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federal register

Thursday
August 5, 1982

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Environmental Protection Agency

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Transportation Department

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Selected Subjects

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 302]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 6–August 12, 1982. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: August 6, 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. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona Valencia orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia 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 Valencia 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 by establishing and maintaining, in the interests of producers and consumers, an orderly flow of oranges to market, and avoiding unreasonable fluctuations in supplies and prices. This action is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress under the Act.

This action is consistent with the marketing policy for 1981–82 which was recommended by the committee following discussion at a public meeting on February 5, 1982. The committee met again publicly on August 3, 1982 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencias deemed advisable to be handled during the specified week. The committee reports the demand for Valencia 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 is 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. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

1. Section 908.602 is added as follows:

§ 908.602 Valencia Orange Regulation 302.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period August 6, 1982, through August 12, 1982, are established as follows:

(1) District 1: 306,000 cartons;
(2) District 2: 344,000 cartons;
(3) District 3: Unlimited cartons.

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

Dated: August 4, 1982.

Russell L. Hawes,

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

[FR Doc. 82–21406 Filed 8–4–82; 12:11 pm]
BILLING CODE 3410–02–M

7 CFR Part 910

Lemons Grown in California and Arizona; Amendment to Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends rules and regulations issued under the marketing order to permit the optional use of upward adjustments by handlers in Districts 1 and 3 of not to exceed 100 percent of their average weekly pick. This would allow such handlers the option of receiving a larger proportion of their allotment earlier in the season and enable them to use their proportionate share of the marketing opportunity more advantageously.

DATES: Effective August 1, 1982, through July 31, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250; telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially

affect costs for the directly regulated handlers.

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

This final rule amends rules and regulations (Subpart—Lemon Administrative Committee Rules and Regulations; 7 CFR 910.100–910.180), effective under M.O. 910.

Under M.O. 910 the prorate base of each handler is based upon the handler's average weekly pick (the average weekly amount of lemons harvested and delivered to such handler's packinghouse during a specified number of weeks preceding the computation date). In recognition of the fewer number of weeks during which lemons are harvested in Districts 1 and 3, the order provides that the handlers in such districts may request and be granted an upward adjustment in their average weekly pick to accelerate their receipt of allotment during the first half of their season, subject to payback during the last half of their season of the extra allotment received. M.O. 910 provides in § 910.53(h) that the percentage of adjustment specified in §§ 910.53(f)(1) and § 910.53(e)(3), may be changed through informal rulemaking. Provision for 100 percent upward adjustment of average weekly pick of handlers in Districts 1 and 3 is currently in effect through July 31, 1982. Unless extended, the maximum upward adjustment permitted is 50 percent. The committee recommended that the current provision be in effect during the entire 1982–83 season (August 1, 1982–July 31, 1983). This would allow such handlers the continued option of receiving a larger proportion of their allotment earlier in the season, and enable them to use their proportionate share of the marketing opportunity more advantageously.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that the time intervening between the date when information upon which this final rule is based became available and the time when this final rule must become effective in order to effectuate the declared policy of the act is insufficient. Interested persons were given an opportunity to submit information and views on the final rule at an open meeting. This final rule relieves regulations on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make this final rule effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Therefore, § 910.153(e)(3) in 7 CFR Part 910.100–910.180 is amended by revising the first sentence of the paragraph to read as follows:

§ 910.153 Prorate bases and allotments.

* * * * *

(e) * * *

(3) *Granting of upward adjustment for Districts 1 and 3 applicants.* Upon receiving a duly filed application for an upward adjustment by a District 1 or 3 handler pursuant to § 910.53(f)(1) the committee shall adjust the average weekly pick of such handler by increasing such picks in the amount requested, but not in excess of 50 percent of such handler's average weekly pick: *Provided,* that during the period August 1, 1982, through July 31, 1983, upon request of any such handler, the committee shall adjust such handler's average weekly pick in the amount requested but not in excess of 100 percent. * * *

* * * * *

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

Dated: July 30, 1982 to become effective August 1, 1982.

D. S. Kuryloski,

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

[FR Doc. 82-21111 Filed 8-4-82; 8:45 am]

BILLING CODE 3410-02-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Shared and Proprietary Remote Service Units Programs and Correspondent Credit Unioning Programs

AGENCY: National Credit Union Administration.

ACTION: Repeal of statements of Interpretation and Policy.

SUMMARY: The National Credit Union Administration (NCUA) repeals two statements of interpretation and policy concerning (1) 80–5—shared and proprietary remote service units, and (2) 80–6—correspondent credit unioning programs. This action is deemed appropriate because these statements have served their limited purpose of notifying Federal credit unions that the NCUA Board no longer requires prior approval of operational programs involving remote service units or correspondent credit unioning activities and also because the Board believes that program management should be the responsibility of credit union boards.

EFFECTIVE DATE: August 5, 1982.

FOR FURTHER INFORMATION CONTACT: Todd Okun, Assistant General Counsel, Office of General Counsel, 1776 G Street, NW., Washington, D.C. 20456. Telephone: (202) 357–1030.

SUPPLEMENTARY INFORMATION: Both of these policy statements interpret Part 723 of the NCUA Rules and Regulations. Part 723, adopted in late 1974, provides that pilot programs relating to electronic funds transfer (EFT), loan programs and other operational programs must be reviewed and approved by NCUA prior to their implementation. The rule was adopted at a time when EFT programs were developmental and little was known about their probable effect on participating credit unions. NCUA intended to encourage and monitor experimental programs for the purpose of gathering sufficient data upon which to evaluate the benefits and effects of the programs.

After approving and monitoring several pilot programs during the six-year period between 1974 and 1980, it was concluded that two programs should be permanently approved for use by the FCUs that chose to participate. Consequently, the NCUA Board issued two policy statements, 80–5 (45 FR 32290) and 80–6 (45 FR 32292), which notified FCUs that NCUA would no longer require prior approval of programs involving shared and proprietary remote service units and those involving correspondent credit unioning activities. These statements of policy also set forth operational guidelines which if followed, would be viewed by NCUA to be safe and sound procedures.

The NCUA Board now repeals these statements for two reasons. First, they have fully served their limited purpose of simply notifying FCUs that the NCUA

Board no longer requires prior approval of these types of programs. Second, while the NCUA Board continues to encourage credit unions to adhere to the operational guidelines first enumerated in the policy statements, it notes that these guidelines are now incorporated in the *Accounting Manual for Federal Credit Unions* at pages 5–97 and 5–193. While failure to follow these guidelines would not constitute a violation of law, the NCUA Board continues to believe that the guidelines exemplify safe and sound operating procedures and for this reason, strongly encourages FCU's to follow them. However, the NCUA Board also recognizes that responsibility for program management lies with the individual credit union boards.

4. Accordingly, Interpretative Ruling and Policy Statements, 80–5 (Shared and Proprietary Remote Service Units) and (Correspondent Credit Unioning Programs) are hereby repealed.

By order of the NCUA Board July 15, 1982.

Rosemary Brady,

Secretary of the NCUA Board.

[FR Doc. 82–21105 Filed 8–4–82; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81–NW–71–AD; Amdt. 39–4431]

Bell Model 206 Helicopter With Chadwick, Inc., Model C–22 Fuel System Installed Per STC SH139WE; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires installation of C–22–FM Flow Monitoring Kits on the Chadwick Auxiliary Fuel System installed on Bell 206 helicopters per STC SH139WE. This modification is required to provide early warning of auxiliary fuel transfer pump failure and the associated decrease in usable auxiliary fuel.

DATES: Effective September 1, 1982.

Compliance schedule as prescribed in the body of the AD unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Chadwick, Inc., 11969 SW. Herman Road, Sherwood, Oregon 97140. This information also may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or in the Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Paul F. Hawkins, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA Northwest Mountain Region, Seattle Area Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2520.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to adopt an Airworthiness Directive which requires installation of an auxiliary fuel flow warning light was published in the **Federal Register** on November 27, 1981, (46 FR 57909).

The Chadwick Model C–22 auxiliary fuel system consists of two skid mounted tanks, a fuel pump in each tank, and a cross-feed line between tanks to allow operation with only one pump. In preparation for an extended overwater flight, one operator discovered that the loss of a single auxiliary boost pump decreased the usable auxiliary fuel by 12 to 18 gallons. These results were confirmed by tests at the manufacturer's facility and identified the cross-feed system as limiting. The Auxiliary Fuel System provides no warning of an auxiliary fuel pump failure and the associated decrease in usable auxiliary fuel.

To alleviate this unsafe condition, the C–22–FM Flow Monitoring Kit was developed. This kit installs a pressure switch on the output side of each auxiliary fuel pump and will activate warning lights when either pump stops pumping. Thus, the lights provide the pilot with an early warning of a pump failure and the associated decrease in usable auxiliary fuel.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the Notice of Proposed Rulemaking (NPRM).

After careful review of all available data, the FAA has determined that air safety and the public interest require that the rule be adopted as proposed.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

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

Bell: Applies to Bell Model 206 helicopters with Chadwick C–22 Auxiliary Fuel System installed per Supplemental Type Certificate SH139WE.

Compliance is required as indicated.

To provide early warning of auxiliary fuel transfer pump malfunction and the associated decrease in usable auxiliary fuel, accomplish the following, unless already accomplished:

1. Within 30 days after the effective date of this AD, install a placard, in accordance with Chadwick Service Bulletin 20–81–01 dated October 6, 1981, or FAA approved equivalent limiting usable auxiliary fuel to half the amount in the auxiliary tanks at takeoff.

2. Within 300 hours' time-in-service or 6 months from the effective date of this AD, whichever occurs first, install the C–22–FM Flow Monitoring Kit in accordance with Chadwick Service Bulletin 20–81–01 dated October 6, 1981, or FAA approved equivalent. The placard installed per item 1 above may be removed, provided the revised Flight Manual Supplement, Chadwick Auxiliary Fuel System C–22, dated October 21, 1981, is incorporated in the Rotorcraft Flight Manual.

3. Alternate modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

4. Special flight permits may be issued in accordance with Federal Aviation Regulation Part 21, Sections 21.197 and 21.199 to operate each helicopter to a base for the accomplishment of the modification required by this AD.

This amendment becomes effective September 1, 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). It is further certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the regulatory Flexibility Act since it involves few, if any, such entities. A final evaluation has been prepared for this 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."**

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

Issued in Fort Worth, Texas, on July 22, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-20971 Filed 8-4-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASW-34]

Wichita Falls, TX; Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area at Wichita Falls, TX. The intended effect of the amendment is to provide adequate controlled airspace for aircraft executing a new instrument approach procedure to the Tom Danaher's Lake Wichita Airport, Wichita Falls, TX. This amendment is necessary to provide protection for aircraft executing a new VOR/DME approach to Runway 35 at the Tom Danaher's Airport.

EFFECTIVE DATE: October 28, 1982.

FOR FURTHER INFORMATION CONTACT: James L. Owens, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On June 14, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 25538) stating that the Federal Aviation Administration proposed to alter the Wichita Falls, TX, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3 dated January 29, 1982, is amended, effective 0901 G.m.t., October 28, 1982, as follows:

Wichita Falls, TX [Amended]

* * * And within 4.5 miles each side of the Wichita Falls VORTAC 174° radial extending from the 20-mile radius area to 29 miles south of the VORTAC.

(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)); and 14 CFR 11.61(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 1103; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. It is certified that the rule will not have a significant economic impact on a substantial number of small entities as the anticipated impact is minimal.

Issued in Fort Worth, TX, on July 23, 1982

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-20973 Filed 8-4-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASW-28]

Monahans, TX; Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will designate a transition area at Monahans, TX. The intended effect of the amendment is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Hurd Memorial Airport. This amendment is necessary to designate controlled airspace for the protection of aircraft executing a standard instrument approach procedure (SIAP) using the Wink VORTAC. Coincident with this action, the Hurd Memorial Airport is changed from visual flight rules (VFR) to instrument flight rules (IFR).

EFFECTIVE DATE: October 28, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 76101, telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On May 27, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 23179) stating that the Federal Aviation Administration proposed to designate the Monahans, TX, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

Adoption of the Amendment.

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3 dated January 29, 1982, is amended, effective 0901 G.m.t., October 28, 1982, as follows:

Monahans, TX [New]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Hurd Memorial Airport (latitude 31°34'54" N., longitude 102°54'25" W.).

(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)); and 14 CFR 11.61(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 1103; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. It is certified that the rule will not have a significant economic impact on a substantial number of small entities as the anticipated impact is minimal.

Issued in Fort Worth, TX, on July 23, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-20972 Filed 8-4-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

23 CFR Parts 140 and 646

[FHWA Docket No. 81-6, Notice 2]

Railroad-Highway Projects; Revision of Policies, Procedures and Reimbursement Provisions

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes certain revisions to the FHWA policies, procedures, and reimbursement provisions for advancing Federal-aid and direct Federal projects involving railroad facilities. The revisions are designed to eliminate unnecessary requirements, to eliminate various rate setting requirements, and to update selected requirements as deemed necessary.

EFFECTIVE DATE: October 1, 1982. However, the FHWA will allow the continued use of the reimbursement rates contained in the regulation being superseded by this issuance, if agreed to by the State, for up to one year after the effective date of this final rule (See **SUPPLEMENTARY INFORMATION** for further explanation).

FOR FURTHER INFORMATION CONTACT: James A. Carney, Office of Engineering, 202–426–0450, Harvey C. Wood, Office of Fiscal Services, 202–426–0563, or Thomas Holian, Office of the Chief Counsel, 202–426–0761, 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: A notice of proposed rulemaking (NPRM), FHWA Docket 81–6, (46 FR 45744, September 14, 1981), presented FHWA's proposals for revising certain of its regulations prescribing policies, procedures and reimbursement provisions for advancing Federal-aid and direct Federal projects involving railroad facilities. There were 19 commenters on the NPRM. Comments were received from nine State highway agencies, six railroad companies, one State public utility commission, the Association of American Railroads (AAR), the Associated General Contractors of America, and the Contractual Liability Insurance Committee of the Railroad Insurance Management Association.

Certain commenters were generally supportive of specific changes being proposed. However, several of the commenters were concerned about various changes. Many offered suggestions for FHWA's consideration if it decided to proceed to final rulemaking action. The following discussion covers by topic the comments received and the action FHWA is taking.

1. *Labor Costs:* The overall issue of the FHWA no longer establishing national rates for selected reimbursement items, particularly labor surcharges, generated the most comments. One commenter, a railroad, generally supported this approach. However, nine commenters (seven State highway agencies and two railroads) were generally opposed. This opposition was based on the assumption that requiring individual States and railroads to reach agreement on various rates would be less cost effective than having FHWA perform this task. There was concern that individual negotiations would result in duplicative efforts, lack of uniformity, cause delays in payment, and increase administrative expenses.

It is recognized that State and railroad efforts to establish rates will entail more administrative costs to the individual State and railroads than are presently incurred. However, it should also be recognized that future FHWA efforts to establish reasonable national rates would also be costly. The FHWA would likely have to collect large quantities of data and solicit opinions and other input from many different sources.

This effort, done within a public forum, would also be time-consuming. The output from this effort would still be only an average rate structure that could vary considerably from the actual costs of individual railroad expenses on specific highway projects. Under the present arrangements the low administrative costs made up in part for any distributional effects caused by discrepancies between the national rate and actual costs. However, if FHWA's future administrative costs are high and approach the costs of negotiating individual rates between the railroads and the States, a national rate determined by FHWA would not necessarily be the most cost-effective approach. In light of this, the FHWA has decided to proceed as originally proposed and the final rule eliminates the national rates.

Several suggestions were offered by commenters. One commenter suggested that the rule allow the establishment of rates on a provisional basis subject to adjustment when the actual rates are determined. This is essentially the method established by the change in the regulation as rates are to be based on historical cost data and then adjustments made when actual costs are determined. This process is expected to be similar to that used by the State in developing payroll additives in accordance with 23 CFR 140, Subpart B.

The commenter also stated that manpower is not available to conduct reviews solely for establishing rates. The commenter seems to be confusing this process with that of developing a cost allocation plan which is contained in OMB Circular A–87 and is not intended for use by railroads in carrying out their responsibilities in the highway program. The change in regulation does not require any type of State review prior to accepting a rate. A State may accept labor surcharges on the same condition it accepts other charges by the railroads, i.e., subject to audit. The State should, however, request that the railroad provide documentation regarding the rate development method to be used and the rate would then be audited periodically.

Another commenter suggested a transition period which would allow the present rate arrangements to remain in effect for a specific period until the new procedures must be followed. The FHWA agrees the use of a reasonable transition period has merit provided the State is willing to continue to use the existing rates. This will allow for a new rate to be developed to coincide with the railroad company's fiscal year or other accounting period during which the rate is to be applied. Accordingly, FHWA will continue to accept the use of existing rates, if agreed to by the State, for a transition period not to exceed one year from the effective date of this regulation.

It was also suggested that FHWA use the General Managers Association (GMA) schedules and rates for labor surcharges to replace the existing rates. The possible use of GMA of Chicago rates for labor surcharges has previously been considered by FHWA. Based on this previous review it is believed that additional information would need to be obtained from all railroads before a national rate could be established. As a result, FHWA would likely be undertaking an effort comparable to trying to set national rates under present circumstances. As a consequence, the proposal will not be pursued further at this time.

Several commenters were concerned about the administrative burdens as they envisioned every State negotiating individual rates with every railroad. The FHWA does not expect this to happen. Most railroads should have only one labor surcharge rate to be applied company-wide which can be accepted by each State affected by the railroad's operation. One commenter suggested the FHWA designate that the State in which the home office of the railroad is located be the audit agency to work with the railroad in establishing rates. Another commenter suggested FHWA retain a State or audit agency to audit each railroad. This rulemaking action is not intended to include audit standards or techniques as these requirements are presently addressed under 23 CFR Part 12. The FHWA does not plan to secure special audit services nor to designate specific States to perform audits of certain railroads. However, such

arrangements, reached on a voluntary basis, would be acceptable to FHWA.

2. *Equipment Costs:* Four commenters, one railroad and three State highway agencies, specifically addressed the issue of equipment rates. The major area of concern was whether the phrase "industry rates representative of actual costs" as included in the proposed rule would allow for the continued use of GMA equipment rates. Past FHWA practice has been to accept use of the GMA equipment rates. Under the revised regulation, it is envisioned FHWA would continue to accept use of the GMA equipment rates on individual projects provided the State and railroad agree to this arrangment of reimbursement. In this regard the final rule is being issued as originally proposed.

3. *Transportation Costs:* Three railroads presented specific comments, all generally favorable, on the proposed changes involving reimbursement for transportation costs. One commenter suggested that actual cost also be allowed as an alternate in determining transportation and associated costs. The FHWA agrees with this suggestion and the final rule includes a modification in this regard.

4. *Insurance—Amount of Coverage:* Two commenters responded in favor of this change which would modify the specified maximum amount of railroad protective insurance coverage which may be reimbursed with Federal-aid highway funds. No unfavorable comments were received. One additional commenter recommended that the aggregate limit should apply to each annual policy period and not for the entire term of the policy. It was suggested the phrase "for the term of the policy" be replaced with "applying separately to each annual period." The commenter's proposed wording reinforces the intent of FHWA's regulations and this modification has been incorporated into the final rule.

5. *Insurance Policy Format:* Five commenters (one State highway agency, three railroads, and the Railroad Insurance Association) addressed this issue and all responded unfavorably. For various reasons the commenters felt FHWA should continue to issue standards regarding the language and format of the railroad protective insurance policies. Such reasons as administrative burdens and delays to projects if individual policies had to be developed with various insurance companies were cited in opposition to this change.

Although it is recognized the use of a standard insurance policy format can help ease certain administrative actions, it is questionable whether the need for this policy format is of the magnitude to require FHWA to mandate the standards to be followed. The original premise for undertaking this change remains valid; namely, FHWA's normal operation and expertise does not lie in the area of developing formats for insurance policies nor should it. As a consequence, FHWA has decided to proceed with this change as originally proposed and rescind those detailed requirements concerning the format of insurance policies. If the railroad industry and State highway agencies believe a standard format is desirable, it is recommended this be an issue that their respective associations, working in cooperation with the insurance industry, address.

6. *Outdated Reference:* The three comments on this change, which would eliminate a reference to a superseded AAR Bulletin on Recommended Practices for Railroad-Highway Grade Crossing Warning Systems, were favorable. One commenter suggested that Part 646, Subpart B continue to recognize State standards which may also be applicable. It is noted the existing § 646.214(b)(1) contains the phrase "supplemented to the extent applicable by State standards" after the word "Highways." Since it was FHWA's intent to eliminate only the reference to the AAR Bulletin, the above noted phrase is being retained in the final rule.

7. *Lump Sum Ceiling:* Three commenters expressed support for increasing the ceiling from $10,000 to $25,000 for using the lump sum payment arrangement or reimbursement for certain types of railroad work. No objections were raised. The FHWA is proceeding to issue the final rule as originally proposed.

Additionally, another commenter suggested that this section discuss audit requirements for lump sum agreements. This commenter also suggested that this regulation include provisions which would limit audits to a sampling basis on lesser cost railroad adjustments. As noted previously, this regulation is not intended to include audit standards or techniques since these are presently addressed under 23 CFR Part 12. Although FHWA does not waive by regulation audit requirements, certain audit techniques have been accepted as long as the State and Federal interests are adequately protected.

8. *Railroad Protective Liability Insurance:* The Associated General Contractors of America (AGC) provided information developed by its Minnesota Chapter regarding the cost of this insurance. The AGC's Minnesota Chapter has questioned the need for and cost of this insurance. The AGC requested our review of this program requirement to determine whether its objectives could be realized through a less costly approach.

As to need, it is believed the railroads have legitimate reasons for requesting the railroad protective liability insurance. This is because railroads face liability exposure in several areas. For instance, under the Federal Employers' Liability Act, the railroad is liable for damages sustained by any person employed by the railroad. Other areas of exposure would result from the railroads being the property owners or as common carriers who are responsible for the care, custody, and control of people and goods being transported. As a result, it does not appear that the railroad protective liability insurance does in fact duplicate other coverages. The railroads have insisted on this coverage, as needed, in the past and in FHWA's opinion will continue to do so. Since the mid-1930's, FHWA procedures have required this insurance, the main reason being that such action helped expedite project advancement by resolving conflicts between the parties involved.

In regard to insurance premiums costs, FHWA has little available information. Based on the 1978 FHWA rulemaking action which changed coverage limits, we have estimated annual premium costs at about $1 million nationwide. The AGC's Minnesota chapter estimate of $300,000 for its statewide costs would indicate a higher nationwide figure, say of $10 to $15 million. One evident item is that only limited data is available to date.

The purpose of the present action was limited in scope to addressing the issues of amounts of coverage and insurance policy standards. For the broader area of need for and cost of this insurance, FHWA has taken these areas under advisement and if further action appears warranted, it will be proposed via the rulemaking process.

