathbun, District Manager, Las Cruces District, Bureau of Land Management, P.O. Box 1420, Las Cruces, New Mexico 88004, Phone (505) 524–8551 FTS 572–0257.

SUPPLEMENTARY INFORMATION:

Agenda

1. Approval of Minutes
2. Preliminary planning for 1983 improvement projects
3. Briefing on status of monitoring studies
4. Status of Southern Rio Grande grazing decisions

At 2:00 P.M. comments from the public will be received.

Donnie R. Sparks,

Acting District Manager.

[FR Doc. 82-6580 Filed 3-10-82; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Redelegation of Authority

Section 1.1(a)(2) of Bureau Order No. 701 dated July 23, 1964, as amended by notice published at 45 FR 6177 on Friday, January 24, 1980 (FR Doc. 80–2428 filed 1/24/80; 8:35 a.m.) authorizes the Bureau of Land Management State Directors the opportunity to redelegate the authority to grant, renew, reassign or revoke rights-of-way under Title I, Section 28 of the Mineral Leasing Act of 1920, as amended, and under the Federal Land Policy and Management Act of

1976 to Bureau of Land Management District and Area Managers.

That authority is hereby redelegated to the Elko, Winnemucca, Ely and Battle Mountain District Managers.

This notice has no other effect on the provisions of FR Doc. 80–2428.

EFFECTIVE DATE: This redelegation will become effective April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mike Moran, Nevada State Office, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 82–6581 Filed 3–10–82; 8:45 am]

BILLING CODE 4310–84–M

New Mexico; Chaco Management Framework Plan—Additional Surface/Underground Minable Coal Resource

AGENCY: Land Management Bureau, Interior.

ACTION: Notice of intent to amend the Chaco Management Framework Plan.

SUMMARY: This notice is to advise the public that the Albuquerque District of the Bureau of Land Management will amend portions of the Chaco Management Framework Plan (MFP). This action is in response to new data and expressions of coal leasing interest received by the U.S. Geological Survey.

The MFP will be amended to identify additional surface/underground minable federal coal resources available for further consideration for leasing.

SUPPLEMENTARY INFORMATION: The Albuquerque District of the Bureau of Land Management will amend portions of the Chaco Management Framework Plan (MFP), in response to new data and expressions of coal leasing interest received by the U.S. Geological Survey, Albuquerque, New Mexico.

The MFP amendment, planned for completion by May 31, 1982, will incorporate approximately 22,000 acres of surface/underground minable federal coal resources into the land use planning process.

These isolated lands are adjacent to land already carried foward for further consideration for leasing in the Chaco MFP completed in September 1981. Management decisions will be made based on the following criteria: the application of unsuitability criteria, the resolution of conflicts with existing MFP decisions, and an analysis of those values that could additionally be impacted by further consideration of areas for surface/underground coal development. Background standards and procedures for this MFP amendment preparation are contained 43 CFR Part 3400 and 43 CFR Part 1600. The standards for this review are also discussed in the Final Environmental Statement-Federal Coal Management Program describing the Secretary of Interior's preferred coal program and alternatives, released in April 1979.

Anticipated issues include but are not limited to grazing, relocation, cultural resources, geology, socio-economics and soils. During the amendment process an Environmental Assessment (EA) will be conducted by staff specialists of the Albuquerque District Office. Disciplines to be represented include cultural resources, geology, hydrology, land uses, socio-economics, soils, recreation, wildlife, range, visual resource management, paleonotology, and forest products.

This effort will allow for the evaluation of the newly identified resources, along with previously identified surface and underground minable coal, in delineating tracts for further consideration for leasing.

The areas to be addressed for surface/underground minable resources are located in McKinley County, New Mexico and include portions of the following described townships:

New Mexico Principal Meridian, New Mexico

T. 12 N., R. 18 W.
T. 13 N., R. 17 and 18 W.
T. 14 N., R. 19 W.
T. 15 N., R. 6, 7, 8, 10, 17 and 20 W.
T. 16 N., R. 7, 8, 9 and 10 W.
T. 17 N., R. 4, 5 and 10 W.
T. 18 N., R. 13 W.

Public participation opportunities will be provided in the following ways: (1) A **Federal Register** notice will announce initiation of the amendment process; (2) A news release will appear in local newspapers, asking interested parties to identify issues of concern and impacts that should be addressed; (3) A notice of intent to amend the MFP will be sent to federal, state, and local governments that would be concerned with the plan or have land use regulatory authority in the vicinity of the proposed amendment, asking them to identify issues and concerns; (4) At the March 10 , 1982 meeting of the San Juan River Regional Coal Team, the need for the amendment will be presented. (5) At the April 20–21, 1982 meeting of the San Juan River Regional Coal Team, the initial Decision of the District Manager will be presented. (6) A **Federal Register** notice will be published explaining the initial Decision of the District Manager. Protests will be received by the State Director for 30 days following that notice. The amendment may be approved after protests are resolved and at least 30 days after public notice.

For further information contact Betty Sladek, Planning Coordinator, Bureau of Land Management, Albuquerque District Office, 3550 Pan American Freeway, NE., P.O. Box 6770, Albuquerque, New Mexico 87107, phone (505) 766–2455. Documents relevant to the planning process are available for public inspection at the above address and/or the Farmington Resource Area Office, P.O. Box 568, 900 La Plata Hwy., Farmington, New Mexico 87401, phone (505) 325–3581, Robert Calkins, Area Manager.

Richard E. Fagan,

Acting District Manager.

March 3, 1982.

[FR Doc. 82–6577 Filed 3–10–82; 8:45 am]

BILLING CODE 4310–84–M

Outer Continental Shelf Advisory Board; Gulf of Mexico Regional Technical Working Group Committee; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463. A meeting of the Outer Continental Shelf Advisory Board's Gulf of Mexico Regional Technical Working Group will be held on May 13–14, 1982. The purposes of the meeting are to receive comments on the preliminary draft Gulf of Mexico regional environmental impact statement and to discuss the Fiscal Year 1984 Draft Regional Studies Plan for the Gulf of Mexico.

The meeting will be held in the Killian Room of the International Trade Center Building, at 250 North Water Street, Mobile, Alabama. The session on May 13 will be from 1:00 p.m. to 6:00 p.m. and on May 14 from 8:00 a.m. to 12:00 noon. The meeting is open to the public and interested persons may make oral or written presentations. Such requests should be made not later than May 7 to Sydney H. Verinder, New Orleans OCS Office, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130–3391, telephone number (504) 589–6541.

A taped transcript and complete summary minutes of the meeting will be available for public inspection at the New Orleans OCS Office not later than 60 days after the meeting.

John L. Rankin,

Manager, New Orleans Outer Continental Shelf Office.

March 5, 1982.

[FR Doc. 82–6582 Filed 3–10–82; 8:45 am]

BILLING CODE 4310–84–M

Southern Rio Grande Planning Area Rangeland Program Summary, Availability

AGENCY: Las Cruces District, Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to § 4160.1–1(a) of the Bureau of Land Management (BLM) Grazing Regulations, the BLM has prepared a Rangeland Program Summary (RPS) describing the selected strategy for managing grazing on 2,146,034 acres of public land in the southern Rio Grande Planning Area. The decisions were reached following the completion of the Final Grazing Environmental Impact Statement (FEIS) and the planning system. The RPS describes how these decisions will be implemented. It also describes the monitoring studies that will be initiated to determine the effects of the grazing management program, and the accuracy of the conclusions of the Southern Rio Grande Grazing EIS.

FOR FURTHER INFORMATION CONTACT: Ed Webb, Environmental Coordinator, P.O. Box 1420, Las Cruce, New Mexico 88004, Telephone: (505) 524–8551 or FTS 572–0257.

SUPPLEMENTARY INFORMATION: A limited number of copies of the RPS are available at the Las Cruces District Office, 317 N. Maine, P.O. Box 1420, Las Cruces, New Mexico. Public reading copies are available for review at the BLM State Office, U.S. Federal Building, Santa Fe, New Mexico, and public and university libraries in Las Cruces, Alamogordo, Truth or Consequences, Deming, Silver City, and Albuquerque, New Mexico, and El Paso, Texas.

Daniel C. B. Rathbun,

District Manager.

[FR Doc. 82-6579 Filed 3-10-82; 8:45 am]

BILLING CODE 4310-84-M

Utah; Wilderness Inventory Decision—Link Flats Instant Study Area Protest Decision

AGENCY: Land Management Bureau, Interior.

ACTION: Notice.

SUMMARY: This notice announces the Utah State Director's decision on a protest received on Link Flats Instant Study Area (ISA). On June 18, 1980 a Federal Register notice was published stating that due to a protest the final decision on the wilderness characteristics determination would not become effective until the State Director issued a decision on the protest. The State Director's original decision was that the ISA lacked wilderness characteristics. That original decision, as published in the May 5, 1980 Federal Register, is unchanged as a result of the protest and will become effective April 12, 1982 unless an appeal is received. Since the original decision is unchanged, only the protestor may appeal this decision to the Interior Board of Land Appeals (IBLA) by following administrative procedures applicable to formal appeals as published in the Code of Federal Regulations under 43 CFR Part 4.

The protest could not be answered at an earlier date as it involved contiguous land that was under administrative appeal to the IBLA. The IBLA issued their decision on the contiguous lands on February 10, 1982, therefore the protest on Link Flats ISA can now be finalized.

FOR FURTHER INFORMATION CONTACT: Kent Biddulph, Wilderness Coordinator, Utah State Office, BLM, (801)524–5326.

Dated: March 4, 1982.

Robert G. Robison,

State Director.

[FR Doc. 82-6578 Filed 3-10-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 4392 and 4758, Blocks 211 and 212, West Cameron 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 Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, 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 Minerals Management Service 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: March 2, 1982.

Lowell G. Hammons,

Minerals Manager Gulf of Mexico OCS Region.

[FR Doc. 82-6583 Filed 3-10-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Conoco Inc., as designated agent for Texaco Inc., Unit Operator of the Eugene Island Block 205 Federal Unit Agreement No. 14–08–0001–8654, submitted on February 26, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the Eugene Island Block 205 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 5, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-6584 Filed 3-10-82; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

[No. AB-55 (Sub-No. 55F)]

Seaboard Coast Line Railroad Co., Abandonment in Martin, Pitt, and Beaufort Counties, N.C.; Findings

March 2, 1982.

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision dated March 2, 1982, a finding, which is administratively final, was made by the Administrative Law Judge stating that the public convenience and necessity permit the abandonment by Seaboard Coast Line Railroad Company of a segment of rail line extending from railroad milepost AAB-134.14 near Parmele, NC to railroad milepost AAB-158.85 at Washington, NC, a distance of 24.71 miles, in Martin, Pitt and Beaufort Counties, NC. Abandonment is subject to the conditions for the protection of employees in *Oregon Short Line Railroad Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). Offers of financial assistance must be made within 10 days of the publication of this notice. Any person who made an offer of financial assistance prior to the publication of the notice must inform the carrier and the Commission of its continued interest or the offer may be considered to have lapsed. A certificate of abandonment will be issued to the Seaboard Coast Line Railroad Company based on the above-described finding, 30 days after publication of this notice, unless within 15 days from the date of publication, the Commission further finds:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice; and

(2) It is likely that such proffered assistance would:

(a) cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offer may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of any offer, and no request is made of the Commission to set conditions or amount of compensation, a certificate of abandonment will be issued no later than 50 days after notice is published. Upon notification to the Commission of execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 CFR 1121 as revised by Ex Parte No. 274 (Sub-No. 6), *Abandonment of Railroad Lines and Discontinuance of Service*, 365 I.C.C. 249 (1981) as published at 46 FR 45342 (September 11, 1981). All interested persons are advised to follow the instructions contained therein as well as the instructions in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6400 Filed 3-9-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-95)]

Rail Carriers; Richmond, Fredericksburg & Potomac Railroad Co., Exemption for Contract Tariff ICC-RFP-C-0009

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioners are granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Richmond, Fredericksburg and Potmac Railroad Company (RF&P) filed a petition on February 26, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). Petitioners request that we permit contract tariff ICC-RFP-C-0009 to become effective on one day's notice. The tariff was filed to become effective on March 29, 1982. The tariff provides for the track storage of paper and paper products at Bryan Park, Virginia, a local station on the RF&P, in equipment carrying RF&P markings.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Due to the economic downturn, the RF&P has excess equipment, and the paper industry has excess production. The contract allows the shippers to store their shipments in boxcars until needed at destination. This eliminates the need for making a shipment to a storage warehouse and reshipping when the product is needed. It also permits utilization of idle boxcars. One shipper has developed a production problem and requires immediate storage. Advancement of the effective date would permit immediate use of the boxcars. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract tariff ICC-RFP-C-0009 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: March 5, 1982.

By the Commission, Division 1, Commissioners Clapp, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6525 Filed 3-10-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-97)]

Rail Carriers; Union Pacific Railroad Co. Exemption for Contract Tariff ICC-UP-0015

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioners are granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad Company (UP) filed a petition on February 25, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). Petitioner requests that we permit contract tariff ICC-UP-C-0015 to become effective on one day's notice. The tariff was filed to become effective on March 27, 1982. The contract establishes rates for the movement of phosphate, and will terminate on May 31, 1982.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving the requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. There is a possibility that without the ability to move the phosphate under the contract rate immediately, the shipper would lose substantial sales and could be forced to close its plant. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract tariff ICC-UP-C-0015 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: March 5, 1982.

By the Commission, Division 1, Commissioners Clapp, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6524 Filed 3-10-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 99.1.1.2]

Assistant Director for Program Operations, and Assistant Director for Resources and Support Office of International Training; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me by Redelegation of Authority No. 99.1, dated May 1, 1973 (38 FR 12836), as amended, I hereby redelegate to the Assistant Director for Program Operations and Assistant Director for Resources and Support, Office of International Training authority to sign:

1. Contracts, and amendments thereto, for participant training (Forms AID 1420-27F (3-74) and AID 1420-27G (3-74)) in an aggregate amount for each contract not to exceed $50,000;

2. Purchase Orders (SF-147), as defined in Section 1-3.600 of the Federal Procurement Regulations, for various participant training expenses;

3. Interpreter services contracts, amendments, and letters of assignment thereto, on CM developed format with daily rates established by the Department of State, regardless of total amount; and

4. Field program manager and exit interviewer services contracts, and amendments thereto, on CM developed format, with daily rates established by the Department of State, regardless of total amount.

The authority herein redelegated to the officers named above may not be further redelegated by such officer, but may be exercised by duly authorized persons who are performing the functions of the Assistant Director for Program Operations, and/or Assistant Director for Resources and Support in an A"Acting" capacity.

The authorities redelegated herein are to be exercised in accordance with regulations, procedures, and policies now or hereafter established or modified and promulgated within the Agency for International Development.

This redelegation of authority shall be effective immediately.

Dated: February 26, 1982.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 82-6574 Filed 3-10-82; 8:45 am]

BILLING CODE 6116-01-M

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized guaranties of loans to a number of developing countries (Borrowers) as part of A.I.D.'s overall development assistance program. The proceeds of these loans will be used to finance shelter projects for low income families residing in the countries of the Borrowers. The following addresses of Borrowers and loan amounts indicate new projects that will soon be ready to receive financing and for which the Borrowers are requesting proposals from U.S. lenders or investment bankers:

Zimbabwe

Project: 613-HG-001—$25,000,000

Austin Copeland, Undersecretary of Treasury, Ministry of Finance, Salisbury, Zimbabwe, Telex: 2141

El Salvador

Project: 519-HG-006B—$5,500,000

Atilio Vieytez, Minister of Planning, Casa Presidencial, San Salvador, El Salvador, Telex: 301 20346, or

Renaldo Galdanez, Financiera Nacional de Vivienda, San Salvador, El Salvador. Telex: 301 20272

Assitional projects will be advertised from time to time as they become ready for borrowing.

By this notice of investment opportunity, the above Borrowers are soliciting expressions of interest from U.S. lenders or investment bankers to counsel on loan timing, structure and features, and to manage the loans or underwritings. Interested investment bankers or lenders should contact the Borrowers indicated above. Selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrowers and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract of Guaranty, covering each of the loans. Disbursements under the loans will be subject to certain conditions required of the Borrowers by A.I.D. as set forth in implementation agreements between A.I.D. and the Borrowers.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Director, Office of Housing, Agency for International Development, Room 625, SA/12, Washington, D.C. 20523, Telephone: (202) 632–9637.

Dated: March 4, 1982.

Frederick A. Hansen,

Deputy Director, Office of Housing.

[FR Doc. 82-6575 Filed 3-10-82; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF JUSTICE

Proposed Amendments to a Clean Air Act and Clean Water Act Consent Decree Involving Wheeling-Pittsburgh Steel Corporation's Pennsylvania, West Virginia and Ohio Steel Facilities

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on February 11, 1982, proposed amendments to a Clean Air Act and Clean Water Act consent decree in *United States of America and Commonwealth of Pennsylvania, State of West Virginia and State of Ohio* v. *Wheeling-Pittsburgh Steel Corporation*, No. 79–1194, was lodged with the United States District Court for the Western District of Pennsylvania. The proposed amendment to the consent decree would allow Wheeling-Pittsburgh additional time to meet some of its Consent Decree obligations, including an extension until 1985 to complete a coke over gas desulfurization control program at its Monessen, Pennsylvania plant (which area is not classified for attainment purposes for sulfur oxides). The amendments also permit Wheeling-Pittsburgh to explore alternative control programs at its sources to control air and water pollution.

The proposed Amendments may be examined at (1) the Office of the United States Attorney, Western District of Pennsylvania, United States Courthouse, 633 U.S. Post Office and Courthouse, 7th Avenue and Grant Street, Pittsburgh, Pennsylvania 15219; (2) the offices of the Environmental Protection Agency, Region V, Office of Regional Counsel, 230 S. Dearborn Street, Chicago, Illinois 60604 and Region III, Office of Regional Counsel, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106; (3) and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Amendments may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice upon payment of a copying charge of $2.70 ($.10 per page for reproduction costs).

The Department of Justice will receive comments relating to the proposed Amendments for a period of ten (10) days from the date of this notice. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530 and should refer to *United States of America and Commonwealth of Pennsylvania, State of West Virginia and State of Ohio* v. *Wheeling-Pittsburgh Steel Corporation*, DOJ Reference #90–5–1–1–1207.

Carol E. Dinkins,

Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 82-6585 Filed 3-10-82; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

Committee Management; National Science Foundation Advisory Council; Notice of Renewal

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, it is hereby determined that the renewal of the National Science Foundation Advisory Council is necessary and is in the public interest in connection with the performance of duties imposed upon the National Science Foundation by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Committee Management Secretariat, General Services Administration, as required by the Federal Advisory Committee Act and other applicable regulations.

Authority for the Advisory Council shall expire on March 8, 1984, unless the Director of the National Science Foundation formally determines that continuance is in the public interest.

John B. Slaughter,

Director.

March 8, 1982.

[FR Doc. 82-6611 Filed 3-10-82; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Responses; Availability of Recommendation Responses

Secretary of Transportation: Dec. 22, H–80–67: Establishing task force to study barrier snagging by the front wheels of small front-wheel drive and schoolbus-type vehicles will not substantially supplement current efforts in this areas. *Feb. 22, I–81–8:* No task force has been established; NHTSA and other modal administrations have been working together to develop the Hazardous Materials Information System. *I–81–9:* Using such a form would be impractical for NHTSA's Fatal Accident Reporting System (FARS); supplemental forms are not cost-effective. *I–81–10:* RSPA has a pilot project to crossreference information on

hazardous materials accidents with FRA. After evaluation, RSPA plans to study the feasibility of cross-reference projects with other administrations.

Federal Aviation Administration: Dec. 30, A–81–104, 107, –110, and –112: Concurs in intent of recommendations and agrees that further study is desirable. *A–81–105 and –108:* Concurs; DC–9 Flight Standardization Board will review and take action to insure that all established DC–9 training programs require adequate information and training in ground reverse operations. *A–81–106, –109, and –122:* Will initiate study on the effect of reverse thrust as it applies to flight training simulators. *A–81–111:* Concurs. *A–81–123:* Concurs; National Simulator Evaluation Team (AFO–205) is preparing revision of Advisory Circular 121–14C. *Jan. 5, A–81–139 through –143:* Conducting technical review of each project underway related to recommendations. *Jan. 12, A–81–148:* This was isolated case and corrective action recommended would not be cost-effective or enhance safety. *A–81–149:* Review found procedures and actions of repair station to be fully adequate and in compliance with Federal Aviation Regulations. *A–81–96:* Issued AD–81–24–07, effective Nov. 20, 1981, requiring modification of nose landing gear on certain Piper Models PA–32R and PA–32RT series airplanes within 50 hours time in service. *Feb. 22, A–86–6, –7, –8, and–15:* Telegraphic message containing the verbatim recommendations was transmitted Jan. 28 to all FAA facilities; U.S. air carriers; U.S. owners, operators, aircraft and engine manufacturers; foreign authorities of known airplane registration; and other interested groups; advised FAA regional flight standards personnel to contact all air carriers to review the recommendations and each operator's respective cold weather operational procedures, training programs, and operations manual; FAAS regional survey reports indicate that all air carriers have been made aware of the recommendations and icing hazards; and Air Carrier Operations Bulletin (ACOB) emphasizing appropriate use of engine anti-ice will be issued. *A–82–9:* Flightcrews must use the "clear aircraft" concept specified by current rules without regard to specific time intervals; and ongoing R&D study of ethylene glycol mixtures as anti-icing agents has been accelerated and information from the study is expected to exphasize improved procedures to insure that hazardous ice formation does not exist before takeoff. *A–82–10:* A copy of recommendations A–82–6 through –15 was sent to all air traffic facilities in GENOT form Jan. 28; provisions of current gate-hold procedures are adequate. *A–82–13:* Do not concur; pilot is best able to make decisions concerning aircraft operation requirements and air traffic controllers will continue providing service and special handling to aircraft as requested by the pilot. *A–82–14:* In the meteorological portion of Phase II in the basic air traffic training program, in-depth training is conducted to identify the forms of icing and its effects on aircraft performance; will advise present work force via the Air Traffic Service Bulletin of the hazard of aircraft structure and engine icing. *A–82–11– and –12:* Developing new advisory circular (AC) regarding hazards of engine inlet icing, pressure probe icing and blockage, and methods flightcrew can use to recognize these conditions and properly use engine anti-ice system; making a detailed technical analysis to include specific engine instrument reading impacts, cross-check procedures, and performance degradation parameters in this AC; will review AC 91–13c and AC 91–51 to update areas not covered by new AC. *Feb. 23, A–81–83 and –84:* Will issue an airworthiness alert in the April 1982 publication of the General Aviation Airworthiness Alert (AC–43–16). *A–79–85:* With the safety life substantiation of the blades and their extensive service experience, there is no technical basis for requiring additional inspections of the blades; a requirement for ultrasonic inspection would place an undue burden on small operators. *A–81–161:* Concur. *A–81–154:* Will periodically reemphasize to controllers the availability of NASA's Aviation Safety Reporting System (ASRS) to report hazardous conditions; mailing ASRS monthly newsletter to all air traffic control facilities; updating Airman's Information Manual, Basic Flight Information and ATC Procedures, Section 6, Safety, Accident, and Hazard Reports, regarding program status and availability of reporting forms. *A–81–155:* Implementation not feasible during rebuilding effort. *A–81–156:* Presently have an established Technical Appraisal Program (TAP) Over-the-Shoulder Evaluations to be used by first-line supervisors and facility staff specialists at least twice a year.

Federal Railroad Administration: Dec. 28, R–79–61: Will not promulgate additional regulations for supervision of train operations. *Jan. 7, R–81–81:* Does not plan to promulgate regulations requiring trains operating on common trackage to have compatible radio equipment, since railroads are voluntarily installing compatible radio equipment on such trains. *Jan. 11, R–74–26:* Because review of accidents reported by the railroads and accidents investigated by FREA show a decrease of accidents on non-signaled main tracks, FRA does not plan to issue additional regulations for trains operations on main tracks without automatic block signal systems. *R–81–69:* Conducted safety review and corrected inadequate conditions.

Research and Special Programs Administration: Dec. 4, I–81–1: On Sept, 2, 1981, representatives of Bureau of Explosives, Association of American Railroads; National Fire Protection Association; International Association of Fire Chiefs; chemical companies; private consultants; NTSB; DOT; and EPA met to review the 1980 Emergency Response Guidebook. Although DOT cannot compel organizations to issue emergency response information according to DOT guidelines, RSPA will work to insure consistency be contacting other organizations to resolve discrepancies. *Dec. 30, P–20 and –21:* Natural Gas Pipeline Company of America has completed remedial work on the 24-inch, compression-coupled gas pipeline.

National Highway Traffic Safety Administration: Dec. 14, H–81–61: Supports appropriate revisions to the UVC addressing the problem in a reasonable and socially acceptable manner.

U.S. Coast Guard: Feb. 22, M–80–23: Will seek legislation for authority to require satellite EPIRB's on U.S. vessels when an acceptable operational satellite system comes into being. *M–80–26:* Basic instructions for duty officers in Rescue Coordination Centers are contained in Chapters 2 and 3 of the National Search and Rescue Manual. *M–80–27 and –28:* Additional tabulation of specific unsafe practices and preventable hazards in commercial fishing industry is beyond Coast Guard budgetary and manpower constraints. *M–80–29:* Commandant Instruction 3100.5 as amended July 29, 1981 concerns attaching an acoustic pinger to a capized hull.

Federal Communications Commission: Jan. 11, M–81–52: MARTECH has modified its service manual to clarify procedure for reassembling the Whaler EB-20W EPIRB after battery replacement. *M–81–53:* Favors use of satellite EPIRB's which are more effective and will probably have an earlier availability. *M–81–54:* Such a requirement could significantly burden resourecs of FCC-licensed coast stations, and recommends that the Maritime Administration's U.S. Merchant Vessel Locate Filing System (USMER) be considered for use instead.

U.S. Navy: Jan. 7, M–79–102: Collective reports of heavy weather from Navy ships on classified movement are now being provided to the National Weather Service.

State of Hawaii: Jan. 6, H–81–68: There is no State law, but each county has an ordinance to limit persons riding in the cargo area of a pickup truck. *H–81–69:* County ordinances need to be consolidated into a State law.

American Public Transit Association: Dec. 15, R–79–53: Draft emergency preparedness guidelines should be available Feb. 2, 1982, from Urban Mass Transportation Administration's Office of Safety and Product Qualification; letters from rail transit systems giving information on voluntary corrective actions taken after the BART fire were enclosed.

Association of American Railroads: Dec. 31, R–81–79 and –80: Copies of the Board's recommendation letter will be distributed. *H–81–80:* Will cooperate with the other recommendation addresses and others to eliminate railroad/grade crossing accidents involving trucks transporting bulk hazardous materials.

Radio Technical Commission for Marine Services: Dec. 30, M–72–6 and –7: Final report of Special Committee 65 on specifications for shipboard collision avoidance systems has been completed.

Bay Area Rapid Transit District: Dec. 9, R–80–47: Emergency Plan has been completed.

The Family Lines Rail System Dec. 10, R–80–50: Has not taken the recommended action.

Conrail: Dec. 16, R–76–28: Would not be feasible or cost-effective to attempt to test equipment before each trip. *R–76–29 and –30:* Will expand training to insure that all commuter operating employees receive such instructions annually and that procedures are uniformly applied. *R–76–33:* Have accelerated a program of operating testing to improve compliance with signal rules. *Jan. 8, R–81–55:* By Bulletin Order issued Dec. 2, 1981, which will be incorporated in future Operating Timetables, the Metropolitan Region has promulgated instructions regarding the use of specific radio frequencies in the territory involved. *R–81–56:* Facilities have been reviewed at all train order officers to confirm that operators are able to display train order signals at each location.

Chessie System: Jan. 8, R–80–39: Have conducted educational enforcement efforts system-wide on the operating rules and procedures pertinent to the Orleans Road, West Va. accident on Feb. 12, 1980. *R–80–40:* Responsiblilty of supervisors to assess the fitness for duty of employees has been stressed. *R–81–70:* Dispatching procedures on the Maryland Division were reinforced to eliminate the communications and recordkeeping failure involved in the Germantown, Md. Accident on Feb. 9, 1981. Dispatching procedures now insure recording of train passage times at Rocks and similar locations. *R–81–71:* Evaluation of the Baltimore dispatchers' workloads did not suggest the need for any change. *R–81–72:* Conducted system-wide study of dispatching offices and took action to control access to these facilities and to improve work environments.

Illinois Central Gulf Railroad: Feb. 19, R–80–22: Modified ICG Rule 883 through a bulletin order.

Note.—In the past, NTSB publications have been mailed free of charge to organizations and individuals who NTSB determined had a transportation interest and could influence transportation safety. However, because of recent personnel and budget reductions, NTSB can no longer provide publications free of charge. beginning with reports adopted in 1982, interested organizations and individuals must order reports from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630. Single copies of recommendation letters (identified by recommendation number) and responses are free on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

H. Ray Smith, Jr.,

Alternate Federal Reigster Liaison Officer.

March 4, 1982.

[Fr Doc.82–6336 Filed 3–10–82; 8:45 am]

BILLING CODE 4910–58–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Reliability and Probabilistic Assessment; Meeting

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold a meeting on March 25 and 26, 1982, Room 1046, at 1717 H Street, NW, Washington, DC. The Subcommittee will discuss the Zion probabilistic safety study.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recording 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 Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, March 25, 1982—6:00 p.m. until the conclusion of business.

Friday, March 26, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with respresentatives of the NRC Staff, their consultants, and other interested persons regarding the topics to be discussed.

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 by a prepaid telephone call to the cognizant Staff Engineer, Mr. J. Michael Griesmeyer (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., e.s.t. The designated Federal Employee for this meeting is Mr. Gary Quittschreiber.

Dated: March 5, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–6610 Filed 3–10–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–320]

GPU Nuclear Corp.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 20 to Facility Operating License No. DPR–73, issued to GPU Nuclear Corporation, Metropolitan Edison Company, Jersey Central Power & Light Company, and Pennsylvania Electric Company (the licensee). Operating License No. DPR–73 formerly authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI–2) located in Dauphin County, Pennsylvania, but that authorization was limited, by an Order for Modification of License dated July 20, 1979 to maintaining the facility in its present safe shutdown condition. (44 FR 45271 (August 1, 1979)). This amendment effects changes to License No. DPR–73

with respect to the radiological-environmental monitoring program requirements as specified in Appendix B of the Technical Specifications. Specifically, this amendment consists of changes to Appendix B of Operating License No. DPR–73 pertaining to the following: (1) Deleting the actual environmental sampling locations from the technical specifications and in turn replacing them with references to tables in the Offsite Dose Calculation Manual (ODCM); (2) Changing the Lower Limits of Detection (LLD) for gross beta, H-3, Zr-95, Nb-95, I-131 in water, milk and food products and for Cs-134, Cs-137 and Ba-140 in airborne particulates and food products and changing the reporting level of H-3 in water; (3) Requiring sampling and analysis for Sr-90 in milk at least once per 92 days, together with specifications on LLD and reporting level for Sr-90 concentration; and (4) Adding to Section 5.6, reporting requirements which were deleted from § 3.2 of the Environmental Monitoring Program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this section, see (1) The application for amendment dated October 30, 1981 and amended by letter dated December 3, 1981, (2) Amendment No. 20 to License No. DPR–73 consisting of changes in the radiological environmental monitoring program requirements as specified in Appendix B of the Technical Specifications, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Government Publications Section, State Library of Pennsylvania 17126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Program Director, TMI Program Office, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Md., this 3d day of March 1982.

For the Nuclear Regulatory Commission.

Bernard J. Snyder,

Program Director, TMI Program Office, Office of Nuclear Reactor Regulation.

[FR Doc. 82-6604 Filed 3-10-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–461A]

Illinois Power Co., Soyland Power Cooperative, Inc. and Western Illinois Power Cooperative, Inc.; Finding of No Significant Antitrust Changes and Time for Filing Requests for Reevaluation

The Director of Nuclear Reactor Regulation has made an initial finding in accordance with Section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensees' activities or proposed activities have occurred subsequent to the previous construction permit review of Unit 1 of the Clinton Nuclear Power Station by the Attorney General and the Commission. The finding is as follows:

Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the "significant change" to the Director, Office of Nuclear Reactor Regulation. Based upon an examination of the events since issuance of the Clinton 1 and 2 construction permits to the Illinois Power Company, the staffs of the Antitrust and Economic Analysis Branch, Office of Nuclear Reactor Regulation and the Antitrust Section of the Office of the Executive Legal Director, hereafter referred to as "staff," have jointly concluded, after consultation with the Department of Justice, that the changes that have occurred since the antitrust construction permit review are not of the nature to require a second antitrust review at the operating license stage of the application.

In reaching this conclusion, the staff considered the structure of the electric utility industry in central and southern Illinois, the events relevant to the Clinton construction permit review and the events that have occurred subsequent to the construction permit review.

The conclusion of the staff's analysis is as follows:

The principal applicant, Illinois Power Company, represents the largest power system in the relevant marketing area. Additions of large baseload power plants and increases in accompanying transmission facilities generally tend to increase the oversight or planning role of the larger systems in a particular marketing area, i.e., usually enhancing any existing market power of the system.

By subjecting all nuclear applicants to an antitrust review at the CP stage, the NRC via its Section 105c charge, prevents the economies associated with large baseload nuclear plants from being captured by only the largest power systems throughout the country, thereby thwarting increases in existing market power. During the Clinton CP antitrust review, it became apparent that Illinois Power had been less than cooperative with smaller power systems in its service area and adjacent areas. Consequently, a set of antitrust license conditions was attached to the Clinton construction permit which was designed to implement greater coordination between Illinois Power and smaller municipal and cooperative systems in the relevant area—thereby furthering the competitive process among these same power systems.

The economies associated with the Clinton nuclear plant and those linked to Illinois Power's integrated network of power supply were subsequently made available to smaller systems in the area.

Staff has identified a number of changes that, (1) have occurred since the construtión permit antitrust review, and (2) are reasonably attributable to the licensee(s). However, many of these changes are in conformance with the construction permit antitrust license conditions and have had positive performance effects on the availability of bulk power supply and on competition in the area generally. Other changes which have occurred have not had significant negative antitrust implications that would likely warrant a Commission remedy and therefore do not warrant a significant change finding.

Based upon the successful implementation of CP license conditions and the lack of any detrimental conduct or activity (to the competitive process in central and southern Illinois) on the part of Illinois Power Company, Soyland Power Cooperative or Western Illinois Power Cooperative, staff recommends that no affirmative significant change determination be made pursuant to the application for an operating license for Unit 1 of the Clinton Nuclear Power Station.

Based on the staff's analysis, it is my finding that a formal operating license antitrust review of the Clinton Nuclear Power Station, Unit 1 is not required.

Signed on February 23, 1982 by Harold R. Denton, Director of Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding may file with full particulars a request for reevaluation with the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 by May 10, 1982.

For the Nuclear Regulatory Commission.

Argil Toalston,

Acting Chief, Antitrust and Economic Analysis Branch, Division of Engineering, Office of Nuclear Reactor Regulation.

[FR Doc. 82-6605 Filed 3-10-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-514 CP; 50-515 CP]

Portland General Electric Co., et al. (Pebble Springs Nuclear Plant, Units 1 and 2); Evidentiary Hearing

March 5, 1982.

On December 9, 1974, the U.S. Atomic Energy Commission (since superseded by the Nuclear Regulatory Commission) published a Notice of Hearing on application for construction permits (39 FR 42938) with respect to the application filed by Portland General Electric Company (PGE) for construction permits to build two pressurized water nuclear reactors designated as the Pebble Springs Nuclear Plant, Units 1 and 2 to be located near Arlington in Gilliam County, Oregon. The notice set forth the requirements pursuant to the Atomic Energy Act of 1954, as amended, and the National Environmental Policy Act of 1969 to be met prior to the issuance of construction permits. The notice also provided that any person whose interest might be affected by the proceeding could file a petition for leave to intervene, and designated an Atomic Safety and Licensing Board to conduct the hearing in this proceeding.

On January 23, 1976, Pacific Power & Light Company and Puget Sound Power & Light Company entered into an ownership agreement with PGE. An amended notice of hearing was published in the **Federal Register** on February 23, 1976 (41 FR 8002). The amended notice also afforded any person whose interest may be affected by the entry of Puget Sound Power & Light Company and Pacific Power & Light Company as joint applicants the opportunity to participate in this proceeding.

Several petitioners were admitted as intervening parties to this proceeding and the State of Oregon was also permitted to participate. Various evidentiary hearings have been conducted on the issues of this proceeding. The purpose of this notice is to inform the public that another evidentiary hearing on the application for construction permits will soon commence.

Therefore please take notice that the Atomic Safety and Licensing Board designated to preside over this proceeding will begin an evidentiary hearing on April 20, 1982 at 9:00 a.m. at the United States Courthouse, 620 S. W. Main Street, Portland, Oregon. Courtroom information will be available at Room 516. The issue to be heard during the forthcoming evidentiary hearing is whether sufficient consideration under the National Environmental Policy Act has been given to alternate sites for the proposed nuclear energy plant. The public is invited to attend.

Bethesda, Maryland, March 5, 1982.

For the Atomic Safety and Licensing Board.

Ivan W. Smith,

Chairman, Administrative Law Judge.

[FR Doc. 82-6609 Filed 3-10-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 70 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the Licensees), which revised Technical Specifications for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective upon entry into Operational Mode 2 (Startup) for Fuel Cycle 5.

The amendment deletes requirements relating to part-length control rod assemblies, thereby allowing their removal from the reactor core.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 10, 1982, (2) Amendment No. 70 to License No. NPF-1 and (3) the Commission's related letter dated March 3, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the local public document room located at the Multnomah County Library, Social Science and Science Department, 801 S.W. 10th Avenue, Portland, Oregon 97205. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of March 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 82-6606 Filed 3-10-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 68 to Operating License No. DPR-59 issued to the Power Authority of the State of New York which revises the Technical Specifications for operation of the James A. FitzPatrick Nuclear Plant (the facility) located in Oswego County, New York. The amendment is effective as of the date of its issuance.

The amendment revises the Technical Specifications to correct the High Pressure Coolant Injection (HPCI) high steam flow trip differential pressure setting.

The application for the Amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need

not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated February 24, 1982, (2) Amendment No. 68 to License No. DPR-59, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Penfield Library, State University College at Oswego, Oswego, New York 13126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of March 1982.

For The Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 82-6607 Filed 3-10-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric and Power Co.; Granting of Relief From ASME Code Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to Virginia Electric and Power Company (the licensee), which revised the inservice inspection program for the North Anna Power Station, Unit Nos. 1 and 2 located in Louisa County, Virginia. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The action provides relief from performing visual examination of the reactor vessel closure head cladding and vessel cladding for North Anna, Unit Nos. 1 and 2 pursuant ot the stipulations set forth in 10 CFR 50.55a(g)(4)(iv).

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated December 29, 1981 and (2) the letter to the licensee dated March 4, 1982. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia, Charlottesville, Virginia. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 4th day of March 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 82-6608 Filed 3-10-82; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. A82-7; Order No. 421]

Woolsey, Georgia 30294 (Mr. John B. McLean, Petitioner); Notice and Order of Filing of Appeal

Issued: March 5, 1982.

On March 1, 1982, the Commission received a letter from Mr. John B. McLean, (hereafter "Petitioner") concerning the alleged plans of the United States Postal Service to close the Woolsey, Georgia post office. The letter asserts that Woolsey is a growing community, that its people are very much disturbed over the proposed closing and that the Woolsey community identity would be lost as a result of the Service's proposed action. The petition appears to be a request to keep the Woolsey post office open.

Although the petitioner does not expressly refer to the Postal Reorganization Act [39 U.S.C. 101 *et seq.*] and did not attach a copy of the Postal Service's written determination, we believe that his letter should be construed as a petition for review pursuant to Section 404(b) of the Postal Reorganization Act [39 U.S.C. 404(b)].[1] We do this in order to preserve his right of appeal, in light of the Commission's rules of practice which call for liberal construction in order to secure a just and speedy determination of issues presented.[2]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing to "insure that such persons will have an opportunity to present their views."[3]

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[4]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under Section 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service has complied with the Act and with its regulations governing the discontinuance of post offices.[5]

Upon preliminary examination, the petitioner appears to have raised the following issues of law:

1. Did the Postal Service consider the effect of this post office closing on the community, in conformity with Section 404(b)(2)(A) of the Act?

2. Did the Postal Service consider whether this closing is consistent with the policy of the Act that the Postal Service provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining, in conformity with Section 404(b)(2)(C) of the Act?

Additional issues may emerge when the parties and the Commission review the Service's determination in light of the principles promulgated in *Lone Grove, Texas, et al.*, Docket Nos. A79-1, *et al.* (May 7, 1979), and the subsequent decisions of the Commission dealing

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[1] 39 U.S.C. 404(b)(5). 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94-421, (September 24, 1976), 90 Stat. 1310-11. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

[2] 39 CFR 3001.1.

[3] 39 U.S.C. 404(b)(1).

[4] 39 U.S.C. 101(b).

[5] 42 FR 59079-85 (November 17, 1977); the Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

with appeals of post office closings and consolidations. The determination in the present case may be found to resolve some or all of the issues involved.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by Section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary, it will make its request by order, specifying the issues to be addressed. Following issuance of such a request, the memorandum shall be due within 20 days and a copy of the memorandum shall be served on the petitioner by the Service. In briefing the case or in filing any motion to dismiss for want of prosecution, the Service may, in appropriate circumstances, incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in Section 404(b) cases,[6] and none is being appointed.

The Commission's rules of practice require that the Postal Service file the Administrative Record of a case within 15 days after the date on which petition for review is filed with the Commission.[7]

A procedural schedule of the various phases of this docket is set forth as an appendix.

The Commission orders:

(A) That the letter received on March 1, 1982, from Mr. John B. McLean of Woolsey, Georgia, be construed as a petition for review pursuant to Section 404(b) of the Act [39 U.S.C. 404(b)].

(B) That the Secretary of the Commission shall publish this Notice and Order in the Federal Register.

(C) That the Postal Service shall file the Administrative Record in this case on/or before March 16, 1982, pursuant to the Commission's rules of practice [39 CFR 3001.113(a)].

By the Commission.

David F. Harris,

Secretary.

March 1, 1982—Filing of Petition

March 5, 1982—Notice and Order of Filing of Appeal

March 16, 1982—Filing of Record by Postal Service [*see* 39 CFR 3001.113(a)].

March 22, 1982—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

March 31, 1982—Petitioner's Initial Brief [*see* 3 CFR 3001.115(a)].

April 15, 1982—Postal Service Answering Brief [*see* 39 CFR 3001.115(B)].

April 30, 1982—(1) Petitioner's Reply Brief should petitioner choose to file [*see* 39 CFR 3001.115(c)].

(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument.

June 29, 1982—Expiration of 120 day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 82-6586 Filed 3-10-82; 8:45 am]

BILLING CODE 7715-01-M

[6] In the Matter of Gresham, S.C., Route #1, Docket No. A78-1. (May 11,1978).

[7] 39 CFR 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of an appeal.

PRESIDENTIAL ADVISORY COMMITTEE ON FEDERALISM

Open Meeting

The Presidential Advisory Committee on Federalism will meet on Monday, March 22, 1982, from 9:30 a.m. to 11:45 a.m. in Conference Room B of the Departmental Auditorium on Constitution Avenue, between 12th and 14th Streets, N.W., Washington, D.C.

The Advisory Committee on Federalism was established by Executive Order 12303 on April 8, 1981. The Chairman of the Full Committee is U.S. Senator Paul Laxalt. The Committee membership includes private citizens, public officials from state and local governments, and members of the Legislative and Executive branches of the federal government. The members serve at the pleasure of the President.

The Committee shall advise the President with respect to the objectives and conduct of the overall federalism policy of the United States.

The meeting will be open to public observation. Written comments or statements may be submitted at any time before or after the meeting and should be related to the substantive matter identified above. Seats will be available for the public on a first come, first served basis.

For further information, call (202) 456-7943.

Alan F. Holmer,

Deputy Assistant to the President for Intergovernmental Affairs.

[FR Doc. 82-6528 Filed 3-10-82; 8:45 am]

BILLING CODE 3195-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-18536; File No. 4-208]

Intermarket Trading System

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments to national market system plan.

SUMMARY: The Commission is issuing a status report on progress toward implementation of the automated interface between the Intermarket Trading System ("ITS") and the enhanced NASDAQ system of the National Association of Securities Dealers, Inc. ("NASD"). In addition, the Commission is proposing amendments to the plan governing the operation of the ITS that are necessary to include the NASD as an ITS participant. Finally, the Commission is amending its order mandating implementation of an automated interface to defer the implementation date of the interface from March 1, 1982 to May 1, 1982.

DATE: Comments to be received by March 31, 1982.

ADDRESSES: All comments should be submitted in triplicate and addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments should refer to File No. 4-208 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Michael J. Simon, (202) 272-2889, or Robert Colby, (202) 272-2888, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") announced today that it is issuing a status report on progress toward implementation of an automated interface between the ITS [1] and the

[1] The ITS is an intermarket routing system operated jointly by certain national securities exchanges, and authorized by the Commission, on a provisional basis, as a national market system facility pursuant to 11A(a)(3)(B) of the Securities Exchange Act of 1934. The current participants in

NASD's enhanced NASDAQ system, and on industry initiatives toward development of an internalization rule. In addition, the Commission is publishing for comment proposed amendments to the "Plan for the purpose of creating and operating an Intermarket Communication Linkage" filed with and approved by the Commission ("ITS Plan"), that would provide for the inclusion of the NASD in ITS. These amendments, published by the Commission on its own initiative pursuant to Rule 11Aa3–2 [2] under the Securities Exchange Act of 1934 ("Act"), are necessitated by the failure, despite good faith efforts, of the ITS participants and the NASD to submit amendments, and are a prerequisite to implementation of the automated interface previously ordered by the Commission. Finally, to allow time for final technical testing of the interface and for public comment on these amendments, the Commission is deferring the implementation date of the automated interface until May 1, 1982.

Introduction

On April 21, 1981, the Commission issued an order ("Order") [3] requiring the current participants in the ITS and the NASD to implement, by March 1, 1982, an automated interface between the ITS and the NASD's NASDAQ system, as enhanced to include, among other things, an order routing and automatic execution capability.[4] That Order also required the NASD and the ITS participants to submit to the Commission, on or before November 1, 1981, proposed amendments to the ITS Plan reflecting the inclusion of the NASD as an ITS participant.

The Commission indicated in the Order that it considers the implementation of an automated interface between over-the-counter ("OTC") and exchange markets in listed securities to be a critical event in the development of the national market system. In particular, the Commission indicated that this interface, which will provide for the first time an efficient means of routing orders between exchange and OTC markets, is essential to the full development of the Commission's experiment in trading securities in an environment free from off-board trading restrictions, pursuant to Rule 19c–3 under the Act, which permits exchange members to make off-board markets in most securities newly-listed on an exchange.[5] The Commission noted in the Order that competitive OTC markets have been unable to develop fully in the absence of an interface, and, as a result, the Commission has lacked a meaningful empirical basis on which to evaluate the effects on the markets of removing off-board trading restrictions.[6] The Commission is continuing to monitor the development of Rule 19c–3 trading; but, as noted in the Commission's Monitoring Report on the operation and effects of Rule 19c–3,[7] in the absence of an interface this trading has been limited.

In issuing the Order mandating the automated interface, the Commission considered concerns expressed by the ITS participants regarding equal regulation of markets [8] and the potential effects of internalization [9] of retail-sized customer order flow by exchange member firms. Indeed, at the time the Order was proposed by the Commission, industry commentators argued that the Commission should refrain from issuing the Order until the industry had agreed on a measure addressing internationalization concerns.