9. *Overhead Expenses:* One commenter, a railroad, suggested that in addition to the presently allowable labor surcharges, FHWA also allow for reimbursement of overhead expenses which are not directly assignable to a specific project. These indirect expenses would include such items as supervision, procurement, payroll, personnel, accounting, auditing, etc. The present rulemaking action was not undertaken to address this specific issue. However, FHWA has taken this matter under advisement and if further action appears warranted, it will be proposed via the rulemaking process.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory procedures. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Mr. James A. Carney of the program office at the address specified above. Because the anticipated economic impact of these changes is so minimal, it is certified under the criteria of the Regulatory Flexibility Act that this action will not have a significant economic impact on a substantial number of small entities.

This action reduces the number of mandates and requirements found in FHWA regulations which apply to railroad-highway projects. The FHWA is considering additional changes to its railroad-highway regulations which might further reduce regulatory burdens. Interested persons are invited to comment on this matter and to offer suggestions on possible amendments.

Because of the nature of these changes, the effective date of these regulations is being delayed 60 days to afford the States and affected industries an appropriate adjustment period.

In consideration of the foregoing, Part 140, Subpart I, and Part 646, Subparts A and B, to Chapter 1 of Title 23, Code of Federal Regulations, are amended as set forth below.

(23 U.S.C. 109(e), 120(d), 130, 315, and 405; Sec. 203, Pub. L. 93-87, 87 Stat. 283; 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)

List of Subjects in 23 CFR Parts 140 and 646

Grade crossing improvements, Grant programs—transportation, Highways and roads, Insurance, Railroads—equipment costs, Labor costs, Transportation costs.

Issued: July 28, 1982.

R. A. Barnhart,

Federal Highway Administrator.

PART 140—REIMBURSEMENT

Subpart I—Reimbursement for Railroad Work

1. Paragraph (b) of § 140.906 is revised to read as follows:

§ 140.906 Labor costs.

* * * * *

(b) *Labor surcharges.* (1) Labor surcharges include worker compensation insurance, public liability and property damage insurance, and such fringe benefits as the company has established for the benefit of its employees. The cost of labor surcharges will be reimbursed at actual cost to the company or a company may, at its option, use an additive rate or other similar technique in lieu of actual costs provided that (i) the rate is based on historical cost data of the company, (ii) such rate is representative of actual costs incurred, (iii) the rate is adjusted at least annually taking into consideration known anticipated changes and correcting for any over or under applied costs for the preceding period, and (iv) the rate is approved by the SHA and FHWA.

(2) Where the company is a self-insurer there may be reimbursement at experience rates properly developed from actual costs, not to exceed the rates of a regular insurance company for the class of employment covered.

2. Paragraph (a) of § 140.910 is revised to read as follows:

§ 140.910 Equipment.

(a) *Company owned equipment.* Cost of company-owned equipment may be reimbursed for the average or actual cost of operation, light and running repairs, and depreciation, or at industry rates representative of actual costs as agreed to by the railroad, SHA, and FHWA. Reimbursement for company-owned vehicles may be made at average or actual costs or at rates of recorded use per mile which are representative of actual costs and agreed to by the company, SHA, and FHWA.

* * * * *

3. Paragraph (b) of § 140.912 is revised to read as follows:

§ 140.912 Transportation.

* * * * *

(b) *Materials, supplies, and equipment.* The most economical movement of materials, supplies and equipment to the project and necessary return to storage, including the associated costs of loading and unloading equipment, is reimbursable. Transportation by a railroad company over its own lines in a revenue train is reimbursable at average or actual costs, at rates which are representative of actual costs, or at rates which the company charges its customers for similar shipments provided the rate structure is documented and available to the public. These rates are to be agreed to by the company, SHA, and FHWA. No charge will be made for transportation by work train other than the operating expenses of the work train. When it is more practicable or more economical to move equipment on its own wheels, reimbursement may be made at average or actual costs or at rates which are representative of actual costs and are agreed to by the railroad, SHA, and FHWA.

Appendix A [Removed]

4. Appendix A of Part 140, Subpart I, *Rates for Labor Surcharges,* is removed.

PART 646—RAILROADS

Subpart A—Railroad-Highway Insurance Protection

5. Paragraph (a) of § 646.111 is revised to read as follows:

§ 646.111 Amount of coverage.

(a) The maximum dollar amounts of coverage to be reimbursed from Federal funds with respect to bodily injury, death and property damage is limited to a combined amount of $2 million per occurrence with an aggregate of $6 million applying separately to each annual period except as provided in paragraph (b) of this section.

* * * * *

§§ 646.113-646.127 [Removed]

6. Sections 646.113, 646.115, 646.117, 646.119, 646.121, 646.123, 646.125, and 646.127 are removed.

Appendix A [Removed]

7. Appendix A of Part 646, Standard Provisions for General Liability Policies, is removed.

§ 646.107 [Amended]

8. In § 646.107 the reference to "§§ 646.109 through 646.127" is revised to read "§§ 646.109 through 646.111."

Subpart B—Railroad-Highway Projects

§ 646.212 [Amended]

9. In paragraph (b)(1) of § 646.212 the phrase "70 percent" is revised to read "75 percent."

§ 646.214 [Amended]

10. Paragraph (b)(1) of § 646.214 is revised to read as follows:

§ 646.214 Design.

* * * * *

(b) *Grade crossing improvements.* (1) All traffic control devices proposed shall comply with the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways supplemented to the extent applicable by State standards.

§ 646.216 [Amended]

11. In paragraph (d)(3)(ii) of § 646.216 the "$10,000" figure is revised to read "$25,000."

[FR Doc. 82-21124 Filed 8-4-82; 8:45 am]
BILLING CODE 4910-22-M

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23 CFR Part 772

[FHWA Docket No. 78-33, Notice 3]

Procedures for Abatement of Highway Traffic Noise and Construction Noise

Correction

In FR Doc. 18495 appearing at page 29653 in the issue of Thursday, July 8, 1982, make the following change:

On page 29654, in the middle column, in the part heading at the bottom of the page, "PART 722" should be changed to read "PART 772".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Parole Commission is confirming as a final rule its proposed amendment to its rules at 28 CFR 2.25(c) and 2.27(c) published on May 17, 1982 at 47 FR 21095 that eliminates oral presentations at appellate hearings in cases designated for the Commission's original jurisdiction, and that allows for the holding of regional appellate hearings in other cases. As stated in the proposal, the amendments are intended to promote a more productive use of the Commission's time and to promote a more uniform parole decisionmaking process.

The only public comment received on the proposal was from the Washington Legal Foundation which endorsed the proposal because "* * * it will facilitate a more efficient parole decision process without depreciating the appeal process and inject an enhanced sense of finality in parole proceedings."

EFFECTIVE DATE: September 7, 1982.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, U.S. Parole Commission, Office of General Counsel, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone: 301-492-5959.

SUPPLEMENTARY INFORMATION:

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.25, 2.26, and 2.27 are amended as follows:

In § 2.25, the introductory text of paragraph (b) is revised; paragraph (c) is removed; paragraphs (d), (e), and (f) are redesignated as (c), (d), and (e).

§ 2.25 Regional appeal.

* * * * *

(b) The Regional Commissioner may affirm the decision, order a new institutional hearing on the next docket, or reverse or modify the decision. The following actions require the concurrence of two out of three Regional Commissioners:

* * * * *

In § 2.27, paragraph (b) is revised, paragraph (c) is removed; and paragraph (d) is redesignated as paragraph (c).

§ 2.27 Appeal of original jurisdiction cases.

* * * * *

(b) Attorneys, relatives, or other interested parties who wish to submit written information concerning a prisoner's appeal should send such information to the National Appeals Board Analyst, United States Parole Commission, 5550 Frienship Boulevard, Chevy Chase, Maryland 20815. Supporting material should be submitted at least two weeks in advance of the meeting at which the appeal will be heard, in order to permit consideration thereof by the Commission.

* * * * *

§ 2.26 [Amended]

The following conforming amendment is necessary:

In 27 CFR 2.26(a) the following phrase in the third sentence is deleted: "at the institutional or regional level".

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: July 30, 1982.

Benjamin F. Baer,

Chairman, United States Parole Commission.

[FR Doc. 82-21216 Filed 8-4-82; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09-82-20]

1982 Hydro National Championship; Special Local Regulation

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a regulated area in the Niagara River, on 12-15 August, 1982. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in the Niagara River area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This amendment is effective on August 12-15, 1982.

FOR FURTHER INFORMATION CONTACT: MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522-4420.

SUPPLEMENTARY INFORMATION: The details concerning this year's event were not known in time to publish a proposed rule before the event. Therefore, this regulation is published as a final rule and will become effective in less than 30 days.

Drafting Information

The principal persons involved in drafting this rule are MSTC Bruce Graham, Project Officer, Office of Search and Rescue, and LCDR Michael Gentile, Project Attorney, Legal Office, Ninth Coast Guard District.

Discussion

The Hydro National Championship will be conducted on the Niagara River, Tonawanda Channel, on 12-15 August, 1982. This event will have an estimated 200 hydroplanes which could pose hazards to the navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Group, Buffalo, NY).

Evaluation

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area in the Tonawanda Channel of the Niagara River can be opened periodically to allow for the passage of commercial vessels. In addition, these regulations are 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 is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

List of Subjects in 33 CFR Part 100

Coast Guard, Marine safety, Navigation (water).

Final Regulations

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding the following section:

§ 100.35–0920 Niagara River, New York/ Tonawanda Channel.

(a) The following area will be restricted to vessel navigation or anchorage from 12:00 p.m. (local time) until 5:00 p.m. each day on 12–15 August, 1982.

(1) That portion of the east branch of the Niagara River, Tonawanda Channel, from the overhead cable, 1300 yards northeast of the South Grand Island Bridge, to an east-west line through Tonawanda Channel Buoy 35 (LLP 29).

(b) The patrol of that portion of Niagara River will be under the direction of a designated Coast Guard Patrol Commander who is empowered to forbid and control movement of vessels in the area before, during, and after the events for such time as he finds it necessary for the safe and orderly conduct of the events.

(c) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) This section 100.35–0920 will become effective at 12:00 p.m. (local time) to 5:00 p.m. on 12 August, 13 August, 14 August, and 15 August 1982, and will no longer be effective after 5:00 p.m. on 15 August 1982.

(Sec. 1, 35 Stat. 69 as amended, Sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: July 21, 1982.

Henry H. Bell,

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

[FR Doc. 82-21141 Filed 8-4-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD 09-82-02]

1982 Cleveland National Air Show, Special Local Regulation

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a regulated area in Lake Erie on September 3, 4, 5, and 6, 1982. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in the Cleveland Harbor area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This amendment will be effective only on September 3, 4, 5, and 6, 1982.

FOR FURTHER INFORMATION CONTACT: MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: On 29 April 1982, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (47 FR 18372). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The principal persons involved in drafting this rule are MSTC Bruce Graham, Project Officer, Office of Search and Rescue, and LCDR Michael Gentile, Project Attorney, Legal Office, Ninth Coast Guard District.

Discussion of Comments

None was received and no significant differences exist between the proposed and final rule.

Summary of Final Evaluation

The 1982 Cleveland National Air Show will be conducted over the eastern portion of the Cleveland Harbor on September 3, 4, 5, and 6, 1982. This event will have low flying aircraft demonstrations, high performance aircraft aerobatics, parachutists, and other events which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer-in-Charge, U.S. Coast Guard Station, Cleveland, Ohio). These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area can be opened periodically to allow for the passage of commercial vessels and that the duration of the regulated area is short. In addition, these regulations are 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 is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

List of Subjects in 33 CFR Part 100

Coast Guard, Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding the following section:

§ 100.35–0902 Lake Erie/Cleveland Harbor.

(a) The following area will be closed to vessel navigation or anchorage from 3:00 p.m. (local time) until 4:00 p.m. on 3 September, and from 8:00 a.m. until 6:00 p.m. on 4, 5, and 6 September 1982.

(1) That portion of Lake Erie and Cleveland Harbor bounded by a line drawn from the northwest corner of Municipal Pier on a bearing of 327 degrees true to position 41 degrees 31 minutes 01 second North, 081 degrees 46 minutes 06 seconds West, then to the breakwater on a line bearing 059 degrees true, then east along the breakwater to the Cleveland Harbor East Entrance Light (LLNR 585), thence to shore on a bearing of 138 degrees true, thence along the shore back to the point of origin.

(b) The patrol of a portion of Lake Erie will be under the direction of a designated Coast Guard Patrol Commander who is empowered to forbid and control movement of vessels

in the area before, during, and after the events for such time as he finds it necessary for the safe and orderly conduct of the events.

(c) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) This section 100.35–0902 will become effective at 3:00 p.m. (local time) on 3 September 1982 and will no longer be effective after 6:00 p.m. on 6 September 1982.

(Sec. 1, 35 Stat. 69 as amended, Sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: July 27, 1982.

Henry H. Bell,

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

[FR Doc. 82–21204 Filed 8–4–82; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 100

[CGD 09–82–23]

St. Joseph Venetian Festival, Special Local Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a regulated area in the St. Joseph River on 24 and 25 July 1982. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in the area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This amendment is effective 24 and 25 July 1982.

FOR FURTHER INFORMATION CONTACT: MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: The details concerning this year's event were not known in time to publish a proposed rule before the event. Therefore, this regulation is published as a final rule and will become effective in less than 30 days.

Drafting Information

The principal persons involved in drafting this rule are MSTC Bruce Graham, Project Officer, Office of Search and Rescue, and LCDR Michael Gentile, Project Attorney, Legal Office, Ninth Coast Guard District.

Discussion

The St. Joseph Venetian Festival will be conducted on the St. Joseph River on 23–25 July 1982. This event will have a power boat race and a water ski show which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer-in-Charge, U.S. Coast Guard Station, St. Joseph, MI).

Evaluation

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area will be in effect for a limited time and is a small area. In addition, these regulations are 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 is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life in the area during the event.

List of Subjects in 33 CFR Part 100

Coast Guard, Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding the following section:

§ 100.35–0923 St. Joseph River—St. Joseph, MI.

(a) The following area will be closed to vessel navigation or anchorage from 12:30 p.m. (local time) until 2:00 p.m., and from 2:30 p.m. until 4:00 p.m. on 24 July 1982, and from 1:00 p.m. until 3:00 p.m. on 25 July 1982.

(1) That portion of the St. Joseph River from Twin City's Bicentennial Bridge to the downriver end of the Thousand Pier Marina.

(b) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(c) A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) This section is effective from 12:30 p.m. (local time) on 24 July 1982 until 3:00 p.m. on 25 July 1982.

(Sec. 1, 35 Stat. 69 as amended, Sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: July 22, 1982.

J. R. Kirkland,

Captain, U.S. Coast Guard Commander, Ninth Coast Guard District, Acting.

[FR Doc. 82–21205 Filed 8–4–82; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 161

[CGD 77–087]

Removal of New York Vessel Traffic Service Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the regulations which established operating procedures for the New York Vessel Traffic Service (VTS). Due to difficulties in obtaining necessary equipment, these regulations were never placed into effect. These regulations are now being removed due to the suspension of the originally planned VTS services in New York.

EFFECTIVE DATE: This rule is effective on June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Lieutenant J. S. Burnett, Office of Marine Environment and Systems, Room 1606, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426–1940.

SUPPLEMENTARY INFORMATION: On August 2, 1979, the Coast Guard published a rule in the **Federal Register** (44 FR 45381) establishing the operating procedures for the New York Vessel Traffic Service. The rule was to become effective on September 18, 1979. However, because certain equipment

related to VTS operations was not functional by that date, the Coast Guard issued a notice of deferral effective September 17, 1979 (44 FR 55005; September 24, 1979) delaying the effective date of the rule indefinitely. Since that time, the rule has never been placed into effect.

As the Coast Guard has found it necessary to suspend the originally planned development of the New York VTS, it is taking this action to remove the VTS regulations. This action, however, does not affect other rules which relate to vessel traffic in the New York VTS area or the New York Harbor Vessel Traffic Service Advisory Committee.

This regulatory action is considered to be "non-major" under Executive Order 12291 (46 FR 13193; February 19, 1981) and classified as "non-significant" under the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis and Review of Regulations", dated May 22, 1980. If the rules had been implemented, there would have been costs to users related to communications equipment of up to $500 per vessel, however many vessels could convert their existing equipment at substantially less cost. This removal of the original regulations would not impose any costs on the users and, in fact, could save users the cost of adapting or obtaining communication equipment. The impact of this removal action is so minimal as not to warrant the preparation of a regulatory evaluation. Therefore, under the Regulatory Flexibility Act (Pub. L. 96-354), it is certified that this rule will not have a significant impact on a substantial number of small entities.

The removal of these regulations is administrative in nature due to the suspension of the originally planned VTS services in New York. Because this action simply reflects the fact that it is not possible to implement the VTS originally planned, notice and comment on the withdrawal of the regulations establishing the operating procedures are impractical and unnecessary. In addition, because the regulations were never put in effect, the withdrawal may be made effective immediately.

List of Subjects in 33 CFR Part 161

Hazardous materials transportation, Navigation (water), Vessels.

PART 161—VESSEL TRAFFIC MANAGEMENT

§§ 161.501 through 161.583 [Removed]

For the reasons stated above, Part 161, Subchapter P, Chapter I of Title 33, Code of Federal Regulations, is amended by removing §§ 161.501 through 161.583.

(Sec. 2 Pub. L. 95-474, 92 Stat. 1471 (33 USC 1223); 49 CFR 1.46(n)(4))

Dated: July 6, 1982.

B. F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment, and Systems.

[FR Doc. 82-21215 Filed 8-4-82; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 2

[Docket No. 2714-129]

Revision of Patent and Trademark Fees

Correction

In the issue of Wednesday, August 4, 1982, on page 33688, first column, there appeared a correction to a document published Friday, July 30, 1982; however, the correction contained misprints and should be changed as follows:

A. Items (1) and (2) should have read:

* * * * *

(1) On page 33095, first column, under **Implementation of Specific Sections**, the caption now reading *"§ 1.6 National application filing fees"* should read *"§ 1.16 National application filing fees"*.

(2) On page 33100, middle column, in § 1.19(c)(2), lines 3 and 4 should read: ". . . covered by the fee under paragraph (c)(1) of this section, per subclass—$0.40".

* * * * *

B. In item (5), lines 7 through 10, the "§" symbols should have been dollar symbols so that the correct references are "$175.00" and "$275.00" respectively.

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 162

[PH-FRL 2113-5; OPP 30055]

Designation of Certain Antimicrobial Pesticide Ingredients as Inert Rather Than Active

Correction

In FR Doc. 82-17355 appearing on page 28377 in the issue of Wednesday, June 30, 1982; on page 28379, third column, in the table, first column, twelfth line, insert the following after "C_9)": "benzene sulfonate".

BILLING CODE 1505-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

[FPMR Amdt. G-57]

Transportation Documentation and Audit; Issuing Office Records: Eliminate Notification to Paying Office; Payment of Transportation Claims

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation amends Part 101-41 by eliminating the requirement that the issuing office notify the paying office when it records a certified substitute transportation document. The change will reduce paperwork and the man-hours needed to perform the required tasks at both the issuing and paying offices. It also amends Part 101-41 by removing restrictions that preclude Government agencies from paying certain supplemental bills (claims). The change will simplify and reduce the workload at the Federal agencies' finance offices.

EFFECTIVE DATE: August 5, 1982.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Reports and Procedures Branch, Office of Transportation Audits (202-275-0664).

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

Background

This final rule incorporates two proposed rules that were published in the **Federal Register**. The proposal to revise section 101-41.307-3 was published on February 19, 1982 (47 FR

7461) and the proposal to revise sections 101–41.604–1 and 101–41.604–2 was published on February 2, 1982 (47 FR 4709). Each proposal invited comments for 30 days ending March 22, for 47 FR 7461, and March 4, 1982, for 47 FR 4709. No negative comments were received for either proposal.

List of Subjects in 41 CFR Part 101–41

Air carriers, Audits, Claims, Freight, Freight forwarders, Government property management, Maritime carriers, Moving of household goods, Passenger services, Railroads, Transportation.

PART 101–41 TRANSPORTATION DOCUMENTATION AND AUDIT

1. Section 101–41.307–3 is revised as follows:

§ 101–41.307–3 Issuing office records.

The issuing office shall enter each certification of a substituted document in its GBL accountability record.

2. Section 101–41.604–1 is revised as follows:

§ 101–41.604–1 Transportation claims payable by agencies.

Unless GSA (TA) determines that a prepayment audit is necessary, each agency or department shall pay any properly documented supplemental bill (claim) for freight or passenger transportation charges that is not excepted by the provisions of § 101–41.604–2, provided the following guidelines are observed:

(a) The agency shall annotate each paid claim, other than a bill for air excess baggage charges, with the payment record on the related procuring Government bill of lading (GBL) or Government transportation request (GTR) including Disbursing Office (DO) voucher number, bureau voucher number, date of payment, and DO symbol number.

(b) The agency shall make an administrative examination of each claim to ensure that it is not a duplicate billing of a previous payment and that it is properly supported, presented in the name of the carrier to which the original charges were paid, and in agreement with agency records concerning the amount previously paid.

(c) Claims paid in accordance with this § 101–41.604–1 shall be transmitted to GSA (TADS) separately from other paid transportation documents submitted for audit.

3. Section 101–41.604–2 is amended by revising paragraphs (b)(3) and the introductory text of (c) and removing paragraph (b)(4), to read as follows:

§ 101–41.604–2 Transportation claims not payable by agencies.

* * * * *

(b) * * *

(3) Any claim that is doubtful. A claim is doubtful when in the exercise of fair judgment of the person responsible for deciding appropriate administrative action or the person who, in accordance with applicable statutes, will be held accountable if the claim were paid and then found to be incorrect, illegal, or improper, is unable to decide with reasonable certainty that the claim is valid and correct. The accuracy of rates, fares, routes, and related technical data shall not be a factor in determining the correctness of the claim.

(4) [Removed]

(c) Claims described in paragraph (b) of this section will be handled by GSA under the provisions of § 101–41.605 of this subpart and shall be forwarded separately from other types of transportation documents to the General Services Administration (TACA), Washington, DC 20406. Agencies shall support each claim forwarded to GSA with:

* * * * *

(31 U.S.C. 244 and 40 U.S.C. 486(c))

Dated: July 13, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82–21125 Filed 8–4–82; 8:45 am]

BILLING CODE 6820–AM–M

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41 CFR Ch. 101

[FPMR Temp. Reg. F–499]

ADP Resources Utilization and Reporting; Temporary Regulation

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation modifies the automatic data processing (ADP) sharing policies and procedures applicable to Federal agencies. The General Services Administration (GSA) role is changed from acting as a broker between agencies in the sharing process. As revised, GSA will establish policies and procedures, publish listings of Government activities with sharing opportunities to facilitate direct agency arrangements, and consolidate reporting on cost savings from sharing Government-wide. In addition, the policies in Office of Management and Budget Circular A–121 are implemented. Changes to conform Federal Property Management Regulations (FPMR) provisions to newly promulgated Federal Procurement Regulations Subpart 1–4.12 are also included. The intended effect is to reduce paperwork and increase economy and efficiency in sharing procedures.

DATES:

Effective date: September 1, 1982.

Expiration date: September 1, 1984.

Comments are due: September 30, 1982.

ADDRESS: Comments should be addressed to: General Services Administration (CPEP), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, ADTS Procurement Policy and Regulations Branch (CPEP), (202–566–0194).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. The General Services Administration's decisions are based on adequate information concerning the need for, and consequences of, this rule. This rule has been structured to maximize the benefits to Federal agencies. This is a government-wide management regulation that will have little or no effect on society. This regulation supersedes and cancels FPMR Temporary Regulation F–495, dated April 30, 1980, and GSA Bulletin FPMR F–115, dated December 27, 1979, and Supplement 1 thereto, dated November 25, 1980.

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

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter F.

Federal Property Management Regulations Temporary Regulation F–499

May 14, 1982.

To: Heads of Federal agencies

Subject: ADP resources utilization and reporting

1. *Purpose.* This regulation modifies the ADP sharing policies and procedures applicable to Federal agencies. The GSA role is changed from acting as a broker between agencies in the sharing process. As revised, GSA will establish policies and procedures, publish listings of Government activities with sharing opportunities to facilitate direct agency arrangements, and consolidate reporting on cost savings from sharing Government-wide. In addition, the policies in Office of Management and Budget Circular A–121 are implemented. Changes to conform FPMR provisions to newly promulgated Federal Procurement Regulations Subpart 1–4.12 are also

included. The intended effect is to reduce paperwork and increase economy and efficiency in sharing procedures.

2. *Effective date.* The provisions of this regulation are effective August 1, 1982.

3. *Expiration date.* This regulation expires September 1, 1984.

4. *Background.*

a. Present sharing provisions were written when batch processing was a dominant mode of ADP. Because of limited workload in the early to mid 1960s, and because of the inefficiencies associated with batch processing, there was often excess capacity available for outside users. The purpose of the earlier regulation was to gain control over excess capacity in the Government, and to ensure that it was properly used before new equipment was acquired.

b. In the intervening years, improved technology, new operating system software, telecommunication capabilities, and the Teleprocessing Services Program have altered the formerly dominant role of batch processing. In addition, the Privacy Act of 1974, and national security interests have altered the computer sharing opportunities in Government. As a result, the current procedures need to be updated to reflect current technology and other factors.

c. Office of Management and Budget (OMB) Circular A–121, Subject—Cost Accounting, Cost Recovery and Interagency Sharing of Data Processing Facilities, dated September 16, 1980, established policies to promote business-like procedures in inter-agency sharing. Circular provisions are reflected in this revision.

d. GSA regional sharing exchanges have been eliminated.

5. *Explanation of changes.*

PART 101–35—ADP AND TELECOMMUNICATIONS MANAGEMENT POLICY

a. The following changes are made in Subpart 101–35.2.

(1) Section 101–35.200–1 is amended to reference OMB Circular A–121 in paragraph (d), as follows:

§ 101–35.200–1 Relationship to other directives.

* * * * *

(d) The acquisition, management, and use of ADP are subject to the fiscal and policy control of the Office of Management and Budget (OMB). In addition, OMB Circulars including A–10, A–11, A–71, A–108, A–121, and related Transmittal Memoranda apply to ADP; the present value concept in A–94 also applies (see § 101–35.210). The applicability of A–76 and A–109 to agency activities is as determined and directed by OMB.

(2) Section 101–35.202.6 is revised to conform to the FPR Subpart 1–4.12 definition, as follows:

§ 101–35.202–6 ADP services.

"ADP services" means the computation or manipulation of data by computers in support of administrative, financial, communicative, scientific, and other similar Federal agency data processing applications. This term includes teleprocessing (interactive processing and remote batch) and local batch processing.

(3) Section 101–35.202–7 is revised to change the section title and text to conform to the FPR Subpart 1–4.12 definition, as follows:

§ 101–35.202–7 ADP support services.

"ADP support services" means services, except maintenance services (see § 101–35.202–4), that are adjunct and essential to agency ADP activities but do not involve the actual computation or manipulation of data by a computer. This term includes source data entry, computer output microfilming, conversion, training, studies, facilities management of Government furnished ADP equipment, systems analysis and design, programing, equipment operation, and computer performance evaluation.

(4) Section 101–35.202–8 is revised to change the section title and text to conform to the FPR Subpart 1–4.12 definition, as follows:

§ 101–35.202–8 Commercial ADP services and commercial ADP support services.

(a) "Commercial ADP services" means the performance of ADP services by contractors.

(b) "Commercial ADP support services" means the performance of ADP support services on a nonpersonal services basis.

(5) Section 101–35.203–7 is revised to remove the word "primary" and to reference OMB Circular A–121, as follows:

§ 101–35.203–7 Sharing and reutilization.

Sharing installed ADPE and its operating system software shall be considered as a means of meeting the ADP requirements of the user (see Subpart 101–36.2 and OMB Circular A–121). Excess ADPE shall also be considered a source of supply (see Subpart 101–36.3). Sharing Government-owned common-use application software should be considered prior to development of new programs (see Subpart 101–36.16). Additional ADP capacity shall be acquired only if an agency has made reasonable efforts to determine that existing resources will not economically and efficiently meet the requirements. However, continued use of costly outmoded computers should be avoided.

(6) Section 101–35.204 is amended to add a new paragraph (c) to place emphasis on avoiding the use of costly, outmoded computers, as follows:

§ 101–35.204 Planning requirements.

* * * * *

(c) The plan should be used by agencies to manage their sharing and reutilization programs. Planning short- and long-range procurement strategies is essential to avoid the continued use of costly, outmoded computers or other obstacles to more effective, efficient, and economical ADP.

(7) Section 101–35.209 is amended to reference OMB Circular A–121 in paragraph (b), as follows:

§ 101–35.209 Comparative cost analysis.

* * * * *

(b) *Use of existing ADP facilities (e.g., Federal Data Processing Centers) and resources on a shared basis.* OMB Circular A–121 requires executive agencies to establish a management control procedure to determine which existing data processing facility will be used to support major new applications (see Subpart 101–36.2).

§ 101–35.1705 and 101–35.1706 [Removed]

b. The following changes are made in Subpart 101–35.17. Sections 101–35.1705 and 101–35.1706 are removed because similar provisions are now contained in FPR Subpart 1–4.12.

PART 101–36—ADP MANAGEMENT

c. The following changes are made in Subpart 101–36.2.

(1) Section 101–36.201 is revised to provide new or revised definitions including definitions appearing in OMB Circular A–121, as follows:

§ 101–36.201 Definitions.

Terms used in this subpart shall have the following meanings:

(a) "ADP resource" means (1) automatic data processing equipment (ADPE), software, firmware, or related supplies as defined in subsections of § 101–35.202, (2) ADP management, technical, or operations personnel, or (3) a contracted commercial ADP service or ADP support service.

(b) "ADP resource system" means a combination of ADP resource elements organized to perform specific or types of

specific ADP requirements. ADP equipment systems and systems using commercial ADP services are included.

(c) "Data processing facility" means the personnel, hardware, software, and physical facilities of an organizational entity whose primary function is the operation of one or more computers. A data processing facility includes:

(1) The personnel who operate computers; develop and maintain software; provide user liaison and training; schedule jobs and computer time; prepare and control input data; control, reproduce, and distribute output data; maintain tape and disk libraries; provide security, maintenance, and custodial services; and manage or provide administrative support to other personnel engaged in these activities.

(2) The owned, rented, or leased computer and telecommunications hardware including central processing units; associated peripheral equipment such as control or switching units, disk drives, tape drives, drum storage, printers, card readers, and consoles; data entry equipment; data reproduction, decollation, booking, and binding equipment; and telecommunications equipment used for the transfer of data between remote sites and the facility including telecommunications control units, terminals, modems and dedicated phone lines.

(3) The general purpose software including operating system software, utilities, sort, merge, language processors, access methods, data base processors, and other similar multiuser software.

(4) The physical facilities including computer rooms; tape and disk libraries; stockrooms and warehouse space; office space; physical fixtures such as desks, chairs, storage, and file cabinets; general office telephones; and general office duplicating equipment, calculators, typewriters, and similar office machines.

(d) "Data processing facility subject to OMB Circular A–121" means all data processing facilities operated by, or on behalf of, an executive agency that provide service to more than one user, operate one or more general management computers, and exceed $100,000 per year for the full cost of operation.

(e) For purposes related to OMB Circular A–121, "full cost" means all significant expenses incurred in the operation of a data processing facility. The following cost elements are included:

(1) Personnel—including salaries, overtime, and fringe benefits (both funded and unfunded) of civilian and military personnel; training; and travel.

(2) Equipment—including depreciation for owned capitalized equipment, rental cost, leased costs, and direct expenses for non-capitalized equipment.

(3) Software—including depreciation for capitalized costs of developing, converting, or acquiring software; rental costs for software; and direct expenses for non-capitalized acquisition of software.

(4) Supplies—including office supplies, data processing materials, and miscellaneous expenses.

(5) Contracted services—including technical and consulting services, equipment maintenance, data entry support, operations support, maintenance of multipurpose and operating system software, and telecommunications network services.

(6) Space occupancy—including rental and depreciation of buildings, general office furniture, and equipment; building maintenance; heating, air conditioning, and other utilities expenses; telephone charges; and building security and custodial services.

(7) Intra-agency services and overhead—including the costs of normal agency support services, either billed or allocated.

(8) Interagency services—including the costs of services provided by other agencies and departments, whether reimbursed or estimated.

(f) "User" means an organizational or programmatic entity which receives service from a data processing facility. A user may be either internal or external to the agency or agency organization responsible for the facility.

(g) For purposes related to OMB Circular A–121, "general management computer" means a digital computer which is used for any purpose other than as a part of a process control, combat weapon, space, or mobile system.

(h) "ADP unit" means any organizational element of the Federal Government which:

(1) Uses or plans to use ADPE;

(2) Uses or plans to use commercial ADP services;

(3) Has organizational components which perform ADP management, development, programing, selection, or implementing functions; or

(4) Has Government contractors, including educational institutions and other not-for-profit contractors or organizations, who operate ADP equipment in the performance of work under cost reimbursement-type contracts or subcontracts when: (i) Equipment is leased and the total cost of leasing is to be reimbursed under one or more cost reimbursement-type contracts; (ii) equipment is purchased by the contractor for the account of the Government or title will pass to the Government; (iii) equipment is furnished to the contractor by the Government; or (iv) equipment is installed in Government-owned, contractor-operated facilities.

(i) "ADP sharing" means the provision of available ADP resources to users by an organization with no primary responsibility for supporting those users.

(2) Section 101–36.202 is revised to change the section title and text and to delete reference to the discontinued sharing exchanges, as follows:

§ 101–36.202 ADP sharing considerations.

(a) *General.* The growth of ADP in the Government has increased sharing opportunities. Sharing these resources may be the most economical and efficient means to satisfy an ADP requirement, but is seldom a substitute for fundamental ADP capabilities needed by an Agency. However, several factors tend to diminish the realization of the economic and efficiency potentials in sharing. These factors include increasing complexities of setting up on another data processing facility (even when the facility has the same versions of the same software), better and cheaper micro and mini computer alternatives, availability of GSA's Teleprocessing Services Program for commercial ADP services, entry of many new time sharing vendors into the Government marketplace, and requirements for security and Privacy Act safeguards. Some data processing facilities, e.g., Federal Data Processing Centers, have a primary mission responsibility of providing ADP services and ADP support services. These facilities are generally characterized by good documentation, a wide range of software, a user assistance staff, and full cost accounting. These services may not be readily available to prospective users if the facility is not routinely sharing its resources.

(b) *Requirement considerations.* Sharing may present a viable alternative for agencies who (1) need greater capacity, (2) want to evaluate expensive software or equipment configurations before acquisition (3) have insufficient ADP requirements to justify a separate facility. Applications such as financial management, statistics, engineering, and mathematics are often good sharing candidates. Applications such as command and control systems, intelligence and law enforcement systems, and systems with special security requirements are often not good sharing candidates.

(c) *Facility considerations.* The workload orientation of a facility may

severely limit its potential for sharing. This can be true for facilities (1) which have acute privacy or security implications (e.g., certain IRS, VA, Defense, or SSA facilities), (2) which have special opportunities for fraud (e.g., funds transfer and treasury check disbursing systems), (3) which are dedicated to a single function (e.g., military logistics or weather), and (4) which have been reviewed and determined to be obsolescent.

(d) *Sharing as resource justification.* As provided in OMB Circular A–121, sharing arrangements can be used by the agency providing services in justifications to OMB for resource requests and allocations only in such cases where exceptional circumstances preclude the user agency from using alternative sources. However, the unfunded portion of planned reimbursements arising from equipment and software depreciation may be used for the replacement and augmentation of ADP capital assets provided such usage is in accordance with A–121 provisions.

(3) Section 101–36.203 is revised to change the section title and text to reassign interagency sharing responsibility management from GSA to the individual agencies as follows:

§ 101–36.203 Government-wide ADP sharing.

(a) Federal agencies shall be responsible for determining whether their ADP requirements can be efficiently and economically satisfied by using existing resources. OMB Circular A–121, subject: Cost Accounting Cost Recovery and Interagency Sharing, dated September 16, 1980, specifically paragraph 4f, applies.

(b) Federal agencies shall be responsible for determining to what extent their ADP resource systems will be made available to users (see also OMB Circular A–121, paragraph 4a).

(c) Agencies seeking sharing facilities will identify and deal directly with those facilities. Since sharing is a viable alternative for only a portion of ADP requirements (see § 101–36.202), agency procedures for making these determinations shall be oriented toward potential sources of sharing support rather than an exhaustive review of all Federal facilities.

(d) Management officials of agencies who have an interest in sharing their facilities should participate in informal interagency sharing groups. These groups should exchange information concerning the minimum capabilities of their facilities in order to identify their salient characteristics to the potential user, e.g. documentation, user assistance, capabilities, prices, duration, bumping, or termination terms.

(e) GSA will facilitate use of existing resources by issuing bulletins from time to time containing information concerning sharing opportunities. GSA will assist in the search for sharing opportunities as needed in time of national emergency or public exigency. Upon request of the parties concerned, GSA will arbitrate disputes concerning prices and services between agencies. Requests may be directed to General Services Administration (CPS), Washington, D.C. 20405.

(f) GSA will foster the establishment of Federal Data Processing Centers where opportunities and needs for economical and efficient service exist (see Subpart 101–36.8).

(4) Section 101–36.203–1 is revised (from the provisions appearing in FPMR Temporary Regulation F–495) to change sharing responsibilities provisions and to reference OMB Circular A–121 requirements, as follows:

§ 101–36.203–1 ADP sharing procedures.

(a) A Federal agency shall not initiate the process of selecting and acquiring ADP resources unless it first makes reasonable efforts to determine that the required ADP capability cannot be met economically and efficiently by using existing ADP resources on a shared, reimbursable basis.

(b) When it is determined that existing resources are capable of meeting an agency's requirement, the agency shall consider this alternative as part of the comparative cost analysis (see § 101–35.209).

(c) Federal agencies shall first attempt to satisfy their ADP requirements by selectively screening resources of other ADP units in their agency and in other agencies. If the result of screening "targets of opportunity" is unsuccessful, the basis for this determination shall be documented.

(d) Federal agencies are required to include a statement relative to this screening procedure when submitting agency procurement requests (see FPR §§ 1–4.1105(j) and 1–4.1203–1(c)(5)).

(e) Sharing of excess data processing capacity by Executive agencies with users from other agencies shall be consistent with the provisions of OMB Circular A–121.

§ 101–36.203–2 [Reserved]

(5) Section 101–36.203–2 is removed and reserved to reflect codification of the provisions in recently issued FPR Subpart 1–4.12.

(6) Section 101–36.203–3 is revised to reflect the changed orientation of sharing, as follows:

§ 101–36.203–3 Exceptions and exemptions.

(a) Agencies should try to share their ADP resources. However, agencies need not share a system if it does not lend itself to sharing because of the uniqueness of a particular program or mission, or because of the design of the system (see § 101–36.202).

(b) In addition, the following ADP resources are exempt from the requirements for sharing:

(1) ADPE built or modified to special Government design specifications which has no general purpose applicability and is integral to a weapons or space system:

(2) Analog computers; and

(3) ADPE maintenance services.

d. The following changes are made in Subpart 101–36.8.

§ 101–36.801–2 [Removed]

(1) Section 101–36.801–2 is removed because it is no longer necessary.

(2) Section 101–36.802 is revised to reflect regional activity and OMB Circular A–121 provisions, as follows:

§ 101–36.802 General.

An FDPC may be established if feasibility studies indicate that one is needed. GSA-operated FDPC's are financed by the ADP Fund. FDPC's operated by other agencies under a delegation of authority may be, but are not necessarily, financed by the ADP Fund. In either instance, the FDPC and the requesting agency will arrange mutually satisfactory means, consistent with OMB Circular A–121, for reimbursing the FDPC for services rendered.

(3) Section 101–36.803 is revised for clarity, as follows:

§ 101–36.803 Services available from FDPC's.

FDPC's provide many ADP services and ADP support services. GSA, through informational bulletins, will announce the availability of specific services and associated costs.

(4) Section 101–36.804 is amended by revising paragraph (a) for clarity, as follows:

§ 101–36.804 Point of contact.

(a) Agencies that require any FDPC services that have not been provided through the procedures set forth in § 101–36.203 should contact General Services Administration (CPS), Washington, DC 20405 or the appropriate FDPC.

* * * * *

e. The following changes are made in Subpart 101–36.47.

(1) Section 101–36.4701 is revised to conform with Subpart 101–36.2 changes, as follows:

§ 101–36.4701 Reporting of sharing and services obtained from a commercial source.

(a) *Sharing.* (1) ADP sharing (as defined in § 101–36.201(i)) accomplished by data processing facilities (as defined in § 101–36.201(d)) shall be reported by each facility if the total dollar amount charged by a facility to users (as defined in § 101–36.201(f)) other than those which the facility has primary responsibility for supporting exceeds $100,000 during a fiscal year.

(2) Reports of sharing shall be submitted on GSA Form 2068A to the General Services Administration (CI), Washington, D.C. 20405 not later than 60 days (November 30) after the close of the fiscal year. Federal agencies may elect to submit reports on a centralized basis at any organizational level desired. Each agency shall advise GSA (CI) of the procedures it will follow.

(b) *Services obtained from a commercial source.* (1) ADP services and ADP support services (as defined in § 101–35.202–8) shall be reported by each user (as defined in § 101–36.201(f) on a call basis specified by GSA (CDR), Washington, DC 20405.

(2) Reports of ADP services and ADP support services, to the extent specified in each call, shall be submitted on GSA Form 2068A or other format as requested, to the GSA address specified. At least 60 days will be provided for agencies to respond. Submissions will not be required more often than once per year. Agencies may provide the reports on a centralized basis at any organizational level desired.

(c) *Reports Control.* Interagency reports control number 1106–GSA–AN (currently assigned expiration date: March 31, 1985) has been assigned to this reporting requirement.

§ 101–36.4701–1, 101–36.4701–2, and 101–36.4701–3 [Removed]

(2) Sections 101–36.4701–1, 101–36.4701–2, and 101–36.4701–3 are removed.

Subpart 101–36.48 [Removed]

f. Subpart 101–36.48 is removed because ADP sharing exchanges are no longer operated by GSA regional offices.

g. The following changes are made in Subpart 101–36.49.

§ 101–36.4902–2068 [Removed]

(1) Section 101–36.4902–2068 is removed because use of the form is no longer required.

(2) Section 101–36.4902–2068A (pending revision of the form) is changed to remove the word "Quarterly" from the title and text, to revise the interagency reports control number to 1106–GSA–AN, and to revise the note appearing on the back of the illustration of the form, as follows:

§ 101–36.4902–2068A Report of ADP service provided to another agency or obtained from a commercial source.

* * * * *

Note.—Pending revision of GSA Form 2068A, reference to the word "Quarterly" and to "GSA Form 2068" shall be considered removed and reference to "FPMR 101–32" shall be considered to read "FPMR 101–36".

6. *Agency action.* Pending the issuance of a permanent amendment to the FPMR, agencies shall follow the policies and procedures in this temporary regulation.

7. *Effect on other directives.* This regulation supersedes and cancels FPMR Temporary Regulation F–495 dated April 30, 1980, and GSA Bulletin FPMR F–115, dated December 27, 1979, and Supplement 1 thereto, dated November 25, 1980.

8. *Submission of comments.* Comments are invited concerning the effect or impact of this regulation and the policy and procedures that should be adopted in the future. Comments should be addressed to GSA (CPEP), Washington, DC 20405, not later than September 30, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82–21127 Filed 8–4–82; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6289

[U–14677]

Utah; Revocation of Reclamation Withdrawal

Correction

In FR Doc. 82–17693 beginning on page 28382 in the issue of Wednesday, June 30, 1982 make the following corrections:

1. On page 28383, second column, the twenty-first line, "* * * NE¼, E½SW¼," should read "* * * NE¼, E½NW¼,"

2. In the same column, twenty-fourth line from the bottom, "* * * S½SW¼, * * *" should read "* * * S½NW¼ * * *".

3. On page 28383, third column, fifth line, "* * * NW¼NW¼, NW¼," should read "* * * NW¼NE¼, NW¼,".

4. In the same column, twenty-sixth line from the bottom, "* * * S¼NW¼," should read "* * * SE¼NW¼,".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–174]

Union Station, Washington, D.C.; Organization and Delegation of Powers and Duties

AGENCY: Transportation (DOT).

ACTION: Final rule.

SUMMARY: This amendment delegates to the Federal Railroad Administrator and the Federal Highway Administrator functions vested in the Secretary by the Union Station Redevelopment Act of 1981.

DATE: The effective date of this amendment is May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Jeff Godwin, Office of the Chief Counsel, Federal Railroad Administration, (202) 426–7710.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register.**

The Union Station Redevelopment Act of 1981 (Pub. L. 97–125; December 29, 1981) ("the Act") makes the Secretary of Transportation responsible for the rehabilitation and redevelopment of the Union Station complex in Washington, D.C., as a transportation terminal and commercial complex. The purposes of the Act are to achieve the goals of historic preservation and improved rail use of Union Station with maximum reliance on the private sector and minimum reliance on Federal assistance.

To carry out his responsibilities under the Act, the Secretary is delegating to the Federal Railroad Administrator all functions vested in the Secretary by the Act, except the responsibility to provide

for completion of a parking facility and associated ramps at Union Station, which is being delegated to the Federal Highway Administrator, and submission of the report to the Congress by December 29, 1982, which is reserved to the Secretary.

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies); Organization and functions (government agencies).

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

1. In § 1.48, a new paragraph (w) is added at the end thereof to read as follows:

§ 1.48 Delegations to Federal Highway Administrator.

The Federal Highway Administrator is delegated authority to—

* * * * *

(w) Carry out the functions vested in the Secretary by section 118 of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 818), as added by the Union Station Redevelopment Act of 1981 (Pub. L. 97–125; 95 Stat. 1672), with respect to the completion of the parking facility and associated ramps at Union Station in Washington, D.C.

2. In § 1.49, a new paragraph (k) is added at the end thereof, to read as follows:

§ 1.49 Delegations to Federal Railroad Administrator.

The Federal Railroad Administrator is delegated authority to—

* * * * *

(k) Carry out the functions vested in the Secretary by Subtitle B of the National Visitor Center Facilities Act of 1968, as added by the Union Station Redevelopment Act of 1981 (Pub. L. 97–125; 95 Stat. 1667) except section 114(e) and such parts of section 118 as provided for the completion of the parking facility and associated ramps at Union Station in Washington, D.C.