While the Commission indicated its support for industry efforts to address internalization concerns, in determining to issue the Order the Commission indicated that, because of the importance of the automated interface, implementation of the interface would not be allowed to wait on industry resolution of these internalization concerns. The Commission noted that it had fully considered the question of internalization at the time of adoption of Rule 19c–3, and concluded that the experimental value of observing the effects of OTC trading in listed securities free from exchange off-board trading restrictions outweighed the concerns about potential internalization by exchange member market makers.

Moreover, the Commission concluded in the Order that the interface would not, as a structural matter, exacerbate internalization concerns previously considered in the Rule 19c–3 context, and consequently determined that implementation of the interface should not be made contingent upon the progress of industry discussions on internalization concerns.[10] In addition, the Commission concluded, with respect to equal regulation concerns, that, in light of the present trading environment, it would not be appropriate to either impose additional regulatory obligations on OTC market makers or alter existing exchange rules which impose "affirmative" and "negative" obligations upon specialists.[11]

As discussed in detail below, the Commission continues to believe that it is essential for the development of the Commission's Rule 19c–3 experiment and for progress toward a national market system that the automated interface be implemented without delay, notwithstanding any lack of progress in industry discussions concerning internalization.

II. Status Report on Progress Toward the Interface

From information provided to the Commission by the ITS participants and the interface between the ITS and CAES has for the most part proceeded

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ITS are the New York Exchange, Inc., the American Stock Exchange, Inc., the Boston Stock Exchange, Inc., the Cincinnati Stock Exchange, Inc., the Midwest Stock Exchange, Inc., the Pacific Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

[2] Rule 11Aa3–2 (17 CFR 240.11Aa3–2) establishes procedures for initiating or approving amendments to national market system plans such as the ITS Plan. Paragraph (b)(2) of Rule 11Aa3–2 states that the Commission may propose amendments to an effective national market system plan by publishing the text thereof together with a statement of the purpose of the amendments. Paragraph (c)(2) requires the Commission to publish notice of any amendments initiated by the Commission and provide interested parties an opportunity to submit written comments.

[3] Securities Exchange Act Release No. 17744 (April 21, 1981), 46 FR 23856.

[4] The NASD's enhanced NASDAQ system is referred to as the Computer Assisted Execution System, or "CAES."

[5] Specifically, Rule 19c–3 (17 CFR 240.19c–3) removed exchange off-board trading restrictions which prohibited exchange member firms from making markets in securities listed on the exchange other than on exchange premises, with respect to any security reported in the consolidated transaction system ("consolidated system"): 1) which was not traded on an exchange prior to April 26, 1979, or 2) which was traded on an exchange on April 26, 1979 but which ceased to be traded on an exchange for any period of time thereafter ("Rule 19c–3 Security"). *See* Securities Exchange Act Release No. 16888 (June 11, 1980), 45 FR 41125 ("Rule 19c–3 Adoption Release").

[6] A more complete discussion of the Commission's previous statements regarding the need for an efficient linkage between the exchange and the OTC markets is contained in Securities Exchange Act Release No. 17516 (February 5, 1981), 46 FR 12379.

[7] U.S. Securities and Exchange Commission. *A Monitoring Report on the Operation and Effects of Rule 19c–3 Under the Securities Exchange Act of 1934* ("Monitoring Report"), at 45. The Commission has stated that it will issue a second monitoring report which will cover the first six months of trading after the commencement of the interface.

[8] "Equal regulation" concerns involve the question whether uniform or substantially similar regulation of all market makers is required to ensure a fair field of competition between market makers in a trading environment free from off-board trading restrictions.

[9] The Commission has defined the term "internationization", when used with respect to a broker-dealer making markets over-the-counter ("OTC"), as referring to the withholding of retail-size customer orders from other market centers for the purpose of executing them in-house, as principal, without exposing those orders to buying and selling interest in other market centers. *See* Rule 19c–3 Adoption Release, *supra* note 5 at 18, note 31, 45 FR 41125, at 41128, note 31.

[10] *See* Securities Exchange Act Release No. 17744 (April 21, 1981) at 23, 46 FR 23856 at 23860.

[11] *Id.* at 24, 46 FR 23856 at 23861.

smoothly, and that the testing of the interface could be completed within a short period after the March 1, 1982 implementation deadline set by the Order.[12] However, as discussed below, no final agreement has been reached in the ITS Plan negotiations underway between the ITS participants and the NASD, and, as a result, none of the parties appears prepared to have the interface become operational. In addition, no agreement has been reached in the internalization discussions conducted concurrently by the parties. Nonetheless, the Commission believes that the parties for some time have had the capacity to reach agreement with respect to a satisfactory means of addressing internalization and acceptable ITS Plan amendments.

A. Internalization Discussions

Subsequent to the Commission's Order mandating the interface, there were renewed discussions between ITS participants and the NASD, seeking to find workable solutions to the internalization issue. These discussions have been assisted by a representative of the Securities Industry Association acting as an intermediary; however, no clear internalization proposal acceptable to all parties has yet resulted from these discussions.

Recently, the ITS participants have prepared a "Statement of Principles" on off-board market making in Rule 19c-3 securities, which expresses their views on an acceptable method of addressing internalization. This statement generally describes a requirement that off-board market makers send their customer orders into a neutral market system, and trade with these orders only on a "blind" basis, without any prior knowledge of the existence, terms, or condition of the orders.

The Commission also understands that recently the internalization discussions have been broadened to include several broker-dealers who are making markets upstairs in Rule 19c–3 securities. Currently, several alternative internalization proposals are apparently being considered by this group.[13] However, at the present time no consensus has been reached on any particular internalization proposal, and the discussions are still being pursued.

B. ITS Plan Amendments

At the same time discussions on an internalization rule have been underway, the ITS participants and the NASD have conducted negotiations over amendments to the ITS Plan providing for inclusion of the NASD in ITS. As noted previously, amendments including the NASD as an ITS participant are necessary before the interface can become operational, and the Commission's Order required the NASD and the ITS participants to submit ITS Plan amendments for its consideration by November 1, 1981. In response to the Order, the ITS participants drafted a restated version of the ITS Plan, on which they have based their subsequent negotiations with the NASD. The restated plan contains numerous structural and substantive changes from the version of the ITS Plan currently in operation, and includes the amendments that the ITS participants believed were necessary to provide for NASD participation in ITS. During the past six months, the parties have reached agreement on most of the provisions of the restated ITS Plan, including:

(i) Definitions applicable to NASD participation in the ITS;

(ii) A general description of the operation of the automated interface;

(iii) The need for the NASD to adopt a trade-through rule comparable to those adopted by each of the exchange ITS participants;

(iv) The manner in which OTC market makers will participate in the proposed preopening application; and

(v) The finanical aspects of the interface.

However, the discussions between the ITS participants and the NASD became deadlocked on certain other ITS Plan issues, discussed more fully below. As the final deadline for the implementation of the interface approached, the parties attempted to complete agreement on the ITS Plan elements essential for the operation of the interface. In particular, on March 1, 1982 the ITS participants submitted to the Commission a further Restated Plan deferring the remaining open issues until the end of the interface's pilot phase.[14] While the NASD appears willing to defer many of the open issues, it continues to object to the existing Plan provisions regarding the manner of entry of ITS/CAES commitments after the pilot phase of the Interface. As a result, the parties have not yet agreed to and submitted ITS Plan amendments to the Commission as required by the Order as of November 1, 1981.

III. Discussion

The Commission regards the timely implementation of the interface to be of utmost importance to the progress in creating a national market system. The Commission is deeply concerned that, despite the technical progress in developing the interface and the good faith negotiation by all parties concerned, the ITS participants and the NASD have failed to resolve the remaining ITS Plan issues and thus have precluded the interface from becoming operational on March 1, 1982, as required by the Order. The Commission does not believe the remaining issues are so intractable in nature that the implementation of the interface must be halted awaiting agreement by the parties. Indeed, the Commission believes that the ITS participants' proposal to defer the remaining open issues until the completion of the pilot phase of the interface offers a reasonable compromise to permit the initial operation of the interface. Consequently, the Commission on its own initiative has proposed amendments to the ITS Plan generally consistent with the most recent proposals of the ITS participants, resolving the remaining areas of controversy where resolution is essential to the operation of the interface, so that the interface can be implemented promptly with a minimum of additional delay.

With respect to industry concerns relating to internalization, the Commission is hopeful that the industry participants will, through continued discussions, reach agreement on a means of addressing these concerns. However, the Commission has indicated on several occasions that the development of a means of addressing internalization concerns should be

[12] The ITS participants have reported that, although the technical aspects of the interface are for the most part in place, the essential testing of the automated interface between the ITS and CAES has fallen slightly behand schedule, awaiting the conclusion of internal testing by the NASD. Nonetheless, the ITS participants have indicated that they anticipate that the system testing could be completed and the interface become technically operational within several weeks of the end of the NASD's internal tests. The NASD has generally confirmed the statements by the ITS participants and has indicated that it believes it will be technically ready to effect the interface between April 15 and April 30, 1982. *See* Letter from Kenneth I. Rosenblum and John P. Foynes of the ITS Operating Committee, to Richard G. Ketchum, Associate Director, Division of Market Regulation, dated February 25, 1982; Letter from S. William Broka, Secretary, NASD, to George A. Fitzsimmons, Secretary, SEC, dated March 1, 1982.

[13] These discussions appear to have focused on proposals requiring broker-dealers either to send their retail orders away to a neutral mechanism or market before executing these orders in-house as principal, or to "hold out" these orders by bidding them an eighth above that market maker's bid or an eight below his offer, as the case may be.

[14] The interface first is to be implemented on a pilot phase limited to the 30 most active securities subject to Rule 19c–3; six months after implementation of the pilot phase, the interface is to be expanded to cover all securities subject to Rule 19c–3.

primarily left to the industry, and that this issue is not one on which agreement must be reached prior to implementation of the interface.[15] Accordingly, the Commission does not regard the parties' failure to adopt an internalization rule as a valid justification for refusing to put the interface into operation.

With respect to the ITS Plan negotiations, the ITS participants and the NASD have agreed on the large majority of the outstanding ITS Plan issues which stand in the way of implementation of the interface. However, their failure to reach even a tentative agreement on the few remaining issues, or to permit the deferral of some of those issues, threatens to delay further the implementation of the interface. In response, the Commission is taking the initial step necessary to effect implementation of the automated interface by using its authority under paragraph (b)(2) and (c) of Rule 11Aa3–2, governing the amendment of national market system plans, to propose amendments to the ITS Plan. These proposed amendments (i) contain the provisions of the restated ITS Plan on which the ITS participants and the NASD have agreed, (ii) defer resolution of those provisions of the Plan that the parties have agreed to defer, and (iii) propose resolutions of those issues that have not been agreed upon by the parties.

The significant areas in which the parties have not agreed, including those areas being deferred, include:

1. *Market Maker Commitment Requirements.* The ITS participants and the NASD have failed to reach agreement on whether market maker commitment requirements should be imposed on OTC market makers participating in CAES, in return for providing these CAES market makers with access to exchange markets. The ITS participants proposed a commitment requirement to address their concern that CAES market makers would withdraw from the markets in a security during adverse market conditions. Specifically, the ITS participants would require a CAES market maker to continue making markets for a three month period upon entry, and prohibit reentry into the markets for a three month period after leaving the market. The commitment requirement under discussion would also provide exceptions for the withdrawal from the market required of participants in a distribution by Rule 10b–6 under the Act,[16] and for withdrawals necessitated by an inability to meet the necessary market maker net capital requirements. The NASD recently has taken the position that, at most, it may be willing to accept a requirement that would limit reentry to the market if a market maker dropped its registration; the NASD believes, however, that the three month time period is too severe. In response to the inability of the parties to reach agreement regarding the commitment requirement prior to March 1, the ITS participants proposed deleting that provision for the initial pilot phase while including a commitment in the Plan that the parties would negotiate regarding the inclusion of such a requirement during phase two of the interface.

The Commission does not believe that the theoretical ability of OTC market makers in Rule 19c–3 securities to move in and out of the markets has raised any regulatory concerns to date. Indeed, the Commission's monitoring program with respect to market making in Rule 19c–3 securities has indicated that there have been relatively few instances where a market maker dropped out of the market in a particular security and returned at some later date.[17] Accordingly, the Commission believes that a deferral of this issue during the pilot phase is appropriate. However, the Commission does accept that a limited requirement, imposing a penalty for leaving the markets, may be appropriate in the context of the automated interface, which provides OTC market makers efficient access to exchange markets in a security. Accordingly, the Commission has included in its proposed amendments to the Plan the ITS participants' proposal that the parties negotiate, in good faith, concerning the development of an appropriate commitment rule for phase two of the interface.

2. *ITS Order Entry Procedures.* The ITS participants proposed including a provision in the ITS Plan which would specify the manner in which orders can be entered into the ITS system by CAES market makers, reflecting the manual order entry process presently planned for use by CAES when the interface becomes operational. The ITS participants are apparently concerned that, unless access to ITS is strictly limited to CAES market makers, other broker dealers may use the ITS as an alternative to exchange membership by routing substantial numbers of agency orders through the CAES–ITS interface to the exchange floors of ITS participants, thus avoiding exchange transaction fees and the costs of exchange membership. The ITS participants have proposed language in the amended plan which would commit them to consider the question of whether the ITS Plan should limit the manner in which commitments to trade are originated in the CAES market.

On the other hand, the NASD has objected to limiting narrowly the manner of entering CAES orders into ITS. Although the NASD has not indicated any immediate plans to alter the CAES–ITS order entry process, the NASD is concerned that describing the initial order entry process used by CAES in ITS Plan will make amendment of the Plan necessary before it can enhance this inefficient manual entry process in the future.

The Commission recognizes that, for CAES to operate at maximum efficiency, its manual ITS order entry process must be enhanced so that CAES orders are automatically entered into ITS, without the intervention of a CAES market maker, when an ITS market displays a quotation superior to that available in CAES. An automated order entry process such as this would provide an efficient means of preventing CAES trade-throughs [18] of superior ITS quotations, and of ensuring that orders entered into CAES receive an immediate execution, in CAES or the ITS, at the best available price. In addition, automation of the order entry process may be essential in order for CAES to draw the order flow necessary to attract OTC market making interest, and to compete effectively with exchange markets in listed securities.

[15] The Commission staff, on November 5, 1981, informed the participants by letter that provisions of the restated ITS Plan which attempted to establish agreement on an internalization rule as a possible condition to participation in the interface were inconsistent with the Order, and accordingly would be subject to disapproval by the Commission. *See* Letter from Douglas Scarff, Director, Division of Market Regulation, to Kenneth I. Rosenblum, Chairman, ITS Operating Committee, dated November 5, 1981.

[16] 17 CFR 240.10b–6.

[17] *See* Monitoring Report, *supra* note 7, at 13.

[18] A "trade-through" occurs when a trade is executed in one market center at a price inferior to that available in another market center, *e.g.*, a broker sells a security for a customer for 19½ on one exchange, when the broker could have sold it for 20 in another market. All ITS participating exchanges already have rules to help ensure that this situation does not arise. *See* Securities Exchange Act Release No. 16957 (July 7, 1980). The NASD and the ITS participants have generally agreed that similar trade-through principles should be applicable to the OTC market in securities traded through the interface. The Commission wishes to emphasize that it expects that NASD to adopt a trade-through rule that contains the basic protections provided by the exchanges' rules. In particular, any such rule should ensure that, when there is a timely complaint of a trade-through, that transaction will either be cancelled and reexecuted at a price which does not result in a trade-through or a commitment shall be sent to the complaining market satisfying the quotation traded-through for the entire size displayed.

In view of the importance to CAES of further automation of the CAES–ITS order entry process, the Commission would oppose any efforts on the part of existing ITS participants to hinder enhancement of this order entry process in the future. In addition, the Commission stands ready to initiate future amendments to the ITS Plan to allow further enhancement of the CAES–ITS interface, if enhancement is blocked by the other ITS participants. However, the Commission does not consider it necessary to resolve, during the pilot phase of the interface the theoretical issue of appropriate future restrictions on ITS order entry, when the NASD has indicated its intention to use its initial manual process during this pilot period. Accordingly, the Commission has retained in its proposed amendments the restrictions on CAES order entry contained in the ITS participants' draft ITS Plan, while adopting the ITS participants' proposal committing the parties to reconsider the question of how the Plan should permit ITS–CAES commitments to be entered into ITS. The Commission emphasizes that the initial retention of the restrictions is not intended to resolve permanently the question of appropriate CAES order entry techniques, and that the Commission will strongly support reconsideration of this question at such time as the NASD has formulated a proposal for enhancing CAES procedures.[19]

3. *OTC Trade Reporting.* As noted above, the ITS Plan requires all ITS participants to adopt trade-through rules which generally set forth a policy against trade-throughs, and establish corrective procedures when a trade-through of a superior ITS quotation occurs. The ITS participants have argued that the NASD's existing third market[20] trade reporting procedures may raise problems in the context of any trade-through rule adopted by the NASD.

Specifically, the ITS participants have argued that the NASD's trade reporting rules[21] are so flexible that OTC market makers could avoid the strictures of the trade-through rule by reporting a trade transacted on a principal basis at a price which makes it appear that no trade-through has occurred, even if it was actually transacted at a price outside the best ITS quotation.[22] The ITS participants are particularly concerned about the reporting of third market block transactions, because the trade-through rule would require a CAES market maker handling a block to satisfy all superior ITS quotations at the price at which the block transaction took place. Attempting to address these concerns, the ITS participants proposed that the NASD's trade-through rule require CAES market makers to state separately in customer confirmations the reported price and the mark-up or mark-down charged in a trade transacted as principal. The rationale underlying this requirement apparently is that institutional customers inspecting the mark-ups charged in their trades would serve as a deterrent to OTC market makers reporting trades inaccurately.[23] The ITS participants have again, however, proposed to defer any such requirement during the pilot phase.

The NASD opposed the confirmation requirement suggested by the ITS participants, arguing that its trade reporting rules are fully adequate to prevent the potential abuse postulated by the ITS participants. The NASD also indicated that it did not foresee any significant trade reporting problems developing as a result of the interface. Moreover, the NASD indicated that the proposed confirmation requirement could have a serious disruptive effect on CAES market makers, drastically altering their existing practices in confirming principal transactions, and the NASD noted that this requirement would go well beyond the requirements for a principal confirmation established by Commission Rule 10b–10 unde the Act, which requires broker-dealer compensation to be identified separately only for agency and riskless principal transactions.

Although the Commission recognizes that the viability of the ITS trade-through rules and the associated national market system objective of price protection for superior quotations depend upon accurate and reliable trade reporting by all parties, the Commission does not believe the customer confirmation requirement proposed by the ITS participants is a particularly useful means of ensuring that blocks transacted as principal in the third market are reported accurately. First, it appears that very few blocks are transacted in the third market on a principal basis; consequently, the proposed confirmation requirements would at most impact a small number of instances of inaccurate reporting. More significantly, the Commission does not believe that the proposed confirmation requirement, hinging as it does on institutional customers monitoring mark-ups, would have the effect anticipated by the ITS participants. The Commission understands that institutional customers for the most part concern themselves with the net price received on a block transaction, giving little heed to how that net price is broken down into reported price and mark-up or mark-downs in subsequent confirmations.

As a result, the Commission believes that the concerns about accurate block trade reporting could be more effectively addressed through a surveillance program which would monitor third market principal transactions in securities traded through the interface.[24] Given the small number of blocks transacted as principal in the third market, a surveillance program similar to the overreaching surveillance

[19] The Commission requests commentators to address, in light of the NASD's arguments noted above, whether the limitation on order entry should be limited to the pilot phase. In addition, the Commission specifically requests comment on whether additional amendments to the ITS Plan should be approved which would add the following language at the end of Section 8(a) of the Plan:

Notwithstanding the above, however, the NASD shall be permitted to develop and implement enhancements to CAES necessary to provide an automated order entry process which would redirect orders routed to CAES to the ITS market displaying a superior bid or offer (as the case may be).

[20] The term "third market" refers to markets made by broker-dealers on a regular basis in exchange-listed securities, other than on the floor or through the facilities of a securities exchange. *See* Rule 11Ac1–1 under the Act, 17 CFR 240.11Ac1–1(a)(1).

[21] Prior to 1980, third market principal transactions were reported to the consolidated system at a "net" price which included the mark-up or mark-down charged the customer on the transaction. To make third market reporting comparable to exchange reporting, which excludes the compensation charged in a transaction from the reported price, in 1980 the NASD adopted a rule requiring third market reporting at a "gross" price, excluding the mark-up or mark-down charged a customer. Specifically, this rule provides that the price reported to the consolidated system: shall be reasonably related to the prevailing market, taking into consideration all relevant circumstances, including, but not limited to: (1) Market conditions with respect to the security, (2) the number of shares involved in the transaction, (3) the published bids and offers with size at the time of execution (including the reporting firm's own quotation), (4) accessibility to market centers publishing bids and offers with size, (5) the cost of execution, and (6) the expenses involved in clearing the transaction.

The Commission approved this rule as consistent with the requirements of the Act, in Securities Exchange Act Release No. 16960 (July 7, 1980), 45 FR 47291.

[22] For instance, in the case of a best ITS quotation of 20 bid, 20¼ offer, the ITS participants are concerned that a CAES market maker, who normally charges a markup of ⅛ per share, might sell a block to a customer at a net price of 20⅛ and yet report the trade at 20¼ to match the best offer quotation, thus avoiding any trade-through liability.

[23] If the CAES market maker were required to state separately the reported price and mark-up in the confirmation, in the example in note 22, *supra*, he would be forced to identify his mark-up as ¼, which might result in the institution questioning the trade.

[24] This program would, of course, be in addition to existing NASD procedures for the surveillance of excessive mark-ups, pursuant to the NASD's Rules of Fair Practice, Article II, Section 4, and interpretations thereunder.

conducted by the NASD in the context of Rule 19c-3 retail transactions could easily examine, on a regular basis, each principal block trade to determine whether the block was reported at an accurate price.

Accordingly, the NASD should develop and implement a program monitoring third market reporting of principal block transactions to ensure that block trades are reported in a reliable manner and that the flexibility inherent in the NASD's trade reporting rules is not used to circumvent the obligations of the trade-through rules. The Commission, however, has no objection to the ITS participants and the NASD continuing to negotiate regarding a confirmation requirement. Therefore, the Commission has proposed language in the Plan deferring this issue during the pilot phase of the interface.

4. *Minor Issues.* In addition to these primary areas in which the ITS participants and the NASD have been unable to reach agreement, the Commission has proposed resolutions to several other less significant issues that remain outstanding. These remaining issues include:

(a) *Short Sale Commitments.* The existing ITS Plan, in conformity to Commission Rule 10a-1 under the Act,[25] requires that an ITS commitment be designated "short" or "short exempt" whenever a commitment to sell short is involved. The CAES system, however, does not presently have a capability to send or receive orders designated "short." The NASD is in agreement with the ITS participants that CAES must be enhanced to permit short orders to be identified. However, the NASD has indicated that any such technical enhancement would take a number of months to develop and implement. As a result, the ITS participants have proposed that the NASD should enhance CAES, prior to the end of the pilot period, to permit the execution of commitments to sell short routed through the CAES–ITS interface in compliance with the short sale rule. In the interim, the parties have proposed that commitments to sell short not be permitted to be sent through the interface.

The Commission believes that it is essential that the NASD modify CAES to allow the execution of short sales in compliance with the short sale rule by the end of the pilot period, and has included that proposed provision in its proposed amendments. During the pilot period, and before the NASD effects that change, however, the Commission believes that the appropriate manner to address the situation is by an exception from the short designation requirements of the ITS Plan (and, concomitantly, an exception from the designation requirement of Rule 10a–1) with respect to commitments to sell short sent through the ITS–CAES interface. Permitting unmarked short orders to be routed through the interface from an exchange to CAES or from CAES to an exchange would not appear to raise the potential manipulative concerns which Rule 10a–1 was intended to address; the ability to obtain either an automatic execution (through CAES) or a timely execution (through ITS) at the prevailing quotation of the destination market allows brokers to determine, before sending an order, whether the execution they will receive will violate the short sale provisions of Rule 10a–1, except in the rare instance where a CAES market maker changes his quote between the time the order is entered and the time it is executed.[26] Consequently, the Commission has included in its proposed ITS Plan amendments an exception to the Plan's commitment designation requirement for short orders directed to CAES, with the understanding that this exception will be eliminated once the NASD makes the technical changes necessary to permit CAES to receive ITS commitments marked short.

(b) *Locked or Crossed Markets.* The ITS participants and the NASD have also been unable to agree on whether the CAES best bid and offer ("CAES BBO") which the NASD is required to provide the ITS participants for display on their exchange floors should be permitted to be "locked" [27] or "crossed".[28] Specifically, the ITS participants have proposed an amendment to the Plan permitting any ITS participant to not display the CAES quotation anythime it became locked or crossed. The NASD on the other hand, has argued that the CAES BBO should be displayed whether or not it was locked or crossed because, in light of the automatic execution capability of CAES, such quote was absolutely firm.

The Commission believes that it is inappropriate for the NASD to disseminate a locked or crossed CAES quotation. The Commission believes that CAES market makers who wish to lock or cross an existing quotation in CAES should instead by required to satisfy that quotation before disseminating their bid or offer. The dissemination of locked or crossed quotations may result in confusion of both market participants on the floor of the ITS exchanges as well as public investors. As a result, the Commission is proposing an amendment to the Plan regarding locked and crossed markets consistent with the ITS participants proposal.

(c) *Technical Amendments.*[29] (i) The ITS participants have proposed that certain requirements concerning market maker registration, such as the commitment requirement, be included in NASD rules that are acceptable to the ITS Exchange Participants to be adopted by March 1, 1982. The Commission is proposing more general language that would require the NASD only to "specify requirements" on these issues.

(ii) The ITS participants also have included a provision providing that the restated ITS Plan will not become

[25] Rule 10a-1 (17 CFR 240.10a-1) prohibits, with certain exceptions, (1) execution of a short sale in a security listed or admitted to unlisted trading privileges on a national securities exchange, and reported in the consolidated system, and (2) execution of a short sale on an exchange generally, at a price lower than the price at which the last sale was reported, or at the last sale price unless such price was above the next preceding different price reported in that security. In addition, paragraph (c) of Rule 10a-1 requires orders in securities listed or admitted to unlisted trading privileges on an exchange to be designated either " long" or "short."

[26] In light of the above, the Commission has instructed its staff to take a no-action position with respect to inadvertent violations of the short sale rule, involving unmarked commitments routed to CAES from an ITS exchange, which are caused by a CAES quotation change after the order is entered in ITS. Similarly, the Commission's staff is prepared to take a no-action position with respect to inadvertent violations of the short sale rule involving unmarked orders entered into CAES by a CAES order routing firm that are forwarded through the ITS–CAES interface by a CAES market maker, as long as the short sale would have been proper at the time the order was entered into CAES. Finally, the Commission's staff is prepared to take a no-action position with respect to the Rule 10a–1(c) requirement that short orders directed to CAES market makers be identified as short.

[27] A "locked market" occurs when the displayed bid quotation is identical to the displayed offer quotation.

[28] A "crossed market"occurs when the displayed bid quotation is higher then the displayed offer quotation.

[29] While the Commission has attempted to include in its proposed amendments the major substantive provisions contained in the latest draft plan of the ITS participants, due to the late receipt of that draft by the Commission, certain non-substantive drafting changes have not been included. In addition, the NASD has informed the Commission that it has not yet had an opportunity to review a number of relatively minor changes included both in the ITS participants' latest draft and in the Commission's proposed amendments. These changes include (i) references to compliance with actions taken by the ITS Operating Committe since April 14, 1978 in Section 3(b) of the Plan and (ii) reports to participants concerning the pre-opening application in Section 7(g) of the Plan. The NASD also has expressed some reservation concerning the "fair competition" discussion in Section 10(d) of the Plan. Copies of the ITS participant's submission are available for public inspection at the Commission's Public Reference Room, 1100 L Street, N/W, Washington, D.C. 20549.

effective until (1) approved by the Boards of Directors of each participant; (2) approved by the Commission; and (3) CAES market makers begin to use the interface. This provision is inconsistent with the Commission's present intention to initiate amendments to the ITS Plan under its own authority, and has been deleted.

IV. Conclusion and Request for Comments

Although recently the final testing of the interface has fallen slightly behind schedule, in general, the technical development of the interface has proceeded smoothly. The Commission is troubled, however, that the ITS Participants and the NASD have allowed a small number of relatively minor ITS plan issues, and extraneous concerns about internalization in the limited context of the Rule 19c–3 experiment, to impede progress toward agreement on ITS Plan amendments essential to the operation of the interface. The Commission recognizes that the ITS participants, the NASD, and other interested industry participants have not reached an accommodation on the internalization question, but the Commission continues to believe that resolution of internalization concerns is not a prerequisite to implementation of the automated interface.[30]

With respect to the ITS Plan issues, the Commission refrained from interjecting its views during the negotiation process on the ITS Plan amendments, and granted the negotiating parties an extensive period in which to arrive at mutually-acceptable amendments, even after the November 1, 1981 deadline for submission of these amendments had passed. However, in view of the parties' failure to submit amendments to the Commission, the Commission now is compelled, as a last resort, the publish for comment its own proposed amendments to the ITS Plan, in order to facilitate the resolution of the few remaining issues, and as the first step toward implementation of the interface.

The Commission's proposed amendments (1) contain amendments agreed upon by the parties, (2) defer resolution of those provisions of the Plan that the parties have agreed to defer, and (3) propose compromise solutions to issues that have not been agreed upon by the parties. The Commission views these amendments as providing an appropriate and acceptable basis for the operation of the automated interface mandated by the Commission's Order.

However, while the Commission has sought to resolve the outstanding ITS Plan issues in a manner both fair to the parties concerned and consistent with the objectives of the national market system, the Commission solicits the views of the NASD, the ITS participants, and other interested parties concerning the Commission's proposed solutions to the issues discussed previously and any other issues in the ITS Plan. In particular, the Commission solicits comment on whether there are other elements latent in the proposed ITS Plan and not specifically addressed by the Commission that might foreseeably raise difficulties in the implementation or operation of the interface or the ITS in the future.

The Commission recognizes that its proposed amendments do not provide the only possible resolution of the remaining ITS Plan issues. Although the Commission has been compelled by the importance of the interface for the development of the national market system to propose its own amendments to the ITS Plan, the Commission strongly prefers that these issues be settled by mutual agreement among the ITS participants and the NASD. The Commission continues to urge the parties to reach agreement and submit their own ITS Plan amendments in a timely fashion, so that the Commission will have an opportunity to consider any amendments proposed by the NASD and the ITS participants by the end of the comment period, and to determine whether to approve these amendments in place of its own proposed amendments to the ITS Plan.

The Commission invites interested persons to comment on these proposed amendments not later than March 31, 1982.

V. Deferral of the Implementation Date of the Interface

The Commission is sensitive to the urgency of implementing the automated interface, and has proposed its own amendments to the ITS Plan in order to minimize the delays likely to result from the deadlock of the NASD and the ITS participants on the ITS Plan issues. However, the Commission notes that the testing of the interface between CAES and ITS has fallen somewhat behind schedule, and as a result the interface will not be technically operational for several weeks after March 1, 1982. In addition, the Commission has established a comment period, ending March 31, 1982, in order to obtain the benefit of public comments on its amendments and to allow the parties to present alternative ITS Plan amendments on their own initiative. In view of the delays in the testing of the interface, and to allow time for the Commission to study the comments received and take final action on these proposed amendments or amendments submitted by the parties, the Commission has determined to postpone the date on which the automated interface must be implemented. Accordingly, the Commission is amending the Order mandating the development and implementation of the automated interface to defer the interface's implementation date to May 1, 1982.

VI. Regulatory Flexibility Act Considerations

The Regulatory Flexibility Act, which became effective on January 1, 1981, imposes new procedural steps applicable to rulemaking which has a "significant economic impact on a substantial number of small entities".[31] The Chairman of the Commission has certified pursuant to the Regulatory Flexibility Act that the proposed amendments to the ITS Plan, if adopted, will not have a significant economic impact on a substantial number of small entities, because, in the first instance, the amendments to the ITS Plan only directly apply to exchange participants in the ITS Plan, all of which are subject to Rule 11Aa3–1 reporting requirements, and the NASD.[32] Although certain of the proposed amendments may have an indirect effect upon broker-dealers participating in CAES as market makers, virtually none of these broker-dealers are small businesses as defined in Rule

[30] Furthermore, the Commission notes that, in order for an intenalization rule agreed upon by the industry to be in effect by the May 1, 1982 commencement date of the interface, the necessary self-regulatory organization rules and ITS Plan amendments providing for such a rule must be submitted to the Commission no later than March 31, 1982, in order to allow the Commission to publish such rules and amendments for public comment.

[31] The Commission has adoped definitions of the term "small entity" for purposes of Commission rulemaking in accordance with the Regulatory Flexibility Act. These definitions, as relevant to this rulemaking, are set forth in Rule 0–10, 17 CFR 240.0–10. *See* Securities Exchange Act Release No. 18452 (January 28, 1982), 47 FR 5215. Under Rule 0–10, an exchange is a "small business" or "small organization" if it is exempt from the reporting requirements of § 240.11Aa3–1. A broker or dealer is a small business or small organization, if, generally, it had total capital of less than $500,000 on the last business day of the preceding fiscal year or in the time it has been in business, if less than a year, and is not affiliated with any person that is not a small entity as defined in Rule 0–10.

[32] The NASD, a self-regulatory organization, and the sole registered securities association, is not a "small business" or "small organization" for purposes of the Regulatory Flexibility Act. *See* Securities Exchange Act Release No. 17645 (March 20, 1981), 46 FR 19251 at 19260, note 39.

0–10, 17 CFR 240.0–10. In addition, the amendments would not have a substantial economic impact upon these broker-dealers, since the amendments provide these broker-dealers with the benefits of access to ITS in certain securities, and the only significant limitation which could affect these broker-dealers, the possible commitment requirement discussed previously, is relatively minor in nature.

VII. Text of Its Plan Amendments

The Securities and Exchange Commission hereby proposes to amend the ITS Plan to provide for the inclusion of the NASD as a participant in ITS, pursuant to Rule 11A3–2(b)(2) and (c)(1) and the Commission's authority under Section 11A(a)(3)(B) of the Act.[33] The text of the amended ITS Plan is as follows:

Agreement made as of the first day of May, 1982, among American Stock Exchange, Inc., Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., National Association of Securities Dealers, Inc. (the "NASD"), New York Stock Exchange, Inc., Pacific Stock Exchange, Inc. and Philadelphia Stock Exchange, Inc.

Whereas, the undersigned national securities exchanges are parties to the plan submitted to the Securities and Exchange Commission (the "SEC") for the purpose of creating and operating an intermarket communications linkage pursuant to section 11A(a)(3)(B) of the Securities Exchange Act of 1934, as amended, (the "Act"), such plan having been originally approved on an interim basis by order issued by the SEC as evidenced by Release No. 34–14661 (April 14, 1978), which temporary approval was extended through January 31, 1983, by subsequent orders issued by the SEC as evidenced by Releases 34–15058 (August 11, 1978) and 34–16214 (September 21, 1979), and

Whereas, by order issued by the SEC as evidenced by Release No. 34–17744 (the "Linkage Order"), the undersigned national securities exchanges and the NASD are directed to implement an "Automated Interface" between such intermarket communications linkage and "CAES" (defined hereinafter) and in connection therewith to submit to the SEC proposed amendments to such plan reflecting the inclusion of the NASD as an "ITS Participant," all as more fully specified in the Linkage Order.

Now, therefore, in consideration of the premises and the mutual covenants and agreements contained herein, the parties agree to amend and restate such plan as heretofore amended to read in full as follows and to submit this Agreement to the SEC for approval of the amendments contained herein by an order issued pursuant to section 11A(a)(3)(B) of the Act and Rule 11Aa3–2 thereunder.

1. *Definitions.* (1) "Application" means any use of the System to facilitate trades between Participant Markets that is described in the ITS Plan.

(2) "Best" as used with reference to bids (offers) means (a) the bid (offer) that is highest (lowest); (b) if two or more bids (offers) meet criterion (a), the bid (offer) between or among them with which the largest size is associated; or (c) if two or more bids (offers) meet criteria (a) and (b), the bid (offer) between or among them received in the consolidated quotation system first in time.

(3) "CAES" means the "Computer Assisted Execution System," the computerized order routing and execution facility, as from time to time modified or supplemented, that is operated by NASD Market Services, Inc. ("MSI"), a wholly-owned subsidiary of the NASD, and that is supervised and surveilled by the NASD and made available to NASD members by MSI. CAES is not part of the System.

(4) "CAES Supervisory Center" means the premises of the NASD at which is located the ITS supervisory station that monitors the ITS/CAES Third Market as described in section 5(a)(i).

(5) "CAES Switch" means the message routing switch within CAES through which are routed all communications between the System and the ITS/CAES Third Market other than those originating in or destined for the ITS station located in the CAES Supervisory Center.

(6) "CTA Plan" means the plan filed with the SEC pursuant to SEC Rule 17a–15 (subsequently amended and redesignated as Rule 11Aa3–1), approved by the SEC and declared effective as of May 17, 1974, as from time to time amended.

(7) "CTA Plan Processor" means the organization serving as recipient and processor of last sale prices under the CTA Plan.

(8)"Designated Dealer" has the meaning assigned to that term in CSE Rule 11.9 as in effect on January 26, 1981 and applies only to the CSE.

(9) "Eligible Security" has the meaning assigned to that term in the CTA Plan.

(10) "Exchange (Participant's) Market" means the securities trading floor(s) of an Exchange Participant except that, in the case of the CSE, "Exchange (Participant's) Market" means the premises on which NSTS terminals are located, NSTS and the ITS stations located on the CSE floor.

(11) "Exchange Participant" means a Participant that is a national securities exchange.

(12) "Intermarket Trading System" ("ITS") means the Application described in section 6.

(13) "ITS/CAES BBO" has the meaning assigned to that term in section 6(a)(i)(B).

(14) "ITS/CAES Interface" means the automated linkage between the System and the CAES Switch that enables ITS/CAES Market Makers to participate in the Applications.

(15) "ITS/CAES Market Maker" means a NASD member that is registered as a market maker with the NASD for the purposes of the Applications with respect ot one or more specified ITS/CAES securities as more fully described in section 8(f). A NASD member so registered is an ITS/CAES Market Maker only with respect to those one or more specified ITS/CAES securities as to which he is so registered and only during such period as such registration is not suspended.

(16) "ITS/CAES security (stock)" means a security (stock) (a) that is a System security, (b) that is a 19c–3 security and (c) as to which one or more ITS/CAES Market Makers are registered as such with the NASD for the purposes of the Applications. During the NASD Pilot Phase, "ITS/CAES ssecurities (stocks)" include only those 30 of such securities (stocks) that had the largest aggregate share volume as reported in the consolidated transaction reporting system during the fourth quarter of 1981. When used with reference to a particular ITS/CAES Market Maker, "ITS/CAES security" means any such security (stock) as to which the particular ITS/CAES Market Maker is so registered.

(17) "ITS/CAES station" means a CRT terminal (that is, a cathode ray tube and a keyboard) and its associated printer that are located on the premises of an ITS/CAES Market Maker and through which such ITS/CAES Market Maker is authorized and enabled to direct communications to, and receive communications from, the System via the CAES Switch. ITS/CAES stations are part of CAES and therefore not part of the System.

(18) "ITS/CAES Third Market" means the markets of ITS/CAES Market Makers in ITS/CAES securities as to which they are registered as such with the NASD for the purposes of the Applications and, when used in a physical sense, includes the premises on which are located ITS/CAES stations,

[33] 5 U.S.C. 78k–1(a)(3)(B). Section 11A(a)(3)(B) authorizes the Commission, in furtherance of its statutory directive to facilitate the development of a national market system, by rule or order, to authorize or require self-regulatory organizations to act jointly with respect to matters as to which they share authority under the Act in planning, developing, operating, or regulating a national market system (or a subsystem thereof) or one or more of the facilities thereof.

CAES and the CAES Supervisory Center.

(19) "ITS Plan" means the plan amended and restated in this instrument as from time to time amended in accordance with the provisions hereof.

(20) "ITS station" means a CRT terminal (that is, a cathode ray tube and a keyboard) and its associated printer or a card reader and its associated printer that are located on the floor of an Exchange Participant or in the CAES Supervisory Center and are used to enter and receive System communications into and from the System.

(21) "Market Maker" as used with reference to any System security means (a) as applied to an Exchange Participant other than the CSE, a specialist registered in such security; (b) as applied to the CSE, a Designated Dealer registered as such with the CSE in such security; and (c) as applied to the ITS/CAES Third Market, an ITS/CAES Market Maker registered as such with the NASD in such security for the purposes of the Applications.

(22) "Member," "member in the market center," "member on the floor" and "member in the Participant" (and any derivative and comparable phrases) as applied to the CSE each mean one or more NSTS Users in their use of NSTS.

(23) "NASD Pilot Phase" means the pilot phase described in section 10(d).

(24) "19c–3 security" means an Eligible Security that is not a "covered security" as that term is defined in SEC Rule 19c–3 as in effect on February 1, 1982.

(25) "NSTS" means the CSE's "National Securities Trading System."

(26) "NSTS User" has the meaning assigned to the term "User" in CSE Rule 11.9 as in effect on January 26, 1981.

(27) "NYSE UFDC" means the NYSE's "Universal Floor Device Control System," a computerized system that when fully implemented will, to some extent, replace the original ITS stations on the NYSE floor. The NYSE UFDC is not part of the System, but accommodates the routing of communications by means of card readers and their associated printers ("NYSE UFDC stations").

(28) "Participant" means a party to the ITS Plan with respect to which such plan has become effective pursuant to section 13. As applied to the CSE and the NASD, "Participant" does not include within its meaning "Participant('s) Market."

(29) "Participant having responsibility for such Participant Market" (or any derivative phrase) refers to the responsibility stated in sectiion 3(b) and means, with respect to each Exchange Market, the Exchange Participant whose securities trading floor(s) or other facilities comprise the Exchange Market and, with respect to the ITS/CAES Third Market, the NASD.

(30) "Participant('s) Market" means each Exchange Market and the ITS/CAES Third Market.

(31) "Participant Switch" means, as applied to the NYSE, the NYSE UFDD and, as applied to the ITS/CAES Third Market, the CAES Switch.

(32) "Pre-Opening Application" means the Application described in section 7.

(33) "System" means the communications network that links electronically the Exchange Markets to one another and to the CAES Supervisory Center and the CAES Switch. The System includes (a) computers that perform such functions as message validation, processing, logging and switching, (b) high speed communications lines that link such computers with the Exchange Markets, with the CAES Supervisory Center, with the NYSE UFDC and with the CAES Switch and (c) ITS stations other than NYSE UFDC stations.

(34) "System security (stock)" means a security (stock) selected for trading through the Applications in accordance with section 5(b)(II).

(35) "System trade" means any trade made through any Application.

2. *Purpose of ITS Plan.* The purpose of the ITS Plan is to enable the Participants to act jointly in planning, developing, operating and regulating the System and the Applications as may be agreed upon by the Participants and described in the ITS Plan so as to further the objectives of Congress as set forth in section 11A(a) of the Act.

3. *Parties.*—(a) *List of Parties.* The parties to the ITS Plan are as follows:

American Stock Exchange, Inc. ("AMEX"), registered as a national securities exchange under the Act and having its principal place of business at 86 Trinity Place, New York, New York 10006.

Boston Stock Exchange, Inc. ("BSE"), registered as a national securities exchange under the Act and having its principal place of business at One Boston Place, Boston, Massachusetts 02108.

Cincinnati Stock Exchange, Inc. ("CSE"), registered as a national securities exchange under the Act and having its principal place of business at 205 Dixie Terminal Building, Cincinnati, Ohio 45202.

Midwest Stock Exchange, Inc. ("MSE"), registered as a national securities exchange under the Act and having its principal place of business at 120 South LaSalle Street, Chicago, Illinois 60603.

National Association of Securities Dealers, Inc., registered as a national securities association under the Act and having its principal place of business at 1735 K Street, N.W., Washington, D.C. 20006.

New York Stock Exchange, Inc. ("NYSE"), registered as a national securities exchange under the Act and having its principal place of business at 11 Wall Street, New York, New York 10005.

Pacific Stock Exchange, Inc., ("PSE"), registered as a national securities exchange under the Act and having its principal place of business at 618 South Spring Street, Los Angeles, California 90014.

Philadelphia Stock Exchange, Inc. ("PHLX"), registered as a national securities exchange under the Act and having its principal place of business at 1900 Market Street, Philadelphia, Pennsylvania 19103.

(b) *Compliance Undertaking.* By subscribing to and submitting the ITS Plan and become a Participant by agreeing, in an amendment to the ITS Plan for filing with the SEC, each undersigned party agrees to comply to the best of its ability and, absent reasonable justification or excuse, to enforce compliance by its members in their use of the System through its facilities with the provisions of the ITS Plan and with all actions taken by the Operating Committee since April 14, 1978.

(c) *New Participants.* The Participants agree that any other national securities exchange or national securities association may subscribe to the ITS Plan adopted in accordance with its provisions, to comply and to enforce compliance with the provision of the ITS Plan as provided in section 3(b).

4. *Administration of ITS PLan.*—(a) *Operating Committee: Composition, Voting.* Each Participant shall select one individual from its staff to represent such Participant as a member of the Operating Committee under the ITS Plan, together with a substitute for such individual. Such substitute shall participate in the deliberations of the Operating Committee and shall be considered a voting member thereof only in the absence of such individual. Each such individual (and, in his absence, his substitute) shall have one vote on all matters considered by the Operating Committee. Except as may be specifically otherwise provided herein, action taken pursuant to the vote of a majority of the members of the Operating Committee present at a meeting of the committee at which a majority of the full committee is present shall be deemed to be action of the Operating Committee.

(b) *Operating Committee: Authority.* The Operating Committee shall not be a policy making or a rule making body, but shall, either directly or by delegating its functions to individuals, subcommittees established by it from time to time or others, (i) oversee development of the System and the

Application in accordance with the specifications therefore agreed upon by each Participant, (ii) monitor the operation of the System and of the Applications and (iii) advise the Participants with respect to any deficiencies, problems or recommendations as the committee may deem appropriate in its administration of the ITS Plan. In this connection, the Operating Committee shall have authority to develop procedures and make administrative decisions necessary to facilitate the operation of the System in accordance with the provisions of the ITS Plan.

In addition to the foregoing, the Operating Committee shall have the specific powers and responsibilities stated in the ITS Plan. Any instance of possible misuse or improper use of the System that may come to the attention of the Operating Committee may, by action of the committee, be referred to the Participant(s) having responsibility for the Participant Market(s) in which such misuse or improper use may have occurred for such action as such Participant(s) may deem appropriate.

(c) *Amendments to ITS Plan.* Any proposed change in, addition to, or deletion from the ITS Plan may be effected only by means of a written amendment to the ITS Plan which sets forth the change, addition or deletion, is executed on behalf of each Participant and is approved by the SEC pursuant to section 11A of the Act and Rule 11Aa3-2.

(d) *Participant's Rights.* No action or inaction by the Operating Committee shall prejudice any Participant's right to present its views to the SEC or any other person with respect to any matter relating to the System or to seek to enforce its views in any other forum it deems appropriate.

5. *The System.*—(a) *System Monitoring.*—(i) *ITS Supervisory Stations.* In each Exchange Market and at the CAES Supervisory Center, there is an ITS supervisory station. Through each Participant's ITS supervisory station, the supervisor appointed by such Participant is able to mechanically (and, in the case of an Exchange Participant, visually) monitor the performance of such Participant's System components and/or of such Participant's facilities linked to the System. Each Exchange Participant's ITS supervisory station is also used as "backup" for its System components. "Commitments to trade," "responses," "administrative messages" and "names later" information (as hereinafter defined) can be entered from and received at such ITS supervisory station when necessary. The ITS station located in the CAES Supervisory Center can only enter and receive administrative messages and enter names, later information.