(Sec. 9(e), Department of Transportation Act, 49 U.S.C. 1657(e))

Issued in Washington, D.C. on July 26, 1982.

Andrew L. Lewis, Jr.,

Secretary of Transportation.

[FR Doc. 82–21134 Filed 8–4–82; 8:45 am]

BILLING CODE 4910–62–M

Research and Special Programs Administration

49 CFR Part 193

[Docket Nos. PS–54 and OPSO–46]

Gas Pipeline Facilities; Amendment of Safety Standards

Correction

In FR Doc. 82–20446 appearing on page 32720 in the issue of Thursday, July 29, 1982, make the following correction.

On page 32720, third column, in the third line of item "2." "−20°C (−20°F)" should read "−29°C(−20°F)".

BILLING CODE 1505–01–M

Federal Railroad Administration

Urban Mass Transportation Administration

49 CFR Part 670

[UMTA Docket No. 82–B]

Transfer of Conrail Commuter Service Operations

AGENCY: Federal Railroad Administration (FRA) and Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of this document is to prescribe standards for the obligation and equitable distribution of funds authorized to ensure that commuter rail services operated by the Consolidated Rail Corporation (Conrail) under contract to commuter authorities are transferred, on or before January 1, 1983, either to those commuter authorities for operation directly or to the Northeast Commuter Services Corporation (NCSC) for operation on their behalf. This document establishes applicant eligibility criteria, sets forth a formula for the allocation of funds appropriated for the transfer, identifies eligible uses for the allocated funds, and outlines application procedures. This final rule is effective retroactively so as to provide prompt assistance to NCSC and the affected commuter authorities with activities attending the transfer of commuter service operations. This rule is issued in compliance with the Northeast Rail Service Act of 1981.

DATE: This final rule is effective on October 1, 1981.

FOR FURTHER INFORMATION CONTACT: William R. Fashouer, Office of the Chief Counsel of FRA, (202) 426–7710, or Anthony A. Anderson, Office of the Chief Counsel of UMTA (202) 426–4011, both located at 400 Seventh Street SW., Washington, D.C. 20590. FRA and UMTA office hours are from 8:30 a.m. to 5:00 p.m. EST, Monday through Friday.

SUPPLEMENTARY INFORMATION: This document prescribes standards for the obligation and equitable distribution of funds authorized under section 1139(b) of the Northeast Rail Service Act of 1981 (NERSA), Subtitle E of Title XI of Pub. L. 97–35, 95 Stat. 643 (1981).

Background

On August 13, 1981, Congress enacted NERSA which provides for the transfer of commuter rail service operations from Conrail to either NCSC or directly to the commuter authorities for which Conrail presently operates commuter rail services. Section 1139(b) of NERSA authorizes $50,000,000 to be appropriated to the Secretary of Transportation to facilitate the transfer of commuter rail services from Conrail to other operators. Congress has appropriated $45,000,000 for this purpose (Pub. L. 97–102, 95 Stat. 1451). Section 1139(b) also requires the Secretary to issue regulations governing the obligation and distribution of the transition assistance. This final rule is issued in compliance with and to advance the purposes of section 1139(b).

Conrail currently contracts with five commuter authorities to provide commuter rail services. NERSA required each of these commuter authorities to determine by April 1, 1982, whether it would provide commuter service directly or whether it would contract with NCSC. NCSC is a wholly-owned, but financially separate, subsidiary of the National Railroad Passenger Corporation (Amtrak), organized and incorporated in compliance with the District of Columbia Business Corporation Act on November 20, 1981 for the purpose of providing commuter rail passenger service on behalf of these commuter authorities. These commuter authorities (the Metropolitan Transportation Authority (MTA), the Connecticut Department of Transportation (CDOT), the New Jersey Transit Corporation (NJ Transit), the Southeastern Pennsylvania Transportation Authority (SEPTA), and the Maryland Department of Transportation (MDOT)) have indicated their intentions regarding future operation of Conrail commuter services. MTA, CDOT, and NJ Transit have indicated that they intend to operate their own service provided certain essentially financial conditions are met. SEPTA has indicated that it will contract with NCSC to provide service on its behalf. MDOT has indicated that it will contract with NCSC or with Amtrak to provide service on its behalf.

In addition, the Delaware Department of Transportation (DelDOT) has indicated that it intends to contract directly with NCSC for operation of commuter service in Delaware. At the present time, DelDOT contracts for this service with Conrail through SEPTA.

The FRA and UMTA published an emergency interim final rule (interim rule) implementing section 1139(b) on February 4, 1982 (47 FR 5227). The interim rule established applicant eligibility criteria, set out a formula for the allocation of funds appropriated for the transfer, identified eligible uses for the funds and outlined application procedures. The rule was made retroactive to October 1, 1981, because of the short time period provided to complete transfer of commuter services from Conrail to other operators and in order to avoid penalizing commuter authorities having the foresight to have begun planning prior to the publication of the rule. The rule was published as an emergency final rule to permit the organization and start-up of NCSC and to provide for the prompt distribution of funds to NCSC and the commuter authorities.

Comments were requested on the interim rule and a forty-five day comment period ending on March 22, 1982, was provided. Comments were reviewed from the affected commuter authorities, Amtrak, Conrail, the Northeast Corridor Commuter Rail Authorities Committee, and the Montgomery County (PA.) Planning Commission. Comments were received jointly by FRA and UMTA, and the final regulation has been developed and coordinated jointly by the two agencies. The remainder of this preamble is divided into two sections—the first is a General Comments section containing a discussion of the general comments received on the interim rule and a discussion of the overall objectives employed in preparing the final rule, and the second is a Section-by-Section Analysis containing a summary of each section of the final regulation, including a discussion of major comments received on and changes made to each section.

General Comments

Comments on the interim rule focused principally on four issues—the amount of available transition assistance, the period of time over which the assistance is to be allocated, the activities eligible for assistance, and whether funds should be provided to NCSC or solely to the commuter authorities who would reimburse NCSC for services rendered.

A number of comments indicated a belief that the funds available were inadequate to cover the anticipated transition costs. The issue of the sufficiency of the funds made available by Congress to cover transition costs is not one that can be addressed by these regulations. Congress has appropriated $45,000,000 for necessary expenses to carry out section 1139(b) of NERSA. See Pub. L. No. 97–102, 95 Stat. 1451. These regulations are promulgated pursuant to section 1139(b) and are designed to allocate the funding provided under that section. The regulations cannot increase the amount of funding appropriated by Congress. The resolution of this issue, accordingly, depends upon further Congressional action. FRA and UMTA have reviewed the materials provided by the commuter authorities in support of their position that additional transition assistance is required and agree that the funds authorized to date are insufficient to cover the costs associated with the transfer. FRA and UMTA have been working with the commuter authorities and the relevant Congressional Committees to determine the amount of additional funding that is required. Following Congressional approval of additional funds for commuter transfer, FRA, and UTMA will issue new regulations as necessary. This final rule is not intended to cover the distribution of any funds appropriated in the future.

Most of the comments suggested that the allocation of the transition funds should be more heavily weighted toward an early distribution of the amounts available. Section 670.9 of the interim rule provided that not more than $7,500,000 of the funds appropriated and available for disbursement would be distributed prior to the transfer of commuter service from Conrail to other operators on January 1, 1983. Of the remaining amounts, up to sixty-five percent of the funds were to be made available in fiscal year 1983, twenty percent in fiscal year 1984, and the remainder in fiscal year 1985. This allocation period appeared consistent with section 1139, which provides that amounts appropriated under this section are authorized to remain available until October 1, 1986. Most of the comments on this issue suggested that the funds should be made available in fiscal years 1982 and 1983. In addition, the Committee on Energy and Commerce of the United States House of Representatives, in its May 18th report on H.R. 6308, a bill to insure rail safety and for other purposes, expressed its desire that funds provided under section 1139(b) should be provided as needed, without specific fiscal year limitations. The Committee specifically included in H.R. 6308 time periods in which the funds should be distributed.

In order to be responsive to the comments and to the Congressional concerns, FRA and UMTA have reviewed their earlier determination and have decided that section 670.9 should be amended to provide that all funds appropriated in the DOT Appropriations Act, 1982, will be made available for distribution during fiscal year 1982. FRA and UMTA intend to provide for prompt distribution of transition funds to help insure an efficient and timely transfer of commuter services.

A number of comments suggested that the projects or activities for which transition assistance may be expended was too narrowly drawn in the interim rule. The list of eligible expenses included in the interim rule was clearly made non-exclusive. Section 670.11 provided seven general categories of eligible expenses. However, these seven categories were provided to give guidance to NCSC and commuter authorities as to the types of activities that FRA and UMTA intended to be eligible for reimbursement as transition costs. They were not intended to be an exclusive list of eligible activities. Despite these considerations, FRA and UMTA have carefully reviewed the comments suggesting additional categories that should be specifically listed in section 670.11 as eligible transition expenses.

The principal category of expenses that commuter authorities suggested should be included is working capital and additional staffing needs of those commuter authorities directly operating their own service. The interim rule authorized payment for these expenses as to NCSC but not as to commuter authorities operating their own service. This oversight has been corrected in the final regulation and commuter authorities can be reimbursed for these expenses. It is important to note, however, that funding for additional staffing needs for commuter authorities is to be limited to transition staffing needs and is not to include normal personnel operating costs. Funding for working capital is designed to include such items as necessary cash for the start-up of service. The final rule has also been amended to include a number of other categories suggested in comments on this section of the interim rule.

In addition, SEPTA suggested in its comments that this section should be defined broadly to include other costs perhaps not clearly identified at the moment. This was the intent of the interim rule and the final rule retains the

principle that the enumerated categories are non-exclusive and that FRA and UMTA will review and consider applications for assistance for items not specifically covered in the listed categories. Eligibility for reimbursment for all activities is subject to the Administrators' determination that the activity is properly related to the transition.

The fourth major issue covered in comments on the regulation is whether transition assistance should be provided directly to NCSC or solely to commuter authorities who would reimburse NCSC for services it provides. Section 670.13(b) of the interim rule provided that NCSC would be the applicant for transfer allocation funds for commuter services it operated and that a commuter authority would be the applicant for transfer funds for commuter service it operates for itself. SEPTA in particular argued that providing transition assistance directly to NCSC would hamper the commuter authorities ability to adequately control commuter rail costs. Since the concept of pre-transfer and post-transfer funding has been eliminated in the final regulations which make all funds available in fiscal year 1982, FRA and UMTA have eliminated provisions basing eligibility for funds on who operates the service.

The final rule provides that NCSC shall be eligible to receive up to $4 million of transition assistance funds for its general administrative expenses and the costs of services it provides for all commuter authorities. In addition, in order to expedite the transfer process, NCSC shall also be eligible to receive up to $3 million of the funds allocated to SEPTA, MTA and CDOT to cover the costs of development of the Accounting Management Control Data Processing System to be used by these agencies, and $750,000 of the funds allocated to SEPTA to cover the costs of the labor negotiation effort to be conducted by NCSC on behalf of SEPTA. The rest of the available funds will be made available for direct distribution to the six commuter authorities.

Comments were also received on the regulation from Amtrak and Conrail. Amtrak commented that its concern with the interim rule was that it did not provide for direct distribution of funds to Amtrak or deal with the financial responsibility for potentially substantial tasks that Amtrak may be requested to perform in connection with the transfer of commuter services from Conrail. Amtrak further suggested that to the extent the Federal government does not provide funding to Amtrak through DOT, NCSC and the individual commuter authorities will have to work to accommodate the necessity for Amtrak to obtain appropriate reimbursement from them. FRA and UMTA have evaluated Amtrak's concerns. However, it does not appear from the statutory language or legislative history that Congress intended funds provided under section 1139(b) to be provided to Amtrak by the Department through these regulations.

Conrail focused on several issues in its comments. Conrail agreed with the commuter authorities that transition assistance should be provided earlier primarily in fiscal years 1982 and 1983. Conrail also agreed with the provision in the interim rules allowing payment for Conrail inventories to be made with transition assistance. Conrail indicated that it also intends to seek reimbursement for Conrail's costs in assisting NCSC, the commuter authorities, and their consultants in the transition effort. Finally, Conrail suggested that an important objective of the transition process is the continuation of operations by Conrail on an uninterrupted basis until December 31, 1982, and that in order to accomplish this transition funds should be available only to those agencies that keep their payments to Conrail under their respective operating agreements up to date. FRA and UMTA do not agree that a restriction of this type should be included in these final regulations.

Section-by-Section Analysis

Sec. 670.1 Purpose.

Section 670.1 describes the general purpose of the final regulation which is to ensure the timely transfer of Conrail commuter operations to new operators and to equitably allocate transition assistance. This section remains unchanged from the interim rule.

Sec. 670.3 Applicability.

Section 670.3 provides that this part applies to applications for and disbursement of transition funds to facilitate the transfer of rail commuter services from Conrail to other operators under section 1139(b) of the NERSA of 1981. It remains unchanged from the interim rule.

Sec. 670.5 Definitions.

Section 670.5 includes definitions of terms used in the final regulation. The term ACS was used in the interim rule to describe Amtrak Commuter Services Corporation. The terms Northeast Commuter Services Corp. or NCSC are used in the final rule in response to action by the Corporation's Board of Directors to change the corporate name. Definitions for terms describing the six commuter authorities have also been added to this section and the section has been reorganized alphabetically.

Sec. 670.7 Eligibility.

Provisions on eligibility for transition assistance have not been changed from the interim rule.

Sec. 670.9 Commuter service transition assistance.

Section 670.9 which includes provisions allocating transition assistance among the six commuter authorities and NCSC and describes the time period when the funding will be available has been substantially changed from the interim rule. Subsection (a) now provides that NCSC shall be eligible to receive up to $4 million of transition assistance funds to cover general administrative expenses and the costs of services it provides in common for all commuter authorities. This is the same level of funding as was provided in the interim rule. However, provisions in the interim rule allowing commuter authorities operating their own service to claim a share of transition funds not disbursed to NCSC or not yet obligated or expended by NCSC have been deleted. It appears that NCSC will require the $4 million allocated to it in the interim rule. Since a legislative solution is being sought to the additional funding needs of the commuter authorities, it is unlikely that a reallocation of funds from NCSC to the commuter authorities is necessary.

Subsection (b) retains from the interim rule the formula used to allocate the remainder of the transition assistance to the six commuter authorities. As was indicated in the preamble of the interim rule, the allocation formula was developed by the affected commuter authorities and selected by FRA and UMTA as the most effective and equitable of the available alternatives. It should be emphasized, however, that the allocation formula will govern only the distribution of the $45 million appropriated in the Department of Transportation Appropriations Act 1982 pursuant to section 1139(b) of NERSA and will not govern the distribution of any funds appropriated in the future to accomplish the transfer of commuter operations.

Subsection (c) provides for direct distribution to NCSC of transition assistance funds to be used for development of the Accounting Management Control Data Processing System and for the conduct of SEPTA labor negotiations. NCSC will be eligible to receive up to $3 million of the funds

allocated to SEPTA, MTA and CDOT to cover the costs of development of the computer data processing system to be used by these agencies. The share of the costs to be borne by each agency is also to be based on calendar year 1980 car mile and revenue passenger data provided by Conrail to each agency. A new appendix B has been added to the final rule containing this allocation formula. In addition, NCSC will be eligible to receive up to $750,000 of the funds allocated to SEPTA to cover the costs of the labor negotiation effort to be conducted by NCSC on SEPTA's behalf. FRA and UMTA have decided to provide funding for these two items directly to NCSC because it is essential that work on these items begin as expeditiously as possible and a direct distribution of funds to NCSC is the best way to accomplish this goal.

Subsection (d) provides that NCSC is to be the applicant for transition assistance for its general administrative expenses and services it provides for all cummuter authorities, for development of the Accounting Management Control Data Processing System and for SEPTA's labor negotiations. Commuter authorities are to be the applicants for all other transition assistance.

Subsection (e) describes when the transition assistance funds will be available to NCSC and the commuter authorities. The schedule for release of funds has been significantly shortened and a more detailed discussion of this change is contained in the general comments section.

Sec. 670.11 Projects or activities for which transition assistance may be expended.

Section 670.11 outlines the activities that are eligible for transition assistance. A number of comments were received on this section and it has been significantly amended and reorganized in the final rule.

The projects and activities that are eligible for transition assistance are now included in a new subsection (a) entitled "Eligible Costs". No comments were received on subsection (a) of the interim rule which provided that planning and study costs incurred in deciding whether to provide post-transfer service directly or through NCSC would be eligible for reimbursement. It has been retained unchanged in the final rule as subsection (a)(1).

Subsection (b) allowing reimbursement for legal expenses has been rewritten in accordance with a suggestion from MTA that it was too narrowly drawn. Included in the final rule as subsection (a)(2) it now provides reimbursement for planning, labor consultant and legal expenses incurred in effecting the transfer of service from Conrail to replacement operators including all activities undertaken by commuter authorities or NCSC to implement provisions of NERSA. Subsection (d) of the interim rule authorizing reimbursement for legal and planning expenses incurred in negotiating new labor agreements has been deleted since it is now covered by this expanded category.

Subsection (a)(3) includes the former subsection (e) allowing reimbursement for planning and study costs incurred in making decisions about post-transfer routes and levels of service. It remains unchanged from the interim rule.

Subsection (a)(4) expands subsection (c) from the interim rule allowing transition funds to be used for the purchase of parts and fuel inventory from Conrail. Several comments suggested that this category should be expanded. FRA and UMTA have reviewed the suggested additions and agree that other expenses of this type should be eligible for reimbursement. Accordingly, the new subsection provides that transition funding will be available for purchase of necessary parts, fuel and other inventory, tools, equipment, rolling stock, and facilities from Conrail and other entities. An allowance for purchase of items from other than Conrail was added in response to a comment from NJ Transit that Conrail may not have or may not elect to sell certain items to a commuter authority. FRA and UMTA do not intend for transition assistance to be used to fund general capital programs and reimbursement will be provided only for capital items directly related to the transfer of commuter operations. A provision has also been added noting that Federal funds may not be used for acquisition of fixed facilities and rolling stock from Conrail which are required to be transferred without consideration under section 506(g) of the Rail Passenger Service Act, 45 U.S.C. 586(g).

Subsection (a)(5) expands subsection (g) of the interim rule to allow for reimbursement for costs incurred for additional staffing and working capital required by NCSC and for commuter authorities electing to undertake direct operation. The interim rule identified these costs as eligible expenses only on behalf of NCSC. The general comments section contains a more detailed discussion of this change.

Subsection (a)(6) identifies as eligible expenses start-up costs of NCSC and of commuter authorities operating their own service, including costs of acquiring data processing, implementing financial and operating systems, and financing transfer or replication of operating plans and procedures. This section was not included in the interim rule but has been added in response to a comment from NJ Transit.

The interim rule provided that the list of eligible projects and activities was not to be an exclusive one. This concept has been retained and expanded in the final rule. A new subsection (b) has been added to § 670.11 indicating that the Administrators will consider applications for transition assistance from NCSC and commuter authorities for projects or activities not specifically listed in subsection (a) provided such projects or activities are directly related to the transfer of commuter services. New subsection (b) also provides, however, that transition assistance is not to be provided to cover the costs of capital items unrelated to the transfer or for operating assistance.

The interim rule provided that eligible costs include expenses incurred from October 1, 1981. This provision has been retained in the final rule and is included in new subsection (c).

Sec. 670.13 Applications.

Section 670.13 describes the information to be included in applications for transition assistance. No comments were received on this section and only minor changes have been made in order to be consistent with revised section 670.9.

Sec. 670.15 Waiver and modification.

Section 670.15 provides that the Administrators may waive or modify requirements imposed in these regulations for good cause. It remains unchanged from the interim rule.

Sec. 670.17 Disbursement of commuter service transition assistance.

Section 670.17 describing how funds will be made available once an application is approved remains unchanged from the interim rule.

Sec. 670.19 Record, audit and examination.

This section outlines financial record keeping requirements and access to such records. It remains unchanged from the interim rule.

Sec. 670.21 Effective date.

The interim rule established an effective date of October 1, 1981, in order to avoid penalizing commuter authorities that had begun transition planning prior to publication of the interim rule. Comments received on this section were in support of this

determination and it remains unchanged in the final rule.

Sec. 670.23 Termination date.

Section 670.23 of the interim rule provided that this regulation would expire on October 1, 1986. Since termination provisions are included in section 1139(b) of the Northeast Rail Service Act, provisions on termination are not required in these regulations and have been deleted in the final rule.

Appendix A—Car Mile—Revenue Passenger Allocation

Appendix A describes the formula to be used to allocate available transition assistance to the commuter authorities. All comments on the allocation formula supported the formula chosen. The Delaware Department of Transportation has been included in Appendix A in the final rule as a separate entity. Car mile and revenue passenger statistics for Delaware's service were included with SEPTA's numbers in the interim rule since Delaware contracted for service with Conrail through SEPTA. Since DelDOT has indicated that it will not continue to contract with SEPTA after transfer of service on January 1, 1983, and that it intends to contract directly with NCSC, FRA and UMTA have determined that Delaware should receive transition assistance under this rule in accordance with the formula governing distribution to all other commuter authorities. As a result, Appendix A has been modified to reallocate Delaware car mile and revenue passenger statistics from SEPTA to DelDOT.

Appendix B

Appendix B describes the formula to be used to allocate the cost of NCSC's development of the Accounting Management Control Data Processing System among the three commuter authorities (SEPTA, MTA and CDOT) that intend to use the system. This appendix was not included in the interim rule but has been added in response to changes made in section 620.9 of the final rule.

Appendix C—Certificate

Appendix C describes the certificate to be executed by persons filing applications for transition assistance. No comments were received on this appendix and it remains unchanged from the interim rule.

Regulatory Evaluation

Because the economic impact of the rule is minimal, the FRA and UMTA have concluded that the rule will not constitute a major rule under the terms of Executive Order 12291 or a significant rule under DOT's regulatory policies and procedures. Consequently, the rule does not require a regulatory impact analysis pursuant to Executive Order 12291 or a regulatory analysis or regulatory evaluation pursuant to DOT's regulatory policies and procedures.

The final rule will have a direct economic impact only on six commuter authorities and upon NCSC. The commuter authorities are major public transit providers and are not small entities within the terms of the Regulatory Flexibility Act (Pub. L. No. 95–354, 94 Stat. 1164 (1980)). The rule does not place any new requirements or burdens on the public. The rule will not have a significant economic impact on any small entity. Based on these facts, it is certified that the rule will not have a significant impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act.

List of Subjects in 49 CFR Part 670

Railroads.

Issued on: July 29, 1982.

Robert W. Blanchette,

Administrator, Federal Railroad Administration.

G. Kent Woodman,

Acting Administrator, Urban Mass Transportation Administration.

In consideration of the foregoing, 49 CFR is amended by adding a new Part 670 (49 CFR Part 670) to read as follows:

PART 670—TRANSFER OF COMMUTER SERVICES

Sec.

Authority: Sec. 1139(b), Northeast Rail Service Act of 1981, Subtitle E, Title XI, Pub. L. 97–35 (95 Stat. 652); regulations of the Office of the Secretary of Transportation, 49 CFR 1.49 and 1.51.

§ 670.1 Purpose.

The purpose of this Part is to prescribe standards for the obligation of funds authorized under section 1139(b) of the Northeast Rail Service Act of 1981, Subtitle E of Title XI of Pub. L. 97–35, to ensure that commuter rail services operated by the Consolidated Rail Corporation under contract to commuter authorities are transferred either to those commuter authorities for operation directly or to the Northeast Commuter Services Corporation for operation on their behalf on or before January 1, 1983 and to ensure the equitable distribution of those funds.

§ 670.3 Applicability.

This Part applies to applications for and disbursement of transition funds under section 1139(b) of the Northeast Rail Service Act of 1981 to facilitate the transfer of rail commuter services from Conrail to other operators.

§ 670.5 Definitions.

As used in this part—

(a) "Act" means the Northeast Rail Service Act of 1981, Subtitle E, Title XI, Pub. L. 97–35.

(b) "Administrator" means the Federal Railroad Administrator or his delegate and the Urban Mass Transportation Administrator or his delegate.

(c) "Applicant" means the Northeast Commuter Services Corporation or a commuter authority that submits an application for Federal assistance pursuant to this Part.

(d) "CDOT" means the Connecticut Department of Transportation.

(e) "Commuter authority" means any State, local, or regional authority, corporation, or other entity that provides commuter service, as defined in section 1135(a)(4) of the Act, and for which Conrail was providing commuter service under section 303(b)(2) or 304(e) of the Regional Rail Reorganization Act of 1973, 45 U.S.C. 743(b)(2), 744(e), on August 13, 1981. Successors to these entities are also deemed to be commuter authorities.

(f) "Conrail" means the Consolidated Rail Corporation.

(g) "DelDOT" means the Delaware Department of Transportation.

(h) "MDOT" means the Maryland Department of Transportation.

(i) "MTA" means the Metropolitan Transportation Authority.

(j) "NJ Transit" means the New Jersey Transit Corporation.

(k) "NCSC" means Northeast Commuter Serivces Corporation created under section 501 of the Rail Passenger Service Act, 45 U.S.C. 581.

(l) "SEPTA" means the Southeastern Pennsylvania Transportation Authority.

§ 670.7 Eligibility.

NCSC and commuter authorities may apply to the Administrators under § 670.9 of this part for such commuter service transition assistance as is provided under this Part.

§ 670.9 Commuter service transition assistance.

(a) *NCSC administrative expenses.* NCSC shall be eligible to receive up to $4 million of transition assistance funds appropriated by Congress under section 1139(b) of the Northeast Rail Service Act to cover general administrative expenses and the costs of services it provides in common for all commuter authorities such as the transfer of assets from Conrail to the commuter authorities.

(b) *Commuter authority allocation.* The remainder of the transition assistance funds appropriated by Congress under section 1139(b) shall be allocated to the six commuter authorities on the basis of calendar year 1980 car mile and revenue passenger data provided by Conrail to each agency. The allocation for the benefit of each commuter authority shall be an amount equal to the sum of: (1) Fifty percent of the remainder of available funds multiplied by the percentage that the number of car miles of commuter service operated for the commuter authority by Conrail in 1980 represents of the total number of car miles for all commuter service operated by Conrail in 1980; and (2) fifty percent of remainder of the amount available multiplied by the percentage that the number of revenue passengers carried by Conrail for the commuter authority in 1980 represents of the total number of revenue passengers for all commuter service operated by Conrail in 1980. The derivation of each commuter authority's allocation is presented in Appendix A. Except for the specific expense categories outlined in subsection (c) of this section, transition assistance funds allocated under this subsection shall be provided directly to the commuter authorities.

(c) *Direct commuter authority allocations to NCSC.* Transition assistance funds allocated under subsection (b) shall be provided directly to NCSC rather than to the appropriate commuter authorities for the following categories of eligible expenses:

(1) *Accounting management control data processing system.* Up to $3 million of the funds allocated to SEPTA, MTA and CDOT shall be provided directly to NCSC to cover the costs of development of the Accounting Management Control Data Processing System to be used by these agencies. The share of the costs of development of the system to be borne by each agency shall be calculated on the basis of calendar year 1980 car mile and revenue passenger data provided by Conrail to each agency. The share for each agency shall be an amount equal to the sum of: (i) Fifty percent of the cost of the development of the system multiplied by the percentage that the number of car miles of commuter service operated for the commuter authority by Conrail in 1980 represents of the total number of car miles operated for all three commuter authorities (SEPTA, MTA and CDOT) by Conrail in 1980; and (ii) fifty percent of the cost of the development of the system multiplied by the percentage that the number of revenue passengers carried by Conrail for the commuter authority in 1980 represents of the total number of revenue passengers for all three commuter services (SEPTA, MTA and CDOT) operated by Conrail in 1980. The derivation of each commuter authority's allocation is presented in Appendix B. In the event NCSC does not require the full amount for development of the system, the remaining funds shall be reallocated to SEPTA, MTA, and CDOT in accordance with the formula described in this subsection.

(2) *Labor negotiations.* Up to $750,000 of the funds allocated to SEPTA shall be provided directly to NCSC to cover the costs of the labor negotiation effort to be conducted by NCSC on behalf of SEPTA. In the event NCSC does not require the full amount allocated to it for this purpose, the remaining funds shall be distributed to SEPTA.

(d) *Applicants.* NCSC shall be the applicant for transition assistance for its general administrative expenses, for services it provides for all commuter authorities, for development of the Accounting Management Control Data Processing System, and for labor negotiations conducted on behalf of SEPTA. Commuter authorities shall be the applicants for all other transition assistance.

(e) *Timing of transition assistance.* Transition assistance funds appropriated by Congress pursuant to section 1139(b) of the Act in the 1982 Department of Transportation and Related Agencies Appropriation Act (Pub. L. 97-102) have been made available for disbursement to applicants as of February 4, 1982. All such funds are available for disbursement in fiscal year 1982 and shall remain available until October 1, 1986.

§ 670.11 Projects or activities for which transition assistance may be expended.

(a) *Eligible Costs.* Transition projects or activities which qualify for Federal funding include the following, subject to the Administrators' determination that such projects or activities are directly related to the transfer of commuter operations:

(1) Planning and study costs incurred in deciding whether to provide post-transfer service directly or through NCSC;

(2) Planning, labor consultant, and legal expenses incurred in effecting the transfer of service from Conrail to other operators including all activities undertaken by NCSC or commuter authorities to implement provisions of the Northeast Rail Service Act of 1981;

(3) Planning and study costs incurred in making decisions about post-transfer routes and levels of service;

(4) Purchase of necessary parts, fuel and other inventory, tools, equipment, rolling stock, and facilities from Conrail and other entities: Provided, that Federal funding may not be used for acquisition of fixed facilities and rolling stock from Conrail, which are required to be transferred without consideration under section 506(g) of the Rail Passenger Service Act, 45 U.S.C. 586(g);

(5) Costs incurred for additional staffing and working capital required by NCSC or commuter authorities electing to undertake direct operation: Provided, however, that funding for additional staffing for commuter authorities shall be limited to transition staffing needs and shall not include personnel operating costs currently incurred in the normal course of business; and

(6) Start-up costs of NCSC or of commuter authorities operating their own service, including costs of acquiring data processing, implementing financial and operating systems, and financing transfer or replication of operating plans and procedures.

(b) *Other eligible expenses.* The Administrators will consider applications for transition assistance from NCSC or commuter authorities for projects or activities not listed in subsection (a) of this section provided such projects or activities are directly related to the transfer of commuter service from Conrail to other operators. However, transition assistance will not be provided to cover the costs of capital items and operating expenses unrelated to the transfer.

(c) *Timing of expenditures.* Eligible costs for NCSC and the commuter authorities include expenses incurred from October 1, 1981.

§ 670.13 Applications.

(a) *Applications for transition assistance funds.* Each application shall include, in the order indicated and identified by applicable section numbers and letters corresponding to those used in this Part, the following information as to the applicant:

(1) Full and correct name and principal business address;

(2) Name, title, and address of the person to whom correspondence regarding the application should be addressed;

(3) A detailed description of the projects or activities for which assistance is sought, together with timetables which show estimated completion dates for each such project or activity;

(4) The total amount of assistance requested with a funding level justification for each project or activity;

(5) Evidence that the applicant has established, in accordance with Attachment G to Office of Management and Budget Circular A–102, adequate procedures for financial control, accounting, and performance evaluation, in order to assure proper use of the Federal funds;

(6) An assurance by the applicant that it will use Federal funds provided under the Act solely for the purposes for which assistance is sought and in conformance with the limitations on the expenditures allowed under the Act and applicable regulations;

(7) Two copies of a minority business enterprise plan prepared in accordance with 49 CFR Part 23;

(8) Assurances that the applicant will comply with the following Federal laws, policies, regulations, and pertinent directives:

(i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), and DOT regulations issued thereunder (49 CFR Part 21);

(ii) If construction is involved, Executive Order 11246 and Department of Labor regulations issued thereunder (41 CFR Part 60);

(iii) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and DOT regulations issued thereunder (49 CFR Part 27);

(iv) DOT regulations governing the use of minority business enterprises (49 CFR Part 23);

(v) 40 CFR Part 1520 which prohibits use of financial assistance for facilities on the Environmental Protection Agency's list of violating facilities;

(9) An opinion of the applicant's legal counsel advising that (i) counsel is familiar with (A) the applicant's corporate or other organizational powers; (B) section 1139(b) of the Act; (C) the other Acts referred to in these regulations; and (D) any regulations issued to implement those Acts; (ii) the applicant is authorized to make the application including all certifications, assurances, and affirmations required; (iii) the applicant has the requisite authority to carry out the actions proposed in the application and to fulfill the obligations created thereby; and (iv) the applicant has the authority to enter into all of the legal commitments referred to in paragraph (a)(8) of this section and that these commitments are legal and binding upon the applicant and enforceable in accordance with their terms;

(10) For purchases covered by section 670.11(a)(4) executed copies of any agreements between the applicant and Conrail or another entity; and

(11) Any other information the Administrators may deem necessary concerning an application filed under this part.

(b) *Subsequent applications for transition assistance funds.* Each subsequent application for transition assistance funds shall include the information submitted in subsection (a) except that any information or material that has been submitted by an applicant need not be resubmitted if the prior submission is identified and incorporated by reference in the application. Where the prior submission is in need of any changes, the changes may be submitted provided the prior submission is identified and incorporated by reference. Any assurance, certification, or affirmation previously made by the applicant, in connection with a prior submission, must be reaffirmed by the applicant when any identification and incorporation by reference of previously submitted materials is made.

(c) *Execution and filing of application.* (1) Each application shall bear the date of execution and be signed by the Chief Executive Officer of the applicant. Each person required to execute the application will execute a certificate in the form of Appendix B to this Part.

(2) Each original application and certificate, and four copies thereof, shall be filed with the Urban Mass Transportation Administrator, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Each copy shall show the dates and signatures that appear in the original and shall be complete in itself.

§ 670.15 Waiver and modification.

The Administrators, upon good cause shown, may waive or modify any requirement of this Part not required by law or make any additional requirements they deem necessary.

§ 670.17 Disbursement of commuter service transition assistance.

After receipt, review, and approval of an application meeting the requirements of this Part, the Administrators will enter into a grant agreement with an applicant for the approved amount of transition assistance. The terms and conditions of payment shall be set forth in the grant agreement.

§ 670.19 Record, audit and examination.

(a) Each recipient of transition assistance under this Part shall keep such records as the Administrators shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, and such other records as will facilitate an effective audit.

(b) Until the expiration of three years after the completion of the project or undertaking referred to in paragraph (a) of this section, the Administrators and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which, in the opinion of the Administrators or the Comptroller General, may be related or pertinent to such financial assistance.

§ 670.21 Effective date.

This part is effective October 1, 1981.

APPENDIX A.—CAR MILE—REVENUE PASSENGER ALLOCATION COMMUTER AUTHORITY ALLOCATIONS

[1980 Conrail Data]

	A	B	C	D
	Car miles (000's)	Percent	Revenue passengers (000's)	Percent
MTA	21,139	29.63	37,745	32.00
CDOT	7,184	10.07	11,522	9.77
NJ Transit	30,570	42.85	37,262	31.59
SEPTA	11,926	16.72	30,571	25.93
DelDOT	381	.53	500	.42
MDOT	143	.20	340	.29
Total	71,343	100.00	117,940	100.00

Commuter Authority Allocations

	B×50%	+	D×50%	=	Allocation
MTA	29.63%×50%		32.00%×50%	=	30.8 pct.
CDOT	10.07%×50%		9.70%×50%	=	9.9 pct.
NJ Transit	42.85%×50%		31.59%×50%	=	37.2 pct.

APPENDIX A.—CAR MILE—REVENUE PASSENGER ALLOCATION COMMUTER AUTHORITY ALLOCATIONS—Continued

[1980 Conrail Data]

	A	B	C		D
	Car miles (000's)	Percent	Revenue passengers (000's)		Percent
SEPTA	16.72%×50%		25.93%×50%	=	21.3 pct.
DelDOT	.53%×50%		.42%×50%	=	[1].5 pct.
MDOT	.2%×50%		.29%×50%	=	[1].3 pct.

[1] Rounding off results in this figure being increased slightly.

APPENDIX B—CAR MILE—REVENUE PASSENGER ALLOCATION ACCOUNTING MANAGEMENT CONTROL DATA PROCESSING SYSTEM

[1980 Conrail Data]

	A	B	C		D
	Car miles (000's)	Percent	Revenue passengers (000's)		Percent
MTA/CDOT.	28,323	70.37	49,267		61.71
SEPTA	11,926	29.63	30,571		38.29
Total	40,249	100.00	79,838		100.00

Commuter Authority Allocations

	B×50%	+	D×50%	=	Allocation.
MTA/CDOT.	70.37%×50%		61.71%×50%	=	66 pct.
SEPTA	29.63%×50%		38.29%×50%	=	34 pct.

Appendix C—Certificate

The following is the form of the certificate to be executed by each person signing an application: ———— (Name of Person) certifies that he is the Chief Executive Officer of ———— (Name of Applicant); that he is authorized to sign and file this application with the Federal Railroad Administrator and the Urban Mass Transportation Administrator; that he has carefully examined all of the statements contained in the application; that he has knowledge of the matters set forth therein and that all statements made and matters set forth therein are true and correct to the best of his knowledge, information and belief.

[FR Doc. 82-21191 Filed 8-4-82; 8:45 am]

BILLING CODE 4910-06-M,
BILLING CODE 4910-57-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 2802-146]

Groundfish of the Gulf of Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, National Marine Fisheries Service, has determined that the biologically safe level of sablefish in the Southeast Outside District of the Eastern Regulatory Area of the Gulf of Alaska will be achieved on August 2, 1982, and that early closure of the fishery is necessary to protect sablefish stocks. The Secretary of Commerce therefore issues this notice of closure of the Southeast Outside District to fishing for sablefish by vessels of the United States on August 2, 1982.

DATES: This notice is effective from 12:00 noon Alaska Daylight Time (ADT), August 2, 1982, until 11:59 p.m. Alaska Standard Time (AST), December 31, 1982. This notice of closure was filed for public inspection with the Office of the Federal Register on August 2, 1982, at 5:02 p.m. Eastern Daylight Time (EDT). Public comments on this notice of closure are invited until August 17, 1982.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907-586-7221.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP), governing that fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act, provides for inseason adjustments, by field order, to season and area openings and closures. Implementing rules at 50 CFR 672.22(b) specify that these orders will be issued by the Secretary of Commerce under criteria set out in that section.

The FMP specifies the optimum yield for sablefish in the Gulf of Alaska to be 13,000 metric tons on the basis of catch data analyzed prior to implementation of the FMP in 1978. The total OY is apportioned among the Western, Central, and Eastern Regulatory Areas on the basis of past catches.

The North Pacific Fishery Management Council established the Yakutat, Southeast Outside, and Southeast Inside Districts within the Eastern Regulatory Area for the purpose of better management of localized sablefish stocks. The optimum yields for the Yakutat, Southeast Outside, and Southeast Inside Districts have been set at 3,400, 3,000, and 700 metric tons (mt), respectively. Management of sablefish within the Southeast Inside District, which lies within the territorial sea off Alaska's coast, is not subject to Federal regulations.

The relative abundance of sablefish in the Southeast Outside District has declined from that anticipated at the beginning of the fishing year. This decline is indicated by results of a sablefish index abundance survey conducted by the National Marine Fisheries Service (NMFS) in 1981 and repeated in 1982. The 1982 survey showed a 50 percent abundance decline and preliminary data from the 1982 survey indicate that stock abundance has declined further.

The 1982 sablefish fishery off southeast Alaska opened January 1, 1982. As of July 16, 1982, 992 mt have been harvested in the Southeast Outside District by 50 boats, which is a 52 percent increase in the number of boats that fished through the same period in 1981. The 1977 year class, which was expected to be recruited into the 1982 fishery, has been noticeably absent in the catches.

At the current catch rate, it is estimated that the 1982 catch will equal the entire 1981 catch of 1,350 mt on August 2. The 1981 and 1982 stock abundance surveys and the absence of the 1977 year class in the 1982 harvest indicate the relative abundance of sablefish to be low, and that further fishing beyond the 1981 catch level of 1,350 mt would harm the resource.

In accordance with 50 CFR 672.22(b), the Regional Director has determined that (1) the actual condition of sablefish stocks in the Southeast Outside District is substantially different from the condition that was previously anticipated; and (2) this difference reasonably supports the need to protect sablefish stocks by closing the FCZ in the Southeast District to further fishing for sablefish during the current fishing year after 12:00 noon ADT, on August 2, 1982.

For these reasons, the Southeast Outside District of the Eastern Regulatory Area, as defined in 50 CFR 672.2, is closed to all fishing for sablefish from 12:00 noon ADT, August 2, 1982, until 11:59 p.m. AST, December 31, 1982.

This closure will not be effective prior to filing this notice for public inspection with the Office of the Federal Register and publicizing the closure for 48 hours through Alaska Department of Fish and Game (ADF&G) procedures, under 50 CFR 672.22(a)(2).

Under 50 CFR 672.22(b)(4), public comments on this notice of closure may be submitted to the Regional Director at the address stated above for 15 days following the effective date. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during

business hours (8:00 a.m. to 4:30 p.m.) at the NMFS Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802. If comments are received, the necessary of this closure will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this field order's continued effect, modifying it, or rescinding it.

Other matters

The sablefish stock in the Southeast Outside District will be subject to further harm unless this order takes effect promptly. The Agency thereore finds for good cause that advance notice and public comment on this order is contrary to the public interest and that there should be no delay in its effect data.

This action is taken under the authority of regulations specified at 50 CFR 672.22, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fish, Fisheries, Reporting requirements.

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

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-21208 Filed 8-2-82; 5:02 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No 151
Thursday, August 5, 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

Agricultural Marketing Service

7 CFR Part 1030

[Docket No. AO-361-A19]

Milk in the Chicago Regional Marketing Area; Decision on Proposed Amendment to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would lower the shipping requirements for pool supply plants under the Chicago Regional milk order for the months of September, October, November and December. Conforming changes in the limits on diverted milk are provided for the same months. The decision is based on industry proposals considered at a public hearing held March 30, 1982. The proposed order amendments are necessary to reflect current marketing conditions and to assure orderly marketing in the Chicago Regional area.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202/447-7311.

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

Prior documents in this proceeding:

Notice of Hearing: Issued March 10, 1982; published March 16, 1982 (47 FR 11283).

Recommended Decision: Issued June 30, 1982; published July 6, 1982 (47 FR 29247).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Chicago Regional marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Madison, Wisconsin on March 30, 1982. Notice of such hearing was issued on March 10, 1982 (47 FR 11283).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Program Operations, on June 30, 1982, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

Further, Willam T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that the amendments adopted herein, which are based on the hearing record, would not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

In Issue No. 1: Two paragraphs have been added after the 36th paragraph of the findings title "Pooling standards for supply plants."

The material issues on the record of the hearing relate to:

1. Pooling standards for supply plants.
2. Need for emergency action.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pooling standards for supply plants.* The pool supply plant shipping percentages should be reduced 5 percentage points for each of the months of September through December. The new percentages should be 25 percent for September, 30 percent for October and November and 20 percent for December.

The present minimum shipping percentages for pool supply plants are 30 percent for September, 35 percent for October and November, 25 percent for December , and 20 percent for all other months. Also, a supply plant which meets the shipping requirements for pool plant status during each of the months of September through March may continue to be a pool plant without shipments to pool distributing plants during each of the following months of April through August. Basically, the percentages represent the amount of a supply plant's receipts from producers that must be delivered to pool distributing plants.

The order provides also that the Director of the Dairy Division may increase or decrease, on a temporary basis, the supply plant shipping percentages by up to 10 percentage points for any of the months of September through March if, after investigation, it is found that such revision is necessary to obtain needed shipments or to prevent uneconomic shipments of milk to distributing plants. This provision (§ 1030.7(b)(5)) is referred to herein as the Director's discretionary authority. Similarly, the Director has the authority to make temporary adjustments in the order's diversion allowances. Such allowances represent the amount of milk from producers that may be delivered directly from farms to nonpool plants and still be pooled and priced under the order. Milk that is diverted from pool plants normally is being disposed of in surplus uses.

The Central Milk Producers Cooperative (CMPC), a group of 14 cooperatives representing a substantial proportion of the producers supplying milk to the Chicago Regional market, proposed the reduction of the shipping requirements for pool supply plants by 5 percentage points for each of the months of September, October, November and December. The proponent's witness said that the percentages now provided are too high in relation to present marketing conditions for the Chicago Regional area. The witness said that the shipping requirements for supply plants should be reduced to prevent inefficient movements of milk since a lesser proportion of the available milk supplies at supply plants is needed at distributing plants.

CMPC also proposed in the hearing notice that the supply plant shipping percentages and diversion allowances be temporarily revised pursuant to the Director's discretionary authority in an amount up to 10 percentage points to prevent uneconomic deliveries of milk to distributing plants. At the hearing, the

witness for CMPC said that the organization had decided to delay a request for action under the Director's discretionary authority until mid-summer when the industry would have more specific milk production and sales data for the market. In his view, a better analysis could be made at that time concerning any temporary change.

Farmers Union Milk Marketing Cooperative (FU) supported the first proposal of CMPC. In addition, the FU witness presented two modifications to reduce the shipping requirements for pool supply plants during each of the months of January, February and March. The witness proposed that the shipping requirements for supply plants be eliminated during January, February and March if the supply plant had satisfied the requirements for pool plant status during each of the preceding months of September, October, November and December. The witness said that the modified proposal would further eliminate uneconomic movements of milk from supply plants and promote more orderly marketing conditions in the Chicago Regional market.

The FU witness suggested that an alternative to the complete elimination of shipping requirements during January through March would be to reduce the shipping percentage to 10 percent from the 20 percent now provided. The witness said that this modification would allow the minimum shipping requirement to vary between 0 percent and 20 percent by the use of the Director's discretionary authority. The witness said that the reduction or elimination of shipping requirements in this way would contribute to orderly marketing in the Chicago Regional area by reducing uneconomic shipments of milk.