(ii) *Control Center.* The System also includes a control center, which monitors and controls communications within the System, including the processing of error conditions. The control center staff is able to display and when authorized by any Participant Market, to modify the security and market records of that Participant Market as such records relate to the System. The control center staff is also able to indicate whether or not any Participant Market is open for System trades. In addition, the control center may be used as "backup" for the ITS supervisory stations. The control center staff is, as noted in section 5(c), able to issue "system-wide broadcasts." Finally, the control center staff is able to enter adjustments of any trade based on requests from the supervisors monitoring the Participant Markets in which the buyer and seller were located and to perform data based control after trading hours.

(b) *General Operation.*—(i) *Registered Clearing Corporations.* The Applications accommodate only regular way trading, and all System trades must be compared, cleared and settled through clearing corporations registered with the SEC that maintain facilities through which such transactions may be compared and settled and that agree to supply each Participant with data reasonably requested in order to permit such Participant to enforce compliance by its members with its rules, the provisions of the Act, the rules and regulations thereunder, and the ITS Plan.

(ii) *Selection of System Securities.* The System is designed to accommodate trading in any Eligible Security in the case of Exchange Participants and, in the case of any ITS/CAES Market Maker, trading in the one or more ITS/CAES securities in which he is registered as such with the NASD for the purposes of the Applications. The particular securities that may be traded through the System at any time ("System securities") shall be selected by the Operating Committee. The Operating Committee may add or delete System securities as it deems appropriate and may delay the commencement of trading in any Eligible Security if capacity or other operational considerations shall require such delay. At the expiration of the NASD Pilot Phase, it is contemplated that all 19c-3 securities that are System securities shall automatically become ITS/CAES securities if there are one or more ITS/CAES Market Makers in such securities. ITS/CAES securities may be traded by Exchange Participants and ITS/CAES Market Makers as provided in the ITS Plan and other System securities may be traded by Exchange Participants as provided in the ITS Plan.

(c) *Administrative Messages.* Administrative messages, as distinguished from commitments to trade, responses thereto and trade adjustment inputs (including names later information), may also be sent through the System. In addition to a function designator, administrative messages consist of free form text, up to four lines of 40 characters each, and, depending upon the category of administrative message selected (by the destination information entered), may be sent to one, some or all ITS stations and/or ITS/CAES stations in one, some or all Participant Markets. Administrative messages are designated in accordance with the function they serve.

There are two categories of administrative messages that can be sent by Participant members: Single destination and security broadcast. A single destination administrative message is routed only to one ITS station or ITS/CAES station. A security broadcast administrative message relates to a particular security and is routed to the one or more Participant Markets chosen by the sender, where it is displayed and/or printed at those ITS stations and ITS/CAES stations which have been designated to receive security broadcasts relating to that particular security by the Participant(s) having responsibility for the destination Participant Market(s).

Administrative messages received by the System will be validated as to function designator, destination Participant Market(s), security symbol (if appropriate) and identification of the destination ITS station (if appropriate) before they are transmitted. If the administrative mesage proves invalid, it will be rejected and an appropriate error message will be sent to the ITS station or Participant Switch through which the message entered the System. All valid administrative messages will be logged and time stamped in the System and will result in an acceptance message being sent to the ITS station or Participant Switch through which the message entered the System.

Another category of administrative message, a "system-wide broadcast," may be sent through the System only from the ITS control center. A system-wide broadcast administrative message is sent to every ITS station and ITS/CAES station.

(d) *Facilities Manager.* The Securities Industry Automation Corporation ("SIAC"), the jointly owned subsidiary of the NYSE and the AMEX formed in 1972, serves as the System's facilities manager and has responsibility for the operation and maintenance of the System. SIAC performs its function as facilities manager in accordance with the provisions of the ITS Plan and subject to the administrative oversight of the Operating Committee.

6. *ITS*—(a) *General Operation*—(i) *Quotations.* ITS facilities trades between members located in different Participant Markets. Through ITS, a member in any Exchange Market may trade any System security provided that continuous two-sided quotations in such security are required to be, and are, furnished under section 6(a)(i)(B) by or on behalf of such Exchange Participant to the other Participants. Similarly, an ITS/CAES Market Maker may trade through ITS any System security as to which he is registered as such with the NASD for the purposes of the Applications so long as he maintains two-sided quotations in such security.

(A) Receipt of Quotations. While a quotation facility is not an Application, ITS presupposes that through the consolidated quotation system, each member in each Exchange Market, each NSTS User and each ITS/CAES Market Maker can easily obtain, for each security that he is permitted to trade through the System, the best bid price and the best offer price from among the bid and offer prices then being furnished to the Participant Market in which such member, NSTS User or ITS/CAES Market Maker is located by or on behalf of each other Participant. For each Exchange Participant, the "best quote" objective requires that, for each System security that it trades through ITS, it display prominently at the location on its trading floor at which that security is traded the best bid price and the best offer price from among the bid and offer prices then being furnished to that Exchange Participant by or on behalf of the other Participants. Each Exchange Participant other than CSE also agrees that there shall be available at the location on its trading floor at which any System security is traded through ITS a quotation service that disseminates the bid price and the offer price of such security then being furnished by or on behalf of each other Participant. In addition, the CSE agrees that, for each System security as to which continuous two-sided quotations are required to be furnished by it under section 6(a)(i)(B), there shall be available at each location at which NSTS terminals are located a quotation service that disseminates the bid price and the offer price then being furnished by or on behalf of each other Participant. Similarly, the NASD agrees that, for each ITS/CAES security in which an ITS/CAES Market Maker is registered as such with the NASD for the purposes of the Applications, there shall be available at each location on the premises of such ITS/CAES Market Maker at which ITS/CAES stations are located a quotation service that disseminates the bid price and the offer price then being furnished by or on behalf of each other Participants.

The obligations of this section 6(a)(i)(A) do not require the display of "locking" or "crossing" bid and offer prices. Any Participant receiving in its market a "locking" or "crossing" quotation from another Participant Market need not display such quotation in its market and may determine not to display thereafter any quotation from such other Participant Market in the affected security until a subsequent quotation not "locked" or "crossed" is received from such other Participant Market.

(B) Furnishing of Quotations. As to each System security that is traded on its floor, each Exchange Participant other than the CSE shall furnish, or cause to be furnished, to each "receiving Participant Market" as defined below, or to a person acting therefor, the current bid-asked quotation emanating from its trading floor. As to each System security that is assigned to one or more Designated Dealers, the CSE shall furnish, or cause to be furnished, to each receiving Participant Market, or to a person acting therefor, the current bid-asked quotation that the CSE makes available as required by SEC Rule 11Ac1-1 under the Act (or, if Rule 11Ac1-1 shall hereafter be amended, as would be required if Rule 11Ac1-1 were in effect in the form that it existed on February 1, 1982) as applied to the CSE in securities that are assigned to one or more Designated Dealers. The NASD, as to each ITS/CAES security, agrees to collect, or cause to be collected, from each ITS/CAES Market Maker registered as such with the NASD for the purposes of the Applications each current bid price and each current offer price as made by such ITS/CAES Market Maker, each such bid and offer to be accompanied by size. For each ITS/CAES security, the NASD or its agent (1) shall select the best bid price and the best offer price from the bid prices and offer prices so collected and (2) shall furnish, or cause to be furnished, to each Receiving Participant, or to a person acting therefor, such best bid price and best offer price, together with the sum of the sizes accompanying the bids and offers at the best bid price and best offer price (the "ITS/CAES BBO"). As to any System security, a Participant Market is a "receiving Participant Market" if (1) it is an Exchange Market in which the security is traded, (2) it is the CSE and the security is assigned to one or more Designated Dealers or (3) it is the ITS/CAES Third Market and the security is an ITS/CAES security in which one or more ITS/CAES Market Makers are registered as such with the NASD for the purposes of the Applications.

Each Participant shall to the best of its ability assure that accurate and timely quotations are furnished to receiving Participants Markets or a person acting therefor as provided in this section 6 (a)(i)(B), and that each such quotation is accompanied by size as required by Rule 11Ac1-1 as in effect on February 1, 1982. Each quotation so furnished, and any size indicated, shall be considered "firm" to the extent herein provided. Any quotation so furnished and not accompanied by size shall be considered firm for one unit of trading in the security quoted. Each bid price included in any quotation furnished by any Participant shall represent the price that shall be received by a member accepting that bid price through the System and each offer price included in any such quotation shall represent the price that shall be paid by a member accepting that offer price through the System.

(ii) *Description of ITS Transactions.* Through ITS, a member located in one Participant Market who wishes to buy (or sell), for example, 100 shares of a particular common stock that is also traded through the System by members in one of more other Participant Markets is able to buy the stock from (or sell the stock to) such member(s). For example, assume that a member firm of the NYSE receives from a customer an order to purchase 100 shares of a given NYSE listed stock that is also traded on the PSE and the PHLX and sends that order to the NYSE floor for execution. There, a NYSE member, acting as agent for the customer, will receive the order and attempt to execute it. We will go to the post at which the stock is traded on the NYSE and inquire as to the market for that stock. He may find that the best bid on the NYSE floor is 39⅞ and that the best offer is 40¼. The continuously updated quotation display at the same trading post will also show the broker the best bid and offer available throughout the System other than on the NYSE floor, identifying the Participant

Market with the best bid and the Participant Market with the best offer. Thus, the broker may discover that the best bid for the stock from other Participant Markets is a bid of 39⅞ on the PHLX and the best offer from other Participant Markets is one of 40⅛ on the PSE. Having learned this information, the broker may decided to attempt to buy the 100 shares for his customer from the 40⅛ offer on the PSE. By using an ITS station located on the NYSE trading floor, the broker would send, or cause to be sent, to the PSE a "commitment to trade" (in this case a commitment to buy) 100 shares of the stock at 40⅛. This commitment would be firm and irrevocable for a fixed period of time. If the 40⅛ offer on the PSE is still available when the commitment to buy reaches the PSE, or if a better offer is available, and if the rules of the PSE permit an execution at that price, then the PSE offer would accept the commitment during such time period and an execution at 40⅛ (or at the better price) would take place. The PSE would then report the trade to the CTA Processor for dissemination under the CTA Plan at 40⅛ (or at the better price) with the identifier assigned to the PSE.

If a trade involves the CSE, then, as a consequence of the location on the CSE floor of the ITS stations servicing CSE members, the commitment to trade or response thereto (and, as discussed below, all preopening notifications, responses thereto and other administrative messages) destined for or being sent on behalf of CSE members will leave and enter the System from the CSE floor. In the foregoing example, a trade involving the CSE would occur as follows. Assume that the stock in question is also one of the stocks as to which continuous two-sided quotations are required to be furnished by the CSE under section 6(a)(i)(B). Assume also that the continuously updated quotation display at the appropriate NYSE trading post shows that the best offer from other Participant Markets is one of 40⅛ on the CSE, rather than on the PSE. Having learned this information, the NYSE member may decide to attempt to buy the 100 shares for his customer from the 40⅛ offer on the CSE. By using an ITS station located on the NYSE trading floor, the broker would send, or cause to be sent, to the CSE floor a commitment to buy 100 shares of the stock at 40⅛. Upon receipt of the commitment at an ITS station located on the CSE floor, a CSE employee will determine whether the 40⅛ offer is still the best offer then being furnished by SCE members. If the 40⅛ offer is still available, or if a better offer is available, and if the rules of the CSE permit an execution at that price, then the CSE employee shall enter appropriated acceptances in both NSTS and the System during the applicable time period. As of entry of an acceptance into the System on behalf of the responsible CSE member, an execution at 40⅛ (or at the better price) would take place. The CSE would then report the trade to the CTA Plan Processor for dissemination under the CTA Plan at 40⅛ (or at the better price) with the identifier assigned to the CSE.

If a trade involves the ITS/CAES Third Market, the commitment to trade or response thereto destined for or originating with an ITS/CAES Market Maker will leave and enter the System at the CAES Switch. A trade involving the ITS/CAES Third Market would take place as follows. In the original example, assume that the stock in question is also an ITS/CAES security and that the order is for 300 shares. Assume also that when the NYSE member checks the continuously updated quotation display at the appropriate NYSE trading post, he sees that the best offer is one of 40⅛ for 300 shares from the ITS/CAES Third Market. Having learned this information, the NYSE member may decide to attempt to buy the 300 shares for his customer from the 40⅛ offer. By using an ITS station located on the NYSE trading floor, the broker would send, or cause to be sent, to the ITS/CAES Third Market a commitment to buy 300 shares of the stock at 40⅛.

When the commitment to buy is entered into the System, the System will route the commitment to the CAES Switch, which will in turn route the commitment to CAES. If the 40⅛ offer is still available when the commitment to buy reaches CAES, or if a better offer is available on behalf of an ITS/CAES Market Maker registered as such in the security described in the commitment, and if the rules of the NASD permit an execution at that price, then CAES would generate an acceptance of the commitment on behalf of one or more ITS/CAES Market Makers responsible for the 40⅛ offer (or the better offer) and route it to the CAES Switch. The CAES Switch would in turn route the acceptance to the System. The execution would occur at 40⅛ (or at the better price) if the applicable time period had not expired. CAES would report the trade to the CTA Plan Processor for dissemination under the CTA Plan at 40⅛ (or at the better price) with the same identifier that is assigned to the NASD.

If the example is reversed and an ITS/CAES Market Maker seeks to purchase 300 shares, then the ITS/CAES Market Maker would check the continuously updated quotation service located on his premises. Assume that he sees that the best offer is a 40⅛ offer for 300 shares on the PSE. Having learned this information, the ITS/CAES Market Maker may decide to attempt to buy the 300 shares from the 40⅛ offer. By using an ITS/CAES station located in his office, the market maker would send to the PSE a commitment to buy 300 shares of the stock at 40⅛.

When the commitment to buy is entered into the ITS/CAES station, the CAES Switch will route the commitment to the System, which will in turn route the commitment to the PSE. If the 40⅛ offer is still available when the commitment to buy reaches the PSE, or if a better offer is available, and if the rules of the PSE permit an execution at that price, then the PSE offer would accept the commitment during the applicable time period and an execution at 40⅛ (or at the better price) would take place. The PSE would then report the trade to the CTA Plan Processor for dissemination under the CTA Plan at 40⅛ (or at the better price) with the identifier assigned to the PSE.

(b) *Technical Matters*—(i) *Commitment Information, Expiration.* A commitment to trade shall, at a minimum:

(A) Include the number or symbol which identifies both (1) one clearing member if originating in an Exchange Market or, if originating with an ITS/CAES Market Maker, the ITS/CAES Market Maker or the broker-dealer through whom he clears System trades and (2) the clearing corporation through which the trade shall be settled,

(B) Direct the commitment to a particular Participant Market,

(C) Specify the security which is the subject of the commitment,

(D) Designate the commitment as either a commitment to buy or a commitment to sell,

(E) Specify the amount of the security to be bought or sold, which amount shall be for one unit of trading or any multiple thereof,

(F) Specify (1) a price equal to the offer or bid price then being furnished by the destination Participant Market, which price shall represent the price at or below which the security is to be bought or the price at or above which the security is to be sold, respectively, (2) a price at the clean-up price in the case of a commitment to trade sent in compliance with a Participant's block trade policy adopted pursuant to section 8(d)(iii), or (3) that the commitment is a commitment to trade "at the market,"

(G) Except with respect to commitments sent to or from an ITS/CAES market maker during the NASD Pilot Phase, designate the commitment "short" or "short exempt" whenever it is a commitment to sell short; this will permit the short sale rule as in effect

in the destination Participant Market to apply, and

(H) Specify the time period during which the commitment shall be irrevocable (if the time period is not specified in the commitment, the longer of the two available options shall be assumed by ITS).

The commitment shall be irrevocable for that time period following acceptance by the System as is chosen by the sender of the commitment. ITS provides two time period options, known as "T–1" (one minute) and "T–2" (two minutes). The sender of the commitment may designate which of the two options is to apply. The Operating Committee may from time to time change the length of the time period of either or both options.

(ii) *Quotations Precondition.* Each Exchange Participant shall assure that commitments to trade a particular security are not sent from or accepted at such Exchange Participant unless continuous two-sided quotations in such security are being furnished by such Exchange Participant to other Participant Markets. The NASD shall assure that commitments to trade are not transmitted from or to any ITS/CAES Market Maker except with respect to an ITS/CAES security (A) as to which he is registered as such with the NASD for the purposes of the Applications and (B) in which he is maintaining two-sided quotations.

(iii) *Commitment Pricing, Acceptance.* The rules of each Participant shall require that each commitment to trade sent through ITS (other than a commitment to trade "at the market" or a commitment sent in compliance with a Participant's block trade policy), if a commitment to buy, shall be priced at the offer price then being displayed from the Participant Market to which the commitment is sent and, if a commitment to sell, shall be priced at the bid price then being displayed from such Participant Market. In addition, such rules shall require that if the bid or offer that is sought by a commitment to trade received in such Participant's Market is still available when the commitment is received by the member(s) who made the bid or offer, the commitment shall be accepted by or on behalf of such member(s) up to the amount of such bid or offer unless acceptance is precluded by the rules of such Participant. In the event that the bid or offer that is sought by a commitment to trade is no longer available in the receiving Participant Market, but a new bid or offer is available in that market which would enable the commitment to trade to be executed at a price that, from the standpoint of the sender of the commitment, is at least as favorable as the price specified in the commitment, then, under the rules of such Participant, the commitment shall be accepted by or on behalf of the member(s) who made such new bid or offer at the price and up to the amount of such new bid or offer unless acceptance is precluded by the rules of such Participant. Such rules shall require that the price specified in the commitment (or if, from the standpoint of the sender of the commitment, a better price is received, then such better price) shall be the price reported to the CTA Plan Processor and, when an agency transaction, shall also be the price of the transaction as confirmed by each member participating in the transaction to his customer. The rules of each Participant shall provide that a commitment to trade received in such Participant's Market shall be executed in whole or, if not possible, in part as soon as it reaches the member(s) having the acceptance obligation described above in this paragraph and any portion not so executed shall be cancelled: *Provided, however,* That the commitment shall remain irrevocable for the time period chosen by the sender of the commitment as discussed in section 6(b)(i).

For the purpose of the preceding paragraph, a commitment is received or reaches one or more members (A) in the case of an Exchange Participant other than the CSE, when the commitment is received by such member(s), (B) in the case of the CSE, as provided below in this paragraph, and (C) in the case of the ITS/CAES Third Market, when the commitment is received by CAES. In order to effect the requirements of the preceding paragraph as they apply when a commitment to trade is received in the CSE, the CSE shall require a CSE employee, promptly following receipt of a commitment to trade at an ITS station located on the CSE floor, to ascertain whether the best bid or offer then available in NSTS equals or betters the bid or offer sought by the commitment. If such is the case, and if the CSE rules otherwise permit an execution, the CSE shall require the employee to enter an "immediate or cancel" order in NSTS at the price of such best bid or offer and at the size associated therewith (but not in excess of the size associated with the commitment) and, upon receipt of an execution in NSTS, to accept the commitment at such price in the amount of the size of the NSTS execution and to reject any balance of the commitment. If such is not the case, the CSE shall require the employee to immediately reject the entire commitment.

(iv) *Commitment Validation, Routing.* At the time of transmission, each commitment undergoes validation procedures. If the commitment passes the validation procedures, the System assigns a unique commitment identifier number (a "CID") to the commitment, time stamps it and logs it on a mass storage device (the "daily log"). The System also sends a transmission acceptance message to the Participant Market that originated the commitment. The commitment is then routed to the destination Participant Market. If the commitment is accepted, in whole or in part, in the destination Participant Market, the execution is reported back through the System to the originating and receiving Participant Markets.

If the commitment is not accepted or rejected during the applicable T–1 or T–2 time period (which commences to run upon the time stamping of the commitment when it is accepted by the System), the commitment is automatically canceled by the System at the end of the applicable time period and such cancellation is entered in the daily log and reported to the originating and receiving Participant Markets. A commitment to trade may also be rejected within the applicable T–1 or T–2 time period in the receiving Participant Market. In the case of any such rejection, the commitment shall be canceled and such cancellation shall be reported to the originating Participant Market and confirmed to the receiving Participant Market. The rules of each Exchange Participant shall provide that when a commitment to trade received on its floor is to be rejected, the Participant Market in which such commitment originated shall be notified of such rejection as promptly as possible. The NASD shall assure that a commitment to trade received in CAES shall be processed as if an "immediate or cancel" order.

If the commitment fails the validation procedures, its transmission is rejected by the System and an appropriate error message is sent to the Participant Market that originated the commitment. In the case of a commitment transmission originating in or destined for an Exchange Participant, such transmission is also rejected if either the originating Exchange Participant or destination Exchange Participant is not open for trading. In the case of a commitment transmission destined for the ITS/CAES Third Market, such commitment transmission is rejected if the CAES Switch is not operating.

(v) *Response Validation; Partial Executions.* Each response to a commitment to trade must also be validated by the System when entered. The CID must compare with that of the

original commitment. The response, if an execution, must represent the contra side of the original commitment. The response must (A) identify as the contra side one or more clearing members, (B) indicate that all of the one or more clearing members (or the rest of the clearing members, if one or more, but not all, clearing members are identified in the response) will be identified to the System through a subsequent "names later" message or (C) in the case of the CSE, name the CSE itself. The response may report an execution, either in whole or in part, or may report a rejection of the commitment. If an execution is reported, the size executed must be equal to or smaller than the committed size. The execution price must equal or better the committed price. The validation process also assures that the commitment associated with the response has not been previously executed and has not expired through passage of time.

The System rejects the transmission of a response that fails the validation check and sends an appropriate error message to the Participant Market that originated the response. The validation of a response causes the System to retrieve the related commitment from the daily log and update it with appropriate response information. This log forms the basis from which the after-hours reports described in section 9 (a) are produced. Validation also causes the System to send a transmission acceptance message to the Participant Market that originated the response. The System then sends that response to the Participant Market that originated the commitment.

When a commitment is only partially executed, the unexecuted shares are not filled, and the System generates a cancellation for the unexecuted quantity and appends the cancellation to the execution report that it sends to the Participant Market that originated the commitment.

7. *Pre-Opening Application*—(a) *Description of Pre-Opening Application.* The Pre-Opening Application enables a market maker in any Participant Market who wishes to open his market in a System security to obtain through the System any pre-opening interest of other market makers registered in that security in the other Participant Markets. In this way a market maker in a given stock in one Participant Market may be able to participate (as agent and/or principal) in the opening transaction in that stock in another Participant Market and thus may be able to provide an execution for limited price orders left with him that would otherwise go unexecuted.

The Pre-Opening Application operates as follows: whenever a market maker in any Participant Market, in arranging an opening transaction in his market in a System stock, determies that the opening transaction will be at a price which is more than ¼ of a point away from the last price at which a transaction in that stock was reported by the CTA Plan Processor on the last previous day on which transactions in such stock were reported by the CTA Plan processor (the "previous day's closing price"), the rules of the Participant governing such market maker (the "inquiring market maker") will require the inquiring market maker to notify market makers in that stock in the other Participant Markets of such situation by sending a security broadcast administrative message, called a "pre-opening notification," through the System. Thereafter, the inquiring market maker is prohibited from opening the stock in question in his market until not less than five minutes (or such lesser period of time as may be established by the Operating Committee pursuant to section 4(e)) after his transmission of the pre-opening notification.

The pre-opening notification is designated as such, identifies the stock and states the side of the market in which the order imbalance exists, the amount of the imbalance (if any) and the amount paired offer (if any) at the first price that is more than ¼ of a point (or such other fraction of a point as may be established by the Operating Committee pursuant to section 4(e)) away from the previous day's closing price in the same direction as the anticipated opening price. For example, assume the inquiring market maker in XYZ stock holds the following orders:

Buy	Sell
7000 at market	1000 at market.
200 at 40	
300 at 40⅛	500 at 40⅛.
1500 at 40¼	500 at 40¼.
	1000 at 40⅜.
	500 at 40⅜.
2000 at 41	

Assume also that the previous day's closing price in XYZ was 40, that the applicable notification parameter is ¼ of a point and that the inquiring market maker, on the basis of the orders he then has, contemplates opening XYZ in his market at a price that is more than ¼ of a point away from the previous day's closing price. The inquiring market maker, under these circumstances, must send a pre-opening notification through the System to each other market maker in XYZ stock in any Participant Market. The pre-opening notification would identify itself as a pre-opening notification, would identify the inquiring market maker and the Participant Market in which he is located, would identify the stock in question as XYZ and would state:

"Buy—6000.....Paired—3000."

This message indicates that the imbalance experienced by the inquiring market maker is on the buy side of the market and that, after pairing orders for 3000 shares of XYZ at the first price higher than 40¼ (i.e., 40⅜), there would remain 6000 shares to buy or, in other words, the inquiring market maker would be required to sell as principal 6000 shares in order to permit an opening transaction at the price of 40⅜. The pre-opening notification would not indicate the opening price contemplated by the inquiring market maker. The market maker(s) receiving the pre-opening notification (the "receiving market maker(s)") would only know that the imbalance stated in the pre-opening notification exists at 40⅜.

If any receiving market maker wishes to respond to the pre-opening notification, he could do so by sending through the System to the inquiring market maker a security broadcast administrative message, known as a "pre-opening response," showing separately at each price level at which the stock might open his interest as principal for his own account and as agent for orders left with him. Assume the following is the order situation in XYZ stock on the PSE with the PSE specialist's interest as principal (reflected on a cumulative share basis) also shown at various price levels:

Sell as agent	Sell as principal
500 at market	
500 at 40⅛	
500 at 40¼	1,000
500 at 40⅜	3,000
1000 at 41	3,000

The PSE specialist (a "responding market maker") would, if he desired to participate in the inquiring market maker's opening transaction in XYZ, send a pre-opening response. The response would be designated as such, would identify the PSE specialist, the PSE and stock XYZ, and would show his market and limit orders both as agent and as principal on a netted share basis.* The netted amount of shares to

*The pre-opening response from the ITS/CAES Third Market will aggregate the ITS/CAES Third

buy or sell, whichever the case may be, at each indicated price level would be on a cumulative share basis and would include the net amount of shares representing market orders. Alternatively, market orders may be shown separately. Thus, a pre-opening response might be generated as follows:

Price	Sell as agent	Sell as principal
40⅛	1,000	
40¼	1,500	1,000
40⅜	2,000	3,000
41	3,000	3,000

In the above illustration, the 2,000 shares shown in the agency column at 40⅜ take into account the 500 shares to sell at the market, the 500 shares to sell at 40⅛ and the 500 shares to sell at 40¼. In addition, the response shows the principal interest of the PSE specialist on a cumulative basis.

The pre-opening response illustrated consists of four separate obligations to sell by the responding market maker. Upon receiving the obligations to sell from the responding market maker, the inquiring market maker would combine them with the orders he already holds in XYZ and, on the basis of this aggregated information, decide upon the opening transaction in XYZ. If he decided to open XYZ at 40⅜ (and if there had been no change in his order situation other than that which was furnished to him by the responding market maker), the opening transaction at 40⅜ would be for 9,000 shares. 5,000 of the shares would represent paired agency orders held by the inquiring market maker and the responding market maker. The remaining 4,000 shares needed to fill the remaining customer buy interest at 40⅜ would be supplied by the two market makers as principal on an allocated basis that permits the inquiring market maker to supply half the imbalance. In the case illustrated each of the two would supply 2,000 shares as principal. Unexecuted at the opening would be all buy limits below 40⅜ (totaling 2,000 shares), sell limit orders above 40⅜ (totaling 500 shares), and the 1,000 share obligation to sell at 41 received from the PSE specialist.

(b) *Allocation of Imbalances.* Whenever pre-opening responses from one or more responding market makers include obligations to take or supply as principal more than 50 percent of the imbalance at the opening price, an inquiring market maker will be permitted to take or supply as principal 50 ercent of the imbalance at such price, rounded up or down as may be necessary to avoid the allocation of odd-lots. In any such case, where the pre-opening response is from more than one responding market maker, the remaining imbalance (which may be greater than 50 percent if the inquiring market maker elects to take or supply less than 50 percent of the imbalance) will be allocated among them in proportion to the amount each obligated himself to take or supply as principal at the opening price in his pre-opening response, rounded up or down as may be necessary to avoid the allocation of odd-lots. For the purpose of this section 7(b), multiple responding market makers in the same System security in the same Participant Market shall be deemed to be a single responding market maker. (*See* Section 7(f).)

(c) *Subsequent Notifications.* If the order situation in the inquiring market maker's market changes significantly because of new orders received from within the Participant Market in which he is located or because of the pre-opening responses he has received, such Participant's rules will require such inquiring market maker to issue an additional pre-opening notification. These order situations are described below. Except in the case of a "second look" notification made as provided in section 7(c)(iv), the additional pre-opening notification will be a security broadcast administrative message containing the same kind of information as is required in the original pre-opening notification.

(i) *Reversal of Imbalances.* Where a pre-opening notification identifies an imbalance on one side of an inquiring market maker's market and, prior to his opening of the stock in question, the imbalance in his market has reversed so that an imbalance exists on the other side of the market, each Participant's rules will require such inquiring market maker to issue a replacement pre-opening notification (a "reversal" notification) before opening his market in the stock if he contemplates opening the stock at more than ¼ of a point (or such other fraction of a point as may be established by the Operating Committee pursuant to section 4(e)) away from the previous day's closing price. Thereafter, under such rules, the inquiring market maker will be prohibited from opening the stock in question in his market until not less than five minutes (or such lesser period of time as may be established by the Operating Committee pursuant to section 4(e)) after his transmission of the reversal notification.

(ii) *Increase or Decrease in Imbalance.* Where (A) the number of shares represented by paired agency orders plus the imbalance indicated in a pre-opening notification increases or decreases 50 percent or more before the applicable waiting period has elapsed, and (B) the opening transaction is expected to be for 5000 shares or more, each Participant's rules will require the inquiring market maker to issue a replacement pre-opening notification (an "additional" notification) before opening his market in the stock. Thereafter, under such rules, the inquiring market maker must wait either (A) one minute or (B) until the waiting period applicable to the original pre-opening notification expires, whichever is longer, before opening his market (*i.e.*, if more than one minute of the waiting period has not yet expired at the time the alteration notice is sent, the inquiring market maker must wait for the rest of the period to pass before opening his market).

(iii) *Shift to within Price Parameter.* Each Participant's rules will also require the inquiring market maker to notify the receiving market maker(s) prior to opening the stock in question if the imbalance indicated in the pre-opening notification has been reduced, eliminated or reversed so as to indicate an opening price not more than the applicable fraction of a point away from the previous day's closing price. Such a notice (an "altered" notification) will state: "XYZ PRE-OPENING NOTIFICATION ALTERED." Under such circumstances, the inquiring market maker must wait either (A) one minute or (B) until the waiting period applicable to the orginal pre-opening notification expires, whichever is longer, before opening his market (*i.e.*, if more than one minute of the waiting period has not yet expired at the time the alteration notice is sent, the inquiring market maker must wait for the rest of the period to pass before opening his market).

(iv) *Participation as Principal Precluded ("Second Look").* If a responding market maker who has indicated interest as principal in his pre-opening response would be precluded from participation at the contemplated opening price as principal, the rules of each Participant will require the inquiring market maker to send a single destination administrative message notifying such responding market maker of the price and size at which he could participate as principal (a "second look" notification). Thereafter, under such

Market interests to buy, separately identifying the aggregate interests to buy as agent and the aggretate interest to buy as principal, and will also aggregate the ITS/CAES Third Market interests to sell, separately identifying the aggregate interests to sell as agent and the aggregate interest to sell as principal.

rules, the inquiring market maker would be required to wait either (A) one minute or (B) until the waiting period applicable to the original pre-opening notification expires, whichever is longer, before opening his market.

(d) *Sole Means of Pre-Opening Routing.* The rules of each Participant will also provide that when a pre-opening notification as to any security is received in such Participant's Market, the receiving market maker(s) shall submit any obligations to trade that security as principal for his or their own accounts to an inquiring market maker only through the Pre-Opening Application and shall not send orders to trade that security for his or their own accounts to the inquiring market maker for participation at the opening in the inquiring market maker's market by any other means. The foregoing sentence shall have no application to orders sent by the receiving market maker prior to the issuance of the pre-opening notification. However, prior to the opening of trading in a security in any Participant Market (or prior to the resumption of trading in any Participant Market following a Regulatory Halt in such security as referred to in section X of the CTA Plan), no obligation to trade, commitment to trade or order in such security (as either principal or agent) shall be sent through the System to such Participant Market until a pre-opening notification in such security has been issued from such Participant Market.

(e) *Treatment of Obligations to Trade.* Such rules shall also provide that an inquiring market maker, in receiving a pre-opening response, shall accord to any obligation to trade as agent included in such response the same treatment as he would to an order entrusted to him as agent in his own market at the same time such obligation was received.

(f) *Duration of Obligations to Trade; Aggregation.* Responses to pre-opening notification shall be voluntary, but, under the rules of each Participant, each obligation to trade that is included in any pre-opening response, or in any modification of a pre-opening response, shall remain binding on the responding market maker, and on any person for whom he is acting, until the inquiring market maker has either opened the stock in question or received a cancellation or modification of such obligation. A pre-opening reponse that has the effect of further increasing the imbalance indicated in the pre-opening notification shall not be rejected by an inquiring market maker for that reason alone. In the case of (i) the assignment of a System stock to more than one specialist located on the same floor of any Exchange Participant or to more than one Designated Dealer (in the case of the CSE) or (ii) the registration of more than one ITS/CAES Market Maker as such in any ITS/CAES stock, the Exchange Participant, the CSE or the NASD (as the case may be) shall assure that information pertaining to such stock received from such specialists, Designated Dealers or ITS/CAES Market Makers is aggregated for the purpose of sending pre-opening notifications and responses through the System.

(g) *Reports of Participation.* Promptly following the opening in any stock as to which an inquiring market maker issued a pre-opening notification, the inquiring market maker shall report to each responding market maker (or if, as described in section 7(f), a pre-opening response contained the aggregate interests of more than one responding market maker, to the Participant responsible for the market in which the responding market makers are located) (i) the amount of stock purchased and/or sold, if any, by the responding market maker(s) in the opening transaction and the price thereof or (ii) if the responding market maker(s)'s response included principal interest at the opening price that did not participate in the opening. The Participant responsible for a market from which the aggregate responses of more than one responding market maker were received shall, following its receipt from an inquiring market maker of notice of the participation of such responding market makers at the opening transaction, provide the identity of each such market maker (or the clearing member who settles System trades on his behalf) and his allocated size to the System through the "names later" mechanic described in section 6(b)(v).

(h) *Applicability following Regulatory Halts.* The Pre-Opening Application shall apply prior to any resumption of trading and of the dissemination of quotations in the third market following a Regulatory Halt by any Exchange Participant, as referred to in section X of the CTA Plan, if trading has been halted in all Exchange Markets and, when the affected security is an ITS/CAES security, if the NASC has suspended quotations in the affected security. In such a circumstance, the determination of whether a pre-opening notification must be sent shall be made with reference to the price reported by the CTA Plan Processor that pertains to the last transaction in the affected security prior to the Regulatory Halt. The Pre-Opening Application shall not apply when trading in any Participant Market is resumed following (i) the initiation of a Regulatory Halt on all Participants and, when the affected Security is an ITS/CAES security if the NASD has not suspended quotations in the affected security or (ii) any other type of halt in trading or when quotations in the third market are resumed following their suspension by the NASD for any other reason.

8. *Participants' Implementation Obligations*—(a) *System Access.* Each Exchange Participant shall determine where on its floor ITS stations are to be located, but each Exchange Participant agrees that ITS stations shall be conveniently located on its floor so as to encourage the use, supervision and surveillance of the System and its Applications. Each Exchange Participant other than the CSE shall also determine who shall have access to the ITS stations on its floor. ITS stations located on the CSE floor shall be accessible only to CSE employees. Each ITS/CAES station shall be accessible only to the ITS/CAES Market Maker on whose premises the station is located and to his employees. The ITS station located at the CAES Supervisory Center, and components of CAES and of any other NASD-sponsored facility linked to the System other than those located on the premises of ITS/CAES Market Makers, shall be accessible only to employees of the NASD or its subsidiaries. No commitment to trade any security shall originate in the ITS/CAES Third Market otherwise than as a consequence of an ITS/CAES Market Maker registered as such in the security with the NASD for the purposes of the Applications (or his employee) entering the commitment into the ITS/CAES station located on his premises. Any commitment so originating shall be routed directly to the system through the CAES Switch. Each Participant shall also determine how commitments to trade received in the market for which it has responsibility are to be handled therein and agrees that any procedures it may adopt in this regard shall be consistent with the provisions of the ITS Plan and the efficient operation of the System. Each Participant shall insure that no communication shall be entered into the System through any ITS station located on its floor (or through its Participant Switch if applicable), except (i) on behalf of a member of such Participant who is permitted by the ITS Plan and such Participant's rules to use the System with respect to the security or securities that are the subject of the communication or (ii) by employees of such Participant in performance of such

Participant's obligations under the ITS Plan.

(b) *Participant Trading Rules.* The trading rules applicable in destination Participant Markets shall apply to commitments to trade received in such market and executions of commitments therein. For example, if a commitment to sell marked "short" is received in the NYSE, the commitment can result in an execution only in accordance with the short sale rule as in effect on the NYSE. A commitment to sell marked "short" and sent to the BSE can result in an execution only in accordance with the short sale rule as in effect on the BSE.

Each Exchange Participant shall determine the extent to which its trading rules shall apply to members within its market insofar as such members' issuance of commitments to trade from such market and resulting executions are concerned. The NASD shall determine the extent to which its trading rules shall apply to ITS/CAES Market Makers insofar as such market makers' issuance of commitments to trade and resulting executions are concerned.

(c) *Last Sale Information.* System trades shall, when furnished to the CTA Plan Processor, be accompanied by the identifier assigned to the Participant Market in which such trade occurred.

(d) *Order Protection*—(i) *Trade-Throughs: Locked Markets.* Absent reasonable justification or excuse, a member located in an Exchange Market, or an ITS/CAES Market Maker, should not purchase any security that he is permitted to trade through the System at a price that is higher than the price at which that security, at the time of such purchase, is offered in one or more other Participant's Markets that trade the security through ITS as reflected by the offer from such other Participant's Market(s) then being displayed on the trading floor of, or available in the quotation service used by, such Exchange or available in the quotation service used by an ITS/CAES Market Maker. Similarly, absent reasonable justification or excuse, a member located in an Exchange Market, or an ITS/CAES Market Maker, should not sell any such security at a price that is lower than the price at which that security, at the time of such sale, is bid for in one or more other Participant's Markets that trade the security through ITS as reflected by the bid from such other Participant's Market(s) then being displayed on the trading floor of, or available in the quotation service used by such Exchange or available in the quotation service used by an ITS/CAES Market-Maker. The Participants also agree that "locked markets" in System securities should be avoided.

(ii) *Adoption of Trade-Through Rules.* In order to implement the intent of section 8(d)(i), each Exchange Participant has adopted, and obtained SEC approval, of a "trade-through rule" substantially the same as the rule attached hereto as Exhibit A. In order to implement the trade-through rule as so adopted, each Participant that furnishes to other Exchange Participants bid-asked quotations that are generated by an automated quotation tracking system (such as the Autoquote system or the Centramart system currently employed by certain Participants) agrees that no such quotation shall be for more than 100 shares.

(iii) *Block Trade Policy.* The trade-through rule adopted by any Exchange Participant shall not apply to transactions in such Exchange Participant's Market that are, or are a part of, a "block trade", *i.e.*, a trade that (A) involves not less than 10,000 shares of a System security or a quantity of any such security having a market value of $200,000 or more and (B) is effected at a single "clean-up" price, but each Participant has adopted a "block trade" policy as to such trades substantially the same as the policy attached as Exhibit B. The Exchange Participants agree to continue their efforts to define and develop an additional Application that will address the trading of blocks of System securities so as to further enhance protection of public limit orders. Pending the implementation of such an additional Application, the block trade policy of each Exchange Participant shall require any member located in such Exchange Participant's Market who executes in such Exchange Participant's Market a block trade in any security that he is permitted to trade through the System at a clean-up price inferior to the best quotation for such security then being furnished from any other Exchange Participant Market hereunder, upon executing the block trade, to send to each other Exchange Participant furnishing hereunder a bid or offer (as the case may be) superior to the clean-up price a commitment to trade at the clean-up price to satisfy the number of shares included in such other Exchange Participant's bid or offer. A party in an Exchange Participant Market whose bid or offer was not satisfied in violation of another Exchange Participant's block trade policy may report the violation through the system by sending a complaint with respect thereto promptly following the block trade and, in any event, within five minutes from the time the report of the block trade was disseminated over the high speed line of the consolidated last sale reporting system.

(e) *CSE Implementation Obligations.* The CSE shall assure that CSE employees do not end a commitment to trade that is not pursuant to an instruction received from a CSE member through NSTS (or through an alternative method of communication in the case of a malfunction of the NSTS components servicing the instructing member). The CSE shall also arrange for communication between the ITS stations located on the CSE floor and CSE members so that the CSE members can instruct CSE employees to send and receive administrative messages and, in the case of Designated Dealers, pre-opening notifications and responses.

The CSE shall promptly inform each other Participant of any change in the list of System securities that are assigned to one or more Designated Dealers. The CSE agrees also that it shall be liable for any loss incurred by any other Participant, member or member organization thereof, or clearing member or clearing corporation acting on behalf of any such Participant, member or member organization as a consequence of any error or omission made by any CSE employee in facilitating or effecting any communication between such Participant, member or member organization and the CSE floor or a CSE member.

(f) *NASD Implementation Obligations.*—(i) *NASD Identification of Market Makers.* Prior to May 1, 1982, the NASD shall identify to each Exchange Participant in writing (A) each ITS/CAES Market Maker and the one or more ITS/CAES securities in which it has registered as such for the purpose of the Applications, and (B) the clearing corporation through which each ITS/CAES Market Maker shall settle System trades, or, if such ITS/CAES Market Maker elects to settle System trades through another clearing member, the identity of such clearing member and the clearing corporation through which such clearing member shall settle System trades on behalf of such ITS/CAES Market Maker. Thereafter, the NASD shall promptly so notify each Exchange Participant of each change therein or addition thereto.

(ii) *NASD ITS/CAES Market Maker Agreements.* The NASD shall require each ITS/CAES Market Maker to execute an agreement with the NASD (copies of the form of which have been furnished to the Exchange Participants) by which he (A) explicitly undertakes to comply with the ITS Plan and the NASD requirements described in section 8(f)(iii), (B) explicitly agrees to accept and to settle on the regularly scheduled

settlement date, or to cause the clearing member acting on his behalf to accept and to settle on the regularly scheduled settlement date, each side of a System trade that the System identifies as constituted by him or by such clearing member (as the case may be), and (C) explicitly recognizes that he may be subject to censure, fine, suspension or any other fitting penalty, and his registration as an ITS/CAES Market Maker may be subject to suspension or revocation, for any failure to comply with the provisions of the ITS Plan or of the agreement required by this section 8(f)(ii). If such ITS/CAES Market Maker elects to settle all his System trades through another clearing member, such other clearing member shall also execute the aforesaid agreement as an additional party thereto, which execution shall evidence such clearing member's explicit agreement to accept and to settle on the regularly scheduled settlement date each side of a System trade that the System identifies as constituted by such clearing member.

(iii) *NASD Implementation Requirements.* Prior to May 1, 1982, the NASD shall specify requirements:

(A) For the registration and reregistration of ITS/CAES Market Makers as such with the NASD in specific ITS/CAES securities and for the suspension, revocation and surrender of ITS/CAES Market Makers' registrations as such in specific ITS/CAES securities, which requirements shall, at a minimum, provide that no such registration or reregistration will be effective except upon two business days' notice to the NASD, the Operating Committee and the System's facilities manager.

Providing that as a condition of registration and reregistration and of continued registration of each ITS/CAES Market Maker he:

(1) Maintain, except during periods of excused withdrawal, throughout each trading day and report to the NASD continuous two-sided quotations with respect to each security in which he is registered as such with the NASD,

(2) Accept and settle on the regularly scheduled settlement date each side of a System trade that the System identifies as constituted by him or, if he determines to settle all his System trades through another clearing member, assure that such clearing member accepts and settles on the regularly scheduled settlement date each side of a System trade that the System identifies as constituted by such clearing member,

(3) Prevent any communication intended for routing to the System from being entered into any ITS/CAES station located on his premises except by him or as authorized by him on his behalf, and

(4) Comply with the ITS Plan.

(C) Applying to the trades of ITS/CAES Market Makers in an appropriate fashion the concepts of the trade-through rule and block trade policy attached as Exhibits A and B.

Prior to May 1, 1982, each Exchange Participant shall adopt, and use its best efforts to cause the SEC to approve, amendments to its trade-through rule and block trade policy agreeable to the NASD that expand such rule and policy to cover the quotations of ITS/CAES Market Makers.

(iv) *NASD Identification of Trade Participants.* As to any System trade involving the post-trade identification of ITS/CAES Market Makers (or the clearing members who settle System trades on their behalf) pursuant to the "names later" feature described in sections 6(b)(v) and 7(g), the NASD shall have the capacity to supply or resupply to the System the identities of the ITS/CAES Market Makers participating in such trade (or the clearing members acting on their behalf) at any time from the time of the trade until its settlement and whether or not such identities have previously been supplied to the System.

(v) *MSI Clearing Corporation Arrangement.* In order to enable the NASD to perform its settlement obligations as provided in section 9(d), MSI shall enter into an arrangement with a registered clearing corporation meeting the criteria of section 5(b)(i) that provides that such clearing corporation shall book to an account of the NASD or its agent each side of a System trade that (A) is identified as attributable to the ITS/CAES Third Market but (B) is not identified as constituted by one or more ITS/CAES Market Makers or clearing members acting on his or their behalf.

(vi) The NASD shall enhance CAES, as promptly as practicable and in any event prior to the end of the NASD Pilot Phase, to permit the execution of commitments to sell short routed through the CAES Switch in compliance with SEC Rule 10a–1.

(vii) *MSI, Inc. Representation.* The NASD represents that MSI, the operator of CAES, is a wholly-owned subsidiary of the NASD. The NASD shall cause MSI to operate CAES in a manner consistent with the ITS Plan.

9. *Comparison and Settlement.* Comparison of a side of a System trade furnished by an Exchange Participant shall be the responsibility of such Exchange Participant. A side of a System trade identified by the System as one or more ITS/CAES Market Makers or clearing members acting on his or their behalf shall be accepted and settled by the ITS/CAES Market Maker(s) or clearing member(s) so identified.

(a) *After Hours Functions.* The functions of the System after the close of trading in all Participant Markets shall consist of the following:

(i) The System's daily log of messages will be put on tape for retention;

(ii) The System will generate four reports:

(A) A commitment/response report that will match commitments to trade with the appropriate responses,

(B) A commitment/cancellation report that will list all commitments to trade that were cancelled,

(C) A trade adjustment report that will list all adjustments made to previously executed System trades, and

(D) A traffic summary report that will indicate the number of commitments to trade, the number of responses and the number of administrative messages entered from each Participant Market during the trading day; and

(iii) The System will generate the clearing tape referred to in section 9(b).

(b) *Clearing Tape.* At the end of each trading day, the System generates a clearing tape as part of after-hours processing. This tape is in CID sequence, includes all of the day's System trades, and shows:

(i) The CID,

(ii) Either (A) the originating Exchange Participant and clearing member(s) or (B) the NASD, the ITS/CAES Market Maker(s) or clearing member(s) acting on his (their) behalf identified by the System as originating the trade, and the clearing corporation(s) through which such market maker(s) or clearing member(s) shall settle the trade,

(iii) Either (A) the destination Exchange Participant and destination clearing member(s) or (B) the NASD, the ITS/CAES Market Maker(s) or clearing member(s) acting on his (their) behalf identified by the System as the market maker(s) or clearing member(s) on whose behalf the trade was accepted by CAES, and the clearing corporation(s) through which such market maker(s) or clearing member(s) shall settle the trade,

(iv) The type of trade action (buy or sell),

(v) The security symbol,

(vi) The executed quantity and price, and

(vii) The date and time of trade.

Adjustments to any System trade made by agreement between both sides of the trade are included in the tape and shown as a separate "trade adjustment record." If a trade has been adjusted, the original trade record is followed by trade adjustment record(s). The trade adjustment record(s) carry the same CID as the original trade record. There are two types of trade adjustments, System trade cancellations and System trade changes. For System trade cancellations, the adjustment record negates the

original trade record. For example, a cancellation of a trade to buy is reflected on the adjustment record as a "negative buy." For System trade changes, there are two adjustment records. The first adjustment record negates the original trade record. The second adjustment record logs the trade data as adjusted for, *e.g.*, a change in action, security, quantity and/or price. The adjustment records are generated from the trade adjustment file that is created during the trading hours and from inputs from the ITS control center pursuant to requests from the Participants' supervisors.

(c) *Comparison of System Trades.* The contra side of each System trade ultimately is (i) if the contra side was entered by an Exchange Participant, the clearing interface account used to identify the clearing corporation through which the comparison of such side is completed or (ii) if the contra side was entered by or on behalf of one or more ITS/CAES Market Makers, the clearing interface account(s) used to identify the clearing corporation(s) through which such ITS/CAES Market Maker(s) or the clearing member(s) acting on his (their) behalf shall settle the trade. If both sides of a System trade are to settle through the same clearing corporation, the clearing corporation may, at its option, either book each side against the clearing member responsible for that side or offset each side against an internal omnibus account (in which case the omnibus account will net to zero). If one or more ITS/CAES Market Makers supplied one side of a System trade, the System's report of that side will be accepted by the clearning corporation(s) through which such side is to be settled as already compared and the member(s) in the Exchange Participant supplying the contra side will not compare the trade with such ITS/CAES Market Maker(s) or the clearing member(s) acting on his (their) behalf.

While sorting and format changes may be required, the various clearing corporations are able to use the System clearing tape as the basic input to their trade comparison operations. The clearing member(s) responsible for an exchange-supplied side of a System trade shall follow routine comparison procedures. In instances where an uncompared transaction cannot be resolved through routine procedures, the exchange-supplied side(s) of the trade discrepancy will be handled in accordance with the rules of the Exchange Participant(s) and clearing corporation(s) involved.

Once comparison has been completed, clearance and settlement can proceed in a routine manner. System trades are processed with all other transactions through established clearing interfaces.

(d) *Participant Settlement Obligations.* The rules of each Exchange Participant shall be designed to assure that if a System trade reported on the clearing tape (as adjusted) at the close of any trading day, as such trade relates to such Exchange Participant, cannot be compared notwithstanding the use of routine comparison procedures, such Exchange Participant shall on the scheduled settlement date honor such uncompared trade: *Provided, however,* That if such a System trade as it relates to such Exchange Participant is rejected or excluded from the settlement operation conducted by the clearing corporation to which it was reported for settlement either because of the insolvency of the member(s) for whose account(s) it was to be settled or for any other reason (other than failure to compare), such Exchange Participant shall not be obligated to honor such trade and such trade shall be returned to such member(s). The rules of the NASD shall provide that the one or more ITS/CAEScaes Market Makers or clearing members acting on his or their behalf reported on the clearing tape as (adjusted) at the close of any trading day as constituting a side of a System trade shall honor such trade on the scheduled settlement date. In the event the clearing tape (as adjusted) at the close of the trading day fails to so identify one or more ITS/CAES Market Makers or clearing members acting on his or their behalf as constituting a side of a System trade that is identified as attributable to the ITS/CAES Third Market and so such identification can be established prior to the scheduled settlement date, the NASD shall on the scheduled settlement date honor such trade. In the event that a System trade identified by the System to be settled by one or more ITS/CAES Market Makers or clearing members acting on his or their behalf is rejected or excluded from the settlement operation conducted by the clearing corporation to which it was reported for settlement either because of the insolvency of the member(s) for whose account(s) it was to be settled or for any other reason, the NASD shall not be obligated to honor such trade on behalf of such member(s) and such trade shall be returned to such member(s).

In the event that a System trade as it relates to any Participant is rejected or excluded from the settlement operation conducted by the clearing corporation to which it was reported for settlement for any reason other than failure to compare, neither the Participant from whose market the side of the trade that is rejected or excluded was supplied, the Participant from whose market the contra side of such trade was supplied nor any clearing corporation to which either side of the trade was submitted shall be obligated to honor the trade. Instead, the member(s) constituting the contra side of the rejected or excluded trade (the "contra party") shall, without unnecessary delay after receipt of notice of such rejection or exclusion, close out such trade in the best available market, except insofar as the rules of the clearing corporation to which the contra side was submitted or of the Participant from whose market the contra side was supplied are applicable and provide an alternative method for closing. The rules of each Participant shall state the foregoing closing obligations of the contra party.

10. *Operational Matters*—(a) *Reservation of Authority on Trading Halts.* Each Exchange Participant shall retain its authority as a national securities exchange to halt or suspend trading in its market whenever such Exchange Participant deems such action to be necessary or appropriate. Similarly, the NASD shall retain its authority as a national securities association to suspend the furnishing of third market quotation information whenever it deems such action to be necessary or appropriate.

(b) *Closed Markets: Trading Halts and Suspensions.* Whenever and so long as an Exchange Participant is closed as to a particular security due to a halt in or suspension of trading in that security or because the Exchange Participant is closed generally or has not yet opened for trading in that security, no commitment to trade through ITS with respect to that security may be either issued from or accepted in that Exchange Participant. Similarly, whenever the third market is closed as to a particular security due to a halt in or suspension of trading in that security or whenever the NASD has suspended third market quotations in that security no commitments to trade through ITS with respect to that security may be transmitted through the ITS switch. In addition, whenever an ITS/CAES Market Maker registered as such in that security with the NASD is closed or has not commenced trading in that security, no commitment to trade through ITS with respect to that security may be issued or accepted by or on behalf of such ITS/ CAES Market Maker.

Consequently, if a commitment to trade a particular security is received in a Participant Market and if, before the commitment to trade is executed or

cancelled, trading in that security in the destination Participant Market is halted or suspended (or, when the destination is the ITS/CAES Third Market, the furnishing of quotation information with respect to that security is suspended by the NASD), the trading halt will result in the cancellation of the commitment. On the other hand, if, after a commitment to trade a particular security is sent, the Exchange Participant in which such commitment originated halts or suspends trading (or, if such commitment was sent by an ITS/CAES Market Maker, the NASD suspends quotations) in that security but the destination Exchange Participant does not halt or suspend trading (or if such commitment was directed to the ITS/CAES Third Market, the NASD does not suspend quotations) in that security, the commitment to trade may be accepted and result in an execution in the destination market notwithstanding the trading halt, trading suspension or quotation information suspension in the originating Participant Market.

(c) *Operating Hours: "Additional Period" Defined.* Except as provided in section 7, administrative messages may be sent and received through the System between and among Exchange Participants, ITS/CAES Market Makers and the NASD Supervisory Center whenever the System is operating and whether or not, for example, any one or more of the Exchange Participants is open for trading either generally or as to one or more particular securities. The normal operating hours of the System are 9:30 a.m. to 4:00 p.m. eastern time. At the latter time the System closes down and the various after-hours functions referred to in section 9(a) commence. Any period outside the normal operating hours of the System is herein referred to as an "additional period." The System shall be operable during any additional period requested in writing by any two or more Participants: *Provided,* That such Participants have agreed to pay all costs and expenses attributable to the operation of the System such additional period.

(d) *NASD Pilot Phase.* The Participants agree that the ITS/CAES Market Makers shall commence their use of the System through the NASD Switch with a pilot phase (the "NASD Pilot Phase"), during which commitments to trade, responses thereto and pre-opening notifications and responses may be sent through the NASD Switch from or to ITS/CAES Market Makers only with respect to those Systems securities that are among the 30 19c–3 securities meeting the definition of an "ITS/CAES security" for the purposes of the NASD Pilot Phase as provided in section 1(16). The NASD shall identify those 30 securities to the Exchange Participants thirty days before the commencement of the NASD Pilot Phase.

It is contemplated that the NASD Pilot Phase shall commence on May 1, 1982 and shall continue until the first day of a calendar month that is, or is the first such day after, the 180th day following the date of commencement. During the NASD Pilot Phase, the Exchange Participants and the NASD agree to continue their good faith efforts to examine and revise as necessary the policies and rules of the Exchange Participants, the NASD and the SEC to assure fair competition among brokers and dealers, among exchange markets and between exchange markets and markets other than exchange markets (the "fair competition" task). Among the issues to be addresses in completing the fair competition task are: (1) The price at which over-the-counter principal trades should be reported to the consolidated tapes so as to preserve the integrity of the ITS order protection rules and policies adopted pursuant to section 8(d) and 9(f) (iii); and (ii) the appropriateness of additional registration requirements for ITS/CAES Market Makers. In addition, the Exchange Participants and the NASD will also consider the question of how the ITS Plan should permit commitments to trade to originate in the ITS/CAES Third Market and be routed through the CAES Switch. During the NASD Pilot Phase, the Participants, with the cooperation of the System's facilities manager and the SEC, will analyze and evaluate the participation by the NASD and the ITS/CAES Market Makers under the NASD Pilot Phase and any user comments they may receive, including any problems that may appear or may be anticipated. Following such analysis and evaluation, the Exchange Participants and the NASD will attempt in good faith to agree on a resolution of any such problems and on any necessary amendments to the ITS Plan.

The provisions of this section 10(d) shall govern in lieu of any other provision of the ITS Plan inconsistent with this section 10(d). Upon the termination of the NASD Pilot Phase, the provisions of this section 10(d) shall cease to apply and the balance of the ITS Plan shall govern the participation of ITS/CAES Market Makers in the Applications.

(e) *Automated Electronic Interfaces between Participants' Facilities and the System.* Any proposal that may be developed by any Participant for an automated electronic interface between the facilities of such Participant and the System shall be considered expeditiously by the Operating Committee and by each of the other Participants.

11. *Financial Matters*—(a) *Costs.* The Participants shall share the "development costs," "production costs," and "line costs" of the Applications in accordance with the provisions of this section 11(a).

(i) *Costs Definitions.* (A) "Average line cost" as used with reference to any Participant means (1) the total line costs identifiable to the lines and associated modems linking such Participant (or, in the case of the NASD, the CAES Switch and the CAES Supervisory Center) with the System's control center and facilities manager divided by (2) total number of such lines.

(B) "Computer software" includes all programs or routines developed by or at the direction of the System's facilities manager on or after November 1, 1977 to cause computers to perform tasks required for any one or more Applications and the documentation required to describe and maintain those programs. Computer programs of all classes, for example, operating systems, execution systems, monitors, compilers and translators, assembly routines, and utility programs as well as Application programs are included.

(C) "Development costs" mean all costs incurred after October 31, 1977, by the System's facilities manager in developing and improving the computer software and installing hardware as necessary to facilitate any one or more Applications (including any testing conducted in connection with any one or more Applications).

(D) "Initial development costs" mean the $721,631 in development costs incurred after October 31, 1977, and prior to July 1, 1978.

(E) "Installing hardware as necessary" includes, but is not limited to, installation and maintenance of all installations and computer facilities required to support any one or more Applications.

(F) "Line costs" mean the total of monthly rentals paid to common carriers for lines and associated modems employed in the System's communication network, which link the Exchange Markets, the CAES Supervisory Center and the CAES Switch with the System's control center and facilities manager, plus any federal, state or local taxes applicable to such rentals, and excludes all costs with respect to lines and associated modems (1) linking multiple floors of any

participant, (2) linking the CSE floor with CSE members or (3) linking CAES, the CAES Supervisory Center and ITS/CAES Market Makers with one another.

(G) "network A Eligible Securities" has the meaning assigned to that term in the CTA Plan.

(H) "Network B Eligible Securities" has the meaning assigned to that term in the CTA Plan.

(I) "New Participant" means any national securities exchange or national securities association that becomes a Participant in accordance with section 3(c) after April 14, 1978.

(J) "1977 transactions base" means 8,179,997 transactions, which is the sum of (1) the total transactions reported by the CTA Plan Processor in Network A Eligible Securities during the first ten months of 1977, and (2) the total transactions reported by the AMEX during that same period to the CTA Plan Processor in those ten Network B Eligible Securities in which the greatest number of transactions occurred on the AMEX during that period.

(K) "Production costs" mean all operating expenses (other than line costs) attributable to the period beginning on April 17, 1978 (the date of the commencement of ITS as announced by the Operating Committee) and associated with the operation of any one or more Applications, including all costs and expenses (including appropriate overhead costs and all applicable taxes however designated, exclusive of net income taxes) of the System's facilities manager associated with, relating to, or resulting from its operation or maintenance of any one or more Applications but excluding any cost or expense associated with any Participant's selfregulatory function.

(L) "Share of the 1977 transactions base" of any new Participant means a fraction, the numerator of which shall be the total transactions reported by the new Participant during the first ten months of 1977 to the Processor under the CTA Plan in Network A Eligible Securities and the denominator of which shall be the 1977 transactions base (8,179,997 transactions). For Participants that were new Participants prior to 1983, such shares were:

	Percent
CSE	1.6
MSE	3.1
NASD	1.8

(M) "Share of the transactions base" of any Participant (other than the AMEX or the NYSE) as computed for any calendar quarter means a fraction, the numerator of which is the total transactions reported by the Participant during the calendar quarter to the CTA Plan Processor in Network A Eligible Securities and the denominator of which is the transactions base for the calendar quarter. The AMEX's "share of the transactions base" as computed for any calendar quarter during some or all of which the AMEX was a Participant means a fraction, the numerator of which is the transactions figure reported by the AMEX as required by clause (2) of section 11(a)(i)(N) and the denominator of which is the transactions base for the calendar quarter. The NYSE's "share of the transactions base" as computed for any calendar quarter means the fraction remaining after subtracting from 1 the sum of the fractions assigned in this section 11(a)(i)(M) to other Participants.

(N) "Standardized number of lines" means the sum of the line speeds of the referent lines (expressed in baud) divided by 4800 baud.

(O) "Transactions base" for any calendar quarter means the sum of (1) the total transactions reported by the CTA Processor under the CTA Plan in Network A Eligible Securities after April 17, 1978 and during the calendar quarter for which the transactions base is being computed and (2) if the AMEX was a Participant during some or all of the calendar quarter, the total transactions reported by the AMEX during the calendar quarter to the CTA Plan Processor in those ten Network B Eligible Securities in which the greatest number of transactions occurred on the AMEX during the calendar quarter.

(ii) *Dispute Costs Excluded.* The development costs, production costs and line costs shall not include any cost or expense incurred by any Participant as a result of or in connection with the defense of any claim, suit or proceeding against the Operating Committee or any one or more of the Participants relating to the ITS Plan or the operation of the System and/or any Application. All such costs and expenses incurred by any Participant shall be borne by such Participant without contribution or reimbursement.

(iii) *Development Costs.*—(A) *Initial Development Costs Sharing.* The Participants shared among themselves the $721,631 in initial development costs as set forth below:

AMEX	3.1
BSE	0.8
PHLX	1.5
PSE	5.5
NYSE	89.1

(B) *New Development Costs Sharing.* Development costs shall not be incurred after June 30, 1978 except as agreed to by all Participants. Subject to the last sentence of this section 11(a)(iii)(B), each Participant (1) shall pay the same share of the $755,434 in development costs incurred after June 30, 1978 and prior to January 1, 1980 as it paid of the initial development costs and (2) shall pay a fraction of any development cost incurred after December 30, 1979 equal to its share of the transactions base for the calendar quarter preceding the calendar quarter during which the Participants agree to incur such cost. Except as provided in section 11(a)(iii)(E), any development cost incurred after June 30, 1978 that is incurred for the benefit of less than all Participants shall be shared by the Participant or Participants which benefit therefrom as they shall mutually agree.

(C) *Development Costs Payment.* Development costs will be computed by the System's facilities manager as soon as practicable following the close of the calendar month or, if relatively small, the calendar quarter during which they were incurred. Each Participant's share shall be billed to, and payable by, such Participant promptly thereafter.

(D) *New Participant's Share of Development Costs.* The foregoing methods of sharing development costs may cause the NYSE to pay a share of such costs that is in excess of its share of total transactions reported by the CTA Plan Processor in Network A Eligible securities during the computation periods. At the time any national securities exchange or national securities association becomes a new Participant, such new Participant shall be charged (1) a share of the initial development costs and (2) a share of any development cost incurred after June 30, 1978 and prior to such new Participant becoming a Participant that is determined to benefit such new Participant by the Participants that paid such development cost. Such new Participant's share of the $721,631 in initial development costs and of any development cost that benefits it incurred after June 30, 1978 and prior to January 1, 1980 shall equal its share of the 1977 transactions base. Such new Participant's share of any development costs that benefits it incurred after December 30, 1979 and prior to such new Participant becoming a Participant shall equal the share of such development cost that such new Participant would have paid in accordance with section 11(a)(iii)(B) had it been a Participant during the calendar quarter preceding the calendar quarter during which the Participants agreed to incur such cost. Each new Participant shall, upon

becoming a Participant, pay its share of development costs as so computed to the NYSE and, except as provided in the following sentence, the NYSE shall retain the same without any sharing with or among the other Participants. If, in accordance with the last sentence of section 11(a)(iii)(B), the NYSE was not charged a portion of any development cost incurred after June 30, 1978 that benefits such new Participant, the NYSE shall distribute the portion of the new Participant's payment received by the NYSE in accordance with the preceding sentence that is attributable to such development cost to the Participant or Participants that paid such development cost, *pro rata* in accordance with their payments therof. Each new Participant shall share in development costs incurred after it becomes a Participant in accordance with section 11(a)(iii)(B).

(E) *CAES Interface Costs.* Enabling the System to accommodate participation by ITS/CAES Market Makers requires incurring development costs that benefit initially only the NASD and ITS/CAES Market Makers (the "ITS/CAES development costs"). These costs include the costs incurred by the System's facilities manager of (1) creating the automated interface (estimated at $262,173), (2) adding function designators to administrative messages (estimated at $48,762), (3) System programming to accommodate the NASD Supervisory Center (estimated at $13,000), and (4) testing costs incurred after March 1, 1982 (estimated at $45,000–$50,000 per month). The NASD shall pay the difference between (1) the total of the ITS/CAES development costs as finally calculated and (2) $28,09. The subtraction of $28,091 (which is the amount of the development costs incurred in connection with the commencement of the participation of the CSE) reflects the fact that if the NASD's participation was otherwise than by an automated interface, development costs incurred in connection therewith would have been borne by all Participants pursuant to clause (2) of section 11(a)(iii)(B). The $28,091 shall be shared by all Participants (including the NASD) in acordance with said clause (2).

If any Participant in addition to the NASD shall subsequently participate through the automated interface, such Participant shall pay to the NASD a portion of the difference between (1) the ITS/CAES development costs and (2) an amount equal to $28,091. Such Participant's portion shall equal its share of the transactions base.

(F) *Title to Software.* The entire right, title and interest in and to all "computer software" (as defined in section 11(a)(i)(B) developed prior to July 1, 1978 shall be vested in the Participants who share the cost of such computer software as joint owners. The entire right, title and interest in and to all computer software developed after June 30, 1978 shall be vested in the Participants who pay the cost thereof. If more than one Participant shares in the cost of computer software developed after June 30, 1978, then the entire right, title and interest in and to such computer software, the cost of which is so shared, shall be vested in the Participants who share such cost as joint owners. The System's facilities manager shall use computer software solely for the purpose of performing tasks required for the Applications as provided in the ITS Plan.

(iv) *Production Costs*—(A) Production Costs Sharing. The production costs attributable to any calendar quarter (which averaged $87,000 per month during the first four months of 1981) shall be shared by the persons who were Participants during any portion of the calendar quarter. Each such Participant shall pay a fraction of such production costs equal to its share of the transactions base as computed for the calendar quarter.

(B) *Production Costs Payment.* Production costs will be computed by the System's facilities manager as soon as practicable following the close of each calendar month following April 17, 1978. Each Participant's (or former Participant's) estimated share thereof shall be billed by the System's facilities manager and shall be payable to the System's facilities manager promptly following receipt. Any appropriate adjustment will be made between the System's facilities manager and each Participant promptly following the close of each calendar quarter.

(v) *Line Costs Sharing, Payment.* Line costs attributable to the Applications during any calendar month on or after August 1, 1978, shall be borne by the persons who were Participants during any portion of such month as set forth in this section 11(a)(v).

(A) *Shared Line Costs.* Such Participants shall share 100 percent of the sum of the products of (1) the average line costs incurred during such month for each Participant and (2) the smaller of either 3 or the standardized number of formula lines linking such Participant (or, in the case of the NASD, the CAES Switch and the CAES Supervisory Center) with the System's control center and facilities manager. Such Participants shall also share 50 percent of the sum of the products of (1) the average line costs incurred for each Participant and (2) the smaller of either 4 or the standardized number of such formula lines in excess of 3. Each such Participant's share shall equal the total of the costs referred to in the two preceding sentences multiplied by a fraction, the numerator of which shall equal the number of messages (whether ITS commitments to trade or responses there, or pre-opening notifications, pre-opening responses or any other administrative messages sent through the System) sent from or received in such Participant's Market (or, in the case of the ITS/CAES Third Market, routed through the CAES Switch or sent from or received in the CAES Supervisory Center) during such month and the denominator of which shall equal the sum of such numerators for each such Participant for such month.

(B) *Unshared Line Costs.* Each such Participant shall also bear 50 percent of the product calculated for such Participant in accordance with the second sentence of section 11(a)(v)(A). In addition, each such Participant shall bear 100 percent of the product, as calculated for such Participant, of (1) the average line cost incurred during such month for such Participant and (2) the standardized number of formula lines in excess of 7 linking such Participant (or, in the case of the NASD, linking the CAES Switch and the CAES Supervisory Center) with the System's control center and facilities manager.

(C) *Line Costs Payment.* Line cost will be computed by the System's facilities manager as soon as practicable following the close of each calendar month and shall be billed in accordance with the provisions hereof. Such bills shall be payable to the System's facilities manager promptly following receipt.

(vi) *Accounts.* The System's facilities manager and the independent public accountants hereinafter referred to shall furnish any information and/or documentation reasonably requested in writing by a majority of the Participants in support of or relating to any of the computations referred to in this section 11(a). All expenses, allocations and computations referred to or required by this section 11(a) shall be reported at least annually to the Participants by a firm of independent public accountants (which may be the firm regularly employed by the NYSE or the System's facilities manager), and such accountants shall render their opinion that such expenses, allocations and computations have been reported in

accordance with the understanding among the Participants as set forth in this section 11(a).

(b) *User Charges.* Each Participant shall be free to determine whether or not to impose a fee or charge on some or all of its members in connection with use of its facilities to access the System and, if so, the amount of such fee or charge. Any fee or charge that may be imposed by any Participant shall not be of such size, and shall not be so structured, as to discourage use of the System or any Application. The Participants may from time to time consider the question of imposing a transaction charge which would be payable by the Participants and would be designed to cover, in whole or in part, the production costs.

(c) *Facilities Manager Liability Limits.* The System's facilities manager shall not be liable to any Participant or to any member of any Participant using or having access to the System or to any other person for any loss or damage resulting from any non-performance, or interruption in the operation, of the System, from any inaccuracies, errors or omissions in any of the information conveyed or received through the System, or from any delays or errors in the transmission of any such information.

12. *Withdrawal From the ITS Plan.* Any Participant may withdraw from the ITS Plan at any time on not less than 30 days' prior written notice to each of the other Participants and to the System's facilities manager. In the case of any such withdrawal, such withdrawing Participant shall remain liable for, and shall pay upon demand, its portion of the costs of developing and operating the System and any other amounts payable by it as determined pursuant to Section 11. Except as to any such payments, the withdrawing Participant shall thereafter have no further rights or obligations whatsoever under the ITS Plan or with respect to the System or any Application.

13. *Effective Date: Transition.* The ITS Plan shall be effective when it has been approved by the SEC pursuant to section 11A of the Act and Rule 11Aa3–2 thereunder. Prior to the effective date of the ITS Plan, the predecessor plan (described in the first "whereas" clause hereof) as heretofore amended shall remain in full force and effect and may be further amended in accordance with its terms by the Exchange Participants without the agreement of the NASD.

14. *Counterparts.* The ITS Plan may be executed in any number of counterparts, no one of which need contain all signatures of all Participants, and as many of such counterparts as shall together contain all such signatures shall constitute one and the same instrument.

Exhibit A.—Trade-Through Rule

(a) *Definitions:* (1) A "trade-through," as that term is used in this Rule, occurs whenever a member on the Exchange purchases a common stock traded through ITS (referred to in this Rule as "an ITS Security") on the Exchange at a price which is higher than the price at which the security is being offered (or sells such a security on the Exchange at a price which is lower than the price at which the security is being bid for) at the time of the purchase (or sale) in another ITS participating market center as reflected by the offer (bid) then being displayed on the Floor from such other market center. The member described in the foregoing sentence is referred to in this Rule as the member who initiated a trade-through.

(2) A "locked market," as that term is used in this Rule, occurs whenever a bid for an ITS Security is made in an ITS participating market center at a price which equals or exceeds the price at which that security is being offered (or whenever an offer for such a security in an ITS participating market center is made at a price which equals or is less than the price at which that security is being bid for) at that time in another ITS participating market center as reflected by the offer (bid) then being displayed from such other market center. The bid or offer which results in the locked market is referred to in this Rule as the bid or offer which caused a locked market.

(b) *Trade-Throughs:* (1) When purchasing or selling, either as principal or agent, any ITS Security on the Exchange, members should avoid initiating a trade-through unless one or more of the provisions of paragraph (b)(3) below are applicable.

(2) Except as provided in paragraph (b)(3) below, if a trade-through occurs and a complaint thereof is received by the Exchange through the System from the party whose bid or offer was traded-through ("the aggrieved party"), then:

(A) If the member who initiated the trade-through and the member on the *contra* side of the transaction had each initiated the transaction while on the Floor for his own account or any account in which he has an interest, the transaction shall be deemed void and a cancellation thereof shall be reported through the consolidated last sale reporting system;

(B) If the member who initiated the trade-through, or the member on the *contra* side of the transaction, was, or if both such members were, executing (in whole or in part) an order which originated from off the Floor (an "off-Floor order"), then (i) the member who initiated the trade-through shall satisfy, or cause to be satisfied, the bid or offer traded through in its entirety at the price of such bid or offer, or, if he elects not to do so, then (ii) the price of the transaction which constituted the trade-through shall be corrected to a price at which a trade-through would not have occured and the price correction shall be reported through the consolidated last sale reporting system.

Whenever the provisions of this paragraph (b)(2)(B) apply, the off-Floor order or portion thereof which was executed in the transaction which constituted the trade-through (whether such order or portion thereof was executed by the member who initiated the trade-through or by the member on the *contra* side of the transaction, or both) shall receive the price which caused the trade-through, or the price at which the bid or offer traded-through was satisfied, if it was satisfied, pursuant to clause (i) of this paragraph (b)(2)(B), or the adjusted price, if there was an adjustment, pursuant to clause (ii) of this paragraph (b)(2)(B), whichever price is most beneficial to the order or portion. Money differences resulting from this paragraph (b)(2)(B) shall be the liability of the member who initiated the trade-through.

(3) The provisions of paragraph (b)(2) above shall not apply under the following conditions:

(A) The size of the bid or offer that was traded-through was for 100 shares, or, if such bid or offer was being displayed from the Pacific Stock Exchange, Inc., 200 shares;

(B) The member who initiated the trade-through was unable to avoid the trade-through because of a systems/equipment failure or malfunction;

(C) The transaction which constituted the trade-through was not a "regular way" contract;

(D) The trade-through occurred during a period when, with respect to the ITS Security which was the subject of the trade-through, members on the Exchange were relieved of their obligations under paragraph (c)(2) of Rule 11Ac1–1: *Provided, however,* That, unless the provisions of this paragraph (b)(3) (other than those of this subparagraph (D)) apply, during any such period members shall make every reasonable effort to avoid trading-through any bid or offer displayed on the Floor from another ITS participating market center whose members are not relieved of their obligations under said

paragraph (c)(2) with respect to such bid or offer;

(E) The bid or offer that was traded-through was being displayed from a market center whose members were relieved of their obligations under paragraph (c)(2) of Rule 11Ac1–1 with respect to such bid or offer;

(F) The bid or offer that was traded-through had caused a locked market in the ITS Security which was the subject of such bid or offer; or

(G) A complaint with respect to the trade-through was not received by the Exchange through the System from the aggrieved party promptly following the trade-through and, in any event, within five (5) minutes from the time the report of the transaction which constituted the trade-through was disseminated over the high speed line of the consolidated last sale reporting system.

(c) *Responsiblity to Respond Promptly to Trade-Through Complaints.* (1) When a trade-through complaint is received by the Exchange it shall be the duty of the member who initiated the trade-through to respond as promptly as paracticable to the aggrieved party. Such a response shall notify the aggrieved party either

(i) That one of the conditions specified in paragraph (b)(3) of this Rule is applicable (specifying the particular condition), or

(ii) That the complaint is valid and appropriate corrective action is being taken pursuant to paragraph (b)(2) above.

(2) Any member who is an aggrieved party under the trade-through rule of another ITS participating market center may at any time at his discretion take steps to establish and mitigate any loss he might incur as a result of the trade-through of his bid or offer. If so, he shall give prompt notice to such other market center of any such action.

(3) If it is ultimately determined that there was a trade-through, that the action required by either paragraph (b)(2)(A) or (b)(2)(B) above was not taken, and that none of the provisions of paragraph (b)(3) above was applicable, the member who initiated the trade-through shall be liable to the aggrieved party for the lesser of (i) the amount of the actual loss proximately caused by the trade-through and suffered by the aggrieved party, or (ii) the loss proximately caused by the trade-through that would have been suffered by the aggrieved had he purchased or sold the security subject to the trade-through so as to mitigate his loss and had such purchase or sale been effected at the "loss basis price". For purposes of this paragraph the "loss basis price" shall be the price of the next transaction as reported by the high speed line of the consolidated last sale reporting system, in the security in question, after one hour has elapsed from the time the complaint is received by the Exchange (or, if the complaint is so received within the last hour of trading on the Exchange on any day, then the price of the opening transaction in such security on the Exchange on the next day on which the Exchange trades that security).

(d) *Locked Markets* (1) Except as provided in paragraph (d)(2) below, a member who makes a bid for an ITS Security on the Exchange and, in so doing, causes a locked market with another ITS participating market center, shall promptly send a commitment to trade to such other market center seeking the offer he has equaled or exceeded, which commitment shall be for either the number of shares he has bid for or the number of shares offered on the other market center, whichever is less. The same principle shall apply to a member who makes an offer for an ITS Security on the Exchange and causes a locked market with another ITS participating market center.

(2) The Provisions of Paragraph (d)(1) shall not apply when

(A) The bid or offer in the ITS participating market center to which the commitment to trade would be sent pursuant to paragraph (d)(1) above was for 100 shares, or, if such bid or offer was being displayed from the Pacific Stock Exchange, Inc., 200 shares;

(B) The rules of the Exchange would prohibit the issuance of the commitment to trade referred to in paragraph (d)(1) above;

(C) The member who caused a locked market is unable to comply with the provisions of paragraph (d)(1) above because of a systems/equipment failure or malfunction;

(D) The bid or offer that caused the locked market was not for a "regular way" contract;

(E) The bid or offer that caused the locked market occurred during a period when, with respect to the ITS Security which was the subject of the locked market, members on the Exchange were relieved of their obligations under paragraph (c)(2) of Rule 11Ac1–1; or

(F) The locked market occurred at a time when, with respect to the ITS Security which was the subject of the locked market, members of the ITS participating market center to which the commitment to trade would be sent pursuant to paragraph (d)(1) above were relieved of their obligations under paragraph (c)(2) of Rule 11Ac1–1.

(e) The provisions of this Rule shall not apply to (1) purchases and sales effected by members participating in the opening (or re-opening) transaction on the Exchange in an ITS Security, or (2) any block trade involving not less than 10,000 shares of an ITS Security or a quantity of such a security having a market value of $200,000 or more, or any portion of such a block trade, on the Exchange.

Exhibit B—ITS Block Trade Policy on Satisfying Better-Priced Displayed Bids and Offers (Exchange Participant)

A member who executes on the Exchange a block trade in an ITS security at a clean-up price outside the "best" quotation for the security displayed by an ITS Participant, shall, upon executing the block trade on the Exchange, send to each other Participant displaying a bid or offer (as the case may be) superior to the clean-up price, at commitment to trade, at the clean-up price, to satisfy the number of shares displayed in the other Participant's bid or offer.

For purposes of policy, a block trade shall be a trade involving at least 10,000 shares of a quantity of stock having a market value of at least $200,000.

The displayed bid or offer referred to above is the current quotation disseminated by an ITS Participant and does not refer to "away-from-the-market" limit orders.

By the Commission.

George A. Fitzsimmons,

Secretary.

March 4, 1982.

Regulatory Flexibility Act Certification

I, John Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the amendments to the ITS Plan proposed pursuant to Rule 11Aa3–2 set forth in Securities Exchange Act Release No. 18536, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed amendments do not apply to any small exchanges or small national securities association, and they do not directly apply to broker-dealers. In addition, the amendments will indirectly affect virtually no small broker-dealers, and no significant economic impact will result, since the amendments defer consideration of the only limitation affecting broker-dealers, a market maker requirement. Furthermore, this requirement, if imposed, is minor in nature and should not significantly

burden the operations of broker-dealers.

John S. R. Shad,
Chairman.

Dated: March 3, 1982.

[FR Doc. 82-6567 Filed 3-10-82; 8:45 am]
BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Application for Unlisted Trading Privileges and of Opportunity for Hearing

March 5, 1982.

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:

MAPCO Inc.
Common Stock, $1 Par Value

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 March 26, 1982 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. 82-6565 Filed 3-10-82; 8:45 am]
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[Release No. 18537; File No. 4-206]

American Stock Exchange, Inc., et al.; Order Deferring Implementation of an Automated Interface

March 4, 1982.

In the matter of American Stock Exchange, Inc., Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., and Philadelphia Stock Exchange Inc.

Due to (i) delays in testing the interface between the Intermarket Trading System ("ITS") and the NASDAQ System, and (ii) the need for the Commission to study the comments received, and take final action, on amendments to the Plan governing operation of the ITS, proposed by the Commission, to provide for the participation in the ITS by the National Association of Securities Dealers, Inc.,[1] the Securities and Exchange Commission hereby issues an order pursuant to its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. 94-29 (June 4, 1975) and particularly Sections 2, 3, 6, 10, 11, 11A, 15A, 17 and 23 thereof (15 U.S.C. 78b, 78c, 78f, 78j, 78k, 78k-1, 78*o*-1, 78*o*, 78q, 78w(a)) as follows:

It is hereby ordered that the Commission's order dated April 21, 1981 (Securities Exchange Act Release No. 17744, 46 FR 23856) ("the April 1981 Order") requiring, among other things, the American Stock Exchange, Inc., Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., Philadelphia Stock Exchange, Inc. and any other self-regulatory organization which hereafter becomes a participant in the Intermarket Trading System ("ITS") (collectively, the "Current ITS Participants") and the National Association of Securities Dealers, Inc. ("NASD") to act jointly in planning, developing and operating an automated intermarket communications linkage ("Automated Interface") between the ITS and the NASDAQ electronic interdealer quotation system, as modified by the NASD to permit computer assisted execution ("CAES"), is amended (i) to defer the implementation date of the pilot basis of the Automated Interface, as described in Section I, paragraph B of the April 1981 Order, and the date by which the Current ITS Participants must develop a capability to receive aggregated quotations from CAES market makers and revise quotation displays on their respective floors to reflect aggregated quotations from CAES market makers, as provided in section II of that Order, from March 1, 1982, until May 1, 1982, and (ii) to defer the date on which full operation of the Automated Interface, as described in the Section I, paragraph B of the April 1981 Order, must be implemented from September 1, 1982, until November 1, 1982.

[1] *See* Securities Exchange Act Release No. 18536 (March 4, 1982).

By the Commission.

George A. Fitzsimmons,
Secretary.

March 4, 1982.

[FR Doc. 82-6566 Filed 3-10-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 12273, 812-5083]

Allied Capital Corp. and Allied Investment Corp.; Application Exempting Proposed Transaction

Notice is hereby given that Allied Capital Corporation ("ACC") 1625 Eye Street, N.W., Washington, D.C. 20006, a closed-end, internally managed investment company registered under the Investment Company Act of 1940 ("Act"), and its wholly-owned subsidiary, Allied Investment Corporation ("AIC"), a closed-end, internally managed investment company registered under the Act, and licensed as a small business investment company under the Small Business Investment Company Act of 1958, filed an application on January 15, 1982 and an amendment thereto on February 16, 1982, requesting an order of the Commission pursuant to section 17(b) of the Act exempting the proposed transaction from Section 17(a) of the Act; and pursuant to section 17(d) of the Act and Rule 17d-1 thereunder to permit AIC to participate to the extent of $400,000 in a $6,250,000 senior notes financing to RQO Holding Company, Inc. ("RQO"), a New York Corporation, combined with warrants to purchase common shares of RQO's parent, Aarque Office Systems, Inc. ("AOS") also a New York Corporation. The RQO senior notes have already been purchased by five other institutional investors, one of which, Teribe, S.A. ("Teribe"), a Panamanian corporation, is the parent of Alcap, Limited ("Alcap"), the holder of 18.9% of ACC's outstanding capital stock; hence Teribe may be deemed an affiliate or an affiliate of an affiliate of ACC pursuant to Section 2(a)(3) of the Act.

Of ACC's outstanding capital stock, 250,000 shares (18.9%) are held by Alcap Limited, ("Alcap"), a British Virgin Islands corporation. Alcap is a wholly-owned subsidiary of Teribe, a second-tier subsidiary of Enterprises Quilmes, S.A. ("EQ"), a Luxembourg holding company listed on the Paris and Luxembourg Stock Exchange. Mr. Willem F.P. de Vogel, a Vice President of Three Cities Research, Inc. ("Three Cities"), a New York corporation affiliated with EQ, is a member of ACC's and AIC's boards of directors. Under an agreement dated October 30, 1980,

pursuant to which Alcap acquired its investment in ACC, Alcap has the right to nominate two persons for election to ACC's board of directors, but to date has chosen to nominate only one person, Mr. de Vogel. As a matter of practice, ACC elects all members of its own board of directors to the board of directors of AIC.

AOS and RQO were organized by R. Quintus Anderson of Jamestown, New York, who is unaffiliated with any other party to the transaction, to effect the "leveraged buyout" from GAF Corporation ("GAF") of GAF's Reprographic Products Divison (the "Business"). GAF is unaffiliated with any other party to the transaction. The Business was purchased from GAF on January 8, 1982, also the closing date for the financial aspects of the transaction. The purchase was actually effected by four operating subsidiaries of RQO, respectively organized in the U.S., the U.K., the Netherlands, and Australia.

Mr Anderson acquired for $1,000,000 cash all the capital stock of AOS. AOS issued to participants in the financing, for $50,000 in the aggregate, warrants to purchase a number of shares of AOS; if all warrants are exercised the holders of the warrants will own 60% and Mr. Anderson will own 40% of AOS' common equity, prior to a maximum expected 5% diluton upon the exercise of incentive stock options ("Stock Options") to be issued to key employees of the Business.

RQO was initially capitalized with capital stock for $990,000, all of which was issued for cash to AOS; junior subordinated notes for $1,750,000, issued for cash to Mr. Anderson; $1,000,000 in 19% subordinated notes, purchased by a European investment group ("European"), unaffiliated with any other party to the transaction; and $6,250,000 in 19% senior notes.

The lenders who participated in the $6,250,000 senior notes financing to RQO include (in addition to Teribe and European) the holding company and the small business investment company affiliate of a U.S. commercial bank ("A") and "SBIC A") and the small business investment company affiliate of another U.S. commercial bank ("SBIC B"), as shown in the following table, which also shows the AOS warrants (as percents of AOS' common equity before dilution by the Stock Options) issued to the senior lenders pro rata to their participation in the senior notes financing:

		Percent
European	$1,550,000	10.91
Teribe	2,100,000	14.78
A	1,000,000	7.04
SBIC A	1,000,000	7.04
SBIC B	600,000	4.23
Total		44.00

Warrants, in addition to those issued to the senior lenders, were issued for 11% of AOS' common equity to European, in its capacity as subordinated lender to RQO, and warrants for 5% of AOS' common equity were issued to a U.K. bank, unaffiliated with any other party to the transaction, in its capacity as a $1,000,000 subordinated lender to RQO's U.K. subsidiary.

A U.S. commercial bank, not otherwise affiliated with any other party to the transaction ("Bank"), acted as financial advisor to Mr. Anderson, AOS, and RQO. Bank and other U.S., European, and Australian commercial banks, also extended substantial credit to the RQO operating subsidiaries.

AOS, RQO, and the subsidiaries paid financing fees aggregating $1,200,000 to the following participants in the transaction:

Bank	$1,000,000
A	75,000
European	50,000
Three Cities	50,000
SBIC B	25,000
Total	1,200,000

Section 17(a) of the Act, in relevant part, provides, in substance, that it is unlawful for an affiliated person or an affiliated person of an affiliated person of a registered investment company, acting as principal, knowingly to sell any security or other property to such registered investment company or to any company controlled by such registered company. The Commission may, pursuant to Section 17(b) of the Act, exempt a transaction from Section 17(a) if it finds that: (1) the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (2) the proposed transaction is consistent with the policy of each registered investment company concerned, and (3) the proposed transaction is consistent with the general purposes of the Act.

Section 17(d) of the Act and Rule 17d–1 thereunder make it unlawful for an affiliated person, or an affiliated person of such affiliated person, of a registered investment company, acting as principal, to effect any transaction in which such registered investment company or a company controlled by such registered investment company, is a joint or a joint and several participant with such person, unless an application with such person, unless an application regarding such joint enterprise has been filed with the Commission and granted by an order entered prior to the submission of such plan to security holders for approval, or prior to adoption, if not submitted to the security holders for approval. In granting such application consideration is given to whether the participation in such joint enterprise 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.

Applicants submit that participation by AIC in a transaction in which Teribe also participates might be considered a participation by AIC and Teribe in a joint enterprise in contravention of Section 17(d) of the Act and Rule 17d–1 thereunder unless authorized by order of the Commission. Applicants further submit that because of a concern that premature publicity incident to the required application for such an order might have adversely affected the then pending negotiations, the other parties to the transaction proceeded to a closing thereof. Teribe bought for its own account the participation proposed for AIC and has offered, upon issuance of the requested order within a reasonable time, to resell it to AIC at cost plus accrued interest. Such resale would, however, contravene Section 17(a)(1) of the Act unless exempted therefrom by order of the Commission pursuant to Section 17(b).

Applicants submit that the proposed transaction meets the standards for exemption of both Section 17(b) and Rule 17d–1 and that an order of the Commission should therefore be issued authorizing the proposed transaction.

Applicants represent that the boards of directors of ACC and AIC unanimously approved the proposed transaction and that the boards of directors include one representative of Alcap, one representative of another institutional investor not involved in the proposed transaction, and nine others. The ten directors unaffiliated with and not interested in Alcap personally own, in the aggregate, a number of ACC's outstanding voting shares greater than the number owned by Alcap.

Applicants further represent that the terms of the proposed transaction may be presumed to be fair and reasonable because they have been negotiated at arms-length by parties all of whom are or are advised by sophisticated investment professionals, and all of whom are represented by independent and competent legal counsel. According

to Applicants, none of the parties has the economic power or other influence to overreach any of the other parties.

Applicants submit that the terms of AIC's participation in the senior notes financing are identical to the terms of participation by the other senior notes' investors. The sole difference is the financing fees paid to certain of the participants for services rendered in structuring the transaction. Applicants submit that their boards of directors consider the fees fair and reasonable under the circumstances and that the fact that Applicants shall not receive financing fees should not be considered as differentiating the basis of their participation from that of other parties to the transaction.

Applicants submit that the proposed investment is consistent with the fundamental investment policies of AIC and, hence, of ACC, and that the proposed transaction is consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than March 29, 1982, 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/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/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 the Applicants 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. 82–6668 Filed 3–10–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22413, 70–6666]

American Electric Power Co. Inc.; et al.; Proposal Authorizing Capital Contributions to Subsidiaries

In the Matter of American Electric Power Company, Inc., 180 East Broad Street, Columbus, Ohio 43215; Appalachian Power Company, 40 Franklin Road, S.W., Roanoke, Virginia 24011; Columbus and Southern Ohio Electric Company, 215 North Front Street, Columbus, Ohio 43215; Indiana & Michigan Electric Company, One Summit Square, P.O. Box 60, Fort Wayne, Indiana 46801; Kentucky Power Company, 1701 Central Avenue, Ashland, Kentucky 41101; Kingsport Power Company, 422 Broad Street, Kingsport, Tennessee 37662; Ohio Power Company, 301 Cleveland Avenue, S.W., Canton, Ohio 44701; Wheeling Electric Company, 51 Sixteenth Street, Wheeling, West Virginia 26003.

American Electric Power Company, Inc. ("AEP"), a registered holding company, and Appalachian Power Company ("Appalachian"), Columbus and Southern Ohio Electric Company ("CSOE"), Indiana and Michigan Electric Company ("I&M"), Kentucky Power Company ("Kentucky") and Ohio Power Company ("Ohio"), Kingsport Power Company ("Kingsport") and Wheeling Electric Company ("Wheeling"), electric utility subsidiaries of AEP, have filed with this Commission a post-effective amendment to their application-declaration previously filed and amended pursuant to Sections 6 and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45, 50(a)(2), and 50(a)(5) promulgated thereunder.

By prior order dated December 30, 1981 (HCAR No. 22347), this Commission authorized AEP to issue and sell up to $165,000,000 of notes to banks and commercial paper to a dealer prior to January 1, 1983. AEP was also authorized to make capital contributions of up to aggregate amounts of $20,000,000 in Appalachian, $10,000,000 in CSOE, $50,000,000 in I&M, $50,000,000 in Kentucky and $60,000,000 in Ohio.

By post-effective amendment, AEP seeks authorization to make cash capital contributions from time to time prior to January 1, 1983 to Wheeling and Kingsport in aggregate amounts of up to $3,000,000 and $2,000,000 respectively.

The investment by AEP in its public utility subsidiaries Wheeling and Kingsport, as herein proposed, will be an addition to the general funds of such subsidiaries to enable such subsidiaries to pay their respective general obligations, including expenses incurred in connection with their construction programs, and for other corporate purposes. The estimated cost of Wheeling's construction program for 1982 is approximately $3,500,000, and the estimated cost of Kingsport's construction program for 1982 is approximately $3,000,000.