Two proprietary handlers opposed any reduction in the minimum performance standards for supply plants. Each spokesman said that lowering the requirements would encourage more milk to be pooled under the order. They said that the market presently has adequate supplies of milk and that additional milk is not needed.

A dairy industry consultant proposed that the Director's discretionary authority be eliminated. He said that any adjustment to the supply plant shipping percentages and diversion allowances should be made only after a hearing had been held to consider any such change.

In a post-hearing brief, a spokesman for a trade association of cheese plants supported the CMPC proposal. Also, he urged the elimination of the provision that milk from a farm shall not be eligible for diversion unless during the months of September through March at least one day's production is physically received during the month at the pool plant from which diverted. He said that such elimination would not affect adversely the availability of milk for the fluid market.

In support of lower shipping requirements for supply plants, the CMPC witness said that the proposed adjustments were necessary to prevent uneconomic and inefficient movements of milk. He said that the receipts of milk from producers during each of the months of September through December 1981 exceeded receipts from producers for these same months in 1980 by more than ten percent. To illustrate current marketing problems, the CMPC witness presented a projection of the proportion of supply plant milk expected to be shipped to distributing plants by 49 of the supply plants associated with the CMPC group during the months of September 1982 through March 1983, as follows:

Month/Year	Projected shipping percentage	Order's shipping percentage
September 1982	22.2	30
October	24.4	35
November	24.8	35
December	23.4	25
January 1983	22.6	20
February	20.9	20
March	19.2	20

The 1982–83 estimated figures were based on the assumption that receipts of producer milk would continue to increase during the coming September-March 1982–83 period by 3 to 5 percent over the receipts for each of the respective months of the previous year. Class I sales were estimated to be the same for each month during the 1982–83 period as the sales had been for the respective months in the 1981–82 period. The witness said that the proposed reduction in the shipping percentages for supply plants for the September through December period was needed to eliminate uneconomic movements of milk for the sole purpose of qualifying supply plants for pool status.

The Farmers Union witness supported the reduction in the supply plant shipping requirements by five percentage points for each of the months of September, October, November and December. The witness said that the proposed reduction for each month was needed to reduce shipments of milk from supply plants to distributing plants when such shipments were not needed to insure an adequate supply of fluid milk for the market. He noted that from 1976 to 1981 the average monthly quantity of pooled producer milk had increased from 814 million pounds to 1,041 million pounds, an increase of 227 million pounds per month. He said that the Class I use had declined from a monthly average in 1976 of 259 million pounds to a 1981 monthly average of 246 million pounds. The witness said that the monthly average Class I use as a percentage of total pool milk had declined from 32 percent in 1976 to 24 percent in 1981. The witness projected that the continued increases in milk production in 1982, coupled with no indication of improved Class I sales, would cause a further decline in the Class I utilization percentage of total milk receipts in 1982.

The FU witness testified that over the past four years the shipping percentage for supply plants had been reduced temporarily by the Director's discretionary authority in at least two months each year during the September through December period. He noted that under the revisions the shipping requirements for September, October and November in both 1980 and 1981 were not greater than those proposed at this hearing. He said that the shipping requirements for September-November 1981 were, in fact, lower than the percentages proposed by CMPC. He urged that the proposal to reduce the shipping requirements for the September-December period be adopted.

At the hearing, the Farmers Union representative proposed a modification of the supply plant shipping performance standards for the months of January through March. The proposal was not contained in the hearing notice, and it was presented as an appropriate modification of the CMPC proposal. The witness proposed that if a supply plant had been a pool plant during each of the preceding months of September through December, it could be a pool plant for each of the following months of January through August without shipping milk to distributing plants. This modification would eliminate any minimum shipping requirements during January, February and March for supply plants if the plants had been pool plants during the preceding September through December period. This proposed change in the order would extend the current zero shipping standards for qualified supply plants from the months of April through August to a period of January through August each year.

The FU witness said that the proposal would eliminate additional uneconomic movements of milk from supply plants. He said that the proposal would reinstate the shipping performance

standards for supply plants for January, February and March which prevailed prior to 1974. He said that from the order's inception in July 1968 to 1974 zero shipping requirements were applicable during these months to plants satisfying the shipping requirements during the previous fall months. He testified that the 20 percent shipping requirement for the January–March period was unnecessary with a larger volume of milk in the pool and lower Class I use. In his view, reducing the uneconomic movement of milk would promote more orderly marketing conditions for the Chicago Regional area.

The Farmers Union witness presented an alternative modification of the supply plant shipping percentages for January, February and March. He said that if the shipping percentages were not eliminated for these months, the minimum shipping percentages for each month should be reduced to 10 percent from 20 percent. He testified that with a 10 percent minimum shipping requirement, the Director of the Dairy Division could use his discretionary authority to reduce the shipping percentage to zero or to increase the minimum percentage to 20 percent, if needed. He indicated, however, that the minimum shipping requirements for January, February and March could safely be eliminated without jeopardizing the availability of milk for Class I use by handlers.

In a post-hearing brief, a proprietary handler regulated by the Chicago Regional order supported the CMPC proposal to reduce by 5 percentage points the minimum shipping percentages for pool supply plants for each of the months of September through December. He opposed any revision of the shipping percentages for the months of January, February and March. He said that if the minimum percentages for these three months were reduced to zero, there would be no shipping requirements for eight months each year. He said that this lack of shipping requirements would create problems for a Class I handler in obtaining milk at a reasonable plant charge in the months of January, February and March. He said that the Director of the Dairy Division could increase or decrease the shipping percentages by up to 10 percentage points. He thus believed that no change need be made in the minimum shipping performance standards for January, February and March as proposed by Farmers Union.

The present shipping percentages for supply plants were established on the basis of a public hearing in June 1975. Changes in marketing conditions since that time have resulted in these shipping percentages no longer being appropriate for the market.

Total producer milk pooled in the Chicago Regional market has increased each month over the same month of the previous year since May 1979. Prior to that, there have been only four months since the June 1975 hearing in which total producer milk receipts were less than the same month of the previous year. These months were December 1977, July and August 1978 and April 1979.

For the four-month periods of September through December from 1975 to 1981, the average total milk pooled monthly increased each year over the average total of the previous year by 8.7 percent in 1976, 2.0 percent in 1977, 1.1 percent in 1978, 8.1 percent in 1979, 7.5 percent in 1980 and 10.7 percent in 1981.

For the Chicago Regional market, the proportion of total producer milk received at supply plants was 85.0 percent, 89.4 percent, 91.4 percent, 95.9 percent, 96.3 percent and 96.6 percent, respectively, for the September–December periods of 1976 through 1981.

The proportion of producer milk received at pool supply plants that was shipped to pool distributing plants was 32.9 percent, 38.7 percent, 36.9 percent, 35.1 percent, 33.9 percent, and 29.4 percent, respectively, for the September–December periods of 1976–1981.

The percent of total producer milk receipts classified as Class I for the years of 1975–1981 was 36 percent, 32 percent, 31 percent, 30 percent, 28 percent, 26 percent and 24 percent, respectively. A comparison of the average Class I utilization of producer receipts for the 1975–81 September–December periods showed a similar downward trend: 39.8 percent, 35.1 percent, 34.5 percent, 33.1 percent, 30.2 percent, 28.3 percent, and 25.2 percent, respectively.

The market data establish that during the past six years total producer milk receipts have grown each year, and at an increasing rate since 1978. The Class I utilitization percentage of total receipts of producer milk has shown a steady decline since 1975. Also, the market data establish that the percentage of total milk received at distributing plants directly from farms decreased from 15 percent in the September–December 1976 period to less than 4 percent in the 1981 September–December period. Supply plants now account for 96 percent of the milk in the market that is received from producers. Also, a small percentage of the milk that is received at pool supply plants is now needed to satisfy the needs of distributing plants in the market during the September–December periods.

Changes in the market's supply situation have resulted in a number of adjustments in recent years to the pooling standards for supply plants. On the basis of a hearing in June 1975, shipping percentages for supply plants were decreased to the current performance levels for the August–March period. On the basis of a hearing in June 1976, with the amended order effective on August 1, 1977, August was eliminated as part of the qualifying period and the shipping requirements of individual supply plants qualifying in a unit were also eliminated. Subsequently, from August 1977, the supply plant shipping requirements were decreased in 15 months by the Director's discretionary authority: 5 percentage points in November 1977, October and November 1978, October and November 1979, September, October and November 1980, December 1981, January, February and March 1982; 7.5 percentage points in September 1981; and 10 percentage points in October and November 1981.

Shipping standards for supply plants have been used in the Chicago Regional market to assure the availability of milk for distributing plants. Although adequate milk supplies for Class I use are pooled under the order, there would be no incentive under the present Chicago Regional order for supply plants to ship milk to bottling plants in the market without performance standards to encourage such shipments. Performance standards based on association of pooled milk supplies with fluid milk outlets in the market have been needed to assure that milk is made available to such outlets. Nevertheless, such standards for supply plants have had to be adjusted as marketing conditions have changed in the Chicago Regional area. The Director's discretionary authority has been used within its limits to reflect changed marketing conditions, with most adjustments occurring in the September through December period. In October and November 1981, the full authority for a 10-percentage point change was used. The evidence presented at the hearing indicated that marketing conditions have changed form those conditions that existed in 1976, and that amendatory action is needed concerning the supply plant shipping standards for the September through December period.

Failure to lower the supply plant shipping standards when increased supplied of milk are available on the market could result in disorderly marketing conditions. Supply plant operators could be expected to take whatever actions might be necessary to keep the milk normally associated with the market pooled under the order. Actions might include, for example, intensive efforts to seek outlets in other markets to which qualifying shipments from supply plants could be made. Also, handlers might seek access to outlets, both within and outside the Chicago area, by offering marketing services at less than actual cost. These various efforts to maintain fluid milk outlets can result in disruptions in the normal supply patterns for plants and producers. Such disruptions are not in keeping with the intent of the order to foster orderly marketing.

With the changes in the pooling standards, it is desirable that conforming changes be made in the limits on the amount of milk that may be diverted from pool plants to nonpool plants. The current provisions limit the diversions by handlers to nonpool plants to not more than 65 percent during the months of September, October and November, and 80 percent during the months of December through March, of the total quantity of producer milk of each handler.

The witness for the proponent cooperatives testified that with a reduction in the supply plant shipping percentages, a corresponding change in the diversion limits would be appropriate.

The maximum percentage for diversion limits for September, October and November should be increased by 5 percentage points so that the limit would be 70 percent of the total quantity of producer milk reported by each handler. It is noted that the previous combination of the supply plant shipping percentage and the diversion limit for the month of September totaled 95 percent. This same total would be kept under the provisions adopted in this decision since there were no suggestions at the hearing to change this relationship and no evidence of any problems associated with this matter.

The proposals to reduce or eliminate the shipping requirements for supply plants during the months of January, February and March should not be adopted. Although adequate milk supplies for Class I use are pooled under the order, there would be no incentive under the order for supply plants to ship milk to bottling plants in the market without performance standards to encourage such shipments. Performance standards based on the association of pooled milk supplies with fluid milk outlets in the market are needed to assure that milk is made available to such outlets.

The witness for Farmers Union urged that the shipping percentages for January, February and March be eliminated or reduced for all supply plants that had been pool supply plants during the preceding September through December period. The current 20 percent shipping percentage for each month of January, February and March is the lowest shipping requirement under the order. Since August 1977, the supply plant shipping requirements were decreased in only three months during the January through March periods by the director's discretionary authority, i.e., 5 percentage points in January, February and March 1982. There is no persuasive evidence in the record that the marketing conditions in the Chicago Regional market have changed sufficiently to require a lowering of the 20 percent standard for the months of January, February and March. The Director's discretionary authority remains available for use, if needed, to reflect any changed marketing conditions. The proposals to have zero or reduced shipping standards for pool supply plants in the months of January, February and March are denied.

In a post-hearing brief, a spokesman for a trade association of cheese plants in Wisconsin and Illinois supported the CMPC reduction in the supply plant shipping requirements and an increase in the diversion percentages to reflect the marketing conditions of the Chicago Regional market. Also, he urged the elimination of the order requirement that milk from a farm shall not be eligible for diversion unless, during the months of September through March, at least one day's production is physically received during the month at the pool plant from which diverted. He said in the brief that the one-day-a-month shipment during September through March is unnecessary. In his view, the present provision causes uneconomic movements of milk. He said that the elimination of such requirement would not affect adversely the availability of milk for the fluid market.

The one-day-a-month delivery requirement for milk from producers during the months of September through March was not a proposal that was included in the notice for this hearing or discussed as an appropriate modification of the proposals that had been included in the hearing notice. Therefore, it would be inappropriate in this decision to propose any changes with the above requirement. Accordingly, the proposal is denied.

Two witnesses for proprietary handlers objected to the adoption of any reduction in performance standards for supply plants. One proprietary handler testified on behalf of himself and three other handlers. He said that the proposed lower shipping requirements would allow more milk to enter the pool and would lower the blend price paid to producers in the market. He said that the marketing problems being considered at the hearing were due to increasing milk production and decreasing consumption of milk products. He said that the proposal would encourage an even greater level of production in the Chicago market and further increase what he perceived to be an oversupply of milk.

A second handler testified that lowering the shipping standards would add more milk to the market and lower the blend price paid to producers. He was concerned that he would have less milk available for his business if the lower shipping percentages were adopted.

The testimony of each of these witnesses related to their perception of an oversupply of milk for the Chicago Regional market and for the nation. They said that additional milk would be pooled on the market if the shipping percentages were reduced for supply plants, which they said in turn would lower the blend price paid to producers. Neither witness, however, offered any information to establish how the additional milk would materialize. The evidence in the hearing record does not reveal any large quantity of fluid-grade milk in the area that is not already associated with the Chicago Regional market.

The adopted reduction in the shipping percentages for pool supply plants during the September–December period would provide for the continuation of reasonable performance standards in the Chicago Regional market. The reduced standards would permit those producers who have shown their association with the market to maintain their identity to share in the marketwide preceeds of this market as it is presently constituted. The evidence in the hearing record does not reveal that the availability of milk for Class I use by handlers would be jeopardized if the shipping percentages are reduced. The adopted minimum shipping percentages are reasonable and appropriate.

Two comments were received concerning the recommended decision. One of the comments concurred in the findings and conclusions of the decision.

The other comment took exception to some of the findings and conclusions of the decision relating to supply plant shipping requirements and diversion provisions.

The exceptions primarily reiterate the testimony of the exceptor at the hearing and in his post hearing brief. However, this testimony was fully considered in making the findings and conclusions of the recommended decision. The exceptions provide no basis for changing such findings and conclusions, and the request to do so is denied.

No action should be taken concerning the revision of the supply plant shipping percentages pursuant to § 1030.7(b)(5) at this time. The hearing notice contained a proposal to revise the supply plant shipping percentages and diversion allowances pursuant to § 1030.7(b)(5) in an amount up to 10 percentage points to prevent uneconomic shipments. The current order provisions authorize the Director of the Dairy Division to increase or decrease the supply plant shipping percentages and diversion allowances by up to 10 percentage points if it is found that such revision is necessary to obtain needed shipments or to prevent uneconomic shipments.

At the hearing, the CMPC witness stated that the proponent organization had decided to delay its request for any action under § 1030.7(b)(5) until mid-summer. The witness stated that more substantive projections of anticipated receipts of producer milk and anticipated Class I sales could be made and his group would assess the needed temporary use of § 1030.7(b)(5) at that time.

At the hearing and in his post-hearing brief, a diary industry consultant said, in connection with the proposal, that the Director of the Dairy Division had acted in an irresponsible manner in reducing the shipping percentages in the past and had abused his authority under the order. The witness said that the reduction of uneconomic shipments of milk was not the only reason for lowering the shipping percentages. He claimed that the lower percentages had created a tight market for Class I milk which permitted CMPC to strengthen its over-order prices to handlers. The witness indicated that the Director's discretionary provision had been used 22 times since it was adopted and that only once had the provision been used to increase the shipping percentages. He said also that with approximately one billion pounds of milk in the order that it was unbelievable that any provision would be in the order that would extend to the Director of the Dairy Division the authority to lower or raise the shipping percentage by up to 10 percentage points and, in effect, control 100 million pounds of milk. The consultant said that such discretionary authority was contrary to the public interest and was unnecessary for the orderly marketing milk. He proposed that the supply plant shipping percentages and diversion allowances be adjusted by the Department only after a public hearing. He said that any hearing could be held after a three-day notice. The witness, in effect, proposed to eliminate the Director's discretionary authority.

The Director's discretionary authority was included in the order at the time of its promulgation on July 1, 1968, and has remained essentially unchanged since that time. The order is quite explicit on what the Director must do before he may make any revision in the shipping percentages. The Director must issue a notice stating that revision is being considered and invite data, views and arguments on such proposed revision. Only after analysis of all available information may the Director make findings and conclusions. For each month that the Director has revised the supply plant shipping requirements since the inception of the order, the Director of the Dairy Division has followed the procedure prescribed by the order.

Since January 1975, the Director has determined that the marketing conditions in the Chicago Regional market have required a revision in the shipping percentages for 18 months. The hearing record provides no factual basis for the view that the lowering of the shipping standards had tightened the availability of milk to distributing plants for Class I use. The judicious use of the Director's discretionary authority has made the provision an effective tool in helping to maintain the orderly marketing conditions found in the Chicago Regional market. The proposal to eliminate such authority is contrary to promoting orderly marketing conditions and is denied.

2. *Need for emergency action.* There is no need to omit the issuance of a recommended decision as requested.

The request for emergency action by proponents was based on the view that the Department would not have sufficient time after the hearing to issue both a recommended and final decision and make any action taken effective by September 1, 1982.

Interested parties should have an opportunity to file exceptions to the findings and conclusions contained herein. It now appears feasible, and with a reasonable time for exceptions, to issue a final order by September 1. Even if such action does not become effective by this date, an alternate means of adjusting the supply plant shipping percentages is available upon request to and action by the Director of the Dairy Division.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a MARKETING AGREEMENT regulating the handling of milk, and an ORDER amending the order regulating the handling of milk in the Chicago Regional marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement,[1] be published in the **Federal Register.** The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

March 1982 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Chicago Regional marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

List of Subjects in 7 CFR Part 1030

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on August 2, 1982.

C. W. McMillan

Assistant Secretary, Marketing and Inspection Services.

[1] Filed as part of the original document.

Order [2] Amending the Order Regulating the Handling of Milk in the Chicago Regional Marketing Area

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago Regional marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Chicago Regional marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on June 30, 1982 and published in the **Federal Register** on July 6, 1982 (47 FR 29247), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

[2] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

1. Section 1030.7(b) is revised to read as follows:

§ 1030.7 Pool plant.

* * * * *

(b) A supply plant or unit of supply plants described in paragraph (b)(6) of this section from which the quantity of fluid milk products (except filled milk) and condensed skim milk shipped or transshipped and physically unloaded into plants described in paragraph (b)(2) of this section as a percent of the Grade A milk received at the plant(s) from dairy farmers (except dairy farmers described in § 1030.12(b)) and handlers described in § 1030.9(c), including producer milk diverted pursuant to § 1030.13 but excluding packaged fluid milk products that are disposed of from such plant(s) as route disposition, is not less than 25 percent for September, 30 percent for each of the months of October and November, and 20 percent for all other months, subject to the following additional conditions:

* * * * *

2. Section 1030.13(d)(3) is revised to read as follows:

§ 1030.13 Producer milk.

* * * * *

(d) * * *

(3) Milk diverted to a nonpool plant(s) for the account of the operator of a pool plant, or a handler described in § 1030.9(b), may not exceed 70 percent during the months of September, October, and November, and 80 percent during the months of December through March of the total quantity of producer milk for which it is the handler (or, in the case of a cooperative the producer milk that the cooperative association causes to be delivered to or diverted from pool plants) subject to temporary

revision of the specified percentages pursuant to § 1030.7(b)(5);

* * * * *

[FR Doc. 82-21210 Filed 8-4-82; 8:45 am]
BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Personnel With Unescorted Access to Protected Areas; Fitness for Duty

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to amend its regulations to require commercial and industrial facilities licensed under 10 CFR 50.22 (primarily nuclear power plant licensees) to establish and implement controls designed to assure that personnel with unescorted access to protected areas are not under the influence of drugs or alcohol or otherwise unfit for duty. The proposed rule was developed because of a concern that certain personnel could become unfit for duty due to the effects of substances such as alcohol or drugs and, thereby, could perform actions that might adversely impact the health and safety of the public. The result of the proposed rule would be the implementation of fitness for duty programs industry-wide that would be designed to provide greater assurance of safer and more reliable operation of nuclear facilities.

DATES: Comment period expires October 4, 1982. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit written comments and suggestions on the proposal and/or the supporting value/impact analysis to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Single copies of the value/impact analysis may be obtained on request from the contact person listed below. Copies of comments received on the proposed amendment and the value/impact analysis may be examined and copied for a fee in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. between 8:15 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ellis W. Merschoff, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 443-5942.

SUPPLEMENTARY INFORMATION: The Commission has found that the number of reported drug-related incidents in which licensee or contractor employees were arrested or terminated has increased substantially over the past three years. In 1979 there was one such reported incident, in 1980 there were five, and in 1981 there were twelve. These incidents have involved both onsite use or possession of drugs and personnel reporting to work under the influence of controlled substances. Marijuana has been the most frequently reported controlled substance involved in these incidents; however, incidents involving amphetamines, cocaine, hashish, phencyclidine, and methaqualone have also been reported.

As a result of these incidents, the NRC Office of Inspection and Enforcement (IE) has established a Drug Abuse Task Force to develop a generic approach to the problem of possible drug (including alcohol) abuse by licensee or contractor personnel. IE is developing a NUREG report which describes current practice regarding the abuse of drugs and alcohol by other regulatory organizations and by industry. The NUREG report, entitled "Survey of Industry and Government Programs to Combat Drug and Alcohol Abuse," should prove useful to licensees when they develop the fitness for duty programs that would be required by the proposed rule.

The proposed rule would apply to the licensees' employees and contractor personnel with unescorted access to protected areas of facilities issued operating licenses under 10 CFR 50.21(b) or 10 CFR 50.22. This category of personnel was chosen because any person with unescorted access to a protected area may have the opportunity to affect adversely the health and safety of the public through an unobserved act, whether intentional or inadvertent. It does not include NRC personnel.

Persons would be considered unfit for duty if their faculties were affected in a way contrary to safety by substances such as alcohol or drugs. Additionally, the phrase "* * * or otherwise unfit for duty * * *" is intended to require consideration of the effects of other factors when determining an individual's fitness for duty such as fatigue, stress, illness, and temporary physical impairments.

The proposed rule would require commercial and industrial facilities licensed under 10 CFR 50.22 to establish, document, and implement procedures to assure that personnel with unescorted access to the protected area of the licensed facility are not unfit for duty.