The application-declaration 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 March 29, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended by the post-effective amendment 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. 82–6669 Filed 3–10–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 18538, SR–BSE–82–3]

Boston Stock Exchange, Inc., One Boston Place, Boston, Mass 02108; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, notice is hereby given that on March 2, 1982, the Boston Stock Exchange, Inc. ("BSE") filed with the Commission copies of a proposed rule change (SR–BSE–82–3) which would amend Chapter II, Section 33 of the BSE Rules in order to increase from 399 shares to 599 shares the size of orders to be executed under the BSE's Guaranteed Execution System, and to change the basis of such execution to the best quote displayed on the Consolidated Quotation System, rather than the primary market quote. The amended

rule will operate on a pilot basis which is scheduled to expire in sixty days.[1]

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549. Reference should be made to File No. SR–BSE–82–3.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the amendment to the BSE's Guaranteed Execution System appears necessary to permit the exchange to be competitive with other exchanges which have similar execution systems already in existence. Moreover, as indicated above, the BSE has submitted, in addition to the instant proposal, a proposed rule change to amend its Guaranteed Execution System on a permanent basis. The Commission believes that the BSE's experience under the pilot should assist the Commission in determining whether to approve the amendments on a permanent basis.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

[1] The Commission also has pending before it a proposed rule change submitted by the BSE (SR–BSE–82–2) which proposes to adopt identical amendments to the Guaranteed Execution System, albeit on a permanent basis.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–6675 Filed 3–10–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12270, 812–5032]

Connecticut Mutual Financial Services Series Fund I, Inc.; Application Granting Exemptions

Notice is hereby given that Connecticut Mutual Financial Services Series Fund I, Inc. ("Applicant") 140 Garden Street, Hartford, Connecticut 06115, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on December 2, 1981, and an amendment thereto on February 19, 1982, 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 the assets of its Money Market Portfolio pursuant to 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.

According to the application, Applicant is a corporation organized under the laws of the State of Maryland. Its shares are divided into several series each of which represents a separate portfolio of investments. Applicant's Money Market Portfolio series ("Fund"), has as its investment objective to seek preservation of capital, liquidity and the highest current income consistent with the foregoing objectives by investing in short term money securities.

Applicant represents that the Fund will invest in short term United States government securities, United States government agency securities, bank certificates of deposit and bankers' acceptances, short-term corporate debt securities (such as commercial paper), variable amount master demand notes and repurchase and reverse repurchase agreements, thrift institution obligations, Eurodollar certificates of deposit and time deposits, floating rate notes and documented discount notes.

Applicant states that the Fund's investment adviser and principal underwriter is Connecticut Mutual Financial Services, Inc. All of the outstanding stock of the adviser is owned by Connecticut Mutual Life Insurance Company ("Connecticut Mutual"). According to Applicant, it is currently intended that shares of the Fund will be sold only to Connecticut Mutual and its affiliates. Fund shares will be sold primarily to Connecticut Mutual's Panorama Separate Account (the "Separate Account") as the underlying investment for variable annuity contracts to be issued by Connecticut Mutual.

According to the application, shares of the Fund will be offered to Connecticut Mutual, sold, redeemed and repurchased at a constant net asset value of $1.00 per share. This constant share value will be maintained by declaring daily, as a dividend to shareholders, the Fund's total net income which will include (i) all accrued interest income and discounts earned on its portfolio assets, minus (ii) amortized premiums, plus or minus (iii) all realized gains and losses on its portfolio assets, and minus (iv) all expenses of the Fund. Dividends will be reinvested daily in full and fractional shares of the Fund.

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 the board of directors of the registered investment company. Rule 22c–1 adopted under the Act 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 sell such security. Rule 2a–4 adopted under the Act 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 purposes of distribution, repurchase and redemption 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 other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1)

Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

The application states that the directors of the Applicant have concluded that it would be in the best interests of the shareholders of the Fund and the contract owners to use "amortized cost" valuation to maintain the constant $1.00 share value. Applicant represents that the money market subaccount of the Separate Account will be more comparable to other money market fund investments if the Fund maintains a constant net asset value per share.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, 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 the rules or regulations 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 submits that the issuance of the requested relief is necessary and 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 represents that its board of directors has determined that, absent unusual circumstances, the amortized cost method of valuing portfolio securities represents the fair value of the Fund's portfolio. Accordingly, Applicant requests that the Commission issue an order pursuant to Section 6(c) of the Act exempting the Fund 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 calculation of the Fund's net asset value per share for the purposes of effecting sales, repurchases and redemptions of its shares, using the amortized cost method of valuing portfolio securities. Applicant agrees that the following conditions may be imposed in any order granting the exemptions requested:

1. In supervising the operations of the Fund and delegating special responsibilities involving portfolio management to the Fund'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 the Fund's investment objective, to stabilize the Fund's net asset value per share, computed for the purpose of distribution, repurchase and redemption, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors 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 Fund's $1.00 amortized cost price per share, and the maintenance of records of such review. To fulfill this condition, the Fund intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the 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.

(b) In the event such deviation from the Fund's $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.

(c) If the board of directors believes the extent of any deviation from the Fund's $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: selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the Fund's average portfolio maturity; withholding dividends; redemption of shares in kind; or utilizing a net asset value per share as determined by using available market quotations.

3. The Fund will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Fund 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. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, the Fund will invest its available cash in such a manner as to reduce such average maturity to 120 days or less as soon as reasonably practicable.

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 Applicant 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 the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board 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. The Fund will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which Applicant's 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 the board of directors.

6. Applicant will include in each quarterly report, 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 March 29, 1982, 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. 82-6670 Filed 3-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12272, 812-5092]

INA Investment Securities, Inc., et al.; Application

In the Matter of INA Investment Securities, Inc., INA High Yield Fund, Inc., Three Parkway, Philadelphia, Pennsylvania 19101; INA Annuity Fund, Inc., INA Cash Fund, Inc., INA Tax-Free Reserve Fund, Inc., Springer Building, 3411 Silverside Road, Wilmington, Delaware 19810; Horace Mann Fund, Inc., Horace Mann Investors, Inc., One Horace Mann Plaza, Springfield, Illinois 62715; and INA Capital Management Corporation, Parkway Management Corporation, Three Parkway, Philadelphia, Pennsylvania 19101.

Notice is hereby given that INA Investment Securities, Inc. ("Investment Securities"), INA High Yield Fund, Inc. ("High Yield"), INA Annuity Fund, Inc. ("Annuity Fund"), Horace Mann Fund, Inc. ("Horace Mann Fund"), INA Cash Fund, Inc. ("Cash Fund"), and INA Tax-Free Reserve Fund, Inc. ("Tax-Free Fund") (collectively, the "Funds"), INA Capital Management Corporation ("ICM"), Horace Mann Investors, Inc. ("Investors") and Parkway Management Corporation ("Parkway") (the Funds, ICM, Investors and Parkway herein collectively referred to as the "Applicants") filed an application on January 27, 1982 and an amendment thereto on February 17, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants from the provisions of Section 15(a) of the Act: (i) Investment Securities, High Yield Fund, Annuity Fund and ICM to the extent necessary to permit the implementation, without prior shareholder approval, of new investment advisory agreements for each of the Funds (the "New ICM Agreements") with the same fundamental terms and conditions as the present investment advisory agreements between ICM and each of the Funds (the "Existing ICM Agreements") (ii) Horace Mann Fund, ICM and Investors to the extent necessary to permit the implementation, without prior shareholder approval, of a new investment advisory agreement between ICM and Horace Mann Fund and a new management and marketing agreement between Investors and Horace Mann Fund (collectively, the "New Horace Mann Agreements") with the same fundamental terms and conditions as the present investment advisory agreement and the present management and marketing agreement for the Horace Mann Fund (the "Existing Horace Mann Agreements"); and (iii) Cash Fund, Tax-Free Fund, ICM and Parkway to the extent necessary to permit the implementation of management agreements between Parkway and Cash Fund and Tax-Free Fund, respectively (the "New Management Agreements"), and related Management Service Agreements between Parkway and ICM (the "New Management Service Agreements") (the New Management Agreements and New Management Service Agreements are collectively referred to as the "New Parkway Agreements") with the same fundamental terms and conditions and among the same parties as the present management agreements (the "Existing Management Agreements") and management service agreements (the "Existing Management Service Agreements") (collectively, the "Existing Parkway Agreements").

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.

Applicants state that each of the Funds is registered under the Act as an open-end, diversified management investment company except Investment Securities, which is a closed-end, diversified management investment company. ICM is registered under the Investment Advisers Act of 1940 and is a wholly-owned indirect subsidiary of INA.

Applicants represent that Parkway is registered under the Investment Advisers Act of 1940. Forty percent of its stock is held by ICM. Four other companies, unaffiliated with INA, each own 15% of the stock of Parkway. Each of these companies, or one of its affiliates, is registered as a broker-dealer under the 1934 Act.

The Applicants state that ICM acts as investment adviser and manager to Investment Securities, High Yield Fund and Annuity Fund. ICM also acts as the investment adviser to Horace Mann Fund pursuant to an investment advisory agreement between them. Investors provides Horace Mann Fund with management, administrative and certain distribution services pursuant to a Management and Marketing Agreement between them.

Applicants state that Parkway is the investment adviser to Cash Fund and Tax-Free Fund. It has retained ICM pursuant to the Existing Management Service Agreements to furnish to Cash Fund and Tax-Free Fund investment advisory and administrative services and facilities in connection with the management of these Funds.

Applicants state that the New ICM Agreements, the New Horace Mann Agreements and the New Parkway Agreements (collectively referred to herein as the "New Agreements") would become effective upon the combination (the "Combination") of Connecticut General Corporation ("CGC") a Connecticut corporation and INA Corporation ("INA"), a Pennsylvania corporation and the owner directly or indirectly of the outstanding stock of ICM and Investors. The Combination is expected to occur on or after April 1, 1982; the New Agreements would continue until the shareholders of the Funds at their next annual meetings approve or disapprove the respective New Agreements or approve alternative arrangements.

However, in no event will the New Agreements remain in effect without shareholder approval for longer than 120 days in the case of each of the Funds other than Tax-Free Fund, or 180 days in the case of Tax-Free Fund, because it may not be practicable to hold the annual meeting of that Fund within the 120 day period after the Combination. Applicants state that the date of the annual meetings will be changed, if necessary, to assure that shareholder action is taken within those periods.

On November 6, 1981, CGC and INA entered into an Agreement and Plan of Merger pursuant to which CGC and INA will each be merged with subsidiaries of a newly formed holding corporation tentatively named North American General Corporation ("NAGC"), with the present shareholders of CGC and INA each to receive securities of the new holding company. After the

Combination, CGC and the corporate successor to INA, which will succeed to the assets, liabilities, business and name of INA, will be wholly-owned subsidiaries of NAGC. Assuming conversion, or exercise, of all securities outstanding as of November 6, 1981 which were convertible into or exercisable for INA common shares, and without giving effect either to possible assertions of appraisal rights by the shareholders of CGC or to the repurchase of CGC common stock and INA common shares in connection with the Combination, Shareholders of CGC and INA will receive stock of NAGC representing approximately 51.6% and 48.4%, respectively, of the total voting power of NAGC securities. The presently outstanding equity securities of both CGC and INA are widely held by members of the public. Immediately following the Combination, INA, as a subsidiary of the new holding company, will own all of the outstanding equity securities of ICM and Investors, and ICM will hold 40% of the outstanding stock of Parkway.

Section 15(a) of the Act, in relevant part, provides, in substance, that it is unlawful for any person to act as investment advisor of a registered investment company, except pursuant to a written contract that has been approved by vote of a majority of the outstanding voting securities of such registered company, and provides for its automatic termination in the event of its assignment.

Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

Section 2(a)(9) of the Act defines "control" as the power to exercise a controlling influence over the management or policies of a company and creates a presumption that a person controls a company if the person is the beneficial owner of more than 25% of that company's voting securities.

Applicants assert that they are concerned that, if the Combination occurs prior to the annual meetings of the shareholders of the Funds, then, by reason of the provisions of Sections 15(a), 2(a)(4) and 2(a)(9) of the Act, the Combination may be deemed to be an "assignment" which would terminate the Existing ICM Agreements, the Existing Horace Mann Agreements and the Existing Parkway Agreements. In order to protect against such eventuality, Applicants request relief from the provisions of Section 15(a) of the Act so that the directors of each of the Funds may approve, and the Funds may enter into, the applicable New Agreements as of the date of the Combination without shareholder approval at that time, such Agreements to continue until they are approved or disapproved by action of the shareholders of each of the Funds at the next annual meeting of shareholders or replaced by alternative arrangements.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order, upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act, 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. The application states that in authorizing the filing of this application, the directors of each of the Funds have determined that it is in the best interests of the Funds and their shareholders to continue the present relationship with ICM, Investors and Parkway after the effective date of the Combination by entering into the applicable New Agreements. When considering the advisability of the New Agreements, the boards of directors have complied with or will comply with the requirements of Section 15(c) and, in the case of Horace Mann Fund, Cash Fund and Tax-Free Fund, Section 12(b) of the Act and Rule 12b–1 thereunder. Applicants further represent that there will be no change in the services presently provided by ICM, Investors and Parkway to the Funds, the fees they will receive or in the persons providing such services or in their supervision during the period the New Agreements are in effect prior to the next meetings of shareholders of the Funds and that the Funds will not bear any of the costs of the preparation or filing of this application or of the consideration by shareholders of the Funds of the New Agreements, except to the extent that such costs also relate to the holding of annual meetings and are in lieu of costs the Funds would have otherwise incurred in connection with such meetings.

Applicants assert that the exemption requested is consistent with the standards set forth in Section 6(c) of the Act and should be granted for the following reasons:

1. *No Changes in Management or Effective Control.* Applicants represent that the Combination will not result in any change in the officers or directors of ICM, Investors or Parkway. No substantial change in such positions or in the services provided by ICM, Investors or Parkway are contemplated during the time period which would be covered by the exemption. Each of the Funds will continue to receive the same services at the same fees, provided in substantially the same manner by the same personnel during the exemption period as prior to the Combination.

2. *Board and Shareholder Approval Will Be Obtained Promptly.* Applicants represent that the Directors of the Funds will consider the questions arising from the Combination and shall have determined whether to enter into the New Agreements at meetings to be held prior to April 1, 1982. Applicants further represent that the regular annual meetings of the Funds are scheduled to be held during the period from April through October, 1982. Applicants state that they contemplate changing scheduled meeting dates, if necessary, to assure that the New Agreements will not continue in effect for more than 120 days for the Funds other than Tax-Free Fund or 180 days for Tax-Free Fund, without shareholder approval. Proxy materials, making appropriate disclosure as to the Combination and the New Agreements, will be circulated to the shareholders of the respective Funds and they will vote on the applicable New Agreements (or alternative arrangements) at their regularly scheduled annual meetings. Thus, the corporate governance objectives of the Act will be fully and expeditiously satisfied. The exemption will facilitate orderly consideration by the Funds' shareholders of the New Agreements in a manner which is consistent with the provisions of Section 15 of the Act. Failure to grant the requested exemption would cause Applicants to incur the unnecessary effort or expense resulting from either scheduling early special meetings of shareholders of the Funds or seeking to persuade CGC and INA to delay the effective date of the Combination until after the regularly scheduled annual meetings' of the Funds' shareholders. Applicants submit that neither alternative is in the best interest of the Funds' shareholders.

3. *The Exemption Would Be Consistent With the Policies of Rule 15a–4.* Although Applicants believe that Rule 15a–4 may not apply to Applicants in this instance, they assert that the exemption sought by them is consistent with the policies of the Act, as interpreted by the Commission and expressed in Rule 15a–4.

4. *The Exemption Would Avoid Certain Adverse Effects on ICM, Investors and Parkway Not Intended by the Act.* Applicants state that although the Combination may technically result in termination by "assignment" of the

agreements presently in force, as noted above, there is no intention that there will be any substantial change in the advisory and other services rendered, the personnel rendering them, the fees received or the operations of the Funds during the exemption period.

Applicants assert that failure to issue an order granting the requested exemption would mean that a publicly held parent of an investment adviser would be unable to negotiate a merger or other business combination which would provide for consummation prior to a shareholder vote by all advised investment companies. Such a result appears to the Applicants to be particularly inappropriate where the contemplated transaction is as complex, and involves as many substantial entities and important business considerations unrelated to the investment companies and the investment adviser, as is the case in the Combination. If the exemption is not granted in the case of Parkway, Applicants assert that the owners of 60% of its stock would be penalized for an action over which they had no control.

Notice is further given that any interested person may, not later than March 29, 1982, 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/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/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 the Applicants at the addresses 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 postponement thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6671 Filed 3-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22412, 70—6708]

Indiana & Michigan Electric Co.; Proposed Issuance and Sale of First Mortgage Bonds and Preferred Stock

Indiana & Michigan Electric Company ("I&M"), One Summit Square, Fort Wayne, Indiana 46801, an electric utility subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 6(b) and 12(c) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50 promulgated thereunder.

I&M proposes to issue and sell up to $100,000,000 aggregate principal amount of its first mortgage bonds, in one or more new series, or, in the alternative, up to 1,200,000 shares of Cumulative Preferred Stock, par value $25 per share, and up to $70,000,000 of first mortgage bonds, in one or more series. The bonds will have a maturity of not less than 5 years and no more than 30 years. The terms will be determined by competitive bidding. The bonds will be issued under I&M's Mortgage and Deed of Trust dated as of June 1, 1939, as supplemented and as proposed to be further supplemented. If market conditions should not be propitious for the sale of the bonds on a competitive bidding basis, I&M intends, subject to further authorization by this Commission, either to place the bonds privately with institutional investors or to negotiate with underwriters for the sale of the bonds.

As noted above, I&M also proposes alternatively to issue and sell up to 1,200,000 shares of a new series of its Cumulative Preferred Stock, par value $25 per share. The principal amount of the bonds and par value of the preferred stock will not, in any event, exceed $100,000,000 in the aggregate. The terms of the preferred stock will be determined by competitive bidding. The terms may include a sinking fund provision. If market conditions should not be propitious for the sale of the preferred stock on a competitive bidding basis, I&M intends, subject to further authorization, to provide for their sale on another basis.

The proceeds realized from the sale of the bonds and the preferred stock, together with cash capital contributions by AEP and other funds which become available to I&M, will be applied by I&M to pay maturing long-term obligations, to repay unsecured short-term indebtedness, or both, and for other corporate purposes.

The application-declaration any 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 April 1, 1982, 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. 82-6672 Filed 3-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18545, File No. SR-MSRB-82-1]

Filing and Immediate Effectiveness of Proposed Rule Change; Municipal Securities Rulemaking Board

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 24, 1982, the Municipal Securities Rulemaking Board ("MSRB"), 1150 Connecticut Avenue, N.W., Suite 507, Washington, D.C. 20036, filed with the Securities and Exchange Commission a proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The amendment to MSRB Rule A–13 decreases the underwriting assessment payable to the MSRB for the placement of new issue municipal securities from .003% ($.03 per $1,000) to .002% ($.02 per $1,000) of the par value of the municipal security. Any new issue municipal security which a municipal securities broker or a municipal securities dealer has contracted to purchase from an issuer on or after April 1, 1982, is subject

to the .002% ($.02 per $1,000) assessment. The MSRB has adopted the rule change pursuant to Sections 15B(b)(2)(I) and 15B(b)(2)(J) of the Act. Section 15B(b)(2)(J) authorizes the MSRB to adopt rules to assess municipal securities brokers and municipal securities dealers in order to defray the costs and expenses of operating and administering the MSRB. Section 15B(b)(2)(I) authorizes and directs the MSRB to adopt rules providing for the operation and administration of the MSRB. Reduction in the underwriting assessment fee is adopted in light of the MSRB's current fund reserve of $650,000 and its projections of expenses and revenues from future assessment fees.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 under the Act. At any time within 60 days of the filing of the rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before April 1, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–MSRB–82–1.

Copies of the submission, all subsequent amendments, all written statements with respect to the rule change which are filed with the Commission, and all written communications relating to the rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–6676 Filed 3–10–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 18540, File No. SR–NESDTC–82–1]

Filing and Immediate Effectiveness of Proposed Rule Change by New England Securities Depository Trust Co.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 25, 1982, the New England Securities Depository Trust Company ("NESDTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

NESDTC has revised portions of its fee schedule pursuant to Section 17A(b)(3)(D) of the Act. NESDTC believes that the revision will cause its fees more accurately to reflect costs.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before April 1, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–NESDTC–82–1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–6677 Filed 3–10–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12276, 812–5023]

The Mutual Life Insurance Co. of New York and the MONY Variable Account–B; Application

Notice is hereby given that The Mutual Life Insurance Company of New York, 1740 Broadway, New York, N.Y. 10019, a mutual life insurance company organized under the laws of New York, ("MONY") and The MONY Variable Account–B, a separate investment account of MONY, ("VA–B") filed an application on November 25, 1981 and an amendment thereto on February 18, 1982 for an order of the Commission exempting MONY and VA–B from provisions of Sections 15(a), 16(a), 17(f), 22(d), 22(e), 27(c)(1), 27(c)(2), 27(d) and 32(a) of the Investment Company Act of 1940 ("Act") and Rule 17f–2 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

Applicants state that (i) VA–B was established for the purpose of providing an investment medium, during the accumulation period, for certain variable accumulation (fixed) annuity contracts to be issued by MONY and VA–B ("VA–B contracts"); (ii) VA–B contracts are to be offered to plans qualified under Section 403(b) of the Internal Revenue Code; (iii) VA–B is registered under the Act as an open-end diversified management investment company; and (iv) the assets of VA–B will be held by MONY or in book-entry form. MONY reserves the right to place in VA–B at some future date variable accumulation annuity contracts which are not "tax benefited."

Exemptions for Annual Meeting

Section 15(a), in part, prohibits a person from serving or acting as investment adviser of a registered investment company except pursuant to a contract that has been approved by a vote of the security holders of such company. Section 16(a), generally, prohibits a person from serving as a director of a registered investment company unless elected by the holders of the outstanding voting securities of the company. Section 32(a), among other things, prohibits a registered

management investment company from filing with the Commission any statement signed or certified by an independent public accountant unless the selection of such accountant has been ratified by a vote of the security holders of such company. Applicants have requested an exemption to permit the first annual meeting of VA–B to be held on or about May 15, 1983 (unless the number of VA–B contract holders reaches 1,000 before that date in which case a special meeting will be held within 90 days thereafter). At such time a meeting of contract holders will be scheduled to consider the election of the members of the VA–B committee, approval of the Investment Management Agreement, and ratification of the selection of the independent public accountant.

Exemptions for Custodianship

Rule 17f–2(d), adopted pursuant to Section 17(f) of the Act, provides, generally, that if an investment company maintains its securities and similar investments in its own custody, access to such investments must be limited to not more than five officers or responsible employees of the investment company designated in a resolution of the board of directors of such investment company. Applicants request exemption from the provisions of Rule 17f–2(d) so as to permit access to the vault by the Treasurer and the Vice President (Corporate Actuary) of MONY, seven members of MONY's Treasurer's Department, one Senior Vice President, ten members of MONY's Corporate Finance Department, and the Corporate Secretary. Applicants also request exemption from the provisions of Rule 17f–2(d) so as to permit access to the vault by State Insurance Examiners and other employees of MONY, but only under the close observation of the Controller and Treasurer or their designated representatives. Applicants further request an exemption from Rule 17f–2(d) to permit such persons to be authorized or permitted to have access to the securities held in VA–B by resolutions adopted by the Board of Trustees of MONY, rather than by the Management Committee of VA–B.

Section 27(c)(2) of the Act provides, in substance, that a periodic payment plan certificate company or depositor or underwriter for such a company is prohibited from selling any such certificates unless, among other things, the proceeds of all payments, other than sales load, on such certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1) and are held by such trustee or custodian under an agreement containing, in substance, the trust indenture provisions required by Sections 26(a)(2) and 26(a)(3) of the Act. To the extent that the annuity contracts participating in VA–B are deemed to be periodic payment plan certificates, Applicants request an exemption from the requirements of Section 27(c)(2) of the Act to permit the proceeds of all payments received under such contracts to be held by MONY not under a trusteeship as described in the Act. Also, to the extent that the specific provisions in Section 26(a)(2) of the Act override the statutory and regulatory permission granted to registered management investment companies under Section 17(f) of the Act and Rule 17f–4 thereunder, Applicants respectfully request an exemption to allow MONY to hold securities and similar investments in book-entry form, as permitted by Section 17(f) and Rule 17f–4.

Exemptions for Fees

Section 22(d) of the Act provides, in relevant part, that no registered investment company or principal underwriter thereof shall sell any redeemable security to the public except at a current public offering price described in the prospectus.

Applicants propose to make certain deductions from payments by participants in VA–B for sales and administrative expenses according to the following formula. In cases in which a participant under a VA–B contract is not also a participant under a separate MONY 403(b) fixed-dollar deposit administration group annuity contract issued to the same contract holder and adopted by the participant's employer prior to the effective date of the VA–B registration statement ("eligible fixed-dollar contract") or a participant under a separate MONY 403(b) VA–A group variable annuity contract issued to the same contract holder and adopted by the participant's employer prior to the effective date of the VA–B registration statement ("eligible VA–A contract"), a deduction from each purchase payment for sales and administrative expenses is made under the VA–B contract in an amount equal to the sum of: (a) 2.75% of each purchase payment, allocated between 2.5% for sales and marketing expenses and 0.25% for administrative expenses, until the aggregate amount of such purchase payments equals $10,000, and 0% thereafter; and (b) an amount equal to $1.25 per purchase payment during each contract year, if such purchase payments are being made at the rate of at least 20 purchase payments for a twelve month period, or $2.00 per purchase payment during each contract year, if such purchase payments are being made at the rate of less than 20 purchase payments per twelve month period. Applicants assert that the amount of such flat dollar charges will be allocated by MONY entirely to administrative expenses.

In cases in which a participant under a VA–B contact is also a participant under an eligible fixed-dollar contract or eligible VA–A contract, a deduction from each purchase payment under the VA–B contract will be made for sales and administrative expenses equal to the lesser of: (i) the dueduction described in the preceding paragraph, or (ii) a deduction of 5% of each purchase payment, allocated by MONY between 2.5% for sales and marketing expenses and 2.5% for administrative expenses until the aggregate amount of such purchase payments equals $10,000 and 0% thereafter.

To determine whether the aggregate amount of payments exceeds $10,000 for purposes of determining the applicable sales load in the preceding paragraphs, all purchase payments made on behalf of a participant in VA–B are aggregated with payments made on behalf of the same participant (i) under a separate fixed-dollar contract issued to the same contract holder and adopted by the participant's employer, other than any contributions to such fixed-dollar contract transferred to VA–B from a funding agency other than MONY, and (ii) under a separate VA–A contract issued to the same contract holder and adopted by the participant's employer.

Applicants state that the above-described deductions and the varying circumstances under which they are imposed are fully disclosed in the VA–B prospectus, and any differences therein are based in general on MONY's best estimate of the anticipated costs of its sales and marketing expenses and its administrative expenses, respectively, taking into account certain equitable considerations respecting existing participants in companion 403(b) contracts. Applicants therefore respectfully request an exemption from Section 22(d) to the extent necessary to allow the above-described sales load and administrative expense deductions. Applicants request a further exemption from Section 22(d) to the extent necessary to permit MONY to follow the procedures described in the application to rate the participating group annuity contracts or participants based on the experience of classes of group contracts or participants (and of particular group contracts) and to credit divisible surplus in appropriate cases to holders in such classes (and to particular group

contracts) for the purpose of distributing divisible surplus in the manner described in the application.

Section 27(c)(2) of the Act prohibits a registered investment company or any depositor or underwriter for such company from selling periodic payment plan certificates unless, among other things, the proceeds of all payments other than sales load are held under an agreement containing, in substance, the provisions required by Section 26(a)(2)(C) of the Act. Section 26(a)(2)(C) provides that no payment to the depositor of, or principal underwriter for, a registered unit investment trust (or to any affiliated person or agent of such depositor or principal underwriter) shall be allowed the trustee or custodian as an expense except for payment of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services of a character normally performed by the trustee or custodian. Applicants respectfully request an exemption from Section 27(c)(2) of the Act to the extent necessary to permit MONY to make the following charges and deductions: (i) the percentage and flat dollar charges for administrative expenses described in the preceding paragraphs of this section and (ii) a daily charge against the assets of VA–B at an annual rate of .50% of the current value of all funds credited to and held in VA–B to be allocated .30% of reinvestment management services, .10% for administrative expenses, .05% for mortality risks, and .05% for expense risks. According to Applicants, the charge for investment management services may not be increased without the approval of VA–B contract holders, but the sum of the charges for administrative expenses and mortality and expense risks may be increased by MONY to a maximum of .70% without such approval.

Applicants consent to the requested exemptions from the provisions of Section 27(c)(2) of the Act being made subject to the following conditions:

(a) That the deductions and charges under the variable accumulation annuity contracts for administrative expenses shall not exceed such reasonable amounts as the Commission shall prescribe, and that the Commission may reserve jurisdiction for such purpose; and

(b) That the payment of sums and charges out of the assets of VA–B shall not be deemed to be exempted from regulation by the Commission, by reason of the requested order, provided that the Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of the assets in VA–B, other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Exemptions for Texas Optional Retirement Plan

Sections 22(e) and 27(c)(1) of the Act provide, respectively, in pertinent part, (1) that a registered investment company may not suspend the right of redemption or postpone the date of payment upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security for redemption, and (2) that a registered investment company issuing periodic payment plan certificates may not sell such certificates unless such certificates are redeemable securities. Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15% of the gross payments made by the certificate holder.

Pursuant to Texas law, all Texas institutions of higher education make available to certain employees an Optional Retirement Program ("Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code (now Subchapter A of Chapter 36), funded through fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. As interpreted in an opinion dated February 18, 1975 by the Attorney General of Texas, certain 1973 amendments to the legislation establishing the Program now prohibit provisions in a fixed or variable annuity contract issued in connection with the Program which provide for making available the redemption value of such contract prior to the occurrence of one of the following conditions: termination of employment, retirement, death or total disability.

Applicants state that MONY will instruct its sales representatives to inform orally prospective investors in the Program of the redemption restrictions. Applicants also state that any prospectuses in respect of VA–B used to offer and sell contracts under the Program will also contain appropriate disclosure of the applicable Texas restrictions. Applicants further agree that a statement describing the restrictions will be placed as a rider to the applicantion signed by a participant at the time the participant completes a participant's enrollment form or application for a VA–B contract. In addition, MONY and VA–B will insure that the substance of this disclosure regarding restrictions on redeemability is included in any sales literature that is to be used in conjunction with the sales of VA–B contracts.

Accordingly, Applicants hereby request exemptions from Sections 22(e), 27(c)(1), and 27(d) of the Act to the extent necessary to permit redemption values under any VA–B contracts which may hereafter be issued to participants in the Program to be paid to such participants (in accordance with the above-mentioned Attorney General's opinion) only upon termination of employment in the Texas public institutions of higher education, retirement, death, or total disability of the participating faculty member.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated 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.

Notice is further given that any interested person may, not later than March 30, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally by mail upon the Applicants 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 March 30, 1982 unless the Commission therafter orders a hearing upon request or upon the Commission's own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6673 Filed 3-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12271, 812-5080]

Variable Annuity Account C of Aetna Life Insurance & Annuity Co. and Aetna Life Insurance & Annuity Co.; Application Exempting Applicants

Notice is hereby given that Variable Annuity Account C of Aetna Life Insurance and Annuity Company ("Account C"), 151 Farmington Avenue, Hartford, Connecticut 06156, registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and Aetna Life Insurance and Annuity Company ("Company"), the principal underwriter therefor, (hereinafter collectively referred to as "Applicants"), filed an application on January 12, 1982, pursuant to section 6(c) of the Act for an order of the Commission exempting Applicants from Sections 26(a)(2)(C) and 27(c)(2) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

Variable Annuity Account C is a separate account of the Company established pursuant to the insurance laws of Connecticut for the purpose of holding reserves attributable to certain of the Company's variable annuity contracts. The assets of the Account are invested in the shares of Aetna Variable Funds, Inc., Aetna Income Shares, Inc., or Aetna Variable Encore Fund, Inc., (the "Funds"), open-end management investment companies registered under the Act.

By order of the Commission, dated June 18, 1980 (Investment Company Act Release No. 11222), Account C and the Company were exempted, pursuant to Section 6(c) of the Act, from, *inter alia*, Sections 26(a)(2)(C), 27(c)(1) and 27(c)(2) to permit sale of single premium and periodic payment deferred sales charge contracts through the Account, as well as imposition of an annual maintenance fee. The periodic payment contracts are available in two forms: (1) one for individual and small group purchasers ("Small Group Contract"), where individual solicitation of each participation is required; (2) one for large group plans ("Large Group Contract") involving at least $100,000 of annual purchase payment and mass solicitation of plan participants. In the application for these exemptions, it was stated that an annual maintenance fee would be imposed to reimburse the Company for administrative expenses. The fee was $20 per participant under the Small Group Contracts and $15 per participant under the Large Group Contracts. In requesting the exemptions, Applicants agreed to the following conditions: (1) that the charges to variable annuity contract owners for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction beging reserved for such purpose; and (2) that the payments of sums and charges out of the assets of the Account shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payments of sums and charges out of such assets other than charges for administrative services.

Applicants state that the Company plans to modify the annual maintenance fee to be charged with respect to certain periodic payment Small Group Contracts in the H.R. 10 and Section 401(a) corporate qualified plan markets. The fee will become $30 per participant while the fee for all other Small Group Contracts will remain at $20 per participant. Except for the annual maintenance fee referred to above, no charges imposed on contractholders will increase under the Small Group Contracts or the Large Group Contracts.

Sections 26(a)(2)(C) and 27(c)(2)

Section 27(c)(2) prohibits a registered investment company, or a depositor of or underwriter for such company, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, on such certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1), and are held by such trustee or custodian under an agreement containing substantially the provisions required by Sections 26(a)(2) and 26(a)(3) of the Act. Section 26(a)(2)(C) provides that no payment to the depositor of, or principal underwriter for, a registered unit investment trust shall be allowed the trustee or custodian as an expense except a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing bookkeeping and other administrative duties normally performed by a trustee or custodian. For purposes of the Act, the Company is the depositor and the principal underwriter with respect to Account C and pursuant to the exemptions referred to above, acts as its own custodian.

Applicants submit that the annual maintenance fee of $30 per participant to be charged on certain Small Group Contracts is reasonable both in relation to industry practice and with respect to anticipated expenses to be incurred by the Company in administering these contracts. Applicants submit that, because of the nature of these contracts, and the more extensive recordkeeping and reporting requirements associated with pension products, the Company's costs are greater than those involved in administering either the Large Group Contracts or the Small Group Contracts.

Applicants have consented to the exemptions requested herein from Sections 26(a) and 27(c)(2) being made subject to the following conditions: (1) the charges to variable annuity contract owners for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved to the Commission for such purpose; and (2) the payments of sums and charges out of the assets of the Account shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payments of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payments of such other sums or charges.

Section 6(c)

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons, securities or transactions from any provision of the Act 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.

Notice is further given that any interested person may, not later than March 30, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to 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 by mail upon Applicants at the address stated above. Proof of 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 postponement thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–6674 Filed 3–10–82; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 09/09/0302]

AMF Financial, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), under the name of AMF Financial, Inc., 2657 Vista Way, Suite 5, Oceanside, California 92054, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and sole shareholder of the Applicant are as follows:

Steven R. Jones, 2657 Vista Way, Suite 5, Oceanside CA 92054; President and Director

William Temple, 2657 Vista Way, Suite 5, Oceanside, CA 92054; Investment Advisor/ General Manager/Vice President

Richard Gant, 707 Broadway, San Diego, CA 92101; Secretary, Treasurer/ Director

Jeffrey Chandler, 1415 S. Pacific St., Oceanside, CA 92054; Director

One hundred percent of the applicant's issued and outstanding common stock will be owned by its parent company, American Mortgage Fund, Inc., a California Corporation.

The applicant, a California Corporation, with its principal place of business at 2657 Vista Way, Suite 5, Oceanside, California 92054 will begin operations with $500,000 of paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in California.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than fifteen (15) days from the date of publication of this Notice, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Oceanside, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 8, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82–6612 Filed 3–10–82; 8:45 am]

BILLING CODE 8025–01–M

[Proposed Application No. 06/06–0256]

FSA Capital, Ltd.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), under the name of FSA Capital, Ltd., 301 West 6th Street, Austin, Texas 78701, for a license to operate as a limited partnership small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The formation and licensing of a limited partnership SBIC is subject to the provisions of § 107.4 of the Regulations. The Application shall provide for a sole general partner, which must be a corporation, organized under State law solely for the purpose of managing the functions and activities of the limited partnership SBIC. There may be any number of limited partners.

The corporate general partner will be FSA Capital Advisors, Inc., 301 West 6th Street, Austin, Texas 78701, and it will own 1.74 percent of the Applicant. The remaining 98.26 percent will be owned by the limited partners, none of whom will own as much as 10 percent.

Applicant will begin operations with an initial private capital of $1,150,000, consisting of $20,000 from the corporate general partner and $1,130,000 from the limited partners. Applicant will be managed by FSA Investments, Inc.

The Applicant will establish a diversified investment policy, and it intends to render management services to small business concerns.

The corporate general partner (FSA Capital Advisors, Inc.) will consist of the following officer, directors, and more-than-10-percent shareholders:

Richard C. Baker, 3102–A Scenic Drive, Austin, Texas 78703—Chairman of the Board

G. Felder Thornhill, 2710 Scenic Drive, Austin, Texas 78703—President

Jon P. Newton, 2601 Wooldridge Drive, Austin, Texas 78703—Vice President, Director

Larry E. Temple, 2606 Escondido Cove, Austin, Texas 78703—Treasurer, Director

William Ward Greenwood, 1701 Norris Drive, Austin, Texas 78704—Secretary

Bradley A. Fowler, 3401 Beartree Circle, Austin, Texas 78732—Assistant Secretary

H. B. Abshier, Jr., 301 W. 6th Street, Austin, Texas 78701—Director

Harold E. Bigler, Jr., 18 Canterbury Lane, Avon, Connecticut 06103—Director

C. Daniel Jones, 2350 Bluebonnet Drive, Houston, Texas 77030—Dirctor

Henry B. Tippie, 7009 Edgefield Drive, Austin, Texas 78731—Director

E. Lee Walker, 6207 Cat Mountain Cover, Austin, Texas 78731—Director

FSA Investment, Inc., 301 W. 6th Street, Austin, Texas 78701—20 percent
Highland Resources, Inc., 800 San Jacinto, Houston, Texas 77002—17 percent
A partnership composed of Messrs. Abshier, Fowler, Greenwood, and Thornhill—12 percent

FSA Capital Advisors, Inc., the corporate general partner of the License Applicant, is authorized to issue a total of 1,100,000 shares of stock: 100,000 shares of $10.00 par value preferred stock and 1,000,000 shares of $1.00 par value common stock.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is hereby given that any person may, on or before March 26, 1982, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Austin, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 8, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6613 Filed 3-10-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0184]

Grocers Capital Co., Inc.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Grocers Capital Company (Grocers) 2601 S. Eastern Avenue, Los Angeles, California 90040, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to § 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1981)) for approval of two conflict of interest transactions.

Grocers proposes to loan $75,000 to El Caney Market, 4600 Maplewood, Los Angeles, CA 90004 and $200,000 to Isla Vista Market, 939 Embarcadero Del Mar, Goleta, CA 93117. The proceeds of the loan will be used to purchase equipment of inventory from Grocers Equipment Company (G.E.C.) and/or Certified Grocers of California, Ltd. (Certified), Associates of the Licensee.

All of Grocers' stock is owned by subsidiaries of Certified, a retailer owned grocery cooperative. G.E.C., a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined as an Associate by Section 107.3 of the SBA Rules and Regulations.

As a result, Grocers' financings to El Caney and Isla Vista fall within the purview of Sections 107.3 and 107.1004(b) (5) of the SBA Regulations. Grocers' loan to El Caney and Isla Vista requires prior written approval of SBA.

Notice is hereby given that any person may on or before March 22, 1982, submit written comments to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in both the Los Angeles and Goleta, California areas.

(Catalog of Federal Domestic Assistance Program No. 95.011, Small Business Investment Companies)

Dated: March 8, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6614 Filed 3-10-82; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 09/09-0306]

Mariners Capital, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), under the name of Mariners Captial, Inc., 3471 Via Lido, Suite 211, Newport Beach, California 92663, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*) and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and sole shareholder of the Applicant are as follows:

Paul L. Balalis, 1129 E. Balboa Blvd., Balboa, California 92661—Chairman of the Board, Chief Financial Officer
Davis T. Chamberlin, 117 Opal Avenue, Balboa Island, California 92662—President
George S. L. Dunlop, 25101 Via Portola, Laguna Beach, California 92651—Secretary
David A. DeLo, 910 Meadowlark Drive, Laguna Beach, California 92651—Director
William A. Schmidt, 440 Oak Street, Laguna Beach, California 92651—Director
Mariners Bancorp, 3471 Via Lido, #211, Newport Beach, California 92663—Sole Shareholder

Mariners Bancorp, a California corporation is presently owned by fifteen individual founders, none of whom own 10 percent or more of its common stock.

The Applicant has one class of stock authorized: 500,000 shares of common stock with a stated value of $10.00 per share. Initially one hundred ten thousand shares will be issued with a resultant private capital of $1,100,000. Applicant proposes to conduct its operations principally in the State of California.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, on or before March 26, 1982, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Newport Beach, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 8, 1982

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6615 Filed 3-10-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice PN-796]

Participation of Private-Sector Representatives on U.S. Delegations

As announced in Public Notice no. 623 (43 FR 37783), August 24, 1978, the Department is submitting its January and February 1982 list of U.S. accredited Delegations which included private-sector representatives.

Publication of this list is required by Article IV(c)(4) of the guidelines published in the **Federal Register** on August 24, 1978.

Dated: March 1, 1982.

John W. Kimball

Director, Office of International Conferences.

United States Delegation To The 23RD Session of the Subcommittee on Containers and Cargoes Intergovernmental Maritime Consultative Organization (IMCO) London, February 8–11, 1982

Representative

Frank Perrini, Office of Merchant Marine Safety, U.S. Coast Guard, Department of Transportation

Alternate Representative

R. L. Storch, Commander, Office of Merchant Marine Safety, U.S. Coast Guard, Department of Transportation

Adviser

John McAnulty, Office of Merchant Marine Safety, U.S. Coast Guard, Department of Transportation

Private Sector Advisers

S. Fraser Sammis, National Cargo Bureau, Inc., New York, New York
Donald L. Monroe, American Bureau of Shipping, New York, New York
Edward H. Middleton, Maritime Institute for Research and Industrial Development, Washington, D.C.

United States Delegation To The Conference on Danish/Icelandic Joint Financing Agreements Fourth International Civil Aviation Organization (ICAO) Montreal, February 16–26, 1982

Delegate

The Honorable John E. Downs, United States Representative to ICAO

Alternate Delegates

Louis N. Cavanaugh, United States Mission to ICAO, Montreal
John Davies, International Aviation Affairs, National Oceanic and Atmospheric Administration, Department of Commerce
Kathleen W. Gorman, International Analysis and Coordination Division, Bureau of Economic and Business Affairs, Department of State
Joan S. Gravatt, Aviation Programs and Policy Division, Bureau of Economic and Business Affairs, Department of State

Private Sector Adviser

Raymond A. Rossman, Pan American World Airways, New York, New York

United States Delegation To The Executive Board International Coffee Organization (Commodities) London, February 22–26, 1982

Representative

Rollinde Prager, Office of the U.S. Trade Representative, Executive Office of the President

Alternate Representative

Paul Pilkauskas, U.S. Embassy, London

Adviser

Ralph Ives, Office of Commodity Policy, Department of Commerce

Private Sector Advisers

George Boecklin, President, National Coffee Association, New York
Andrew Scholtz, President, Scholtz & Company, New York
Marvin Schur, President, J. Aron & Company, New York

United States Delegation To The Codex Alimentarius Committee On Food Hygiene Food And Agriculture Organization/World Health Organization (FAO/WHO) Washington, D.C., February 22–26, 1982

Representative

George J. Jackson, Division of Microbiology, Food and Drug Administration

Alternate Representative

Robert W. Weik, Bureau of Foods, Food and Drug Administration

Advisers

E. Spencer Garrett, National Marine Fisheries Service, Pascagoula, Mississippi
George P. Hoskin, Division of Microbiology, Food and Drug Administration
Joseph W. Lepak, Division of Microbiology, Food and Drug Administration
Joseph M. Madden, Division of Microbiology, Food and Drug Administration
Thomas Mulvaney, Division of Food Technology, Food and Drug Administration
Barry Wentz, Division of Microbiology, Food and Drug Administration

Private Sector Advisers

Cleve B. Denny, Director, Research Services, National Food Processors Association, Washington, D.C.
Nino E. Insalata, Senior Laboratory Manager, General Foods Corporation, White Plains, New York

United States Delegation To The International Tin Council (Commodities) London, January 19–22, 1982

Representative

Marc Santucci, Office of the U.S. Trade Representative, Executive Office of the President

Alternate Representative

David Wilson, Industrial and Strategic Minerals Division, Bureau of Economic and Business Affairs, Department of State

Advisor

Paul Pilkauskas, United States Embassy, London

Private Sector Advisers

George Keagle, General Manager, Purchasing, Materials and Energy, United States Steel Corporation, Pittsburgh, Pennsylvania
Stanley Marx, President, Industrial Smelting, Detroit, Michigan

United States Delegation To The Fifth Session Intergovernmental Working Group Of Experts On International Standards Of Accounting And Reporting United Nations Economic And Social Council (ECOSOC) New York, January 18–29, 1982

Representative

Philip T. Lincoln, Jr., Deputy Director, Office of Investment Affairs, Bureau of Economic and Business Affairs, Department of State

Alternate Representative

Clarence G. Staubs, Chief Accountants Office, Securities and Exchange Commission

Adviser

Arnold J. Croddy, Office of Investment Affairs, Bureau of Economic and Business Affairs, Department of State (Jan. 25–29)

Private Sector Adviser

Richard D. Fitzgerald, Price Waterhouse, International, New York

United States Delegation To The Committee On Gas, Twenty-Eighth Session Economic Commission For Europe (ECE) Geneva, January 11–15, 1982

Representative

Lucio D'Andrea, Office of Oil and Natural Gas, Department of Energy

Advisers

George Dempsey, United States Mission, Geneva
James Porter, United States Mission, Geneva

Private Sector Advisers

Robert E. Ebel, Vice President, Ensearch Corporation, Washington, D.C.
Stewart Kean, President, National LP-Gas Association, Washington, D.C.

United States Delegation To The Seventh Inter-American Ministers Of Labor Conference Organization Of American States (OAS) Santo Domingo, January 24–29, 1982

Representative

The Honorable Malcolm R. Lovell, Jr., Under Secretary of Labor

Alternate Representative

The Honorable Robert Searby, Deputy Under Secretary of Labor for International Affairs, Department of Labor

Advisers

Peter Accolla, Area Adviser for Latin America and the Caribbean, Department of Labor
Michael C. Aho, International Economist, Bureau of International Labor Affairs, Department of Labor
Dale M. Provenmire, Labor Adviser, Bureau of Inter-American Affairs, Department of State
John A. Warnock, Special Assistant to the Secretary of State and Coordinator for International Labor Affairs, Department of State

Private Sector Advisers

Michael Boggs, Deputy Director, International Affairs, AFL–CIO, Washington, D.C.