At this time, establishment of specific criteria to be used to determine fitness for duty and specific methods of implementation of this requirement have been left to the licensee. The Commission solicits public comment on (1) the establishment of specific fitness criteria (such as the Federal Aviation Administration's regulations regarding crew members of civil aircraft in 14 CFR 91.11(a)) for nuclear plant personnel; (2) specific methods of implementation of the Fitness for Duty Rule, including the use of breath tests, background investigations, psychological tests, behavioral observation programs, employee awareness programs, employee assistance programs, and other possible implementation measures; and (3) limiting the scope of the rule to personnel with unescorted access to vital areas (generally, a protected area is any area encompassed by physical barriers and to which access is controlled, while a vital area is any area that contains vital equipment. These terms are specifically defined in 10 CFR 73.2).

The Commission wants to allow each licensee to develop procedures which take into consideration not only fairness to and due process for its employees, but also any conditions or circumstances unique to its facility. Therefore, the proposed rule is broadly worded. The Commission invites public comment on the level of specificity that should be included in the proposed rule. Commissioner Gilinsky has requested comments on whether the rule should also apply to NRC personnel and on whether there should be specific blood alcohol level limits.

Paperwork Reduction Act

As required by Pub. L. 96-511, this proposed rule has been submitted to the Office of Management and Budget for clearance of its information collection requirements.

Regulatory Flexibility Act Certification

Based upon the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that, if promulgated, this rule will not have a significant economic impact on a substantial number of small entities. This proposed rule affects personnel with unescorted access to protected areas of facilities licensed under the provisions of 10 CFR 50.22 for which an operating license has been granted. The companies that own these

facilities do not fall within the scope of "small entities" set forth in the Regulatory Flexibility Act or the small business size standards set out in regulations issued by the Small Business Administration in 13 CFR Part 121. While it is recognized that the contractors may fall within the scope of small entities, it has been determined that the impact on those contractors due to the implementation of this rule does not meet the threshold of a significant economic impact. However, if any independent contractor who services nuclear power plants or components believes there would be significant economic impact, the contractor should comment on this to the Commission.

List of Subjects in 10 CFR Part 50

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

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

For the reasons set out in the preamble and pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendment to 10 CFR Part 50 is contemplated.

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

Authority: Secs. 103, 104, 161, 182, 183, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2239): secs. 201, 202, 206, 88 Stat. 1243, 1244, 1246, (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. A new paragraph (y) is added to § 50.2 to read as follows:

§ 50.2 Definitions.

* * * * *

(y) "Protected area" means an area encompassed by physical barriers and to which access is controlled.

3. A new paragraph (x) is added to § 50.54 to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(x)(1) Each licensee with an operating license issued under § 50.21(b) or § 50.22 shall establish, document, and implement adequate written procedures designed to ensure that, while on duty, the licensee's and its contractors' personnel with unescorted access to protected areas are not—

(i) Under the influence of alcohol;

(ii) Using any drugs that affect their faculties in any way contrary to safety; or

(iii) Otherwise unfit for duty because of mental or temporary physical impairments that could affect their performance in any away contrary to safety.

(2) Each licensee shall maintain the written records of these procedures for the life of the plant.

Dated at Washington, D.C. this 30th day of July, 1982.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 82-21209 Filed 8-4-82; 8:45 am]

BILLING CODE 7590-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 320

[PDR-79; Docket: 40891; Dated: July 30, 1982]

Procedures for Awarding Japanese Charter Authorizations

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: An interim agreement between the U.S. and Japan allows each country's airlines to perform 300 one-way charter flights between the two countries each year. The CAB proposes procedures for allocating the first year's 300 flights to interested U.S. airlines. Grandfather authority would be allotted to certain airlines and the remaining flights would be awarded by lottery.

DATES: Comments by: August 12, 1982.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 40891, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Richard M. Loughlin, Chief, or Patricia L. DePuy, Assistant Chief, Regulatory Affairs Division, Bureau of International Aviation (202–673–5878), Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION:

Background

On June 4, 1982, the Governments of the United States and Japan concluded a provisional, interim agreement that for the first time provides U.S. designated and nondesignated air carriers with the right to operate charter services in the U.S.-Japan market under country-of-origin rules. It is especially significant in that, heretofore, nondesignated carriers have been severely restricted in performing charters in Japan markets, and the designated scheduled carriers allowed to so participate were required to adhere to the more stringent charterworthiness rules of Japan.

While representing a significant step forward in U.S.-Japan charter relations, the Interim Agreement does limit the number of charters that may be operated in any one year to 300 one-way charter flights for the airlines of each country. In light of the large amount of interest already shown by U.S. carriers in operating charters to Japan under the new Interim Agreement, and in anticipation of its imminent formal ratification, we believe it necessary to adopt, on an emergency basis, temporary procedures to govern the allocation of the first year's 300 charter flight authorizations among those U.S. carriers that desire to operate them.

We would, of course, prefer not to have to allocate these newly won charter rights. However, their limited availability and potential to significantly affect U.S.-Japan air service opportunities, coupled with our desire to ensure that they are promptly and equitably distributed, persuade us that the more responsible course of action is for us, at the outset, to establish procedures to govern their use.[1]

[1] On June 28, 1982, we issued a press release (CAB 82–99) announcing our intention to establish an orderly allocation program and the interim necessity of rejecting any applications preceding our invitation. The following day, the staff, acting under delegated authority, rejected a Public Charter prospectus filed by Overseas National Airways. Had it been accepted, the prospectus would have enabled the carrier to begin marketing a program of 122 round-trip charters (requiring 244 of the 300 one-way charter entitlements). (ONA has petitioned us to review the staff's action.)

Allowing the authorizations to be spent on a first-come-first-served basis offers neither the equity nor the efficiency properties we believe to be important, and could result in consequences harmful to the public interest.[2] Furthermore, our experience after the signing of the Airline Deregulation Act in 1978 with a first-come-first-served process for unused authority, resulting in a queue on the sidewalk outside the Board's offices, demonstrated the impracticality of such a system.[3]

We also believe it necessary to allocate the full first-year's quota of 300 charters in the initial allocation. We believe the lead time necessary to effectively plan and market a charter program requires that carriers and their charterers be advised of the opportunities available to them well in advance. To subdivide and distribute the charter authorizations on, for example, a quarterly basis would not allow for this advance planning, would preclude carriers from spreading their authorizations throughout the year in accordance with market demands, and could produce some of the same undesirable results we see in the first-come-first-served system.

By the same token, we are proposing to limit our initial allocation to only the first year's charter quota. We could, as an alternative, hold lotteries for the first two or three years. We believe that the advantages gained by a multiple-year lottery, such as giving carriers longer-range knowledge of the number of charters they will be able to operate, are outweighed by the disadvantages of such an arrangement. Specifically, we believe that it might inhibit new entry into the market in later years by carriers unable to participate, or uninterested in participating, at the time of the lottery, lead to extensive aftermarket sales if a carrier's market experience led it to decide to abandon the Japan market, and complicate the imposition of penalties for non-use of allocations. As with all other aspects of this proposal, however, we will reserve final decision on the proper time frames to be employed until after review of interested persons' comments.

Finally, our intention is for the rules proposed today to govern only the initial allocation. In the next few months we plan to conduct a more extensive review of various allocation methods, in conjunction with the experience we will gain from the finalized allocation plan. Following such review we plan to issue a further notice to elicit comments on possible alternative methods of allocating future charter authorizations.

Purpose of the Provisional Interim Agreement

The charter provision of the Agreement itself simply provides that airlines of each country will be permitted to operate 300 one-way charters per year under country of origin rules. However, in a July 7, 1982 letter (placed in this docket) to Board Chairman McKinnon, the Chairman of the United States Delegation, Deputy Secretary of Transportation Darrell M. Trent, stated that the primary purpose of the charter provision was to increase the opportunity for carriers not designated for scheduled services to operate charters to Japan.

The U.S. Delegation recognized that by agreeing to 300 one-way charters per year for all U.S. airlines, the United States was changing the preferential treatment that U.S. designated airlines had enjoyed since 1953.[4] In agreeing to the interim charter regime, the U.S. Delegation therefore found it necessary to assure the U.S. designated airlines that their already-established charter operations would not be adversely affected by the Interim Agreement. Accordingly, the Delegation assured the incumbents that they would retain charter opportunities at least as valuable as those they had enjoyed in recent years in the U.S.-Japan market on a "grandfather" basis.

Furthermore, it was understood by both parties that the government of each country, through its aeronautical authorities, would retain the sole discretion to allocate among its carriers the 300 one-way charter flights. Therefore, no allocation formula was incorporated in the Interim Agreement. However, the Delegation Chairman in his July 7 letter requested that in allocating the 300 one-way charter flights, we ensure that each U.S. designated carrier with past U.S.-Japan charter experience be permitted to operate not less than the number of charter flights which it operated during the preceding calendar year.

Proposed Allocation System

In consideration of the above, we are proposing a new set of special rules to govern the allocation of the limited charter flights among U.S. carriers.[5] While the system described in detail below is our preferred method of allocation, at the end of this section we set forth, and propose in the alternative, a variation of it.

The primary allocation system we propose has two distinct phases: A first phase to confer at the outset "grandfather" allotments; and a second phase to confer through a lottery system the remaining flights.

"Grandfather" Allotments. In this phase we believe the Board should honor the request of the U.S. Delegation and allot to those U.S. carriers designated to provide scheduled services in U.S.-Japan markets—Pan American, Northwest, Flying Tiger and Air Micronesia—the number of charter flights operated by each in the preceding calendar year. We have tentatively decided to use 1981 as the base year, and to use Form 41, T-6 reports as our data source.

We also have tentatively decided to grant similar allotments to those charter carriers—Transamerica and World Airways—that actively pursued charter programs to Japan during the past decade in spite of restrictions and constraints imposed on their activities. We believe that these carriers, whose efforts to develop U.S.-Japan charter services were severely hampered during the mid-1970's, initially by the 70-flight-per-year (roundtrip) quota on supplemental charters imposed by the Japanese authorities, and subsequently by the closure of Tokyo's Haneda Airport and imposition of slot restrictions at Narita Airport, should be allowed to resume participation in a market they consistently cultivated and persistently sought to reopen. The allotment to such carriers is also consistent with the "grandfather" concept expressed by the Delegation Chairman and with the primary purpose of the new charter provision to create opportunities for nondesignated carriers. We have tentatively decided to allocate flights to these carriers based upon their operations in CY 1975, the Least-

[2] For example, first-come-first-served operation of the flights could result in more transportation being marketed than could be operated, producing widespread disappointment and inconvenience among prospective customers; and could severely inhibit carrier marketing and equipment utilization plans.

[3] See Order 78-11-152, adopted November 30, 1978.

[4] Under the charter understanding signed by the United States and Japan in 1953, airlines designated under the U.S.-Japan air Transport Services Agreement were allowed to operate unlimited on-route charters without prior approval. In practice, designated airlines' off-route charters were approved on a liberal basis. In contrast, between 1965 and 1976 Japan restricted nondesignated charter airlines to a charter quota which at its greatest was no more than 70 round trips per year, and was futher restricted by an uplift ratio. During the last few years, nondesignated charter airlines' access has been severly curtailed by the lack of assured airport slots.

[5] We have received unsolicited comments from the National Air Carrier Association, Inc. and from Overseas National Airways expressing their views on how we should deal with the 300 charter flights. We have placed copies of both letters in this docket.

restricted year preceding wholesale Japanese restriction of charters by nondesignated airlines. As with the scheduled carriers, we propose to use Form 41, T–6 reports as our data source.

Should the grandfather allocation system be adopted as proposed, our preliminary data show that the following carriers would receive the indicated number of one-way flights for the first year of the agreement's effectiveness:

Carrier	OW flights
Air Micronesia	0
The Flying Tiger Line, Inc	68
Northwest Airlines, Inc	1
Pan American World Airways, Inc	4
Transamerica Airlines, Inc	42
World Airways, Inc	54

Data on U.S. carrier charter operations in the Japan market have proved somewhat difficult to compile. While we believe our data are accurate, we specifically request those U.S. carriers with operating experience in the market to provide us with the number of Japan charters they have operated since 1971, broken out by year, type (passenger or cargo), volume (number of passengers/tons of cargo), and direction.

Lottery System Because the demand for the remaining flights is expected to far exceed the supply, we find it necessary to develop a procedure which will allocate these flights as equitable as possible among those carriers desiring to operate them. We also believe that the carriers ultimately operating the charters should be able to obtain their rights with a minimum of delay, expense and uncertainty. We have tenatively decided that a carefully structured lottery limited to direct air carriers actually prepared to operate charter flights in the market, with provisions for later transfers to avoid nonuse of rights, is the best method of allocation. In developing this method, we have attempted to confine recipients to those actually able to operate the flights, to create no windfalls for speculators, and to provide disincentives against pre-emptive or wasteful nonutilization.

The lotter would be open to those direct air carriers, including the current and former incumbents described above, holding effective charter certificates authorizing transpacific operations to Japan or effective scheduled route certificates,[6] and prossessing FAR 121 operating certificates from the Federal Aviation Administration. Alternatively, we could limit participation in the lottery to only nonincumbent, qualifying carriers, *i.e.*, those *not* receiving grandfather allotments in the first phase. Carriers eligible for grandfather allocations could then be given the option of either choosing to receive their grandfather allocation or relinquishing that allocation and participating in the lottery.

Since lead-time for this initial allocation is undesirably tight, we believe that only carriers already have transpacific-range aircraft can successfully operate the service in the near term. Thus, to be eligible, we propose that carriers must also currently operate aircraft with an over-water range at maximum payload of 3,000 statue miles. These criteria are consistent with those used for selecting among applicants for short-term scheduled service in markets were the need arises spontaneously or on short notice.[7] Applications or "bids" by prospective wet lessees of qualifying aircraft are not proposed to be permitted. Furthermore, we propose to consider related entities (such as Capitol/Arrow, Continental/Air Mic/Texas International) and carriers employing trade names (such as Flying Tiger Metro International) as "one" for purposes of the lottery. They will not be permitted to bid independently through their component parts.

The Lottery would be conducted by inviting applications for numbers of one-way charters to be operated, in any of the combinations outlined below, and by then randomly drawing the applications until the available number of charter flights is exhausted. If the last application drawn exceeds the number remaining, *e.g.*, if a 20-flight application were drawn after all but ten of those available had been allocated, then the last applicant would, of course, receive only the remaining number of flights.

Recognizing that charter marketing efforts typically involve multiflight programs, and concerned for efficient use of these limited opportunities, we tentatively conclude there should be a minimum or threshold application size. This will tend to assure that any successful applicant would have a usable allotment. Carriers not confident of successfully mounting a minimum-sized program would then be excluded, but we believe this is sound given the importance of having all the rights used, and in as effective a manner as possible.

We propose to establish a minimum application size of 10 or more one-way flights. The maximum application size would be the total number of charter authorizations available in the lottery. Carriers would be permitted to submit more than one application, and any combination of applications of 10 or more would be acceptable, so long as the aggregate number of flights sought by a carrier in any combination of applications does not exceed the maximum number available in the lottery. (For example, a carrier could, if 100 flights were available, submit a maximum of ten applications of 10, one application of 100, or one of 50 with two of 25, and so forth.)

There does exist a slight possibility that one carrier could by the luck of the draw succeed in obtaining all or a very large percentage of the charter authorizations. To guard against such an occurrence, we could in the alternative establish at 40 or 50 the total number of charter authorizations a carrier may pursue in any combination of applications. Another alternative would be to package the authorizations in 10-flight blocks. One application would always equal 10 flights and carriers could submit multiple applications up to the point where the total number of flights applied for did not exceed the maximum number available in the lottery.

The minimum/maximum application size, and the other related features of the lottery proposal, are elements on which we are especially interested in public comments.

Alternative Allocation Proposal. Under this alternative, as in our primary proposal, we would honor the U.S. Delegation request and allocate to the designated scheduled carriers the number of flights operated by each in the preceding year. In addition, the qualification criteria for eligibility in the lottery, the mechanics of how the lottery would work, and the minimum and maximum application or "bid" parameters would be the same as proposed before.

Under the alternative, however, we would not grant a "grandfather" allotment to those charter carriers that in the past were active in the Japan charter market. Instead, we propose to hold a two-tier lottery to allocate the balance of the charters (we estimate 227 one-way flights based on our preliminary data).

To achieve the intended purpose of the new charter agreement—to create increased opportunities for nondesignated carriers—under the alternative we would reserve

[6] Under section 401(e)(6) of the Federal Aviation Act, any carrier holding a certificate of public convenience and necessity for scheduled service over fixed routes may perform charter trips without regard to the points named in its certificate.

[7] See, for example, *United State-Brazil/Argentina All-Cargo Exemption Proceeding*, Order 82–2–80, at page3.

participation in the first tier of the lottery to only eligible, nondesignated air carriers and to assign to this first tier 75 percent of the charter flight authorization balance. In the second tier of the lottery the remaining 25 percent of the flights would be allocated, and all eligible air carriers, designated and nondesignated, would be permitted to apply for these flights.

In contrast to our primary proposed allocation system, this variation would place all nondesignated carriers on an equal footing in competing for the charter authorizations. It therefore has the advantage of treating in an indifferentiated manner an entire class of carriers long excluded from the Japan charter market. It does, however, fail to recognize the special role that certain charter carriers have played historically in developing the Japan charter market and, more recently, in our obtaining a charter accord with Japan. Commenters are requested to address the relative merits of the two approaches.

Remedial Transfers

We have tentatively decided that carriers should be permitted to exchange or transfer charter authorizations among themselves, for any consideration including money. We have carefully considered the potential effects of a transfer provision. We do not expect it to be detrimental to the traveling and shipping public or to U.S. carriers. Anticompetitive agreements, of course, would remain subject to the antitrust laws.

Despite precautions to insure that only serious principals obtain Japan charter rights, we recognize that changed plans, unsuccessful marketing, or other unforeseen circumstances may result in some recipients being unable to use all or part of an allotment. Given the lead-time needed to organize charters, and the likelihood that the allotment year could be well-advanced by the time a recipient realizes it must relinquish some rights, we believe a mechanism must be established that allows redistribution of these charter opportunities as quickly as possible so none go to waste. Our tentative view is that inter-carrier transfer is the best mechanism to accomplish this. It entails the least government involvement and conveys the opportunities to the most earnest carriers—those with the greatest prospect of successfully operating charters in the diminished time available.

While this means that carriers could obtain authorizations free, both under the grandfather provisions and in the lottery, and then profit by selling them, we expect our eligibility standards and penalty provisions to minimize that possibility.

As an alternative to permitting the exchange of all authorizations, we could permit only those authorizations drawn in the lottery to be transferred, and preclude the transfer of grandfather authorizations. This would prevent carriers holding grandfather authorizations (awarded solely in recognition of previous development of the Japan market) from unduly profiting by their sale.

We specifically request commenters to address the issue of resale restrictions and the relative merits of our proposal and alternative. If opposed to our views, commenters should suggest practical alternatives.

Penalties for Nonuse or Sale

Our proposed allocation system is designed to allow for prompt and equitable distribution of these limited authorizations and to facilitate efficient inter-carrier transfer of them. By the same token, we wish to discourage carriers from applying for more flights than they plan to operate and from engaging in casual bidding, brokering, or mere speculation. For these reasons, we believe it is necessary to adopt a penalty system for nonuse or sale of charter authorizations to minimize the possibility of abuse. We have tentatively decided that the most practical means of penalizing carriers is to diminish their allocation of Japan charters in future years.

We therefore propose that for charter authorizations a carrier receives in the initial allocation, either through grandfather allotment or lottery, and does not itself use, its second-year's allocation be reduced by a corresponding amount. To avoid penalty, carriers eligible for grandfather allocations would be given two days following adoption of a final rule to tell us if they wish to receive less than their grandfather allotment.

The penalty would apply to both those authorizations allowed to expire unused and those sold. Allocations forfeited by this penalty procedure would be redistributed to other eligible carriers on or about the date of the effectiveness of the second-year's allocation, possibly through a second lottery or through a proportional distribution to the other holders of second-year authorizations. While we at this time lean towards a one-flight for one-flight reduction, alternatively, a carrier's second year allotment could be reduced on a proportional basis. Furthermore, while we propose to treat similarly flight authorizations expired and those sold, we believe there may be merit in penalizing a carrier only half as much for those sold rather than wasted. Below is an example of how the alternative penalty systems would work:

ASSUMPTIONS

Date	Event	Authorizations
Aug. 1, 1982	First year begins	
Aug. 8, 1982	First year allocation held	20 received.
Jan. 1, 1983	Second year allocation held.	30 received.
Aug. 1, 1983	First year ends with 10 authorizations (50%) used, 5 (25%) sold, and 5 (25%) expired; second year begins; and penalty assessed.	

Example A: 1 flight for 1 flight reduction, expired and sold flights treated the same.

Result: Carrier would be penalized 10 flights, its second year allocation would be reduced from 30 to 20 flights.

Example B: Proportional flight reduction; expired and sold flights treated the same.

Result: Carrier would be penalized by 50%; its second year allocation would be reduced from 30 to 15 flights.

Example C: 1 flight for 1 flight reduction; sold flights=.5 expired flights.

Result: Carrier would be penalized 7 and one half (round up to 8) flights. Second year allocation would be reduced from 30 to 22 flights.

As an alternative penalty system to that above, we could limit carriers' future year allocations to no more than the number of authorizations they actually used in the preceding year. Further, with any penalty system adopted, we could allow each carrier to transfer a limited number of authorizations, (*e.g.*, two authorizations or 10% of its first-year allocation) without penalty. We request commenters to address specifically the need for a penalty system, the various proposed penalty systems, and other practical alternatives.

Form and Tracking of Authority

Under the proposed procedure, the Board would issue an order formally awarding the charter authorizations determined by the grandfather allotments and the lottery. Transfers of charter authorizations from one carrier to another would not become effective until the filing of a notice with the Director of the Bureau of International Aviation. The notice would indicate the number of authorizations transferred and the date of the transaction, and be signed by both the transferor and the transferee. It would have to be filed within 15 days after the date of the

transaction, but in any event before the authorization was used by the transferee or any subsequent transferee. Carriers intending to use an authorization would have to file a notice of their intention at least 7 days before flight date, so that the Board could give appropriate notice to the U.S. Embassy in Japan.

Reporting Requirements

To monitor the performance of the interim system and prepare a refined system for use in later allocations, we propose to require monthly reports from carriers operating charters to/from Japan showing the number and type of operations and a summary of the traffic. Carriers would also be required to retain for at least 1 year records of the consideration that they received for any transfers of charter authorizations. The reporting and recordkeeping requirements proposed in this notice will be subject to review by the Office of Management and Budget under the Paperwork Reduction Act, Pub. L. 96–511, before becoming effective.

Request for Comments

In addition to the issues specifically discussed in the preceding sections, we request that commenters address the following issues, to assist us in this and further rulemaking proceedings:

(1) What is the minimum number of charter flights and minimum time period (*e.g.*, one, two or three years) necessary to realize economies of scale by direct air carriers and/or charterers?

(2)(a) What lead time is needed to plan passenger charters? Cargo charters?

(b) If a lottery should be used in subsequent years, when should it be scheduled to accommodate both the advance-planning requirements of the carriers, and the need to obtain information on the utilization of previously awarded authority for implementation of any penalty system?

(3) What additions or alternatives to the lottery screening requirements would best ensure that speculators do not profit at the expense of passengers, shippers, and/or operating carriers?

(4) Are the historical periods used as a basis for the initial awards to incumbent carriers the most relevant for this purpose? (If not, what period best serves as a gauge for "grandfather" allocations?)