Harry T. Morely, Jr., Attorney-at-Law, St. Louis, Missouri
James S. O'Hanlon, Manager, Labor Relations, Mobil Oil Corporation, New York, New York

United States Delegation To The Diplomatic Conference To Conclude An Atlantic Salmon Convention (Wildlife) Reykjavik, January 18–22, 1982

Representative

Larry L. Snead, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Advisers

David Allen, Assistant Regional Director for Fisheries, United States Fish and Wildlife Service, Department of Interior
Michael J. Danaher, Office of the Assistant Legal Advisor, Department of State
Allen Peterson, Director, Northeast Region, National Marine Fisheries Service, Department of Commerce
Daniel Reifsnyder, Office of International Fisheries Affairs, National Marine Fisheries Service, Department of Commerce
Frederick Shoup, United States Embassy, Reykjavik

Private Sector Advisers

Richard Buck, Chairman, Restoration of Atlantic Salmon in America, Inc., Hancock, New Hampshire
Frank Carlton, M.D., Chairman, National Coalition for Marine Conservation, Savannah, Georgia
David Egan, President, Connecticut River Salmon Association

United States Delegation To The Intergovernmental Council International Program For Development Of Communications (IPDC) Second Session Acapulco, Mexico, January 18–25, 1982

Representative

William G. Harley, United States National Commission for UNESCO, Department of State

Alternate Representative

John Hughes, Associate Director, International Communication Agency

Advisers

Clifford Block, Associate Director for Development Communications, Bureau for Development Support, Agency for International Development
Martin Jacobs, Officer in Charge of Communications, Bureau of International Organization Affairs, Department of State
Elkin Taylor, United States Deputy Permanent Representative to UNESCO, Paris

Private Sector Advisers

Tahlman Krumm, Jr., OMNICOMM Enterprises, Inc., Columbus, Ohio
Gordon H. Scherer, Attorney-at-Law, Cincinnati, Ohio

United States Delegation To The Working Group On International Plutonium Storage And Safeguards International Atomic Energy Agency (IAEA) Vienna, February 8–12, 1982

Representative

Joerg H. Menzel, Chief, Nuclear Safeguards and Technology Division, Arms Control and Disarmament Agency

Adviser

Stanley K. Fraley, U.S. Mission to the IAER, Vienna

Private Sector Adviser

Richard Schneider, Safeguard Specialist, Exxon Nuclear Company, Hanford, Washington

[FR Doc. 82-6587 Filed 3-10-82; 8:45 am]
BILLING CODE 4710-19-M

[Public Notice CM-8/497]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting on March 26, 1982, of the Working Group on Accounting Standards of the Advisory Committee on International Investment, Technology, and Development. The Working Group will meet from 10:00 a.m. to 12:00 noon. The meeting will be held in Room 3524 of the State Department, 2201 C Street, NW., Washington, D.C. 20520. The meeting will be open to the public.

The purpose of the meeting will be to discuss the preparations for the Sixth Session of the U.N. Ad Hoc Intergovenmental Working Group of Experts on International Standards of Accounting and Reporting.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632–2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: February 26, 1982.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 82-6588 Filed 3-10-82; 8:45 am]
BILLING CODE 4710-07-M

[Public Notice CM-8/496]

Secretary of State's Advisory Committee on Private International Law; Meeting

There will be a meeting of the subject Advisory Committee at 10:00 A.M. on Friday, April 30, 1982 in Room 1105 (ground floor) of the Department of State. Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The meeting agenda will include discussion of implementation in the United States of the 1980 Hague Convention on the Civil Aspects of International Child Abduction, which was signed by the United States on December 23, 1981, with a view to eventual United States ratification of that Convention. A number of other private international law activities and plans will be reviewed.

Entry to the Department of State building is controlled and members of the general public should use the "C" Street ("diplomatic") entrance. As entry will be facilitated by advance arrangements, members of the general public planning to attend should, prior to April 30, notify Ms. Rochelle Renna, Office of the Assistant Legal Adviser for Private International Law, Department of State, Washington, D.C., 20520 (telephone: (202) 632–8134) of their name, affiliation, address and telephone number.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law and Vice-Chairman, Secretary of State's Advisory Committee on Private International Law.

February 17, 1982.

[FR Doc. 82-6589 Filed 3-10-82; 8:45 am]
BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-026]

Notice of Qualification of Texasgulf, Inc., as a Citizen of the United States

Notice is given that pursuant to 46 CFR 67.23–7, issued under the provisions of section 27A of the Merchant Marine Act, 1920, as added by the Act of September 2, 1958 (46 U.S.C. 883–1), Texasgulf, Inc. of High Ridge Park, Stamford, Connecticut 06904, incorporated under the laws of the State of Texas, did on February 4, 1982, file with the Commandant, United States Coast Guard, in duplicate, an oath for

qualification as a citizen of the United States following the forms of oath prescribed in Form CG–1260.

The oath shows that:

(a) A majority of the officers and directors of the corporation are citizens of the United States;

(b) Not less than 90 percent of the employees of the corporation are residents of the United States;

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States or in a Territory, District, or possession thereof;

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(e) The corporation purchases or produces in the United States its Territories or possessions not less than 75 percent of the raw materials used or sold in its operations.

The Commandant, United States Coast Guard, having found this oath to be in compliance with the law and regulations, on February 22, 1982, issued to Texasgulf, Inc., a certificate of compliance as provided for in 46 CFR 67.23–7. This certificate and any authorization granted thereunder will expire three years from February 22, 1982, unless there first occurs a change in the corporate status requiring a report under 46 CFR 67.23–7.

L. N. Hein,

Captain, Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 82-6616 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Guidance Material for the Preparation of Environmental Documents

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice is to advise that the Federal Highway Administration has issued a Technical Advisory entitled, "Guidance Material for the Preparation of Environmental Documents," copies of which are available from the address set forth below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Gatz, Office of Environmental Policy, (202) 426–4093, or Mr. Edward V. A. Kussy, Office of the Chief Counsel, (202) 426–0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of "Guidance Material for the Preparation of Environmental Documents" is to provide explanatory guidance to FHWA field offices and project applicants on FHWA's environmental impact and related procedures (23 CFR Part 771) and to provide the public with a further explanation of FHWA internal operating procedures in the development of the reports and documentation required by the National Environmental Policy Act (NEPA) and related Federal statutes. This material also provides the guidance required by 23 U.S.C. 109(h) to assure the full consideration of possible adverse economic, social, and environmental effects of proposed FHWA projects. While the material was developed primarily to provide guidance in the development of environmental impact statements (EIS's), it is also applicable, to the extent appropriate, for environmental assessments and other environmental studies deemed necessary prior to the advancement of a project with a categorical exclusion determination or a finding of no significant impact, and for documentation necessary to comply with section 4(f) of the DOT Act. This material is not regulatory; it was intended to provide uniform an consistent guidance for the development of environmental documents. The material contained in this Technical Advisory was published in draft form for public comment on October 15, 1979 (44 FR 59455). Comments were received in the public docket and were full considered by FHWA in the preparation of the final document.

(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: February 24, 1982.

L. P. Lamm,

Executive Director, Federal Highway Administration.

[FR Doc. 82-6553 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Denial of Petition for Defect Determination; Kerwan

This notice sets forth the reasons for the denial of a petition by Marilyn Kerwan of San Jose, California, asking the agency for a determination that 1975–82 Volkswagen Rabbits contain a defect that relates to motor vehicle safety.

On November 9, 1981, Ms. Kerwan asked the agency to require Volkswagen to install a mirror on the front passenger side door, "to compensate for a dangerous blind spot that interferes with the driver's ability to change lanes safely."

The agency replied that it could find no other owner complaints of field of view obstruction or "blind spots" relating to VW Rabbit vehicles. In a survey of 22 vehicles conducted in 1978 by NHTSA, the two door Rabbit has the least amount of obstruction measured at the right side rear roof pillar, and that the four door Rabbit ranked fifth, well below the average obstruction measured. Body configuration of both Rabbits remain unchanged today. A passenger side rear view mirror is available as an option from the manufacturer and was provided as standard equipment on only one of the 22 vehicles tested. Further, the Rabbit appears to meet the requirments of Federal Motor Vehicle Safety Standard No. 111 *Rearview Mirrors.* As there was no reasonable possibility that an order would be issued at the end of an investigation ordering the manufacturer to notify and remedy, the petition was denied on February 2, 1982.

[Sec. 124, Pub. L. 93–492, 88 Stat 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8]

Issued on March 5, 1982.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 82-6683 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of

the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes on April 9, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8789-N	Cleanweld Products, Inc., Irwindale, CA	49 CFR 178.50-15, 178.50-16, 178.50-17, 178.50-19, 178.50-4.	To manufacture, mark and sell DOT Specification 4B refillable 13 and 16 ounce cylinders for, shipment of propane, exempt from various marking testing and reporting requirements. (Mode 1.)
8790-N	Rose Industries, Inc., Angleton, TX	49 CFR 173.119(a)(17), 173.245(a)(30), 173.245(a)(31), 173.346(a)(12), 178.340-7, 178.342-5, 178.343-5.	To manufacture, mark and sell non-DOT Specification cargo tanks similar to DOT Specification MC-307/312 except for bottom outlet valve variations for shipment of various flammable, corrosive or poison B waste liquids or semi-solids. (Mode 1.)
8791-N	Bignier Schmid-Laurent SA, Ivry-sur-Seine, France.	49 CFR 173.245a, 178.245-1	To manufacture, mark and sell non-DOT Specification 316L stainless steel portable tank similar to DOT Specification 51 except for post weld heat treatment for shipment or ethly chlorothioformate, classed as corrosive material. (Modes 1, 2, 3.)
8792-N	Digital Equipment Corporation, Northborough, MA.	49 CFR 172.200, 172.300, 172.400	To authorize shipment of isopropanol, classed as a flammable liquid contained in a saturated pad, sealed in a plastic coated foil pack, overpacked not to exceed 250 packs per strong outside box, as essentially non-regulated. (Modes 1, 3.)
8793-N	American Chemcial & Refining Company, Inc., Waterbury, CT.	49 CFR 173.352(a), 175.3	To authorize shipment of potassium cyanide solution, n.o.s. Class B poison, in DOT Specification 2E one-gallon polyethylene bottles, overpacked 4 to a DOT Specification 12B40 fiberboard box. (Modes 1, 4.)
8794-N	Applied Technology, Inc., Barnwell, SC	49 CFR 172.200(a), 173.392(d)(1)(iv), 173.392(d)(7).	To transport via private carriage unpackaged radioactive materials, low specific activity, n.o.s. in mobile transport vehicles without determining equipment contamination levels, without shipping papers, and without issuing instructions for exclusive use of vehicle. (Mode 1.)
8795-N	The Marison Company, South Elgin, IL	49 CFR 173.302, 173.304, 173.38, 75.3, 178.38.	To manufacture, mark and sell non-DOT Specification cylinder similar to DOT Specification 3B, made of electric resistance welded tubing with a longitudinal seam for shipment of monobromotrifloromethane and dry chemical fire extinguishants pressurized with nitrogen. (Modes 1, 2, 3, 4, 5.)
8796-N	Petroplex Acidizing, Inc., Midland, TX	49 CFR 173.263(a)(10)	To authorize shipment of hydrochloric acid, (15% to 28%), a corrosive liquid, in unlined non-DOT specification cargo tanks similar to DOT Specification MC-312. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on March 3, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-8413 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment closes period on March 25, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
2981-X	Austin Powder Company, Cleveland, OH.	2981
2981-X	Hercules, Incorporated, Wilmington, DE.	2981
3302-X	Airco Industrial Gases, Murray Hill, NJ.	3302
3563-X	U.S. Department of Energy, Washington, DC.	3563

Application No.	Applicant	Renewal of exemption
3648-X	Airco Industrial Gases, Murray Hill, NJ.	3648
4291-X	United Technologies Corporation, Sunnyvale, CA.	4291
4453-X	Gulf Oil Chemicals Company, Overland Park, KS.	4453
5196-X	Shell Oil Company, Houston, TX	5196
5372-X	Airco Industrial Gases, Murray Hill, NJ.	5372
5372-X	Union Carbide Corporation, Danbury, CT.	5372
5967-X	Rocket Research Corporation, Redmond, WA.	5967
6016-X	O. E. Meyer & Sons, Inc., Sandusky, OH.	6016
6016-X	Strate Welding Supply Co., Inc., Buffalo, NY.	6016
6016-X	Langdon Oxygen Company, Texarkana, TX.	6016
6016-X	Airco, Inc., Murray Hill, NJ	6016
6064-X	Martin Marrietta Chemicals (Sodyeco Div.), Charlotte, NC.	6064
6113-X	Providence Gas Company, Providence, RI.	6113
6197-X	New Jersey Natural Gas Company, Asbury Park, NJ.	6197
6205-X	Chicago Bridge and Iron Company, Oak Brook, IL.	6205
6243-X	Liquid Carbonic Corporation, Chicago, IL.	6243
6299-X	Minnesota Valley Engineering, New Prague, MN.	6299
6309-X	Insta-Foam Products, Inc., Joliet, IL.	6309
6309-X	Olin Corporation, Stamford, Ct	6309
6325-X	Austin Powder Company, Cleveland, OH.	6325
6466-X	Ensign Bickford Company, St. Simsburg, CT.	6466
6466-X	Monsanto Company, St. Louis, MO..	6466
6498-X	Luxfer U.S.A., Limited, Riverside, CA.	6498
6501-X	GOEX, Inc., Cleburne, TX	6501
6704-X	Dow Chemical Company, Midland, MI (see footnote 1).	6704
6746-X	The Firestone Tire and Rubber Company, Akron; OH.	6746
686,-X	Teledyne McCormick Selph, Hollister, CA.	6861
6883-X	Hedwin Corporation, Baltimore, MD.	6883
6895-X	Westinghouse Electric Corporation, Bloomfield, NJ.	6895
6921-X	Cities Service Company, Tulsa, OK.	6921
6921-X	Airco Industrial Gases, Murray Hill, NJ.	6921
6926-X	Union Carbide Corporation, New York, NY.	6926
6984-X	Austin Powder Company, Cleveland, OH..	6984
7011-X	Advanced Chemical Technology, City of Industry, CA.	7011
7014-X	Eurotainer, Paris, France	7014
7052-X	Duracell International, Inc., Tarrytown, NY.	7052
7052-X	Plainview Electronics Corporation, Plainview, NY.	7052
7052-X	Bunker Ramo Corporation, Westlake Village, CA.	7052
7052-X	Magnavox Government & Industrial Electronics Corp., Fort Wayne, IN.	7052
7052-X	Honeywell, Incorporated, Horsham, PA.	7052
7052-X	U.S. Department of Energy, Washington, DC.	7052
7073-X	Ethyl Corporation, Baton Rouge, LA.	7073
7465-X	State of Alaska, Dept. of Transportation, Juneau, AK.	7465
7476-X	Thompson Tank & Manufacturing Co., Inc., Long Beach, CA.	7476
7558-X	Union Carbide Corporation, Danbury, CT.	7558
7607-X	Foxboro Analytical, South Norwalk, CT.	7607
7638-X	Minnesota Valley Engineering, New Prague, NM.	7638
7651-X	Austin Powder Company, Cleveland, OH.	7651
7654-X	Texas Eastman Company, Longview, TX.	7654
7674-X	U.S. Department of Defense, Washington, DC.	7674
7708-X	HTL Industries, Inc., Duarte, CA	7708
7731-X	Minnesota Valley Engineering, Inc., New Prague, MN.	7731
7770-X	Eurotainer, Paris, France	7770
7788-X	Southern Chemical Products Company, Macon, GA.	7788
7835-X	Matheson, Secaucus, NJ	7835
7898-X	U.S. Department of Defense, Washington, DC.	7898
7933-X	Greif Brothers Corporation, Springfield, NJ.	7933
7963-X	Stauffer Chemical Company, Westport, CT.	7963
8077-X	M&T Chemicals, Inc., So. San Francisco, CA (see footnote 21).	8077
8133-X	Alpha Chemical Company, Lake Charles, LA.	8133
8162-X	Structural Composites Industries, Inc., Pomona, CA (see footnote 3).	8162
8180-X	M&T Chemicals, Inc., Rahway, NJ (see footnote 4).	8180
8283-X	Allied Corporation, Morristown, NJ.	8283
8284-X	Allied Corporation, Morristown, NJ.	8284
8316-X	Van Camp Sea Food Company, San Diego, CA.	8316
8344-X	Farwest Sports, Inc., Olympia, WA.	8344
8363-X	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE (see footnote 5).	8363
8371-X	Connecticut Bulk Carriers, Inc., Stamford, CT.	8371
8377-X	Teledyne McCormick Selph, Hollister, CA.	8377
8441-X	U.S. Department of Energy, Washington, DC.	8441
8441-X	Duracell International, Inc., Tarrytown, NY.	8441
8556-X	Air Products and Chemicals, Incorporated, Bethlehem, PA (see footnote 6).	8556
8570-X	Snyder Industries, Incorporated, Lincoln, NE (see footnote 7).	8570
8585-X	Bergen Barrel and Drum Company, Demarest, NJ (see footnote 8).	8585
8690	Air Products and Chemicals, Inc., Allentown, PA (see Footnote 9).	8690

[1] To renew and to modify drawing reference allowing new units identical to those presently authorized for replacement purposes.

[2] To convert exemption from manufacture, mark and sell to a shipper oriented exemption, to authorize dichlorosilane and trichlorosilane as additional commodities and to increase container capacity from

[3] To renew, to request modification of the gunfire test required by the exemption and to add oxygen and helium as additional commodities.

[4] To convert exemption from manufacture, mark and sell to a shipper oriented exemption, to authorize dichlorosilane as an additional commodity and to increase container capacity from 55 gallon to 110.

[5] To renew and to modify dimensions of containers (caddies) specified in exemption.

[6] To allow the road relief valves on liquid hydrogen portable tanks set to discharge at 16 psig to remain when transported by vessel.

[7] To renew and to authorize a flammable liquids, n.o.s. (herbicide) as an additional commodity.

[8] To authorize various flammable liquids and Class B poisonous liquids as additional commodities.

[9] To renew exemption, to remove one-time shipment clause and to add water as an additional mode of transportation.

Application No.	Applicant	Parties to exemption
6016-P	Magnolia Welding Supply Company, Houston, TX.	6016
6113-P	Atlanta Gas Light Company, Atlanta, GA.	6113
6197-P	Atlanta Gas Light Company, Atlanta, GA.	6197
6325-P	Mesabi Powder Company, Hibbing, MN.	6325
6602-P	Jones Chemicals, Incorporated, Caledonia, NY.	6602
6614-P	Steelcrete Company, Novi, MI	6614
6614-P	Dietz Pool & Patio Supply, Williamston, MI.	6614
6657-P	Mansfield Oxygen Corporation, Mansfield, OH.	6657
6765-P	Jack B. Kelley, Inc., Amarillo, TX	6765
7015-P	Jack B. Kelley, Inc., Amarillo, TX	7015
7025-P	Jack B. Kelley, Inc., Amarillo, TX	7025
7060-P	Empire Aero Services, Inc., d.b.a. SAIR Aviation, Syracuse, NY.	7060
8129-P	IT Corporation, Wilmington, CA	8129
8441-P	Plainview Electronics Corporation, Plainview, NY.	8441
8453-P	D. C. Guelich Explosive Co., Clearfield, PA.	8453
8489-P	Olin Corporation, Stamford, CT	8489
8526-P	Helena Chemical Company, Memphis, TN.	8526
8732-P	Coastal Chemical Company, Pasadena, TX.	8732
8732-P	Ashland Chemical Company, Dublin, OH.	8732

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on March 3, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-6412 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-60-M

Urban Mass Transportation Administration

Solicitation of Proposals for Grants; Public Transportation Technology; Introduction and Innovative Techniques and Methods Programs

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice.

SUMMARY: The Urban Mass Transportation Administration (UMTA) announces that it will accept proposals for the Section 3(a)(1)(C) program, Technology Introduction, and the Section 4(i) program, Innovative Techniques and Methods in the Management and Operation of Public Transportation, for Fiscal Year 1982.

DATES: Proposals for the Section 3(a)(1)(C) program and the Section 4(i) program are due in the appropriate UMTA Regional Offices within sixty (60) dates of publication of this announcement. (May 10, 1982).

FOR FURTHER INFORMATION CONTACT: Stephen S. Teel, telephone (202) 426–0090, for the Section 3(a)(1)(C) program. Norm Ensrud, telephone (202) 426–4984, for the Section 4(i) program. Both individuals are located at the Urban Mass Transportation Administration, 400 7th Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: UMTA intends to publish shortly formal circulars for the implementation of these programs. In the interim, proposals for the Section 3(a)(1)(C) program should follow procedures set forth in the January 19, 1981, **Federal Register** (46 FR 5832). Proposals for the Section 4(i) program should follow adminstrative procedures set forth in the December 1, 1980, **Federal Register** (45 FR 79670). A list of major categories of innovations that should be considered for the Section 4(i) program is being mailed to all transit properties and is available at UMTA headquarters and regional offices.

The Technology Introduction program was initiated to assist in financing the introduction into public transportation service of new innovative technology to span the gap that exists between the technical feasibility stage of research and development and the introduction of new proven equipment into revenue service.

The Innovative Techniques and Methods program was begun to further the national adoption of innovative techniques that will reduce the cost of transportation, increase transit system revenues, and increase opportunites for private sector involvement.

Issued: March 5, 1982.

Arthur E. Teele, Jr.,

Administrator.

[FR Doc. 82-6552 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-57-M

VETERANS ADMINISTRATION

Replacement Maintenance and Storage Building, Illinois State Veterans Cemetery, Quincy, Ill.; Finding of No Significant Impact

The Veterans Administration has assessed the potential environmental impacts which may occur as a result of the State of Illinois building a Replacement Maintenance and Storage Building at the Illinois State Veterans Cemetery, Illinois Veterans Home, Quincy, Illinois.

The proposed project includes the demolition of the existing storage and maintenance shed and the construction of a new 30' x 60' replacement building on state owned land at the State Veterans Cemetery. The project will not result in the loss or gain of grave sites in the cemetery. Funding by the Veterans Administration will amount to fifty percent through the VA Cemetery Grant Program No. 64.203.

No alternatives were considered in this project action as the State desires to build on existing State-owned land. The project will be built on the site of an existing deteriorated maintenance and storage shed that is of inadequate space to renovate for current and future utilization.

Temporary construction related impacts which will exist through project completion include noise, dust, fumes, visual impact and solid waste. These impacts will be minimal. During the construction phase and subsequent operation, all applicable Federal, State, and local environmental regulations will be adhered to.

Findings conclude the proposed project action will not cause significant effect on the physical and human environment and, therefore, does not require preparation of an environmental impact statement.

Mitigation of the temporary impacts associated with construction impacts will include erosion controls, noise controls, air quality controls and approved solid waste disposal measures. The controls will be included within the construction document specifications. The project will comply with all 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 (Title 40 CFR 1508.27).

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based 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, Environmental Affairs Staff (005B), 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 Staff (005B), 810 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: March 5, 1982.

Charles T. Hagel,

Deputy Administrator.

[FR Doc. 82-6531 Filed 3-10-82; 8:45 am]

BILLING CODE 8320-01-M

Clinical Addition, Veterans Administration Medical Center, St. Louis, Mo., Finding of No Significant Impact

The Veterans administration (VA) has assessed the potential environmental impact that may occur as a result of the construction of a Clinical Addition at the Veterans Administration Medical Center, St. Louis, Missouri (John Cochran Division).

Alternatives that were evaluated for this project included the following: (a) Major construction at various locations on the existing site; (b) interior renovation; (c) construction on an adjacent site; and (d) no action.

The agency's preferred alternative is (a). The project alternative (a) will consist of an addition abutting and over the existing ambulatory care wing. The addition will provide space for the mental health and behavioral sciences clinic and expansion space for the intensive care units (surgical, medical and coronary), clinical laboratory, surgery and education. Some existing space will be renovated to facilitate the subsequent moves and changes in functions.

All applicable Federal, State and local laws and regulations will be adhered to in the construction and operational phases. The commitment of resources, energy and labor to implement the project is irreversible and permanent once the project is in place.

There are no anticipated long term environmental impacts which will result from the preferred project action. Short term impacts associated with the construction process include dust, fumes, noise, erosion/sedimentation, traffic and visual impacts.

Construction related mitigative actions will be included in the VA Construction Specifications which include the Environmental Protection Section. Soil erosion control, dust control, noise control and air quality control measures will comply with all 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 (Title 40 CFR 1508.27).

This Environmental Assessment has been performed in accordance with the

requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination in Room A–14, Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC 20420 (202–389–2526). Questions or requests for single copies of the Environmental Assessment should be directed to Mr. Willard Sitler, P.E., Director, Environmental Affairs Staff, at the above address.

Dated: March 3, 1982.

Charles T. Hagel,

Deputy Administrator.

[FR Doc. 82-6529 Filed 3-10-82; 8:45 am]

BILLING CODE 8320-01-M

Veterans' Education; Policies and Procedures

AGENCY: Veterans Administration.

ACTION: Request for public comments.

SUMMARY: The Veterans Administration is publishing for public comment statements of procedures which the agency has adopted. These procedures implement that portion of the Veterans' Health Care, Training, and Small Business Loan Act of 1981 which affects veterans receiving educational assistance allowance under chapter 34, title 38, United States Code. The Veterans Administration will use the procedures in determining if a veteran is entitled to an additional 2 years of eligibility for educational assistance allowance. These statements will better acquaint veterans, educational institutions and the public at large with the way in which decisions will be made in this area.

DATE: Comments must be received on or before April 12, 1982.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding the document to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C., 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm, Monday through Friday (except holidays) until April 20, 1982. Anyone visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: This publication contains DVB Circular 22–81–15. This circular deals with procedures for use in determining whether a veteran may have an additional 2 years of eligibility to use his or her entitlement to education assistance allowance.

This circular has been distributed through normal channels. The Veterans Administration is implementing the procedures contained in the circular. All comments received will be reviewed and used in changing the circular, where necessary.

The Catalog of Federal Domestic Assisance number for the program affected by this circular is 64.111.

Approved: March 1, 1982.

By direction of the Administrator:

Charles T. Hagel,

Deputy Administrator.

[DVB Circular 22–81–15]

Delimiting Date Extensions Under Pub. L. 97–72

December 22, 1982.

1. *Purpose.* This circular provides instructions for extending the delimiting dates of veterans who are in need of training as provided by Pub. L. 97–72, "The Veterans' Health Care, Training, and Business Loan Act of 1981."

2. *General*

a. Public Law 97–72 has amended 38 U.S.C. 1662(a) to provide an extension of delimiting dates under chapter 34 for veterans who do not have a high school diploma, and for those who are found to be in need of vocational or job training because they are unskilled.

b. Payment to affected veterans may be authorized for up to 2 years but not for training pursued beyond December 31, 1983.

c. An application must be made by the veteran for consideration of extending his or her delimiting date; no special review will be made of cases with expired delimiting dates.

d. Following completion of training, the VA will provide the veteran with employment assistance to enable him or her to obtain appropriate employment.

3. *Limitations of Program*

a. The veteran must have had active duty service under conditions other than dishonorable, any part of which occurred during the Vietnam era (August 5, 1964 through May 7, 1975) provided he or she is otherwise eligible.

b. To receive benefits for secondary training beyond his or her delimiting date, the veteran must not have a high school diploma or its equivalent.

c. To receive benefits for vocational, apprenticeship, or other on-the-job training beyond his or her delimiting date, the veteran must be in need of training to achieve a suitable occupational or vocational objective because he or she is unskilled, or unemployed and unskilled.

d. Training with a vocational objective must be residential training in NCD (non-college-degree) courses. Benefits for farm cooperative training may be allowed, but correspondence and flight training are not allowed under the provisions of this program.

e. The length of the extension is governed by the following:

(1) The extension for vocational, apprenticeship, and on-the-job training may not exceed the applicant's unused entitlement, except extensions for vocational training under VAR 11041 (D)(1) and (2); and

(2) The extension cannot begin before January 1, 1982, and cannot end after December 31, 1983.

4. *Applications*

a. Applications for delimiting date extensions under this provision must be made in accordance with the time limits specified in VAR 14131(A). Applications will be made on VA Form 22–1990 or 22–1995, as appropriate. To assist in identifying claims for extensions under this provision, forms should be marked "Extension under Pub. L. 97–72."

b. An application may be received that does not indicate that the person is applying for an extension to his or her delimiting date which has passed. These claims will not be denied if there is any possibility that the applicant may otherwise be qualified for an extension. All such claims will be developed as appropriate.

c. Additional development as described in paragraph 5 will be requested by dictated letter.

5. *Development.* Development must be made on a case-by-case basis since the circumstances in each case will be unique. If the veteran claims to be educationally disadvantaged or unskilled, only the one claimed must be developed. However, if he or she only claims to be unemployed or if he or she does not specify the reason for requesting the extension, the case must be developed for both the possibility of the veteran's being educationally disadvantaged or unskilled.

a. *High Schoold Training—Educationally Disadvantaged.* A veteran who does not have a high school diploma or its equivalent will be considered educationally disadvantaged for purposes of this program. If recent educational background information is not available, the case must be developed to determine if the applicant qualifies for training. If development is necessary, the applicant will be informed at that time that benefits are limited to the amount of tuition and fees for the course, not to exceed the single veteran's rate for the appropriate training time.

b. *Vocational, Apprenticeship, or On-The-Job Training—Unskilled.* There must be a detemination that the veteran is in need of training because he or she is unskilled

(whether employed or unemployed) as a prerequisite to payment of benefits for vocational, apprenticeship, or on-the-job training beyond his or her delimiting date. To make this determination, the following information must be obtained to the extent that it is not shown by the evidence of record.

(1) *Educational and Vocational Training.* All educational training received after high school and all vocational training must be indicated to include the following:

(a) Courses or programs pursued at each school.

(b) Whether the courses or programs listed were completed.

(c) Dates of enrollment for each course or program.

(2) *Employment History*

(a) The job title and a brief description of the type of all work performed with all employers.

(b) Dates of employment for each type of work listed.

(3) *Employment Training*

(a) A description of all classroom training provided by employers. The description must include the type of training received, the number of hours of each type of training, and the appropriate dates of such training.

(b) A description of all on-the-job training received while serving as a trainee on the job under the instruction of qualified workers.

6. *Determinations.* Each case will be decided on an individual basis by Adjudication personnel. The applicant may qualify for an extended delimiting date because he or she is educationally disadvantaged or is in need of training because he or she is unskilled. If the veteran requests an extension because of unemployment, evidence must also show that he or she is unskilled.

a. *Educationally Disadvantaged*

(1) If the applicant does not have a high school diploma or its equivalent, he or she will be considered as educationally disadvantaged and will qualify for an extension to pursue a program of secondary education provided all other requirements are met.

(2) If the extension is allowed to pursue a program of secondary education because the veteran is found to be educationally disadvantaged, the claims folder will be annotated "Delimiting date extended—educationally disadvantaged—Pub. L. 97–72."

(3) No formal administrative determination will be required in such cases.

b. *Unskilled (Whether Employed or Unemployed)*

(1) If the veteran has never been employed in other than entry level jobs, he or she will be considered to be unskilled for purposes of this program. Provided all other requirements are met, an extension will be allowed for pursuit of a program of vocational, apprenticeship, or on-the-job training. For the purposes of this program, the following rules will apply:

(a) A job requiring 3 months or less vocational preparation will be considered as entry level.

(b) A person who holds a 2-year degree or who has completed 60 semester hours or the equivalent from an institution of higher learning will not be considered to be unskilled regardless of employment history.

(c) A person who has completed a vocational program which qualifies a person for more than an entry level job will not be unskilled.

(d) Trainee positions, such as management trainee positions, in private industry and government which generally lead to more responsible positions are not considered to be entry level although such jobs may require little specific vocational preparation.

(e) To qualify for a farm cooperative program, a person may not have held higher than an entry level position as described in subparagraph (2) below.

(2) As a guide to determining the skill level of most jobs, refer to the publication *Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles* which was prepared by the Department of Labor. Copies of this publication are available in the VR&C (Vocational Rehabilitation and Counseling) activity of each regional office. Additional copies may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(a) In part A of the above publication the training length is provided for each job listed. The training length is represented by an SVP (Specific Vocational Preparation) code shown in the right column for each job. (Appendix A of this circular provides additional assistance for locating SVP codes for specific jobs.)

(b) For purposes of this program for delimiting date extensions, jobs represented by SVP codes of 1, 2, or 3, will be considered as entry level. These jobs require 3 months or less in vocational preparation.

(c) In some situations the SVP codes in this publication may not be conclusive. In these cases other evidence of record should be examined. The preparation time indicated by the applicant for a particular job may not coincide with the SVP code for that job. For example, the applicant states that he or she holds a job as an ambulance attendant (DOT code 355.374–010) which has an SVP code 3. However, he or she claims that training for that job has been 9 months combined classroom and on-the-job training. Since his or her training for this job has been much more extensive than represented by the SVP code, this job will not be considered as entry level.

(3) A decision to grant or deny an extension of the applicant's delimiting date for vocational, apprenticeship, or on-the-job training based on need for training because he or she is not shown to be unskilled will be presented in an authorization determination. (See DVB Manual M21–1, par. 14.34.) The formal administrative decision will require two signatures with the second signature being the approval by a section chief. A formal decision will not be necessary if the claim is denied for some other reason, such as no remaining entitlement or program not approved.

(4) The Adjudication Division will not refer cases to VR&C solely for the purpose of making a determination that the veteran needs training because he or she appears to be unskilled. If a veteran requests counseling and VR&C makes the determination that the veteran is unskilled, based on the criteria specified in this circular, the delimiting date extension will be allowed. No further development on skill level of jobs held will be required and a formal administrative decision as discussed in subparagraph (3) above will not be required. The claims folder will be annotated "Delimiting date extended—unskilled per VR&C—Pub. L. 97–72."

7. *Award Procedures*

a. *Beginning and Ending Dates*

(1) *Beginning Date.* The beginning date of any extension under this provision will be the latest of the following dates:

(a) The beginning date of attendance or training as certified by the school;

(b) The veteran's original delimiting date under VAR 11042 or extended delimiting date under 11043; or

(c) January 1, 1982.

(2) *Ending Date.* The ending date (last date of payment) will be the earlier of the following dates:

(a) The last day of attendance or training as certified by the school or training establishment; or

(b) December 31, 1983.

b. *Change of Delimiting Date.* Training under this provision will require an extension to the veteran's delimiting date. For this reason the original delimiting date in the system must be adjusted to allow payment of benefits under the extension. The revised delimiting date under the extension will be the NONE date of the award under the extension, but not later than January 1, 1984.

(1) *Target Processing.* If the award is to be processed in the Target System, the delimiting date will be adjusted on the 310 screen, Chapter 31/32/34 Eligibility, in the DISAB fields.

(a) If the veteran's original delimiting date is earlier than January 1, 1982, enter "1–1–82" in the DATE field. In the MOS and DAYS fields enter the appropriate time to generate the correct extended delimiting date.

(b) If the veteran's original delimiting date is on or after January 1, 1982, but earlier than January 1, 1984, enter the appropriate amount in the MOS and DAYS fields to generate the correct extended delimiting date. Make no entry in the DATE field.

(2) *Non-Target Processing.* Although use of the Target System for award processing is preferable, magnetic diskette or OCR documents may be used.

(a) If OCR processing is used, it is important to ensure that the entry in the DELIMIT BASE field has been processed before the OCR award is submitted.

(b) If magnetic diskette processing is used, the veteran's delimiting date must be extended by using the field DELIMIT BASE (field No. 375). The entry in this field will be:

1. A six-position entry in the month-day-year (MMDDYY) format;

2. A date that is 10 years and 1 day earlier than the NONE date of the award under the extension, or December 31, 1973, whichever is earlier; and

3. Made as a part of an original Certificate of Eligibility or as a master record correction.

c. *Entitlement*

(1) *High School Training.* Entitlement will not be charged for benefits paid for high school training. However, to be entitled to

benefits for such training, the veteran must have remaining entitlement. If entitlement is exhausted, *no* buy-back of entitlement will be allowed.

(2) *Vocational, Apprenticeship, and On-The-Job Training.* Entitlement may be extended for vocational training as provided under VAR 11041(D), but not beyond December 31, 1983. No extension of entitlement is permitted for apprenticeship and on-the-job training. *No* buy-back of entitlement will be allowed if entitlement is exhausted.

d. *Rate of Payment*

(1) *High School Training.* Payment will be limited to the cost of tuition and fees charged, not to exceed the single-veteran institutional rate for the particular training time. There will be no charge to entitlement. (See subpar. c(1) above.)

(2) *Vocational, Apprenticeship, and On-The-Job Training.* The rates of payment will be those as specified in VAR 14136(A) as amended by Pub. L. 96–466.

e. *Folder-Pull Indicator.* In cases where the delimiting date has been extended, the FOLDER PULL REQUIRED field on the Target M24 screen will be set.

8. *Notice to Applicant*

a. *Extension Allowed.* If the veteran's application for an extended delimiting date is approved, he or she will be notified by dictated letter of the extension. In addition to the required information contained in generated award letters, the following must be provided:

(1) If the school certifies a beginning date earlier than January 1, 1982, or an ending date later than December 31, 1983, the veteran must be notified of the reason that the award cannot begin earlier or end later than these dates.

(2) He or she must be informed that the extension is based on evidence which shows that he or she is educationally disadvantaged or unskilled, as appropriate under the provisions of law allowing the delimiting date extension. He or she will also be informed that this determination applies only to the specific course or program for which the extension is approved.

(3) The veteran will be informed that employment assistance will be available upon his or her request when he or she completes the course or program.

b. *Extension Denied.* The veteran will be informed of a denial of the application by dictated letter which gives the reason for the denial.

(1) If the veteran is not shown to be educationally disadvantaged or unskilled, the denial letter will clearly state that the evidence does not show that he or she is educationally disadvantaged or unskilled, whichever is applicable, under the provisions of law permitting an extension of the delimiting date.

(2) If the applicant has requested an extension for training because of unemployment but the determination is that he or she is not unskilled, the request for an extension will be denied. The veteran will be informed that the extension cannot be allowed solely because he or she is unemployed and that evidence must also show that he or she is unskilled which is not shown by the evidence of record.

(3) A statement of appellate and procedural rights will be enclosed.

9. *End Product Code.* An end product code of 220 will be taken for approvals and denials of delimiting date extensions under this provision.

10. *Change of Program*

a. The determination that the veteran is in need of training because he or she is shown to be educationally disadvantaged or unskilled will apply only to the specific course or program for which application is made. Any change of program will require another determination. For example, if a veteran is determined to be unskilled for the purposes of this program, is approved for training in a 12-month automobile mechanics course, and completes 8 months of the course, another formal determination must be made as to whether he or she remains unskilled before an application for further benefits for another program can be approved.

b. The change of program restrictions under 38 U.S.C. 1791 apply to program changes for benefits the veteran received before his or her delimiting date and to changes of program within the extended delimiting period. For example, if the veteran applies for an extended delimiting date but has already received benefits for two different programs before his or her delimiting date, development for a second change of program as specified in DVB Circular 22–80–37 will be accomplished concurrently with any other necessary development as discussed in paragraph 5 above.

11. *Awards Terminating on Delimiting Date.* Situations will occur in which predelimiting date awards for secondary, vocational, apprenticeship, and on-the-job training will end as of the veteran's delimiting date although the enrollment period extends beyond that date. For example, an enrollment is received for vocational training beginning January 11, 1982, and ending January 11, 1983, but the award terminates benefits as of the veteran's delimiting date on June 2, 1982. The veteran in such cases will be notified when the predelimiting date award is processed that benefits for secondary, vocational, apprenticeship, or on-the-job training, as appropriate to the case, may be continued beyond his or her delimiting date if it appears that eligibility may exist.

a. *Secondary Training*

(1) The notice concerning extended benefits must inform the veteran that payments for secondary training will be limited to the cost of tuition and fees. To apply for an extension, he or she will be notified to submit the following no earlier than 60 days before his or her delimiting date:

(a) A statement that he or she requests benefits for further secondary training beyond his or her delimiting date;

(b) A statement as to when he or she received or expects to receive a high school diploma or its equivalent; and

(c) A current enrollment certification which certifies attendance beyond his or her delimiting date.

(2) Benefits may be extended beyond the delimiting date if the evidence received indicates that he or she is continuing in training on or after that date; that he or she has not received a high school diploma or its equivalent; and that all other requirements for an extension are met.

b. *Vocational, Apprenticeship, and On-The-Job Training*

(1) To apply for continued benefits for vocational, apprenticeship, and on-the-job training beyond his or her delimiting date, the veteran will be required to submit the following no earlier than 60 days before his or her delimiting date:

(a) A statement that he or she requests benefits for further vocational, apprenticeship, or on-the-job training, as appropriate in the case;

(b) A statement as to the skills obtained from the beginning of the current course or training program and the information specified in paragraph 5b (if not of record); and

(c) A current enrollment certification that certifies enrollment in training beyond his or her delimiting date.

(2) Benefits may be extended beyond the delimiting date if the evidence shows that the veteran is continuing in training beyond that date; that he or she meets the requirements of being unskilled as of his or her delimiting date as specified in paragraph 6b; and that he or she meets all other requirements for the extension.

12. *Statistics*

a. A report (including a negative report if no extensions are received) will be submitted to the Field Director (722A) on a quarterly basis. The report is designated as RCS 22–28.

b. Regional offices will report the following information:

(1) Number of applications received for delimiting date extensions during the current quarter.

(2) Number of applications approved for delimiting date extensions during the current quarter for the following reasons:

(a) Found to be educationally disadvantaged;

(b) Found to be unskilled.

(3) Number of applications denied for delimiting date extensions during the current quarter for the following reasons:

(a) Not found to be educationally disadvantaged;

(b) Not found to be unskilled;

(c) Other reasons for denial (total number).

Note.—The above statistics will not reflect delimiting date extensions for disability.

c. This report must be received in Central Office no later than the 10th workday following the end of the quarter. The first report will be due the 10th workday of April 1982 (covering the quarter beginning january 1, 1982). The final report will be due the 10th workday of January 1984 (covering the quarter beginning October 1, 1983).

13. *Distribution.* Copies of this circular are being distributed to educational institutions.

Dorothy L. Starbuck,

Chief Benefits Director.

Appendix A—Guide for Locating SVP (Specific Vocational Preparation) Codes for Specific Jobs

1. An SVP code for a job may be located by finding the DOT title for that job in part A of *Selected Characteristics of Occupations*

Defined in the Dictionary of Occupational Titles, hereafter referred to as *Selected Characteristics of Occupations*. (App. D of the above publication has a full explanation of the SVP codes.) In part A, jobs are grouped according to related characteristics. For example, the job of a helper in a dry cleaning operation can be located directly by referring to the job grouping "Laundering, Dry Cleaning" (pp. 211–212) in part A. The specific title for that job is "Dry-Cleaner Helper" (DOT code 362.686–010). The SVP code for the job is indicated as "2" in the right column.

2. If it is difficult to find a job in part A of *Selected Characteristics of Occupations*, the job may be located by referring to the "Industry Index" (pp. 1363–1367) in the *Dictionary of Occupational Titles*. (Copies of this publication are located in VR&C and the Liaison activity; additional copies may be obtained from the Superintendent of Documents.) This index lists categories of industries alphabetically and provides a reference to jobs within a specific industry in the section designated "Occupational Titles Arranged by Industry Designation" (pp. 1157–1361). Within each industry designation jobs are listed by DOT title and code.

a. In the example of a helper in a dry cleaning operation, the DOT code can be found by locating the industry title in the "Industry Index." In the "Industry Index" (p. 1363) the "Cleaning, Dyeing, and Pressing Industry" is shown to be located on page 1201. Under this title beginning on page 1201, the listings of jobs within the industry can be found. The title, "Dry-Cleaner Helper," can be located in this group of similarly related jobs. The DOT code of 362.686–010 can then be obtained.

b. Once the DOT code is determined for a specific job, the SVP code can be located by first referring to part B of *Selected Characteristics of Occupations*. This section lists jobs numerically by DOT codes. The DOT code provides a reference of a GOE (Guide for Occupational Exploration) code by which jobs are grouped in part A.

c. In the example of a dry-cleaning helper, DOT code 362.686–010 provides a reference to GOE code 06.04.35 in part B. The listing under that GOE code (06.04.35) in part A indicates that a "Dry-Cleaner Helper" has an SVP code of "2."

[FR Doc. 82-6530 Filed 3-10-82; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 48
Thursday, March 11, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-344, Amdt. 7, March 4, 1982]

Deletions and addition to the March 4, 1982 meeting

TIME AND DATE: 10 a.m., March 4, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

Deletion: 3. Docket 34141, Application of Trans-Panama, S.A.—Opinion and Order on Review. (Memo 544-A, OGC)

Deletion: 20. Docket EAS-771, Appeal of 419(b) eligibility determination of Elizabeth City, North Carolina for designation as an eligible point. (Memo 1121, BDA, OGC, OCCCA)

Deletion: 26. Docket 39550, Application of People Express Airlines, Inc. for an exemption and Petition of American Airlines for review and reversal of staff action in Order 81-6-41 granting People Express exemptions from the Board's oversales and denied boarding regulations. (Memo 1028-A, BDA, OCCCA)

Addition: 31a. Dockets 40386 and 40387, Requests for expedited action on two applications from the Air Traffic Conference for approval and antitrust immunity for agreements to amend the Area Settlement Plan to provide a new arrangement for handling passengers holding tickets on a carrier that is in default. (BDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary; (202) 673-5068.

[S-373-82 Filed 3-9-82; 3:21 pm]

BILLING CODE 6320-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in subject matter of agency meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, March 8, 1982, the Corporation's Board of Directors determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania, and First Pennsylvania Corporation, Philadelphia, Pennsylvania.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: The Drovers' National Bank of Chicago, Chicago, Illinois

Memorandum re: Estimated Costs to Remodel Office Space.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: March 8, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-369-82 Filed 3-9-82; 12:11 pm]

BILLING CODE 6714-01-M

3

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, March 16, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Wednesday, March 17, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Continuation of executive session of March 16, 1982, if necessary.

* * * * *

DATE AND TIME: Thursday, March 18, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Draft AO 1982-9: Senator Bob Dole, United States Senate
Political Committee contribution record maintenance, 2 U.S.C. 432(c); 11 CFR 102.9(a)
Appropriations and Budget: Budget Execution Report for February
Routine Administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-374-82 Filed 3-9-82; 3:51 pm]

BILLING CODE 6715-10-M

4

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., March 16, 1982.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Monthly report of actions taken pursuant to delegated authority.

2. Docket No. 76-63: Filing of Agreements by Common Carriers and Other Persons Subject to the Shipping Act, 1916—Proposed Final Rules.

3. Informal Docket No. 1120(I): Singer Products, Co., Inc. v. Delta Steamship Lines, Inc.—Review of Settlement Officer's Decision.

Portion closed to the public:

1. Docket No. 81-71: Agreement No. 10405—New York Ocean Freight Forwarder Discussion Group—Motion of Proponents for Suspension of Proceeding.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–367–82 Filed 3–9–82; 9:05 am]

BILLING CODE 6730–01–M

5

NATIONAL MEDIATION BOARD

TIME AND DATE: 2 p.m., Thursday, April 1, 1982.

PLACE: Board Hearing Room, eighth floor, 1425 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of Board actions taken by notation voting during the month of March 1982.
2. Other priority matters which may come before the Board for which notice will be given at earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary; Tel: (202) 523–5920.

Dated: March 8, 1982.

[S–371–82 Filed 3–9–82; 2:09 pm]

BILLING CODE 7550–01–M

6

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–82–7]

TIME AND DATE: 3 p.m., Monday, March 15, 1982.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Ave., S.W. Washington, D.C. 20594.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Briefing by the Air Line Pilots Association on slippery runways.
2. Implementation plans for the recent interagency agreement on marine investigations.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202)382–6525.

March 5, 1982.

[S–368–82 Filed 3–9–82; 12:10 pm]

BILLING CODE 4510–58–M

7

NUCLEAR REGULATORY COMMISSION

DATE: Wednesday, March 10, 1982 (revised) and Week of March 15, 1982.

PLACE: Commissioners Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Wednesday, March 10:

9:00 a.m.:
Briefing and Possible Vote on Draft Final Rule Requiring Documentation of Deviations from the Revised Standard Review Plan (approximately 1 hour) (public meeting)

10:00 a.m.:
Discussion of TMI–1 Restart Proceeding (closed meeting) (as announced)

3:00 p.m.:
Discussion of Waste Confidence Proceeding (closed meeting) (as announced)

Tuesday, March 16:

10:00 a.m.:
Staff Briefing on Proposed Addition on 10 CFR 50.73 Establishing the Licensee Event Report (LER) System (public meeting)

Thursday, March 18:

10:00 a.m.:
Affirmation/Discussion Session (public meeting)
Items to be affirmed and/or discussed:
a. Dr. George V. Taplin's Petition (PRM 35–1) Regarding 10 CFR Part 35, "Human Uses of Byproduct Material"
b. Proposed Addition on 10 CFR 50.73 Establishing the Licensee event report (LER) system (tentative)
c. Proposed Rulemaking, "Codes and Standards," 10 CFR 50.55a
d. Devine FOIA Appeal (82–A–1C) Regarding OIA Zimmer Reports

Friday, March 19:

10:00 a.m.:
Briefing on Nuclear Power Plants (public meeting)

2:00 p.m.:
Discussion of Management-Organization and Internal Personnel Matters (closed meeting)

ADDITIONAL INFORMATION:

By a vote of 5–0 on March 8, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107a of the Commission's Rules that Commission business required that Briefing by Executive Branch on Export-Related Matters (Closed Meeting), held that day, be held on less than one week's notice to the public.

Briefing by DOE on Proposals for Nuclear Regulatory Reform (Closed Meeting), scheduled for March 8, has been cancelled.

Affirmation of Export and Import of Nuclear Equipment and Material: Proposed Amendments to NRC's Regulations, scheduled for March 4, has been postponed to affirmation on March 11. Affirmation of Review of ALAB–653, previously scheduled for March 11, has been cancelled.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Dated: March 8, 1982.

Walter Magee,

Office of the Secretary.

[S–72–82 Filed 3–9–82; 3:02 pm]

BILLING CODE 7590–01–M

8

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUCEMENT: 47 FR 9326, March 4, 1982.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, March 1, 1982.

CHANGES IN THE MEETING: Additional items.

The following additional items will be considered at a closed meeting scheduled for Tuesday, March 9, 1981, at 9:30 a.m.:

Regulatory matter bearing enforcement implications.
Access to investigative files by Federal, State, or Self-Regulatory authorities.

The following additional item will be considered at a closed meeting scheduled for Wednesday, March 10, 1982, following the 9:00 a.m. open meeting:

Institution and settlement of administrative proceeding of an enforcement nature.

The following item will be considered at an open meeting scheduled for Thursday, March 18, 1982, at 10:00 a.m.:

Consideration of whether the Commission should issue orders that would extend for an additional eighteen month period the temporary registrations of the eleven active clearing agencies that would otherwise lapse on March 31, 1982; extend until May 31, 1982, the temporary registrations of two other clearing agencies that have ceased doing business as clearing agencies and have requested cancellation of their

registrations; provide an opportunity for public comment until April 30, 1982, regarding the proposed cancellations; and publish an order cancelling the temporary registrations of the two clearing agencies, effective May 31, 1982. For further information, please contact Dan Schneider at (202) 272-2893.

Chairman Shad and Commissioners Loomis, Evans, Thomas, and Longstreth determined by vote that Commission business required consideration of these matters and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have ben added, deleted or postponed, please contact: Jerry Marlatt at (202) 272-2092.

March 8, 1982.

[S-370-82 Filed 3-9-82; 12:34 pm]

BILLING CODE 8010-01-M

federal register

Thursday
March 11, 1982

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Topsoil

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 816 and 817

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Topsoil

AGENCY: Surface Mining Reclamation and Enforcement Office, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining is proposing revisions to the topsoil regulations and requesting public comment. OSM proposes to revise the topsoil handling regulations because of the wide variations in topsoil characteristics and terrain. The revised rules would provide greater flexibility to States to accommodate local conditions and clarify the language and improve the organization of the regulation.

DATES:

Written comments: Accepted until 5 p.m. (eastern time) on April 12, 1982.

Public hearings: Held on request only, on April 6, 1982, at 4:00 p.m. (local), except that the hearing in Washington, D.C., will start at 9:00 a.m.

Public meetings: Scheduled on request only.

ADDRESSES:

Written comments: Hand-deliver to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.22), Room 5315, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.22), Room 5315L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW.; Lexington, Ky.—Harley Hotel, 2143 North Boradway; and Denver, Colo.—Brooks Tower, 2d Floor Conference Room, 1020 15th Street.

Public meetings: OSM offices in Washington, D.C.; Charleston, W. Va.; Knoxville, Tenn.; Indianapolis, Ind.; and Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Public hearings and information: LeRoy deMoulin, Soil Scientist, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202–343–5954.

Public meetings: Jose del Rio, 202–343–4022.

SUPPLEMENTARY INFORMATION:

Written comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "Addresses"). Comments received after the time indicated under "Dates" or at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record for the final rulemaking.

Public Hearings

Persons wishing to comment at the public hearings should contact the person listed under "For Further Information Contact" by the close of business *three working days* before the date of the hearing. If no one requests to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment, and persons present in the audience who wish to comment, have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices listed in "Addresses" by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."**

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L St.). A written summary of each public meeting will be made a part of the Administrative Record.

Pre-Proposed Draft

On June 26, 1981, OSM sent to the States, and made available to the public, copies of draft revisions to these rules. OSM requested interested parties to submit comments on this working draft of the topsoil rules. Comments on the draft were considered by OSM in formulating this proposal. In explaining the proposed rules, OSM has responded to commenters where such a response is helpful to the explanation. OSM will respond to all other comments in a notice of final rulemaking after comments on this proposal are received.

Explanation of Proposed Regulations

Upon reexamination of the topsoil rules, OSM has found that they give inadequate consideration to section 101(f) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201(f) (the Act). In addition, as a result of its inspection and enforcement activities, review of State program submissions and comments from the coal industry, OSM has noted that there are widely divergent interpretations of the existing topsoil regulations. Because of the wide variation in topsoil characteristics and terrain upon which topsoil occurs, OSM proposes to revise the topsoil handling regulations to allow each State more flexibility to develop further its own topsoil protection rules according to local soil, climatic, and topographic conditions.

Proposed Changes to Rules

OSM proposes to change the topsoil rules by presenting two alternatives. In the discussion below, Alternative I is a proposal to make the specific changes in 30 CFR Parts 816 and 817 identical. Alternative II is a deviation from Alternative I that proposes a major change in the topsoil removal requirements for Part 817, based on statutory differences between surface and underground mining operations.

Section 516 of the Act provides performance standards for the surface effects of underground mining. The Secretary is directed to "consider the distinct difference between surface coal mining and underground coal mining" in adopting rules concerning surface effects of underground mining. 30 U.S.C. 1266(a). When promulgating rules related to surface effects not specifically mentioned in section 516, the Secretary is directed to "make such modifications in the requirements imposed by this subparagraph as are necessary to accommodate the distinct differences between surface and underground coal mining." 30 U.S.C. 1266(b)(10). Alternative II would implement these Congressional directives to the Secretary.

Since the facilities associated with an underground mine will exist for a long period to time, removal, segregation and preservation of topsoil in such circumstances may be unnecessary and inappropriate. Alternative II is proposed where a long-term topsoil storage would otherwise be required.

Alternative I

Section 816.21/817.21 General Requirements

The requirement of existing § 816.21(a) to separately remove topsoil would be contained in proposed § 816.22(a). The requirement of existing § 816.21(b) to either immediately redistribute or stockpile the topsoil would be covered by proposed § 816.23(a).

Sections 816.21/817.21 of the existing regulations therefore would be unnecessary and are proposed to be deleted to eliminate redundancy.

Section 816.22/817.22 Topsoil: Removal

In addition to language changes, paragraphs (a), (b) and (c) of the existing rule have been rearranged in the proposed rule to reflect a more logical sequence and now appear in order as (b), (c) and (a) respectively.

Section 816.22(a)/817.22(a) Materials to be Removed

Existing §§ 816.22(b)/817.22(b) would be renumbered as §§ 816.22(a)/817.22(a).

The paragraph implements section 515(b)(5) of the Act which sets forth topsoil removal performance standards. The language in existing paragraph (b), "in accordance with paragraph (e) of this section," would be deleted because it is unnecessary.

There are special circumstances where topsoil substitutes are not used, but under which an operator need not remove existing topsoil. Therefore, this section would provide that the regulatory authority may choose not to require removal of topsoil where light traffic does not destroy existing vegetation or cause erosion, and before construction of small permanent structures. OSM's intent is not to require removal of topsoil from areas receiving minor disturbances that would not increase erosion susceptibility. Examples of such minor disturbances are light traffic by equipment when soils are dry or frozen, or around permanent structures where topsoil loss would be negligible, such as power poles, signs, or fence lines.

Section 816.22(b)/817.22(b) Materials to be Removed in Thin Topsoil Situations

Existing §§ 816.22(c)/817.22(c) would be renumbered as §§ 816.22(b)/817.22(b).

The existing paragraph requires that when the topsoil is less than six inches thick, the topsoil must be supplemented with subjacent material to provide a sufficient rooting medium to support an effective vegetative cover. Problems have developed in the field concerning the feasibility of removing thin topsoil layers, particularly from steep slopes or slopes supporting trees or deep rooted shrubs, and where stones are in or on the soil surface. Topsoil, as mandated by section 515(b)(5) of the Act, must be removed from the land in a separate layer unless it is of insufficient quantity, or of poor quality, or substitute materials are shown to be more suitable. A very thin or discontinuous topsoil layer often occurs on very steep terrain or on stoney surfaces. In some cases, the original topsoil can be more than six inches thick, but is completely removed during the vegetation removal operations and remains as part of tree and shrub root systems or becomes unidentifiable as it is scattered and mixed with the upper subsoil layers. Under such conditions, OSM proposes that the remaining soil material up to a six inch depth is to be removed. Topsoil substitute or supplements may be necessary to achieve the postmining land use. Reference to paragraph (e) would be deleted as being unnecessary and changes in that paragraph are discussed below.

Section 816.22(c)/817.22(c) Timing

Existing §§ 816.22(a)/817.22(a) would be redesignated as §§ 816.22(c)/817.22(c).

The language of the existing rule for underground mining (§ 817.22(a), "from areas to be affected by surface operations or major structures") would be deleted and incorporated into the language of proposed §§ 816.22(a)/817.22(a) because it refers to "place" rather than "time." The two paragraphs on timing in Parts 816 and 817 would then be identical and unchanged from the existing provision on timing.

Section 816.22(d)/817.22(d) Subsoil Segregation

This paragraph discusses segregation of B and C horizon material or other material of comparable quality. This proposed paragraph will be reworded to clarify the scope of the regulation and identify the operator as responsible for segregating subsoil as substitute material where necessary to achieve soil reconstruction standards consistent with the approved postmining land use. The regulatory authority has the option to require subsoil segregation if it is the best available material to substitute for the existing topsoil. The Act requires separation of subsoil horizons only for prime farmland. See section 515(b)(7). However, as detailed in the March 13, 1979 preamble to the existing regulations (44 FR 15140), States should have the necessary authority to require separation of the horizons when necessary to meet the requirements of section 515(b)(6) of the Act.

Section 816.22(e)/817.22(e) Topsoil Substitutes and Supplements

The existing rule contains specific requirements for evaluating topsoil substitutes and supplements to determine whether the resulting medium will be equal to, or more suitable than, the topsoil for sustaining vegetation. Some commenters suggested retaining specific requirements of the existing rule to ensure adequate testing of soil materials. The proposed rule states the minimum analyses required to determine suitability and it would allow the regulatory authority flexibility to require additional field trials, or tests for site specific conditions. The existing requirements of (e)(1) have been condensed and simplified in this proposed rule. The substance of paragraph (e)(2) in the existing rules is found at paragraphs .22(a), .23(a) and .24(a) of these proposed rules and is therefore deleted from this proposed paragraph.

Section 816.22(f)/817.22(f) Limits on Topsoil Removal Area

The existing paragraph (f) places limits on the area of topsoil that should be removed and redistributed. Commenters favored the existing language of this rule as a means of limiting the amount of erosion and fugitive dust. OSM proposes to delete this paragraph because under other regulations, the operator would be required to complete reclamation as contemporaneously as possible (§§ 816.100/817.100 of the existing rules), store and protect topsoil (§§ 816.23/817.23 of the proposed rules), and meet effluent limitations (§§ 816.42 and 817.42 of the existing rules).

If local soil and climatic conditions necessitate it, the regulatory authority may choose to restrict the size of the topsoil removal area. The requirements of pargraph (f)(2) of this rule are contained in proposed §§ 816.24(b) and 817.24(b).

Section 816.23/817.23 Topsoil: Storage

The existing section requires certain storage and protection measures for topsoil and other approved materials. The language of the proposed section would be revised for simplicity.

One commenter suggested adding a requirement that a stockpile may not remain more than thirty days without revegetation procedures being initiated. OSM believes that climatic conditions and the season of the year may not always be favorable for immediate establishment of a protective vegetative cover. Therefore, the regulatory authority may require suitable mulch or other soil stabilizing practices when necessary.

In paragraph (a), OSM proposes to remove reference to § 816.22/817.22. In paragraph (b), OSM proposes to delete unnecessary language and reword the paragraph to more closely follow sections 515(b) (4) and (5) of the Act.

There will be very few, if any, instances when it will be necessary to move topsoil from one stockpile location to another before redistribution. This action could also involve excessive costs. For these reasons OSM has proposed to delete paragraph (b)(2) as unnecessary.

Section 816.24/817.24 Topsoil: Redistribution

The existing section requires treatment of regraded land to eliminate slippage surfaces, and provides guidance on redistribution of topsoil or other materials and protection from erosion. A commenter suggested adding a provision that controls the timing of redistributing topsoil to prevent erosion during the time of year when establishing vegetation may not be possible. OSM recognizes the importance of the timing of soil handling procedures, but believes the regulatory authority must have the flexibility to apply the most appropriate soil stabilizing techniques that fit local landscape features and weather conditions.

Some minor word changes in paragraphs (a) and (b) improve clarity without jeopardizing revegetation success or water quality. An additional paragraph (c) is proposed to allow flexibility in redistribution of topsoil on cut slopes where stability of the topsoil layer may be infeasible. Placing topsoil on such steep slopes can result in loss of topsoil and ground cover by natural slumping. It is not OSM's intention to require placement of topsoil on last-cut embankments where such slopes are incorporated in the post-mining land configuration and loss of the entire unconsolidated top layer would likely occur. In such cases the regulatory authority may wish to consider other methods that assure revegetation.

Section 816.25/817.25 Topsoil: Nutrients and Soil Amendments

The existing rule requires application of nutrients and soil amendments, as determined by soil tests, to the redistributed surface soil layer to support the postmining land use and revegetation requirements. OSM proposes to delete this section as unnecessary since this is a well-recognized best management practice needed to ensure successful revegetation. One commenter opposed the deletion of this section stating that the application of nutrients is important to assure successful revegetation. Although soil analysis may demonstrate the necessity to apply fertilizer and soil amendments in some circumstances on disturbed sites to establish vegetation, OSM does not intend to imply that such augmentation will always be a periodic requirement to sustain a vegetative cover. Deletion of this section would not relieve operators from meeting revegetation performance standards and the approved postmining land use.

Alternative II

As noted above, Alternative II would provide different standards for underground mining activities only. One of the distinct characteristics of underground mines is the very long life of small areas of surface disturbance, which often last ten years and at times for as long as forty years. These surface disturbances usually are permanent, for the life of the mine, and change little, if any. By contrast, surface mining generally involves much larger areas of surface disturbance at any given time, and that area of distrubance is continually changing, both in extent and location. The following discusses how such differences from surface mining would be accounted for in Alternative II of the proposed rules. Commenters are asked to specifically address the relative merits of Alternatives I and II for underground mining activities.

Section 817.21 General Requirements

The requirement of existing § 817.21(a) to separately remove topsoil is contained in proposed § 817.22(a). The requirement of existing § 817.21(b) to either immediately redistribute or stockpile the topsoil would be covered by proposed § 817.23(a).

Section 817.21 of the existing regulations is unnecessary and is proposed to be deleted to eliminate redundancy.

Section 817.22 Topsoil: Removal

Section 817.22(a) as proposed for revision has condensed and incorporated some of the requirements of § 817.22 (a), (b), (c), (d) and (e) that are proposed to be deleted. The suggested language of Alternative II also provides for greater flexibility in developing specific topsoil handling procedures which reflect the differences between underground mining in the Appalachian highlands and that in the flat areas of the Midwest region, as well as the differences between surface and deep mining. New language is proposed in paragraph (a)(1) that provides for the spreading of topsoil on sites approved for later reclamation or current use. Thus, topsoil could be put to use rather than stockpiled, and retrieved as necessary at the end of mining operations. Proposed paragraph (a)(2) provides for the utilization of topsoil or other suitable soil material from borrow areas. Such areas may be desirable when sufficient suitable topsoil is not available, or soil salvage is impractical because of erosion, excessive stoniness and rockiness and steep slopes. Proposed § 817.22(b) would ensure that timely reclamation of surface disturbances was accomplished.

Sections 817.22(a)–(e)

The existing paragraphs describing the steps in topsoil removal, subsoil segregation as substitute material, and required analyses for suitability of subtitute material are proposed to be deleted. Paragraph (a) of the proposed alternative rule contains simplified language for existing paragraphs (a), (b), and (c). The language of existing paragraph (d) is simplified and incorporated in proposed paragraph (a)(2). The proposed paragraph (a) (2) would require identification of substitute materials, rather than discussing when subsoil segregation should occur as in existing paragraph (d). Proposed paragraph (b) incorporates simplified language of existing paragraph (e).

Section 817.22(f) is proposed to be deleted because other regulations adequately provide for erosion control. See the discussion of this paragraph under Alternative I. The requirements of paragraph (f) (2) of the existing rule are contained in the proposed § 817.24(b) of Alternative II.

Sections 817.23–25

The proposed language changes to these sections are the same as proposed for these sections under Alternative I. Also see the preamble discussion for these sections under Alternative I.

Determinations Under Executive Order 12291, the Regulatory Flexibility Act

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major rules because they will impose only minor costs on the coal industry and coal consumers. In addition, the proposed regulations emphasize the use of performance standards instead of design criteria, which will allow operators to utilize the most cost-effective means of achieving the performance standards.

DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that these rules will not have a significant economic impact on a substantial number of small entities. The proposed regulations will allow small coal operators increased flexibility in meeting performance standards and should especially ease the regulatory burden on small coal operators in Appalachia.

Literature Cited

All reference materials found at 44 FR 15138–15139, March 13, 1979, are applicable, but are not repeated unless otherwise stated in this notice.

Environmental Impact

OSM has prepared a draft environmental assessment (EA) on this proposed rule and has made an interim finding that it would not significantly affect the quality of the human environment. The draft EA is on file in the OSM Administrative Records Office at the address listed in the **"ADDRESSES"** section of the preamble. A final EA will be completed and a final conclusion reached on the significance of any resulting impacts before issuance of the final rule. OSM also is preparing an EA of the cumulative impacts on the human environment of this rulemaking and related rulemakings under SMCRA. This cumulative EA also will be completed before this rule is made final.

Accordingly 30 CFR Parts 816 and 817 are proposed to be amended as set forth herein.

Dated: February 10, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

§ 816.21 [Removed]

1. Section 816.21 is removed.

2. Section 816.22 is revised to read as follows:

§ 816.22 Topsoil: Removal.

(a) *Materials to be removed.* Topsoil shall be removed in a separate layer from the areas to be disturbed, unless use of topsoil substitutes is approved by the regulatory authority. If use of topsoil substitutes or supplements is approved, all materials to be redistributed shall be removed. The regulatory authority may choose not to require removal of topsoil where light traffic does not destroy existing vegetation or cause erosion, and before construction of small permanent structures such as power poles, signs or fence lines.

(b) *Materials to be removed in thin topsoil conditions.* Where the topsoil is less than 6 inches thick, all unconsolidated material (including the A horizon) to a depth of 6 inches shall be treated as topsoil.

(c) *Timing.* Topsoil shall be removed after vegetative cover that would interfere with the use of the topsoil is cleared from the areas to be disturbed, but before any drilling, blasting, mining, or other surface disturbance.

(d) *Subsoil segregation.* The B horizon, portions of the C horizon and/or other underlying layers shall be segregated and used as topsoil substitute or supplement: (1) if necessary to support the approved postmining land use; or (2) if required by the regulatory authority as the best material available to support vegetation.

(e) *Topsoil substitutes and supplements.* Selected overburden materials may be substituted for, or used as a supplement to topsoil, if the operator demonstrates to the regulatory authority that the resulting soil medium will be equal to or more suitable for sustaining revegetation than is the available topsoil, and that the substitute material is the best available to support revegetation. This demonstration shall be based upon analysis of the thickness of soil horizons, total depth, texture, percent coarse fragments, pH and areal extent of the different kinds of soils. The regulatory authority may require other chemical and physical analyses, field-site trials or greenhouse tests if determined to be necessary or desirable to demonstrate the suitability of the topsoil substitute or supplement.

3. Section 816.23 is revised to read as follows:

§ 816.23 Topsoil: Storage.

(a) Topsoil and approved topsoil substitutes or supplements shall be stockpiled only when it is impractical to promptly redistribute such materials on regraded areas

(b) Stockpiled materials shall be selectively placed on a stable area within the permit area, shall not be disturbed, and shall be protected from wind and water erosion and from contaminants and unnecessary compaction through the maintenance of an effective cover of quick growing plants or other measures approved by the regulatory authority.

4. Section 816.24 is revised to read as follows:

§ 816.24 Topsoil: Redistribution

(a) After final grading and before the replacement of topsoil and other segregated materials, the regraded land shall be treated if necessary to eliminate slippage surfaces and to promote root penetration. If the person who conducts the surface mining activities shows, and the regulatory authority approves, that no harm will be caused to the topsoil and vegetation, such treatment may be conducted after topsoil is replaced.

(b) Topsoil and other materials shall be redistributed in a manner that:

(1) Achieves an approximate uniform, stable thickness consistent with the approved postmining land uses, contours, and surface water drainage system;

(2) Prevents excess compaction of the material; and

(3) Protects the material from wind and water erosion before and after it is seeded and planted.

(c) If necessary to prevent erosion and promote revegetation, the regulatory authority may choose to approve the selective placement of topsoil materials.

§ 816.25 [Removed]

5. Section 816.25 is removed.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

§ 817.21 [Removed]

6. Section §§ 817.21 is removed.

Alternative I for §§ 817.22, 817.23 and 817.24

7. Section 817.22 is revised to read as follows:

§ 817.22 Topsoil: Removal.

(a) *Materials to be removed.* Topsoil shall be removed in a separate layer from the areas to be disturbed, unless use of topsoil substitutes is approved by the regulatory authority. If use of topsoil substitutes or supplements is approved, all materials to be redistributed shall be removed. The regulatory authority may choose not to require removal of topsoil where light traffic does not destroy existing vegetation or cause erosion, and before construction of small permanent structures such as power poles, signs, or fence lines.

(b) *Materials to be removed in thin topsoil conditions.* Where the topsoil is less than 6 inches thick, all unconsolidated material (including the A horizon) to a depth of 6 inches shall be treated as topsoil.

(c) *Timing.* Topsoil shall be removed after vegetative cover that would interfere with the use of the topsoil is cleared from the areas to be disturbed, but before any drilling, blasting, mining, or other surface disturbances.

(d) *Subsoil segregation.* The B horizon, portions of the C horizon and/or other underlying layers shall be segregated and used as topsoil substitute or supplement: (1) If necessary to support the approved postmining land use; or (2) if required by the regulatory authority as the best material available to support vegetation.

(e) *Topsoil substitutes and supplements.* Selected overburden materials may be substituted for, or used as a supplement to topsoil, if the operator demonstrates to the regulatory authority that the resulting soil medium will be equal to or more suitable for sustaining revegetation than is the available topsoil, and that the substitute material is the best available to support revegetation. This demonstration shall be based upon analysis of the thickness of soil horizons, total depth, texture, percent coarse fragments, pH, and areal extent of the different kinds of soils. The regulatory authority may require other chemical and physical analyses, field-site trials or greenhouse tests if determined to be necessary or desirable to demonstrate the suitability of the topsoil substitute or supplement.

8. Section 817.23 is revised to read as follows:

§ 817.23 Topsoil: Storage.

(a) Topsoil and approved topsoil substitutes or supplements shall be stockpiled only when it is impractical to promptly redistribute such materials on regraded areas.

(b) Stockpiled materials shall be selectively placed on a stable area within the permit area, shall not be disturbed, and shall be protected from wind and water erosion and from contaminants and unnecessary compaction through the maintenance of an effective cover of quick growing plants or other measures approved by the regulatory authority.

9. Section 817.24 is revised to read as follows:

§ 817.24 Topsoil: Redistribution.

(a) After final grading and before the replacement of topsoil and other segregated materials, the regraded land shall be treated if necessary to eliminate slippage surfaces and to promote root penetration. If the person who conducts the underground mining activities shows, and the regulatory authority approves, that no harm will be caused to the topsoil and vegetation, such treatment may be conducted after topsoil is replaced.

(b) Topsoil and other materials shall be redistributed in a manner that:

(1) Achieves an approximate uniform, stable thickness consistent with the approved postmining land uses, contours, and surface water drainage system;

(2) Prevents excess compaction of the material; and

(3) Protects the material from wind and water erosion before and after it is seeded and planted.

(c) If necessary to prevent erosion and promote revegetation, the regulatory authority may choose to approve the selective placement of topsoil materials.

Alternative II for §§ 817.22, 817.23, and 817.24

10. Section 817.22 is revised to read as follows:

§ 817.22 Topsoil: Removal.

(a) Topsoil shall be removed after vegetative cover that would interfere with the use of the topsoil is cleared from the areas to be disturbed, but before any drilling, blasting, mining, or other surface disturbance. Where, because of the long-term life of the surface disturbance associated with underground mining activities, separate stockpiling of topsoil material is rendered impracticable, the regulatory authority may choose to:

(1) Require removal of topsoil material and distribution of such material over an approved site for later reclamation or current use; or

(2) Identify borrow areas of topsoil or suitable substitute soil material layers within the permit area for use in future reclamation.

(b) All sites to be disturbed shall be reclaimed in accordance with the requirements of §§ 817.111—817.116 based on soil analyses, and field tests or trials as required by the regulatory authority.

11. Section 817.23 is revised to read as follows:

§ 817.23 Topsoil: Storage.

(a) Topsoil and approved topsoil substitutes or supplements shall be stockpiled only when it is impractical to promptly redistribute such materials on regraded areas.

(b) Stockpiled materials shall be selectively placed on a stable area within the permit area, shall not be disturbed, and shall be protected from wind and water erosion and from contaminants and unnecessary compaction through the maintenance of an effective cover of quick growing plants or other measures approved by the regulatory authority.

12. Section 817.24 is revised to read as follows:

§ 817.24 Topsoil: Redistribution.

(a) After final grading and before the replacement of topsoil or other approved materials, the regraded land shall be treated if necessary to eliminate slippage surfaces and to promote root penetration. If the person who conducts the underground mining activities shows, and the regulatory authority approves, that no harm will be caused to the topsoil and vegetation, such treatment may be conducted after topsoil is replaced.

(b) Topsoil or other approved materials shall be redistributed in a manner that:

(1) Achieves an approximate uniform, stable thickness consistent with the approved postmining land uses, contours, and surface water drainage system;

(2) Prevents excess compaction of the materials; and

(3) Protects the material from wind and water erosion before and after it is seeded and planted.

(c) If necessary to prevent erosion and promote revegetation, the regulatory authority may choose to approve the selective placement of topsoil materials.

§ 817.25 [Removed]

13. Section 817.25 is removed.

(Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*)

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March 11, 1982

Part III

Department of Transportation

Federal Aviation Administration

Flight Crewmembers; Flight Time Limitations and Rest Requirements

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. 22745; Notice No. 82-4]

Flight Crewmember; Flight Time Limitations and Rest Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to revise the flight time and rest requirements for flight crewmembers utilized by domestic, flag, and supplemental air carriers and commercial operators, and air taxi operators and commercial operators. These proposals result from a reassessment of the Agency's role in regulating flight and duty time in light of current operating conditions and current regulatory philosophy. The proposals would substantially reduce the amount of regulatory material pertaining to crewmember flight time and rest requirements by prescribing only the minimum regulations deemed necessary for safety.

DATES: Initial comments must be received on or before July 9, 1982. Reply comments on these initial comments must be received on or before August 9, 1982.

ADDRESS: Comments on the proposals may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 22745, 800 Independence Avenue, SW., Washington, D.C. 20591 or delivered in duplicate to: Room 916, 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. 22745. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: E. Wendell Owens, Regulatory Review Branch, (AVS-22), Safety Regulations Staff, Associated Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8714.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of the proposals contained in this notice are invited. Comments are also specifically requested concerning the implementation and effective date of the final rule. The FAA proposes to establish an effective date of 180 days after the issue of the final rule. All initial comments received on or before July 9, 1982, and all reply comments received on or before Aug. 9, 1982, will be considered by the Administrator before taking action on the proposed rule. 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 substantive public contact with FAA personnel concerned with this rulemaking will be filed in the 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, 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 the 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.

Background

The FAA has engaged in extensive efforts to revise flight and duty time regulations in Parts 121 and 135. These regulations, especially those contained in Part 121, have remained unchanged for up to 30 years. During this span of time, there have been dramatic changes in the equipment and operating practices of air carriers. Moreover, the flight and duty time regulations have become a battleground between carriers on the one hand, and employees, particularly employee organizations, on the other hand. The Agency has been involved in litigation over the meaning of certain phrases in these regulations and has issued more than 1,000 pages of interpretations, mostly in response to requests from employees or employee organizations. Of all the provisions in the Federal Aviation Regulations, the flight and duty time requirements have proven to be the most prolific source of requests for interpretations.

Recent efforts by the Agency to clarify and update these regulations commenced with the Operations Review Program in 1975. Concepts were discussed at the Operations Review Conference held in December 1975. Subsequently, two notices of proposed rulemaking were issued proposing to revise and simplify the Part 121 and 135 flight and duty time regulations. Notice No. 77-17 (42 FR 43490; August 29, 1977), which proposed substantial revisions to Part 135, also contained proposals to revise the flight and duty time regulations in that part. It contained concepts which were similar to those proposed for Part 121 early in 1978 in Notice No. 78-3 (43 FR 8070; February 27, 1978). Notice No. 78-3 proposed regulations which reduced the amount of regulatory material in Part 121 flight and duty time regulations.

Comments received in response to Notice No. 78-3 showed that further research and analysis were necessary before that rulemaking action could proceed. Consequently, when a final rule was issued in the Part 135 rulemaking action (43 FR 46742; October 10, 1978), the proposals to revise the Part 135 flight and duty time regulations were deferred for consideration with the Part 121 proposal in Notice No. 78-3.

After extensive analysis of comments received on the proposals in Notice Nos. 78-3 and 77-17, the FAA issued a consolidated supplemental notice of proposed rulemaking No. 78-3B covering Parts 121 and 135 (45 FR 53316; August 11, 1980). This supplemental notice contained numerous changes made in response to the extensive comments received in response to Notice Nos. 78-3 and 77-17. The Agency stated in Notice No. 78-3B that it did not intend to issue a costly regulation unless the benefits achieved would justify the costs. The Agency made a commitment to reconsider the proposal if the estimate of implementation costs could not be substantially reduced or unless greater safety benefits could be quantified.

Numerous comments containing volumes of contradictory information were received in response to Notice No. 78-3B. Air carriers claimed that the proposals would be very expensive both in terms of initial and recurring costs, due in part to the hiring and training of additional flight crewmembers which they contended would be required by the proposed rules. The airlines did not indicate any favorable impacts of the rule. The pilot representatives contended that the proposals were too loosely drawn and would require them to work longer hours, thus affecting flight safety. Commuter airlines, charter,

and on-demand carriers objected to being treated like scheduled airlines, however, they favored the basic flight, duty, rest time, and scheduling concepts that are currently available to domestic air carriers under Part 121 rules, with modifications to existing flight hour limitations and rest period requirements. Certain aspects of the proposals were vigorously attacked by helicopter operators who complained the unique characteristics of helicopters and their operations were not considered in the proposals.

It was apparent from the comments that virtually all affected segments of the air transportation community opposed one or more aspects of the proposals and the FAA, in light of comments received, was not able to quantify safety benefits or establish that the proposals were not costly.

In view of the above circumstances, Notice No. 78–3B was withdrawn (46 FR 32413; June 22, 1981). The notice of withdrawal stated that an alternative proposal would be developed which would be less burdensome and would simplify the present regulations, and at the same time would properly fulfill the statutory mandate in Section 601(a)(5) of the Federal Aviation Act. This provision requires the Administrator to issue "reasonable rules and regulations governing, in the interest of safety, the maximum hours or periods of service of airmen and other employees of air carriers."

The Need To Revise the Regulations

The present regulations have been in effect for up to 30 years without substantive change. During this period, the air transportation industry has experienced drastic equipment changes and startling advances in technology. The industry itself has progressed from being highly regulated and surrounded by a cloak of protective government economic regulations such as route and rate protection to the present status of substantial deregulation. At the same time, the piston-engine powered airplane has been almost entirely replaced by the turbo-propeller and turbojet powered airplane. The modern aircraft with turbine engines and other technological advances, provides a more comfortable work environment to the flightdeck crew and more flexibility in selecting operating altitudes and speeds for flight operations. Thus, the industry and the airplane equipment used by the airlines have experienced remarkable progress in the last 30 years.

In sharp contrast, the regulations governing flight time limits have remained unchanged leading to ever increasing confusion over their meaning. The present regulations are enormously complicated and detailed. They delve into virtually every facet of the flight time process. Microscopic distinctions exist which result in wide fluctuations in the result required by the regulation. For example, rest requirements will vary by many hours depending upon a difference of as little as 1 minute in flight time. Many distinctions in the rules are based on crew size. At times in the past, there were wide variations in crew size and such distinctions were necessary. In the interest of simplifying regulations, it is no longer necessary to make distinctions in flight time regulations based on differences in the number of crewmembers. The size of the flightcrew, in isolation from consideration of crew rest facilities, does not ensure the rest needed to extend the allowable flight time limitations between required rest periods. As will be discussed in detail below, the proposed rule would allow extended flight time between required rest periods in specific cases.

The present regulations also contain distinctions in allowable flight times based upon whether the operation is domestic or international air transportation. These distinctions still exist, however, the need for them no longer exists as the same flight crewmembers are flying similar type airplanes, at the same airspeeds, in the same flight controlled environment, and performing the same flight duties. Therefore, one flight time and rest rule should be applicable to all flight crewmembers.

Further, the present situation is one in which the regulations are so complex and outdated that they are confusing to operators and flight crewmembers. As a result, they are the subject of an endless stream of requests for interpretations. Indeed, the FAA has noted that the frequency of interpretation requests during the past 3 years has increased in comparison to requests made in the period 1976–1978. Most cases of interpretation requests involve disputes between an operator and its employees and the FAA has found itself in a position somewhat similar to an arbitrator resolving a dispute over conditions of employment. In addition to extensive interpretative effort, the FAA has been involved in litigation because of the complexity of the regulations and resulting confusion over their meaning. Part 135 operators have requested numerous exemptions of the flight and duty time limitations, thus indicating that the Part 135 regulations may not be responsive to current industry conditions.

The inclusion of Part 135 proposals identical to the Part 121 proposals is consistent with the mandate of the Federal Aviation Act as amended by the Airline Deregulation Act of 1978 (Pub. L. 95–504). Section 419 of the Federal Aviation Act requires the Administrator, among other things, to impose requirements upon commuter air carriers to assure that the level of safety provided to persons traveling on a commuter air carrier is, to the maximum feasible extent, equivalent to the level of safety provided to persons traveling on Part 121 air carriers which provide services pursuant to certificates issued under Section 401 of the Act.

In addition, at the present time, there are approximately 50 Part 135 air taxi operators who also operate airplanes subject to the rules of Part 121. This circumstance arises from the fact that Part 135 regulates the operations of airplanes having a maximum seating capacity of 30 seats or less or a maximum payload capacity of 7,500 pounds or less; Part 121 regulates the operation of air carriers operating larger size aircraft than allowed under Part 135 regulations. Various Part 135 operators have stated they are confused by the difference between the present Part 121 and Part 135 flight and duty time regulations particularly in regard to how these regulations apply to pilots who operate Part 121 type aircraft for one or more flights and then operate Part 135 aircraft or vice versa. This confusion has generated numerous requests for FAA interpretations. Thus, the difference between the present Part 121 and Part 135 flight and duty time regulations have proven burdensome to a significant number of Part 135 operators. This burden would be eliminated by having a similar rule for both Parts 121 and 135.

Regulations which continuously require interpretative efforts and detailed explanation are unduly burdensome on the flight crewmembers, the airlines, and the FAA. In response to this situation, the FAA has reexamined its role in regulating flight time and related matters. It has determined to propose regulations which are the minimum necessary for safety and which leave other issues for resolution between operators and their employees.

Description of Specific Regulatory Proposals

The proposals in this notice are simple, brief, straightforward and are designed to provide the minimum safety regulations while providing the maximum flexibility for operators in utilization of their resources in providing safe and economical public transportation. As these proposed rules are the minimum regulatory requirements deemed necessry for safety, it is expected that air carriers and their employees will continue to negotiate more stringent rest periods or other limitations based on their specific operational requirements. Identical revisions are proposed for Parts 121 and 135 to limit flight time in any 30-day period to 100 hours, prescribe minimum hours of rest in any 24-hour period, require 24 consecutive hours of rest at least once during any 7 consecutive days, and provide necessary basic definitions. Section 121.477 is the only difference between the Part 121 and 135 proposals. Section 121.477 provides for the Director of Flight Operations to establish special limitations when the length of a scheduled single flight (one takeoff and landing) during a 24-hour period makes it impossible to comply with rest period provisions. There is no counterpart proposal for Part 135 operators, as the types of aircraft being utilized by these operators are not capable of long-range operations.

Each Part 121 and 135 proposal is discussed under the Part 121 and 135 section headings listed below:

Section 121.471 Applicability.

Section 135.261 Applicability.

These sections prescribe the applicability of the proposals. All certificate holders and flight crewmembers subject to Parts 121 and 135 would be required to comply with the applicable provisions of proposed Subpart Q of Part 121 or proposed Subpart F of Part 135, respectively.

Section 121.473 Flight time limitations.

Section 135.263 Flight time limitations.

Each of these sections proposes a limitation of 100 hours commercial flight time in any 30 consecutive days. Thus, a uniform limitation is proposed for all Part 121 and 135 operations. This limitation should prevent cumulative fatigue and, at the same time, should provide adequate flexibility to operators. However, the FAA solicits comments on the 100-hour, 30-day period limitation and whether it should be some other limitation. Persons recommending a different figure should provide safety justification and economic impact data. It should be understood that the FAA will consider it within the scope of this notice to adopt a monthly limitation other than 100 hours depending upon justification contained in comments received. The term "commercial flight time" means any flight time for which a flight crewmember receives any form of compensation. Due to comments received from the Department of Defense, and the limited number of flights hours flown by air line flight crewmembers for the military establishment, commercial flight time in this proposal does not inlcude flight time accumulated in military flying. The 30-day limit of 100 hours would be an absolute ceiling. For example, it would prohibit a certificate holder from scheduling Part 91 flying such as ferrying, positioning, maintenance test flights, or receipt or giving of instruction if the 100-hour limit has already been reached.

Section 121.475 Rest periods.

Section 135.265 Rest periods.

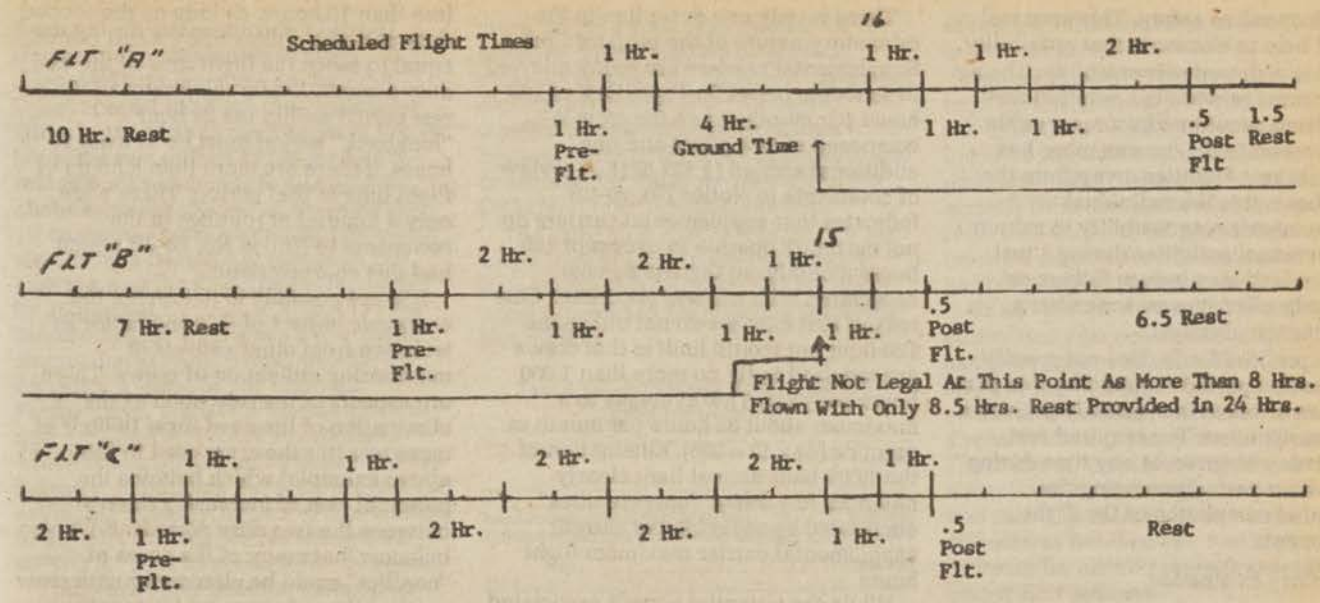
These sections would require minimum amounts of rest time to be afforded a flight crewmember before commencement of flight time. Within any 24 consecutive hours, the required rest period must be at least 8 consecutive hours for scheduled flight times within that 24 consecutive hours of 8 hours or less, and 10 consecutive hours in the case of scheduled flight time of more than 8 hours. In each case, the rest period must be given during the 24-hour period preceding the planned completion of the assignment. The required rest period is based upon scheduled flight time, as contrasted with actual flight time. Therefore, even if a flight crewmember scheduled for 8 hours or less flight time exceeds the scheduled amount, there would not be an adjustment in the amount of rest. As an example, if a flightcrew is scheduled to fly for 7.5 hours which would require a rest period of 8 hours and, due to reasons beyond the control of the certificate holder, the flight is extended to more than 8 hours of flight time, the required rest period remains the same as scheduled, but not less than 8 consecutive hours of rest. The operator should not be required to extend the scheduled rest period. To do so would impose a severe burden on the operator and the flying public due to lack of schedule reliability and the difficulty in rescheduling of the required rest period.

The following graph is a hypothetical illustration of a flight schedule which covers three consecutive 24-hour periods. While it does not represent an actual crew pairing, all of these flights are assumed to be flown by the same flight crewmembers.

Schedule "A" complies with the proposed regulations because the flightcrew was given at least 8 consecutive hours of rest during the last 24 hours.

Schedule "B" would violate the regulations at the 15-hour mark as at that point the flightcrew had completed more than 8 hours of scheduled flight in the last 24 hours with only 8.5 consecutive hours of rest during the same period. The more than 8 hours of scheduled flight time was arrived at by counting back 24 hours from the 15-hour mark on Flight "B" to the 15-hour mark on Flight "A." By the 15-hour mark on Flight "B", the flightcrew had accumulated 5 hours of flight time, adding this to the 4 hours flown after the 16-hour mark on Flight "A" for a total of 9 hours in the last 24 hours which requires a 10-hour rest period.

Schedule "C" complies with the proposed regulation as the required rest period was provided.



Legal Flight As 8 Hrs. Rest Provided for 8 Hrs. Flight in Last 24 Hrs.

The proposals include a requirement that a certificate holder provide each flight crewmember with a rest period of at least 24 consecutive hours at least once during any 7 consecutive day period. This means that it is possible for a flight crewmember to fly on 7 consecutive days provided the flying is arranged in such a manner that the 24-hour rest period is provided. For example the 24-hour period could extend from noon Wednesday to noon Thursday and could be preceded by flight time on Wednesday and followed by flight time on Thursday. The proposals also provide that the 24-hour rest period may be concurrent with any other required rest period. Thus, a flight crewmember who is receiving the 24 consecutive hour rest period may also be afforded the 8- or 10-hour rest period at the same time.

Under paragraph (d) of each of the proposed rest period sections, a rest period is defined as a continuous period of time during which no required assignment is performed for the certificate holder. The proposal explicitly provides that travel a certificate holder requires to transport a flight crewmember between airports (deadhead transportation) is not part of a rest period. Treatment of deadhead transportation in the context of rest periods has been a troublesome issue. Therefore, the relationship is covered specifically to avoid problems in the future. Under the proposal, deadhead transportation can be by any air or surface means to transport flight crewmembers between airports. In either case, it does not constitute part of a rest period. Proposed paragraph (d) also prohibits the performance of any commercial flying during a required rest period. This is consistent with the Agency's belief that it would jeopardize safety to use a rest period to engage in other flying for renumeration. The last sentence of proposed paragraph (d) provides that the mere receipt, during a rest period, of a communication from the certificate holder for rescheduling of a flight does not interrupt the rest period. Stated another way, such receipt does not constitute a duty assignment. This is proposed because the Agency has received numerous requests for interpretation on this point, which was also involved in litigation.

Section 121.477 Special limitations.

This proposal provides a means for regulating long-range flights conducted by some Part 121 operators. Since long-range flights do not occur under operations governed by the rules of Part 135, due to the type of aircraft being utilized by these operators, there is no counterpart proposal in Part 135. If a certificate holder desires to schedule a single flight, the length of which makes compliance with the rest requirement proposed in § 121.475 impossible, the Director of Flight Operations may specify as appropriate to the particular operation, crew size, inflight rest facilities, flight time, duty time, and crew rest times, as operational limitations in the certificate holder's operations specifications. The term single flight means the time between takeoff and the next landing. It is contemplated that a certificate holder will apply sufficiently far in advance of the operation to permit the orderly processing and development of requirements and limitations by the Director of Flight Operations.

Section 121.479 Crewmember responsibilities.

Section 135.267 Crewmember responsibilities.

These sections would prohibit any person from serving as a flight crewmember unless that person used a required rest period for rest purposes. In response to Notice No. 78-3 (43 FR 8070; February 27, 1978) and Notice No. 78-3B (45 FR 53316; August 11, 1980), there were comments which implied that some flight crewmembers were not using required rest periods for rest. Failure to use a rest period for its intended purpose defeats the result sought by requiring a certificate holder to provide minimum rest periods and

could jeopardize safety. This proposal should help to eliminate that possibility.

Rest is a shared responsibility. The air carrier must provide the required rest period and should make a reasonable effort to assure the crewmember has adequate rest facilities away from the home base. It is the individual crewmember's responsibility to refrain from personal activities during a rest period which may induce fatigue or adversely affect the crewmember's performance of duties.

This proposed rule does not specify that the rest period required by this part be given or taken immediately prior to a flight assignment. The required rest period may be given at any time during the 24-hour period preceding the scheduled completion of the flight assignment.

Regulatory Evaluation

The following summarizes the proposed rule elements as they affect Part 121 and Part 135 operators. The net impact on both types of operators is positive, since the benefits of the regulation are greater than any cost that may be associated with the rule.

Part 121

The basic requirements of 24 consecutive hours off in any 7 consecutive days and a maximum of 100 hours of flight time in 30 days parallel the current regulation for scheduled Part 121 carriers. Only in one instance does the present rule allow operation of more than 100 hours a month. This exception is discussed further below. In addition, the basic minimum rest requirement in the proposal generally parallels present practice. In certain instances, the rest requirements are shortened, which is relaxatory.

Benefits

The proposed rule is relaxatory in two ways. First, present weekly and annual flight time limits are eliminated. These changes will provide Part 121 carriers the potential for improved crew utilization. Second, the rest requirements will be set at a minimum of 8 hours rest for 8 hours or less of flight time, and 10 hours rest for flight time periods of more than 8 hours. Presently, rest must be at least 16 hours, if flight time exceeds 8 hours.

While the changes to allowable flight hours and required rest are basically relaxatory, achieving the benefits potentially associated with such relaxation is beyond the control of FAA. Achieving any benefit will be dependent on the outcome of individual labor-management agreements.

There is only one exception to the relaxatory nature of the proposed rules. Supplemental carriers are today allowed to schedule crews for flight time of 120 hours per month, when the crew is composed of two pilots and one additional airman (§ 121.521). A review of comments to Notice No. 78–3B indicates that supplemental carriers do not currently operate in excess of 100 hours monthly, so there is no cost associated with a lower maximum. One reason that carriers do not utilize the 120-hour per month limit is that crews are required to fly no more than 1,000 hours per year. This averages to a maximum about 83 hours per month in practice ($83 \times 12 = 996$). Elimination of the 1,000-hour annual limit clearly balances any minor "opportunities" eliminated by reducing the current supplemental carrier maximum flight hours.

While the potential benefit associated with this proposal cannot be precisely determined, we believe that the potential should approximate $32 million in 1983, the assumed first year of applicability. This benefit will result primarily from improved efficiency. This amount represents a little more than 1 percent of the pilot and copilot expenses of certificated Part 121 carriers for a year. In 1981, about $2.2 billion was spent on pilot and copilot expenses, according to CAB data. Achieving the potential benefit is contingent on development of acceptable labor-management agreements, and is a potential long run benefit.

One final benefit of the proposed rule is less costly administration of the rule. The present regulations have generated numerous requests for interpretation. We believe that this need for interpretation is eliminated in the proposed rule.

There is no assumed safety benefit associated with the proposed rule. There have been no accidents of Part 121 operators in which NTSB has cited fatigue as a factor and where the fatigue was clearly caused by the failure to provide an opportunity for rest.

Cost

Concerning the basic rest rule of requiring 8 or 10 hours of rest within the 24 hour "lookback" period, there is only one question of potential cost which cannot be precisely determined with information available to the Agency. The one element of uncertainty is that the present rule allows one crew scheduling practice which would not be allowed under the proposal. Specifically, two duty periods totaling more than 8 hours of flight time in 24 consecutive hours may be broken by a rest period of less than 10 hours, as long as the second duty period is followed by a rest period equal to twice the flight time of the two duty periods. Under the proposal, the rest period within the 24 hour "lookback" period must be at least 10 hours, if there are more than 8 hours of flight time in that period. There were only a handful of routings in the comments to Notice No. 78–3B which had this characteristic.

It is not possible to determine the economic impact of this one factor in isolation from other aspects of maximizing utilization of crews. There are aspects of the rule, such as the elimination of the need for a 16-hour or more rest (for the crew used in the above example) which balance the potential cost of increasing the rest between the two duty periods. FAA also believes that many of the cases of "conflict" could be eliminated with crew rescheduling changes which involve no cost.

Part 121 Summary

The Part 121 benefits, although they are contingent on carriers achieving better crew utilization in the long run, are real benefits which can be quantified. We believe the potential approximates $27 million in 1981 and $32 million in 1983. The costs, on the other hand are minimal, and the "conflicts" presented by comparing present practice with the proposal can likely be worked out without cost to the carriers.

Part 135

The proposed rule changes have a more obvious impact on Part 135 operators. These operators follow a present rule which is somewhat less restrictive in certain elements and somewhat more restrictive in others, than in the proposal. For example, the present Part 135 rule has no monthly or annual limit on flight time, and does not require 24 hours of consecutive rest once each 7 days. On the other hand, it limits single pilot operations to 8 flight hours in a 24-hour period, and has a minimum rest period of 10 hours, while the proposal requires only 8 hours of rest, unless flight time exceeds 8 hours.

We have analyzed all segments of the Part 135 industry individually for benefits and costs. This analysis is summarized below.

Commuter Air Carriers

Benefits

FAA estimates that the commuter air carriers will have a benefit of over $5 million in 1983. This figure is derived from analysis of a petition of the

Regional Airline Association (RAA) (formerly the Commuter Airline Association of America) to the FAA in October 1981, in which they estimated that a grant of an exemption from the 10-hour rest rule of Part 135 to an 8-hour rest rule, would generate a benefit of about $2 million for some 39 commuter air carriers. The 39 commuter responses were from a base RAA sample of 100 carriers, and the $2 million is increased by 10 percent by FAA to adjust for the likelihood that there were a few carriers among the 100 who would also have a benefit but who did not respond. Furthermore, the 100 in the sample was only two-thirds of RAA membership which comprises about 75 percent of the industry. Expanding the sample gives an estimated industry impact of $4.4 million in benefits for 1981, increased to $5.2 million for 1983 to account for inflation.

There are other benefits associated with a change in the minimum rest requirement, which are not readily quantifiable by FAA. For example, the RAA estimate dealt only with expenses associated with overnight lodging of crews. Under current practice, some commuter operators have reduced aircraft utilization as a result of the specific rules for overnighting of crews. The plane that arrives after 10 p.m. cannot practically leave until after 8 a.m. the next morning, if the overnight location is not a crew domicile. Adoption of the proposed rule for commuters will likely create better commercial opportunities and improved utilization of equipment, as a result of reduction in minimum overnight rest from 10 hours to 8 hours.

Cost

FAA's estimate of cost for the commuter industry is based on the substantive comment of the RAA in Docket No. 17669. There are two areas of compliance cost which affect commuter airlines, the cost of recordkeeping and the cost of additional pilots to meet the 100-hour monthly flight hours limitation. The RAA comment indicated that the 24-hour rest period once weekly would not generate costs to the commuter industry. In Docket No. 17669, the RAA estimated a substantial recordkeeping cost of $16,000 per year per carrier for the numerous requirements proposed in Notice No. 78–3B. A more moderate cost of $1,000 per carrier is assumed here on the basis of compliance with a much simpler rule.

The RAA comment estimated a need to hire 80 additional pilots because of the 110-hour maximum rule, at an annual cost of $27,300 each. For the proposed rule, a need to hire 35 percent more, or 108 pilots, is estimated for the industry. The estimated 35-percent increase is based on judgment, reflecting an increase for the use of a higher number of commuter carriers than accounted for in the RAA comments and to account for the more restrictive 100 flight hours per month maximum.

The estimated cost of compliance for commuters is summarized in Table 1. This estimate is for 1980, and the same impact increased for inflation to 1983 is $4.1 million.

TABLE 1.—RECURRING COSTS FOR THE COMMUTER AIRLINES

	Annual cost
Recordkeeping (296 airlines at $1,000)	$296,000
Limitation of 100 hour (108 pilots at $27,300)	2,948,400
Total	3,244,400

In summary, therefore, the commuter air carriers in 1983 have a net benefit of $1.1 million, with costs approximating $4.1 million, and identifiable benefits of approximately $5.2 million.

Air Taxis

Benefit

Air taxi operators should also experience improved operational efficiencies as a result of the proposed rule. Most of the benefit results from efficiencies related to certain types of flightcrew scheduling which are prohibited by the current rule.

For example, one typical flight profile involves a 4½-hour afternoon flight, with an overnight layover and a return flight in the morning of 4½ hours. Under current rules, if the flights occur within a consecutive 24-hour period, a two-pilot crew would be required, because flight time exceeds 8 hours. Under the proposal, a single pilot could perform this trip. There are numerous other times when flight time exceeds 8 hours in 24 and the two pilot requirement will be eliminated.

As a general estimate, the benefit for air taxis may be estimated by assuming that a similarity exists between the benefit per aircraft for commuter air carriers, and the benefit per aircraft for air taxis. We noted above that the commuter air carrier benefit was about $4.4 million. FAA statistics show that there are almost 2,000 aircraft in commuter service. This would equal a benefit of $2,200 per airplane. We noted also that there are approximately 8,400 aircraft in air taxi service. Using these factors, we estimate that there is a potential benefit on some $18.5 million, in 1980 dollars, due to improved air taxi efficiency. This converts to $21.7 million in 1983 dollars.

The air taxi estimate, derived as it must be from analogy, is subject to a lower level of "confidence" than other benefit estimates associated with the proposed rule. The use of an impact per aircraft from commuter air carriers may represent a source of overstatement, because wage rates, for example, are probably higher in commuter service than air taxi. However, the benefit per aircraft may be conservative since it excludes improved aircraft utilization and commercial opportunities. Also, the estimate of 8,400 aircraft involves only aircraft with a primary use in air taxi. There are an unknown number of other aircraft which are used part time in air taxi use. The FAA believes these differences balance out, and make the estimate for air taxi more reasonable than it first appears.

Safety Benefits

In addition to the operational benefit, there is a potential benefit associated with improving the safety record of Part 135 operators. Between 1964 and 1979, there were 43 Part 135 accidents in which NTSB cited fatigue as a contributing factor. There has been an average of almost 3 accidents per year over this period, and the average cost per accident approximates $1 million. Projecting Part 135 activity into the future, and assuming a similar rate of accidents, FAA believes that the maximum safety benefit of the proposed rule is $5.5 million in 1983, and slightly higher levels beyond 1983. To attain this level of benefit, the proposed rule would have to prevent all projected fatigue related accidents. The level of effectiveness of the proposed rule in reducing fatigue related accidents cannot be quantified at this time.

The proposed rule should be beneficial simply in terms of relaxation of present requirements. While FAA believes that a safety benefit will result from the proposal, the assumption of 100 percent effectiveness in not crucial to the benefit/cost justification of the proposal. The maximum safety benefit relates to all Part 135 operations, and is not distributed between commuter and air taxi operators.

Costs

Air taxi costs are related to two rule elements, the required rest and maximum flight hours requirements. After analysis of the comments to Notice No. 78–3B, FAA analyzed three segments of the air taxi industry separately, due to the apparent different levels of economic impact. The three

industry groups are helicopter operators, air taxi in Alaska, and all other air taxis.

Helicopter Operators

The helicopter operator responses to Notice No. 78–3B indicated that they would incur additional costs as a result of enactment of certain rule elements. Although the proposal had several elements which imposed new costs on helicopter operators, the present proposal has only one, the requirement to provide 24 hours off once a week. The rest requirements and monthly limits do not generate costs for these operators.

This cost occurs because of the dominant crew scheduling procedures of a large segment of the helicopter industry, namely the 7 days on/7 days off or 2 weeks on/2 weeks off system. Many helicopter contracts involve service to remote locations, where the crewmembers and aircraft are colocated for long periods. FAA believes that this class of operator will not be notably affected by the proposed rule.

Previous helicopter operator estimates of cost were developed for a very complicated proposal, which included costs associated with limits on the number of landings, and other factors which are not included in the present proposal. Also, in development of costs associated with changing the 7 days on/7 days off pattern, the respondents overlooked options which would not require hiring new pilots. In particular, one option to the dominant present practice would be a scheduling pattern of 6 days on/6 days off, with no necessary increase in the number of pilots.

It is assumed that the helicopter operators could alter practices with negligible cost.

Air Taxis

Air Taxis—Other Than Alaska

The primary source of information for costs of compliance with the flight time and rest rule is a recent survey conducted by The National Air Transportation Association (NATA) of their membership. The results of the survey were provided voluntarily to FAA as general information. The survey was distributed in the summer of 1981 to 609 air taxi members of NATA and had 204 respondents. It is necessary to determine an appropriate factor for expanding the NATA survey to the entire population. We adopt an expansion factor of six, based on the assumptions that NATA members represent about one-half of the impact of the rules, and that there is no particular bias in the survey responses obtained from NATA members. The first assumption is based on an estimate that NATA members operate about one-half of the active air taxi aircraft. The second assumption may actually overstate the cost impact, but is adopted to simplify the analysis and to be conservative.

There are two aspects of the proposed rule which impact air taxis, the requirement to give 24 consecutive hours off in any 7 consecutive days, and the 100 hours per month limit on flight hours.

24 Consecutive Hours Off in Any 7 Consecutive Days

In the NATA survey, 94 of 202 respondents indicated that they would incur some expense due to this element of the proposed rule. The 94 responses were divided into four cost categories and the mid-points of each of the categories were multiplied by the numbers of respondents in each category to obtain an estimate of $900,000 for the sample. Multiplication of the $900,000 estimate for the sample by the expansion factor of six yields an estimated annual cost of $5.4 million for the rule element.

100-Hour Monthly Maximum

In the NATA survey, respondents were requested to quantify the financial impact of a monthly limit on commercial flying. There were 171 responses to the question on the impact of the 100-hour monthly maximum rule, with 95 respondents indicating no impact. Using a methodology similar to that used for the above element, the estimated annual impact of this rule element is $1,265,000 for the sample and $7.6 million on the industry.

Air Taxis in Alaska

There are over 200 air taxi operators in Alaska. The Alaskan carriers would incur additional costs in the proposed rule were enacted because they have an unusual peaking situation and they enter into numerous contracts which require remote operations for long periods during the summer construction season.

It is apparent from review of comments in Docket No. 17669 that the airplane is the dominant mode of transportation in Alaska, and the summer is an unusually busy season. A large number of comments were received from Alaskan operators, and they indicated that costs would result from both the requirement for 24 hours off once weekly and a maximum flight hour limit.

Quantitative cost data was not readily available from Alaskan carriers. To account for the likely heavy impact on Alaskans, the average impact per response from the NATA survey is doubled to obtain an estimate for Alaskan air taxi operators. The general assumption that virtually all Alaskan operators would be more heavily impacted by a rule with elements similar to those in the proposal was verified through discussions with a representative of the Alaska Air Carriers Association, but the specific assumption of doubling the financial impact is a subjective assessment of impact.

The average of the NATA estimates of the cost of the provision requiring 1 day off in 7 was $4,400, so the estimated cost of this provision to Alaskan operators is assumed to be $8,800 each with a total of $1.8 million. The average estimate for the cost of the 100-hour monthly maximum was $6,200 annually, so the impact of all Alaskan operators is estimated at $12,400 each, or a total of $2.6 million. Thus the total estimated cost associated with both rule elements for all Alaskan operators is $4.4 million.

Summary of Benefits and Costs

Benefits and costs are summarized in the following table. The maximum safety benefit is not distributed between air taxi and commuter operations. The benefit/cost ratio for these segments of the industry do not rely on the safety benefit. They are both above 1.0 (benefits exceed cost) on the basis of operational efficiency estimates.

SUMMARY OF BENEFITS AND COSTS

[Millions of 1983 dollars]

Flight and rest rule

	Benefits	Cost	B/C ratio
Part 121	$31.7	Nil	NA
Part 135:			
Commuters	5.2	$4.1	1.27
Air taxi	21.7	20.4	1.06
Undistributed benefit (maximum safety)	5.5		NA

With the maximum safety benefit included, the Part 135 benefit/cost ratio is 1.3. With the potential Part 121 benefit included, the benefit/cost ratio for the total rule is 2.6.

The FAA invites comments on the economic factors discussed above. FAA specifically invites comments on the several assumptions made with respect to costs and benefits. For Part 121 operations, any claims of cost associated with crew utilization should be substantiated with detailed crew data, optimized under the existing rule as well as under the proposal. FAA invites comment also on the beneficial effects of the proposal such as improved utilization of crews and equipment, and improved market opportunities. Specific

quantitative information on costs or benefits are particularly requested, including any affects on equipment or pilot utilization, and the number of flightcrews required.

A copy of the draft regulatory evaluation is contained in the regulatory docket. It may be obtained by contacting the person identified above under the caption "**FOR FURTHER INFORMATION CONTACT**".

Regulatory Flexibility

FAA has evaluated this proposal in accordance with the Regulatory Flexibility Act of 1980 (RFA). The RFA requires agencies to review rules which have a "significant economic impact on a substantial number of small entities." As the above evaluation indicates, there is no negative economic impact expected to result from the proposed rule as related to Part 121 operators.

Using the Small Business Administration definitions for "small business," almost all Part 135 operators are small entities. FAA evaluation indicates that the RFA requirements are triggered if 100 commuter air carriers (of approximately 300 total) incur an annual net cost increase of $43,000 (1 percent of $4.3 million, the estimated annual cost of the 34th percentile commuter carrier). The RFA requirements are also triggered if approximately 1,000 air taxis (of approximately 3,000 total) incur a net cost increase of $3,000 annually (1 percent of $300,000, the estimated annual cost of the 34th percentile air taxi operator). The evaluation indicates that these conditions are not met for either commuters or air taxi operators.

The Computer Airlines

The commuter airlines would not incur a significant economic impact as a result of the proposal. The net financial effect on the industry is a benefit of $1.1 million in 1983 comprised of $4.1 million in costs, and $5.2 million in benefits. As summarized above, the major cost involved is the estimated cost of additional pilots that may be needed to meet the 100-hour monthly limitation. The only way a firm can exceed $43,000 in cost is by having to hire two pilots. The estimate of total pilots needed for the industry was 108, based on analysis of RAA data. If all 108 pilots were distributed on the basis of two per carrier, then only 54 carriers would be affected. In this, the worst case hypothetical, only 54 of 300 firms, or 18 percent, could be significantly affected. Thus, even if looked at in the sense of cost, rather than the net of costs minus benefits, there is not a significant economic impact on a substantial number of commuter airlines.

The Air Taxi Industry

The air taxi industry presently numbers approximately 3,000 active operators. As discussed above, the annual cost of the proposal for air taxis is expected to be $20.4 million in 1983 dollars, and the direct benefit is expected to be $21.7 million in 1983 dollars, so that net impact to the industry is a benefit of at least $1.3 million in 1983 dollars.

Therefore, using the industry cost of $20.4 million, and the estimated number of firms (3,000), there is an average cost impact per firm of at least $6,800. The average benefit per firm is slightly higher, at $7,200. Thus, only if costs and benefits are distributed very unevenly, could there be significant economic impact on a substantial number of small entities. FAA analysis indicates that the benefits and costs will affect the same firms, generally the larger ones in the industry. Within the air taxi industry, there is a very large number of one airplane, one pilot operators. These operators are not heavily affected by the flight and rest regulations, since they may operate as air taxis only infrequently, and are generally involved in one or more other businesses. The operators most likely to be affected by flight and rest rules are the multiple pilot, multiple aircraft operators, and it is these operators who will incur the bulk of both costs and benefits. Therefore, FAA concludes that the regulatory proposal, at promulgation, would not have a significant economic impact on a substantial number of small entities.

The Proposed Amendments

Accordingly, the Federal Aviation Administration proposes to amend Parts 121 and 135 of the Federal Aviation Regulations (14 CFR Parts 121 and 135) as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. By revising the table of contents of Subparts Q, R, and S of Part 121 to read as follows:

Subpart Q—Flight Crewmember Flight Time and Rest Requirements

Sec.

121.471 Applicability.
121.473 Flight time limitations.
121.475 Rest periods.
121.477 Special Limitations.
121.479 Crewmember Responsibilities.

Subpart R [Reserved]

Subpart S [Reserved]

2. By revising Subpart Q of Part 121, to read as follows:

Subpart Q—Flight Crewmember Flight Time and Rest Requirements

§ 121.471 Applicability.

This subpart prescribes flight time limitations and rest requirements for certificate holders and flight crewmembers under this part.

§ 121.473 Flight time limitations.

No certificate holder may require a flight crewmember to serve, and no flight crewmember may serve more than 100 hours of commercial flight time during any 30 consecutive days.

§ 121.475 Rest periods.

(a) No certificate holder may schedule a flight crewmember for flight time unless that crewmember receives the rest required under paragraph (b) of this section before commencement of flight times.

(b) During any consecutive 24-hour period the certificate holder must provide each flight crewmember at least the following:

(1) A rest period of 8 consecutive hours for scheduled flight times of 8 hours, or less.

(2) A rest period of 10 consecutive hours for scheduled flight time of more than 8 hours.

(c) The certificate holder must provide each flight crewmember a rest period of at least 24 consecutive hours at least once during any 7 consecutive days. This rest period may be concurrent with any other rest period.

(d) "Rest period" means a continuous period of time required by this subpart during which a flight crewmember performs no required assignment for the certificate holder. Travel a certificate holder requires to transport a flight crewmember between airports (deadhead transportation) is not part of a rest period. The receipt of a communication during a rest period from the certificate holder by a flight crewmember for the purpose of rescheduling a flight does not interrupt the rest period.

§ 121.477 Special Limitations.

When the scheduled length of a single flight (one takeoff and landing) during a period of 24 consecutive hours makes compliance with § 121.475 impossible, the Director of Flight Operations may specify rest, flight time, duty time, and operational limitations (including crew

inflight rest facilities) in the operations specifications.

§ 121.479 Crewmember Responsibilities.

No person may serve as flight crewmember unless that person has used the rest period required by this subpart for rest purposes.

Subparts R and S [Reserved]

3. By removing Subpart R consisting of §§ 121.480 through 121.493, and Subparts, consisting of §§ 121.500 through 121.525, of Part 121 of the Federal Aviation Regulations and marking them reserved.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

4. By revising the table of contents of Subpart F of Part 135 to read as follow:

Subpart F—Flight Crewmember Flight Time and Rest Requirements

Sec.
135.261 Applicability.
135.263 Flight time limitations.
135.265 Rest periods.
135.267 Crewmember Responsibilities.

5. By revising Subpart F of Part 135 to read as follows:

Subpart F—Flight Crewmember Flight Time and Rest Requirements

§ 135.261 Applicability.

This subpart prescribes flight time limitations and rest requirements for certificate holders and flight crewmembers under this part.

§ 135.263 Flight time limitations.

No certificate holder may require a flight crewmember to serve, and no flight crewmember may serve, more than 100 hours of commercial flight time during any 30 consecutive days.

§ 135.265 Rest periods.

(a) No certificate holder may schedule a flight crewmember for flight time unless that crewmember received the rest required under paragraph (b) of this section before commencement of flight times.

(b) During any consecutive 24-hour period the certificate holder must provide each flight crewmember at least the following:

(1) A rest period of 8 consecutive hours for scheduled flight times or 8 hours of less.

(2) A rest period of 10 consecutive hours for scheduled flight times of more than 8 hours.

(c) The certificate holder must provide each flight crewmember a rest period of at least 24 consecutive hours at least once during any 7 consecutive days. This rest period may be concurrent with any other rest period.

(d) "Rest period" means a continuous period of time required by this subpart which a flight crewmember performs no required assignment for the certificate holder. Travel a certificate holder required to transport a flight crewmember between airports (deadhead transportation) is not part of a rest period. The receipt of a communication during a rest period from the certificate holder by a flight crewmember for the purpose of rescheduling a flight does not interrupt the rest period.

§ 135.267 Crewmember responsibilities.

No person may serve as a flight crewmember unless that person has used the rest period required by this subpart for rest purposes.

(Sec. 313, 314, and 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR Part 11.45)

Note.—This notice proposes regulations which would substantially reduce the amount and complexity of regulatory material on flight time limitations by prescribing only the minimum regulations deemed necessary for safety. The FAA's evaluation of both the Part 121 and the Part 135 proposals indicate that the benefits will exceed the costs, primarily because of opportunity for improved crew utilization. The preamble contains a discussion of the benefit/cost relationship. Therefore, the FAA has determined that this notice involves a rulemaking action which: (1) is not a "major rule" under Executive Order 12291, and (2) is not a significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, for the reasons stated above, it is certified that the proposals, if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on February 16, 1982.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 82-6490 Filed 3-5-82; 4:05 pm]

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Thursday
March 11, 1982

Part IV

Federal Emergency Management Agency

Radiological Emergency Planning and Preparedness; Final Regulations

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 351

[Docket FEMA PP-351]

Radiological Emergency Planning and Preparedness

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final regulation.

SUMMARY: In accordance with a Presidential Directive, this regulation assigns Federal agency responsibilities for assisting State and local governments in emergency planning and preparedness for peacetime nuclear emergencies. Such emergencies include radiological accidents at fixed nuclear facilities and transportation accidents involving radioactive materials. This regulation establishes the Federal Radiological Preparedness Coordinating Committee which coordinates these efforts. The Committee is chaired by the Federal Emergency Management Agency. This regulation was promulgated on October 22, 1980, (45 FR 69904), for public comment and interim use. This final regulation reflects comments received.

DATE: This regulation is effective March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Marshall E. Sanders, Chief, Policy and Guidance Branch, Technological Hazards Division, Office of Natural and Technological Hazards, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0179.

SUPPLEMENTARY INFORMATION: On December 24, 1975, a notice was published in the **Federal Register** by the Federal Preparedness Agency, General Services Administration, entitled, "Radiological Incident Emergency Response Planning; Fixed Facilities and Transportation" (40 FR 59494). The notice outlined Federal agency responsibilities in providing Federal assistance to State and local governments in their radiological emergency response planning activities.

Since December 1975, there have been organizational changes within the Federal executive branch. For example, Reorganization Plan Number 3 of 1978 established the Federal Emergency Management Agency (FEMA) and Executive Orders 12127 and 12148 implemented that plan. The Federal Preparedness Agency, Defense Civil Preparedness Agency and Federal Disaster Assistance Administration, which were among the agencies that were given assignments under the December 24, 1975, notice, are now part of FEMA. In addition, on December 7, 1979, the President directed FEMA to: Assume responsibility for all offsite nuclear emergency planning and response; develop and issue a series of interagency assignments which delineate respective agency capabilities and responsibilities; define procedures for coordination and direction for both emergency planning and response and review State emergency plans.

Consequently, the December 24, 1975, notice has been overtaken by events and should be replaced with new documents which will: Formally establish and describe the functions of the Federal Radiological Preparedness Coordinating Committee (FRPCC), previously known as the Federal Interagency Central Coordinating Committee for Radiological Emergency Response Planning and Preparedness; restate the agreed upon responsibilities of the Federal agencies and carry out the December 7, 1979, Directive of the President to FEMA, both for assisting State and local governments in emergency planning and preparedness and for the Federal response to radiological accidents.

This regulation assigns responsibilities to assure useful, coordinated Federal assistance and guidance for State and local government planning and preparedness. FEMA has published a proposed rule on procedures and criteria for reviewing and approving State and local government radiological emergency plans and preparedness capabilities (45 FR 42341). Federal agency capabilities, responsibilities and coordination procedures related to emergency planning and response by Federal agencies are included in the National Radiological Emergency Preparedness/Response Plan for Commercial Nuclear Power Plant Accidents (Master Plan) and in Federal agency implementing plans. The Master Plan was promulgated by FEMA on December 23, 1980, (45 FR 84910), pursuant to Section 304 of the Nuclear Regulatory Commission Appropriation Authorization (Pub. L. 96-295) and Executive Order 12241, September 29, 1980.[1]

FEMA has examined this regulation pursuant to the following administrative requirements: (1) Executive Order 12291, (February 17, 1981); (2) the Regulatory Flexibility Act, Pub. L. 96-354, (September 19, 1980); (3) the Council on Environmental Quality (CEQ) regulations, "National Environmental Policy Act—Regulations," (40 FR 55978, November 29, 1978) and (4) the FEMA rule, "Environmental Considerations," (44 CFR Part 10, June 18, 1980).

FEMA has determined this regulation does not require a Regulatory Impact Analysis under Executive Order 12291 because the annual effect on the economy of this regulation would be substantially less than $100 million. FEMA has further determined a Regulatory Flexibility Analysis is not required under the Regulatory Flexibility Act as the interim regulation was published before January 1, 1981. Finally, FEMA has determined that the changes from the interim regulation address only administrative, management and non-substantive matters and neither an environmental assessment nor an environmental impact statement is required.

The orientation of this regulation is toward achieving better coordination of Federal resources for assisting State and local governments. The immediate impact of this regulation, therefore, is upon the Federal government and not on State and local governments, the private sector or the environment.

Comments and FEMA's Response.

Ten written responses were received on the interim regulation. The comments were from State governments, nuclear power utilities, Federal agencies and an individual. A number of recommendations were made for changing the regulation. Following is a summary of the significant issues, language change proposals and resulting modifications to the interim regulation.

(1) *Purpose of the regulation. (Section 351.1).* Some of the comments received address response aspects of radiological emergency management. These response-oriented comments are addressed in two other related sources: "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," (NUREG-0654/FEMA-REP-1, Rev. 1, of November 1980) and the "National Radiological Emergency Preparedness/Response Plan for Commercial Nuclear Power Plant Accidents (Master Plan)," (45 FR 84910, December 23, 1980). This regulation is expressly oriented toward planning and preparedness assignments and responsibilities. To stress the planning and preparedness orientation of this regulation and to differentiate it from other related regulations, we have changed the title from "Radiological Emergency Response Planning and

[1] The Master Plan will be supplanted by a new Federal plan for all types of radiological incidents including those associated with commercial nuclear power plants. The tentative title for the new Federal plan is the Federal Radiological Emergency Response Plan.

Preparedness" to "Radiological Emergency Planning and Preparedness" and have eliminated references to "response" throughout the final regulation.

(2) *Nuclear Regulatory Commission (NRC) responsibilities for emergency planning and preparedness functions related to transportation of radioactive materials accidents. (Section 351.21(h)).* Comments were received stating the interim regulation did not mention NRC's planning and preparedness responsibilities for transportation accidents involving radioactive materials. Because NRC does have such responsibilities as stated in the Memorandum of Understanding of July 2, 1979, between NRC and the Department of Transportation, § 351.21(h) was added to specify this assignment.

(3) *Scenario development. (Section 351.20(j)).* Suggestions were made for clarifying the respective roles of Federal organizations in the development of scenarios. Section 351.20(j) was revised to specify that FEMA, NRC and other Federal agencies are responsible for developing "representative scenarios" that NRC licensed facility operators and State and local governments may, at their discretion, use in developing their scenarios for exercising and testing.

(4) *Radiation-related research. (Section 351.23(m)).* Suggestions were made for specifying the nature of research coordinated by the Interagency Radiation Research Committee (IRRC). Section 351.23(m) was revised, therefore, to identify the type of research coordinated by the IRRC, i.e., research efforts primarily in areas related to "bioeffects of radiation."

(5) *Context for providing services by the Department of Commerce (DOC)/ National Oceanic and Atmospheric Administration (NOAA). (Section 351.28(a)).* Suggestions were made for revising § 351.28(a) to specify the context for the provisions of services by the DOC/NOAA to States and local governments. The phrase, "an agreed upon set of needs," was eliminated as no formal agreements exist between DOC/NOAA and the State and local governments. Also, the delivery of services by DOC/NOAA was qualified by the phrase, "within the limits of available resources."

With the publication in the **Federal Register** of the interim regulation, 44 CFR Part 351, (45 FR 69904), the **Federal Register** notice titled, "Radiological Incident Emergency Response Planning; Fixed Facilities and Transportation" issued by the Federal Preparedness Agency, General Services Administration and published December 24, 1975, (40 FR 59494), was revoked.

Part 351 "Radiological Emergency Planning and Preparedness" Subchapter E, Chapter I of Title 44, Code of Federal Regulations is revised to read as follows:

PART 351—RADIOLOGICAL EMERGENCY PLANNING AND PREPAREDNESS

Subpart A—General

Sec.

351.1 Purpose.
351.2 Scope.
351.3 Limitation of scope.

Subpart B—Federal Radiological Preparedness Coordinating Committee and Regional Assistance Committees

351.10 Establishment of committees.
351.11 Functions of committees.

Subpart C—Interagency Assignments

351.20 The Federal Emergency Management Agency.
351.21 The Nuclear Regulatory Commission.
351.22 The Environmental Protection Agency.
351.23 The Department of Health and Human Services.
351.24 The Department of Energy.
351.25 The Department of Transportation.
351.26 The United States Department of Agriculture.
351.27 The Department of Defense.
351.28 The Department of Commerce.

Authorities: 5 U.S.C. 552; Reorganization Plan No. 3, 1978, 43 FR 41943; Executive Order 12127, March 31, 1979, 44 FR 19367; Executive Order 12148, July 20, 1979, 44 FR 43239; Executive Order 12241, September 29, 1980, 45 FR 64879; President's Directive of December 7, 1979.

Subpart A—General

§ 351.1 Purpose.

This part sets out Federal agency roles and assigns tasks regarding Federal assistance to State and local governments in their radiological emergency planning and preparedness activities. Assignments in this part are applicable to radiological accidents at fixed nuclear facilities and transportation accidents involving radioactive materials.

§ 351.2 Scope.

The emergency planning and preparedness responsibilities covered by this part relate to consequences and activities which extend beyond the boundaries of any fixed nuclear facility with a potential for serious consequences and the area affected by a transportation accident involving radioactive materials.

§ 351.3 Limitation of scope.

(a) This part covers Federal agency assignments and responsibilities in connection with State and local emergency plans and preparedness measures. It does not set forth criteria used in the review and approval of these plans and does not include any of the requirements associated with FEMA findings and determinations on the adequacy of State and local government radiological emergency preparedness. FEMA has published a separate proposed rule on procedures and criteria for reviewing and approving these plans and preparedness capabilities (45 FR 42341). Furthermore, this part does not set forth Federal agency responsibilities or capabilities for *responding to an accident* at a fixed nuclear facility or a transportation accident involving radioactive materials. These responsibilities are addressed in the "Master Plan" as developed by FEMA in coordination with other designated Federal agencies. See "National Radiological Emergency Preparedness/ Response Plan for Commercial Nuclear Power Plant Accidents (Master Plan)," (45 FR 84910, December 23, 1980).

(b) Nothing in this part authorizes access to or disclosure of classified information required to be protected in accordance with Federal law or regulation in the interest of national security.

Subpart B—Federal Radiological Preparedness Coordinating Committee

§ 351.10 Establishment of committees.

(a) The Federal Radiological Preparedness Coordinating Committee (FRPCC) consists of the Federal Emergency Management Agency, which chairs the Committee, Nuclear Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, Department of Energy, Department of Transportation, Department of Defense, United States Department of Agriculture, Department of Commerce and, where appropriate and on an ad hoc basis, other Federal departments and agencies. In chairing the committee, FEMA will be responsible for assuring that all agency assignments described in this rule are coordinated through the Committee and carried out with or on behalf of State and local governments.

(b) The Regional Assistance Committees (RACs), one in each of 10 standard Federal regions,[1] consist of a

[1] I (Boston); II (New York); III (Philadelphia); IV (Atlanta); V (Chicago); VI (Dallas); VII (Kansas

Continued

FEMA Regional Representative who chairs the Committee and representatives from the Nuclear Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, Department of Energy, Department of Transportation, United States Department of Agriculture, Department of Commerce and other Federal departments and agencies such as the Department of Defense, as appropriate. The FEMA Chairperson of the RACs will provide guidance and orientation to other agency members to assist them in carrying out their functions.

§ 351.11 Functions of committees.

(a) The FRPCC shall assist FEMA in providing policy direction for the program of Federal assistance to State and local governments in their radiological emergency planning and preparedness activities. The FRPCC will establish subcommittees to aid in carrying out its functions; e.g., research, training, emergency instrumentation, transportation, information, education and Federal response. The FRPCC will assist FEMA in resolving issues relating to granting of final FEMA approval of a State plan. The FRPCC will coordinate research and study efforts of its member agencies related to State and local government radiological emergency preparedness to assure minimum duplication and maximum benefits to State and local governments. The FRPCC will also assure that the research efforts of its member agencies are coordinated with the Interagency Radiation Research Committee.

(b) The RACs will assist State and local government officials in the development of their radiological emergency plans and will review these plans and observe exercises to evaluate adequacy of the plans. Each Federal agency member of the RACs will support the functions of these committees by becoming knowledgeable of Federal planning and guidance related to State and local radiological emergency plans, of their counterpart State organizations and personnel, where their agency can assist in improving the preparedness and by participating in RAC meetings.

Subpart C—Interagency Assignments

§ 351.20 The Federal Emergency Management Agency.

(a) Establish policy and provide leadership via the FRPCC in the coordination of all Federal assistance and guidance to State and local governments for developing, reviewing, assessing and testing the State and local radiological emergency plans.

(b) Issue guidance in cooperation with other Federal agencies concerning their responsibilities for providing radiological emergency planning and preparedness assistance to State and local governments.

(c) Foster cooperation of industry, technical societies, Federal agencies and other constituencies in the radiological emergency planning and preparedness of State and local governments.

(d) Develop and promulgate preparedness criteria and guidance to State and local governments, in coordination with other Federal agencies, for the preparation, review and testing of State and local radiological emergency plans.

(e) Provide assistance to State and local governments in the preparation, review and testing of radiological emergency plans.

(f) Assess, with the assistance of other Federal agencies, the adequacy of State and local government emergency plans and the capability of the State and local government officials to implement them (e.g., adequacy and maintenance of equipment, procedures, training, resources, staffing levels and qualifications) and report the findings and determinations to NRC.

(g) Review and approve State radiological emergency plans and preparedness in accordance with FEMA procedures in 44 CFR Part 350.

(h) Develop, implement and maintain a program of public education and information to support State and local radiological emergency plans and preparedness.

(i) Develop and manage a radiological emergency response training program to meet State and local needs, using technical expertise and resources of other involved agencies. Develop and field test exercise materials and coordinate the Federal assistance required by States and localities in conducting exercises, including guidance for Federal observers.

(j) Develop, with NRC and other Federal Agencies, representative scenarios from which NRC licensed facility operators and State and local governments may select for use in testing and exercising radiological emergency plans.

(k) Issue guidance for establishment of State and local emergency instrumentation systems for radiation detection and measurement.

(l) Provide guidance and assistance, in coordination with NRC and HHS, to State and local governments concerning the storage and distribution of radioprotective substances and prophylactic use of drugs (e.g., potassium iodide) to reduce the radiation dose to specific organs as a result of radiological emergencies.

§ 351.21 The Nuclear Regulatory Commission.

(a) Assess NRC nuclear facility (e.g., commercial power plants, fuel processing centers and research reactors) licensee emergency plans for adequacy to protect the health and safety of the public.

(b) Verify that nuclear facility licensee emergency plans can be adequately implemented (e.g., adequacy and maintenance of equipment, procedures, training, resources, staffing levels and qualifications).

(c) Review FEMA's findings and determinations of State and local radiological emergency plans for areas surrounding NRC licensed nuclear facilities.

(d) Take into account the overall state of emergency preparedness in making decisions to issue operating licenses or shut down licensed operating reactors, including the integration of assessments of emergency preparedness onsite by the NRC and offsite by FEMA.

(e) Where not already established, determine, in cooperation with other Federal agencies, the appropriate planning bases for NRC licensed nuclear facilities including distances, times and radiological characteristics.

(f) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency plans.

(g) Participate with FEMA in assisting State and local governments in developing their radiological emergency plans, evaluating exercises to test plans and evaluating the plans and preparedness.

(h) Assist FEMA and DOT in the preparation and promulgation of guidance to State and local governments for their use in developing the transportation portions of radiological emergency plans.

(i) Provide representation to and support for the FRPCC and the RACs.

(j) Assist FEMA in the development, implementation and maintenance of public information and education programs.

(k) Assist FEMA with other Federal agencies in the development of representative scenarios from which nuclear facility operators and State and local governments may select for use in testing and exercising radiological emergency plans.

City); VIII (Denver); IX (San Francisco) and X (Seattle).

(l) Assist FEMA in the development of guidance for State and local governments on emergency instrumentation systems for radiation detection and measurement.

(m) Assist FEMA with the development, implementation and presentation to the extent that resources permit of training programs for Federal, State and local radiological emergency preparedness personnel.

(n) Assist FEMA in providing guidance and assistance to State and local governments concerning the storage and distribution of radioprotective substances and prophylactic use of drugs (e.g., potassium iodide) to reduce the radiation dose to specific organs as a result of radiological emergencies.

§ 351.22 The Environmental Protection Agency.

(a) Establish Protective Action Guides (PAGs) for all aspects of radiological emergency planning in coordination with appropriate Federal agencies.

(b) Prepare guidance for State and local governments on implementing PAGs, including recommendations on protective actions which can be taken to mitigate the potential radiation dose to the population. This guidance will be presented in the Environmental Protection Agency (EPA) "Manual of Protective Action Guides and Protective Actions for Nuclear Incidents." (The preparation of PAGs related to human food and animal feed will be done in coordination with the Department of Health and Human Services (HHS)/ Food and Drug Administration.)

(c) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency plans.

(d) Assist FEMA with the development, implementation and presentation to the extent that resources permit of technical training for State and local officials regarding PAGs and protective actions, radiation dose assessment and decisionmaking.

(e) Participate with FEMA in assisting State and local governments in developing their radiological emergency plans, evaluating exercises to test plans and evaluating the plans and preparedness.

(f) Assist FEMA in the development of guidance for State and local governments on emergency instrumentation systems for radiation detection and measurement.

(g) Provide representation to and support for the FRPCC and the RACs.

(h) Assist FEMA in developing representative scenarios from which nuclear facility operators and State and local governments may select for use in testing and exercising radiological emergency plans.

(i) Assist FEMA in the development, implementation and maintenance of public information and education programs.

§ 351.23 The Department of Health and Human Services.

(a) Develop and specify protective actions and associated guidance to State and local governments for human food and animal feed (in cooperation with the Environmental Protection Agency).

(b) Provide guidance and assistance to State and local governments in preparing programs related to mental health, behavioral disturbances and epidemiology associated with radiological emergencies.

(c) Assist FEMA in the development, implementation and maintenance of public information and education programs to support State and local government radiological emergency plans and preparedness.

(d) Assist FEMA with the development, implementation and presentation to the extent that resources permit of a radiological emergency training program to support State and local government personnel in accident assessment, protective actions and decisionmaking.

(e) Develop and assist in providing the requisite training programs for State and local health, mental health and social service agencies.

(f) Provide guidance to State and local governments on the use of radio-protective substances and prophylactic use of drugs (e.g., potassium iodide) to reduce the radiation dose to specific organs including dosage and projected radiation exposures at which such drugs should be used.

(g) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency plans.

(h) Participate with FEMA in assisting State and local governments in developing their radiological emergency plans, evaluating exercises to test plans and evaluating the plans and preparedness.

(i) Provide representation to and support for the FRPCC and the RACs.

(j) Assist FEMA in developing representative scenarios from which nuclear facility operators and State and local governments may select for use in testing and exercising radiological emergency plans.

(k) Assist FEMA in the development of guidance for State and local governments on emergency instrumentation systems for radiation detection and measurement.

(l) Assist, in cooperation with the United States Department of Agriculture (USDA), the State and local governments in the planning for the safe production, during radiological emergencies, of human food and animal feed in the emergency planning zones around fixed nuclear facilities.

(m) Assist FEMA, through the Interagency Radiation Research Committee, chaired by the Department of Health and Human Services, in the coordination of Federal research efforts, primarily in areas related to the bioeffects of radiation, applicable to State and local plans and preparedness.

§ 351.24 The Department of Energy.

(a) Determine the appropriate planning bases for the Department of Energy (DOE) owned and contractor operated nuclear facilities (e.g., research and weapon production facilities) including distances, time and radiological characteristics.

(b) Assess DOE nuclear facility emergency plans for adequacy in contributing to the health and safety of the public.

(c) Verify that DOE nuclear facility emergency plans can be adequately implemented (e.g., adequacy and maintenance of equipment, procedures, training, resources, staffing levels and qualifications).

(d) Assist State and local governments, within the constraints of national security and in coordination with FEMA, in the preparation of those portions of their radiological emergency plans related to DOE owned and contractor operated nuclear facilities and radioactive materials in transit.

(e) Review and assess FEMA's findings and determinations on the adequacy of and capability to implement State and local radiological emergency plans for areas surrounding DOE nuclear facilities. Make independent assessments of the overall state of plans and preparedness.

(f) Serve as the lead agency for coordinating the development and issuance of interagency instructions and guidance to implement the Federal Radiological Monitoring and Assessment Plan (FRMAP), which will replace the Interagency Radiological Assistance Plan. The FRMAP provides the framework through which participating Federal agencies will coordinate their emergency radiological monitoring and assessment activities with those of State and local governments.

(g) Develop, maintain and improve capability to detect and assess hazardous levels of radiation.

(h) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency plans.

(i) Assist FEMA with the development, implementation and presentation to the extent that resources permit of training programs for Federal, State and local radiological emergency response personnel.

(j) Participate with FEMA in assisting State and local governments in developing their radiological emergency plans, evaluating exercises to test plans and evaluating the plans and preparedness.

(k) Develop, with FEMA, representative scenarios from which DOE facility operators and State and local governments may select for use in testing and exercising radiological emergency plans.

(l) Provide representation to and support for the FRPCC and the RACs.

(m) Assist FEMA in the development of guidance for State and local governments on emergency instrumentation systems for radiation detection and measurement.

§ 351.25 The Department of Transportation.

(a) Assist FEMA, along with NRC, in the preparation and promulgation of guidance to State and local governments for their use in developing the transportation portions of radiological emergency plans.

(b) Assist FEMA in its review and approval of State and local radiological emergency plans and in the evaluation of exercises to test such plans.

(c) Provide guidance and materials for use in training emergency services and other response personnel for transportation accidents involving radioactive materials and participate in interagency planning for such training.

(d) Provide representation to and support for the FRPCC and the RACs.

§ 351.26 The United States Department of Agriculture.

(a) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency plans.

(b) Participate with FEMA in assisting State and local governments in developing their radiological emergency plans, evaluating exercises to test plans and reviewing and evaluating the plans and preparedness.

(c) Assist State and local governments in preparing to implement protective actions in food ingestion pathway emergency planning zones around fixed nuclear facilities.

(d) Develop, in coordination with FEMA, the HHS and other Federal agencies, guidance for assisting State and local governments in the production, processing and distribution of food resources under radiological emergency conditions.

(e) Assist FEMA with the development, implementation and presentation to the extent that resources permit of training programs of Federal, State and local radiological emergency personnel.

(f) Provide representation to and support for the FRPCC and the RACs.

§ 351.27 The Department of Defense.

(a) Determine appropriate planning bases for Department of Defense (DOD) nuclear facilities and installations (e.g., missile bases, nuclear submarine facilities and weapon storage sites) including distances, time and radiological characteristics.

(b) Develop, with FEMA, representative scenarios from which DOD nuclear facility commanders and State and local governments may select for use in testing and exercising radiological emergency plans.

(c) Assist State and local governments, within the constraints of national security and in coordination with FEMA, in the development, review and assessment of those portions of their radiological emergency plans related to DOD nuclear facilities and assist State officials with planning for response to accidents involving DOD controlled radioactive materials in transit.

(d) Provide representation to and support for the FRPCC and the RACs when appropriate.

§ 351.28 The Department of Commerce.

(a) Assist State and local governments in determining their requirements for meteorological and hydrological services for radiological emergencies and assist State and local governments in preparing to meet these requirements within the limits of available resources.

(b) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency plans.

(c) Participate with FEMA in assisting State and local governments in developing their radiological emergency plans, evaluating exercises to test plans and evaluating the plans and preparedness.

(d) Assist FEMA with the development, implementation and presentation to the extent that resources permit of technical training for State and local officials in the use of meterological information in responding to radiological emergencies.

(e) Provide representation to and support for the FRPCC and the RACs.

(f) Assist FEMA in the development of guidance for State and local governments on the exposure and location of emergency instrumentation systems for radiation detection and measurement.

(g) The Federal Coordinator for Meteorological Services and Supporting Research will, consistent with the provisions of the Office of Management and Budget Circular A–62, serve as the coordinating agent for any multiagency meteorological aspects of assisting State and local governments in their radiological emergency planning and preparedness.

Dated: February 17, 1982.

Louis O. Giuffrida,

Director.

[FR Doc. 82–6594 Filed 3–10–82; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

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.**

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