Short Comment Period

In light of the need, discussed above, to have Japan charter allocation procedures in place as soon as possible, comments on this notice of proposed rulemaking will be due August 12, 1982.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–534, the Board certifies that this rule will not, if adopted as proposed, have a significant economic impact on a substantial number of small entities. None of the direct air carriers affected by the Interim Agreement is a small business. The allocation of direct carrier charter authorizations will indirectly affect charter operators and other charterers, some of which are small businesses, by limiting their choices of direct carriers. But this result is primarily attributable to the underlying Interim Agreement, and the marginal economic impact of the proposed allocation procedures on these businesses does not appear significant.

List of Subjects in 14 CFR Part 320

Charter flights, Reporting requirements, Treaties.

Accordingly, the Civil Aeronautics Board proposes to add a new Part 320 to Chapter II of Title 14, Code of Federal Regulations, to read:

Note.—The date to be inserted in the blanks below is the date that the Interim Agreement is signed.

PART 320—PROCEDURES FOR AWARDING JAPANESE CHARTER AUTHORIZATIONS

Subpart A—General Provisions

Sec.

Subpart B—Specific Procedures

Authority: Secs. 204, 401, 407, 1102, Pub. L. 85–726, as amended, 72 Stat. 743, 754, 766, 797; 49 U.S.C. 1324, 1371, 1377, 1502.

Subpart A—General Provisions

§ 320.1 Purpose.

This part sets out procedures by which the Board will award air carriers the authority to perform the charter flights contemplated in the [insert date] Interim Agreement on bilateral aviation relations between the United States and Japan. That agreement provides that each country's direct air carriers may perform 300 one-way charter flights between the two countries each year in accordance with country-of-origin rules.

§ 320.2 Applicability.

This part applies to United States direct air carriers for charter flights between the U.S. and Japan during the year beginning on [insert date].

§ 320.3 Charter authorizations.

(a) *Definition.* As used in this part, "charter authorization" means the authority to perform one of the 300 one-way charter flights between the United States and Japan contemplated in the Interim Agreement described in § 320.1. A charter authorization is "used" when the flight is performed.

(b) *Requirement.* An air carrier shall not perform any charter flight between the United States and Japan except in accordance with a charter authorization awarded or acquired by it under this part.

§ 320.4 Related carriers counted as one.

Two or more air carriers that are related will be considered as a single air carrier for the purposes of this part. One carrier is related to another carrier if it controls, is controlled by, or is under common control with the other carrier.

Subpart B—Specific Procedures

§ 320.10 Allocation.

The Board will make a grandfather allotment of charter authorizations as set forth in § 320.11. The rest of the 300 charter flights will be allocated by lottery as set forth in § 320.12.

§ 320.11 Grandfather allotment.

(a) *Eligibility.* An air carrier is eligible for a grandfather allotment if it:

(1) Was designated, as of [insert date], to provide scheduled air transportation between the United States and Japan, or

(2) Performed any charter flights between the United States and Japan in 1975.

(b) *Number.* Except as set forth in paragraph (c) of this section, the number of charter authorizations that an eligible air carrier will receive in a grandfather allotment is equal to the number of one-way charter flights that the carrier performed between the United States and Japan in—

(1) 1981, for air carriers that are described in paragraph (a)(1) of this section.

(2) 1975, for air carriers that are described in paragraph (a)(2) of this section other than those described in paragraph (a)(1) of this section.

(c) *Exception.* An eligible air carrier that wishes to receive fewer charter

authorizations than the number set forth in paragraph (b) of this section shall so notify the Board within 2 days after the adoption of this section. The Board will reduce the carrier's grandfather allotment accordingly.

§ 320.12 Lottery.

(a) *Eligibility.* An air carrier is eligible to participate in the lottery, whether or not it is eligible for a grandfather allotment under § 320.11, if, as of [insert date], it—

(1) Held a charter certificate authorizing transpacific service or a scheduled route certificate,

(2) Held FAR 121 operating authority from the Federal Aviation Administration, and

(3) Was operating aircraft having an over-water range at maximum payload of at least 3,000 statute miles.

(b) *Invitation of applications.* The Board will issue an order announcing the total number of charter authorizations to be available in the lottery and inviting eligible air carriers to submit applications for them.

(c) *Applications.* Each application shall request 10 or more charter authorizations. Each eligible air carrier may submit any number of applications. However, the aggregate number of authorizations sought by any one air carrier in its separate applications shall not exceed the total number announced in the Board's order issued under paragraph (b) of this section.

(d) *Random drawing.* The Board will grant applications for charter authorizations in a sequence established by random drawing from among all timely filed applications. The drawing will continue until all available charter authorizations have been granted. If the last application drawn requests more charter authorizations than there are remaining, only the remaining ones will be awarded pursuant to that application.

§ 320.13 Final order.

The Board will issue an order awarding charter authorizations in accordance with the grandfather allotments and the lottery.

§ 320.14 Remedial transfers.

(a) *Permissibility.* Any air carrier holding a charter authorization awarded or acquired by it under this part may transfer it to any other air carrier eligible under § 320.12(a) for the lottery.

(b) *Notice of transfer.* A transfer of a charter authorization shall not become effective until the transferring air carrier files a notice with the Director, Bureau of International Aviation. The notice shall be labeled "Notice of Transfer of Japan Charter Authorization." It shall be filed within 15 days after the date of the transaction, but in any event before departure of the authorized flight, whether the flight is performed by the transferee or by any subsequent transferee. The notice shall indicate the number of charter authorizations transferred and the date of the transaction, and shall be signed by both the transferor and the transferee.

(c) *Record retention.* An air carrier that transfers a charter authorization to another carrier shall retain for at least 1 year a record of the consideration received for the transfer.

§ 320.15 Expired and transferred charter authorizations.

(a) *Second-year reduction.* An air carrier's second-year allotment of charter authorizations will be reduced by one for each first-year charter authorization that it—

(1) Allows to expire unused at the end of the first year, or

(2) Obtains in the first year's grandfather allotment or lottery and transfers to another air carrier.

(b) *Carryover to later years.* If the reduction described in paragraph (a) of this section would result in a negative number of second-year charter authorizations, the carrier's second-year allotment will be zero and the balance of the reduction will be carried over to the third and, as necessary, later years.

(c) *Reallocation.* The Board will reallocate among other eligible air carriers the charter authorizations made available by the reductions described in paragraphs (a) and (b) of this section.

§ 320.16 Notice of intent to use charter authorization.

An air carrier shall file with the Director, Bureau of International Aviation, a notice of its intention to use a charter authorization at least 7 days before departure of the flight. The notice shall be labeled "NOTICE OF INTENT TO USE JAPAN CHARTER AUTHORIZATION."

§ 320.17 Report of charter authorizations used.

Within 15 days after any month in which an air carrier uses a charter authorization, it shall file a report with the Director, Bureau of International Aviation. The report shall be labeled "Report of Japan Charter Authorizations Used." It shall include flight itineraries, flight dates, aircraft type, and the number of passengers or cargo tons transported. Passenger and cargo figures may be aggregated for the month.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-21264 Filed 8-4-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Proposed Placement of Parahexyl Into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking is issued by the Acting Administrator of the Drug Enforcement Administration to place the substance, parahexyl, into Schedule I of the Controlled Substances Act (CSA). This proposed action is necessary for the United States to discharge its obligations under the Convention on Psychotropic Substances, 1971. Finalization of this proposed rulemaking would provide that the control mechanisms and criminal sanctions of Schedule I of the CSA be applicable to the manufacturing, distribution and possession of parahexyl.

DATES: Comments must be received on or before October 4, 1982.

ADDRESS: Comments and objections should be submitted in quintuplicate to the Acting Administrator, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537; Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION:

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug Enforcement Administration, Drug traffic control, Narcotics, Prescription drugs.

On April 15, 1980, the United States became a party to the Convention on Psychotropic Substances, 1971, which is an international drug control treaty. At the time of ratification of this treaty, the substance, parahexyl, was in Schedule I of the Convention on Psychotropic Substances, 1971, but was not controlled under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21

U.S.C. 801 *et seq.*), also known as the Controlled Substances Act (CSA). In order for the United States to be in compliance with its international treaties, it is necessary that parahexyl be controlled under the CSA.

Accordingly, on October 2, 1980, the Administrator of the Drug Enforcement Administration (DEA), sent a letter to the Assistant Secretary for Health, Department of Health and Human Services (DHHS), requesting a scientific and medical evaluation and a scheduling recommendation for parahexyl pursuant to 21 U.S.C. 811(b). On June 7, 1982, the Acting Administrator of DEA received a response from the Assistant Secretary for Health, acting on behalf of the Secretary of Health and Human Services, recommending that parahexyl be placed into Schedule I of the CSA to ensure that the United States is in compliance with its international treaty obligations. The letter from the Assistant Secretary for Health is set forth below:

June 7, 1982.

Mr. Francis M. Mullen,
Acting Administrator, Drug Enforcement Administration, 1405 Eye Street, NW., Washington, D.C. 20537.

Dear Mr. Mullen: Pursuant to your letter dated October 2, 1980 and to Section 201(b) of the Controlled Substances Act (CSA), 21 U.S.C. 811(b), this letter is notification of the recommendation for control of parahexyl into Schedule I of the CSA. This recommendation is being made to ensure that the United States is in compliance with its obligations under the Convention on Psychotropic Substances 1971.

The Food and Drug Administration (FDA) has considered the eight factors listed in Section 201(c) of the CSA, 21 U.S.C. 811(c). We have enclosed the basis for our recommendation as an attachment to this letter. Based on this review, the FDA has made the following findings with respect to the statutory criteria under Section 202(b) of the CSA, 21 U.S.C. 812(b) for CSA Schedule I:

A. *The drug or other substance has a high potential for abuse*—Parahexyl has a potential for abuse similar to trans-delta-9-tetrahydrocannabinol. Therefore, parahexyl has a high potential for abuse.

B. *The drug or substance has no currently accepted medical use in treatment in the United States*—There are no approved or pending NDAs, NADAs, or active INDs for parahexyl. Therefore, the FDA does not recognize an accepted medical use for this substance.

C. *There is a lack of accepted safety for use of the drug or other substance under medical supervision*—Human exposure to parahexyl has been too limited to demonstrate safety for this substance.

Parahexyl meets the criteria for control in Schedule I of the CSA. It has no currently accepted medical use in treatment in the United States and there is a lack of accepted safety of parahexyl under medical supervision. Because parahexyl has a potential for abuse which is similar to delta-9-THC, parahexyl has a high potential for abuse.

Parahexyl is a cannabinoid; the CSA places drugs in this class in Schedule I unless they are specifically exempted or listed in another schedule.

United States obligations under the international Psychotropic Convention require that parahexyl have certain domestic controls found under Schedule I or Schedule II of the CSA. Parahexyl fits better under the CSA criteria for Schedule I. We therefore recommend that parahexyl be placed in CSA Schedule I to meet United States treaty obligations.

Should you have any questions regarding this recommendation, please contact the Chief, Drug Abuse Staff, telephone 443–3504.

Sincerely yours,

Edward N. Brandt, Jr., M.D.,
Assistant Secretary for Health.

Parahexyl is a synthetic analog of delta-9-tetrahydrocannabinol (THC), an active ingredient of cannabis. Chemically, parahexyl is 3-hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo-[b, d]pyran. Parahexyl has no legitimate medical use in the United States at this time. In preclinical and clinical tests, parahexyl demonstrated effects consistent with those of psychoactive cannabinoids, including delta-9-THC, and can be considered a hallucinogenic substance.

Based on the scientific and medical evaluation and recommendation of the Assistant Secretary for Health, acting on behalf of the Secretary of Health and Human Services, and based on his independent evaluation in accordance with 21 U.S.C. 811(c), the Acting Administrator of DEA, pursuant to the provisions of 21 U.S.C. 811 (a) and (b), finds that:

1. Based on information now available, parahexyl has a high potential for abuse;

2. Parahexyl has no currently accepted medical use in treatment in the United States; and

3. There is a lack of accepted safety for use of parahexyl under medical supervision.

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Under the authority vested in the Attorney General by Section 201(a) of the CSA (21 U.S.C. 811(a)) and delegated to the Acting Administrator of the Drug Enforcement Administration by Department of Justice regulations (28 CFR 0.100), the Acting Administrator hereby proposes that 21 CFR 1308.11(d)(15)–(23) be redesignated as 21 CFR 1308.11(d)(16)–(24); and a new 21 CFR 1308.11(d)(15) be added to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(15) Parahexyl 7374

Some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo-[b,d]pyran; Synhexyl.

* * * * *

Interested persons are invited to submit their comments or objections in writing regarding this proposal. If a person believes that one or more issues raised by him warrant a hearing, he should so state and summarize the reasons for his beliefs. All correspondence regarding this matter should be submitted in quintuplicate to the Acting Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

In the event that comments, objections or requests for hearing raise one or more issues which the Acting Administrator finds warrant a hearing, the Acting Administrator shall order a public hearing by notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing which will not be less than 30 days after the date of the notice.

If no objections presenting grounds for a hearing on this proposal are received within the time limitation or if interested parties waive or are deemed to have waived their opportunity for a hearing or to participate in a hearing, the Acting Administrator, after giving consideration to written comments and objections, will issue his final order pursuant to 21 CFR 1308.48 without a hearing.

Pursuant to 5 U.S.C. 605(b), the Acting Administrator certifies that the placement of parahexyl into Schedule I of the Controlled Substances Act will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). The substance, parahexyl, proposed for control in this notice, has no legitimate use or manufacturer in the United States. Control of parahexyl is required for the United States to meet its international treaty obligations.

In accordance with the provisions of 21 U.S.C. 811(a), this proposal to place parahexyl into Schedule I is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to

the provisions of 5 U.S.C. 556 and 557 and as such have been exempted from the consultation requirements of Executive Order 12291.

Dated: July 29, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-21112 Filed 8-4-82; 8:45 am]

BILLING CODE 4410-9-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 820

Special Permanent Performance Standards for Anthracite Mines in Pennsylvania

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) proposes to revise the permanent program regulations that implement Section 529 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This proposed revision would reflect changes in the anthracite environmental protection provisions adopted by the Commonwealth of Pennsylvania since August 3, 1977. The proposed amendment would be effective on July 31, 1982, the same date that the State program for Pennsylvania became effective.

DATES: Proposed Effective Date: The date upon which the Pennsylvania State program becomes effective. Comments must be submitted on or before 4:30 p.m., September 7, 1982 at the address listed below. If requested, a public hearing will be held on August 26, 1982 beginning at 10:00 a.m. at the location shown below under "Address".

ADDRESS: Written comments must be mailed or hand delivered to: Office of Surface Mining, Administrative Record (SPA–41), Room 5315, 1100 L Street, N.W., Washington, D.C. 20240, Telephone: (202) 343–7869.

If a public hearing is held, its location will be at: Office of Surface Mining, Room 220, Interior South Building, 1951 Constitution Ave. NW., Washington, D.C., 20240.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Program Operations and Inspection, Office of Surface Mining, 1951 Constitution Ave. NW., Washington, D.C. 20240. Telephone: (202) 343–5361.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Revisions to the anthracite environmental protection provisions adopted by the Commonwealth of Pennsylvania since August 3, 1977, are available for public inspection and copying at the OSM Administrative Record, the address of which is listed in "Address" above, the OSM Pennsylvania State Office, 100 Chestnut Street, Suite 300, Harrisburg, Pennsylvania 17101, the Pennsylvania Department of Environmental Resources (DER), Fulton Bank Building, Tenth Floor, Third and Locust Streets, Harrisburg, Pennsylvania 17120, and other OSM and DER field locations in Pennsylvania.

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. 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 Hearing

Persons wishing to comment at the public hearing 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 the public hearing, 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.

The public hearing 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 the proposed rule may request a meeting at the OSM office 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. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background

On March 13, 1979, OSM promulgated permanent program regulations (44 FR 15281) as required by Section 501(b) of SMCRA (30 U.S.C. 1201 *et seq.*). 30 CFR Part 820 of the permanent regulatory program contains special performance standards for anthracite mines in the Commonwealth of Pennsylvania. The environmental protection provisions in force on August 3, 1977, in that State for anthracite mining were adopted by OSM in accordance with Section 529 of SMCRA.

The legislative history of SMCRA confirms that Congress intended that OSM adopt the State environmental protection provisions applicable to anthracite surface coal mines and the surface effects of anthracite underground mines. [See H.R. Rept. No. 94–1445, 94th Cong., 2nd Sess. 125–126 (1976); H.R. Rept. No. 94–896, 94th Cong., 1st Sess. 207 (1975).] SMCRA also requires that changes in the State's regulation of anthracite mining shall be reflected in the regulations that OSM promulgates.

III. Discussion of Proposed Rules

OSM proposes to amend 30 CFR 820.11 to reflect changes in the Commonwealth's anthracite mining program since August 3, 1977, in accordance with Section 529 of SMCRA. Subsequent to August 3, 1977, the Commonwealth of Pennsylvania adopted revisions to the Administrative Code of 1929, the Coal Refuse Disposal Control Act, the Surface Mining Conservation and Reclamation Act, the Clean Streams Law, Chapters 86 and 88 of Title 25, Pennsylvania Code, and rescinded Chapters 99, 100 and 125 of Title 25, Pennsylvania Code as a part of its effort to obtain primary responsibility for regulating surface coal mining and reclamation activities and coal exploration activities on non-Federal and non-Indian lands in the anthracite region of the Commonwealth.

The revised statutes and regulations mentioned above were submitted to OSM by Pennsylvania as part of its program resubmission of January 25, 1982 (Administrative Record No. PA

292). On January 29, 1982, at 47 FR 4318–4320, OSM published a notice in the **Federal Register** announcing a public hearing and public comment period on the resubmitted Pennsylvania program. The public hearing was held in Harrisburg, Pennsylvania on February 25, 1982, and the public comment period on the resubmission closed on March 3, 1982. The Secretary has conditionally approved the Pennsylvania State program, effective July 31, 1982 (47 FR 33050, July 30, 1982).

On June 30, 1981, the Office of the Federal Register published a document listing materials that had been approved for incorporation by reference into Titles 24 and 28 through 41 of the Code of Federal Regulations (46 FR 33980–33994). This listing contained revisions to 30 CFR 820.11 which reflected amendments to Pennsylvania's anthracite mining statutes adopted by the Pennsylvania General Assembly as of December 31, 1980. Because the public was not given an opportunity at that time to comment on the revisions to 30 CFR 820.11, OSM is now soliciting comments on all changes to the anthracite environmental protection provisions adopted by the Commonwealth since August 3, 1977, for incorporation by reference in 30 CFR 820.11. If adopted, the amendment to 30 CFR 820.11 being proposed today would encompass the following Pennsylvania laws and regulations:

(1) The Pennsylvania Administrative Code of 1929, April 9, 1929, Pub. L. 177, as amended through June 30, 1982, 71 P. S. sections 1920–A and 1928–A (Purdons 1982 Supp.)

(2) The Pennsylvania Coal Refuse Disposal Control Act, September 24, 1968, Pub. L. 1040, No. 318, as amended through June 30, 1982, 52 P. S. section 30.51 *et seq.* (Purdons 1966, 1978, 1982 Supp.)

(3) The Pennsylvania Surface Mining Conservation and Reclamation Act, May 31, 1945, Pub. L. 1198, as amended through June 30, 1982, 52 P. S. section 1396.1 *et seq.* (Purdons 1966, 1978, 1982 Supp.)

(4) The Pennsylvania Anthracite Coal Mine Act of 1965, Pub. L. No. 346, as amended through June 30, 1982, 52 P. S. section 70.101 *et seq.* (Purdons 1966, 1978, 1982 Supp.)

(5) The Pennslyvania Clean Streams Law, Pub. L. 1987, as amended through June 30, 1982, 35 P. S. section 619.1 *et seq.* (Purdons 1977, 1978, 1982 Supp.)

(6) The Pennsylvania Gas Operations, Well-Drilling, Petroleum and Coal Mining Act, Pub. L. 756, November 30, 1955, as amended through June 30, 1982, 52 P. S. section 2101 *et seq.* (Purdons 1966, 1982 Supp.)

(7) Provisions regulating the discharge of coal, culm or refuse into streams under Pub. L. 640, June 27, 1913, as amended through June 30, 1982, 52 P. S. section 631 *et seq.* (Purdons 1966, 1982 Supp.)

(8) Regulation of coal stripping under Pub. L. 133, June 18, 1941, as amended through June 30, 1982, 52 P. S. section 1471 *et seq.* (Purdons 1966, 1982 Supp.)

(9) Regulation of subsidence under Pub. L. 1198, May 22, 1921, as amended through June 30, 1982, 52 P.S. section 661 *et seq.* (Purdons 1966, 1982 Supp.)

(10) Regulation of subsidence under Pub. L. 1538, September 20, 1961, as amended through June 30, 1982, 52 P. S. section 661 *et seq.* (Purdons 1966, 1982 Supp.)

(11) The establishment of mine safety zones under Pub. L. 1994, December 22, 1959, as amended through June 30, 1982, 52 P. S. section 3101 *et seq.* (Purdons 1966, 1982 Supp.)

(12) Pennsylvania Air Pollution Control Act of January 8, 1960, Pub. L. 2119, as amended through June 30, 1982, 35 P. S. section 4001 *et seq.* (Purdons 1966, 1982 Supp.)

(13) Pennsylvania Solid Waste Management Act of 1980, Act No. 97, as amended through June 30, 1982, 35 P. S. section 6018.101 *et seq.* (Purdons 1966, 1982 Supp.)

(14) Use of Explosives Act, July 10, 1957, Pub. L. 685, No. 362, as amended through June 30, 1982, 73 P. S. section 164 *et seq.* (Purdons 1976, 1982 Supp.)

(15) Explosives Act, July 1, 1936, Pub. L. 268, No. 537, as amended through June 30, 1982, 73 P. S. section 151 *et seq.* (Purdons 1971, 1982 Supp.)

(16) The following Chapters of Title 25 of the Pennsylvania Code: Chapters 75, 77, 91, 92, 93, 94, 95, 97, 100, 101, 102, 105, 121, 123, 124, 127, 129, 131, 133, 135, 137, 139, 141, 143, 209, 210, 211, 241, 243, and 401.

Existing 30 CFR 820.11 actually lists the Pennsylvania statutory provisions that are applicable to anthracite mining in the State. The proposed rule would simplify the language of 30 CFR 820.11 by incorporating by reference all the approved or amended Commonwealth of Pennsylvania statutes and rules contained in its approved State program, but without listing them. No substantive change is intended by the change in format. The proposed language would provide a direct means to incorporate automatically in 30 CFR 820.11 any future changes to Pennsylvania's anthracite laws and rules that are approved by OSM as State program amendments under 30 CFR 732.17.

Written comments on the proposal to amend 30 CFR 820.11 should be as specific as possible. Comments received not concerning revisions to the anthracite environmental protection provisions adopted by the Commonwealth since August 3, 1977, cannot be considered under this rulemaking. All written comments must be received by OSM by 4:30 p.m. on September 7, 1982. OSM cannot ensure that written comments received after that hour, or delivered during the comment period to locations other than the one specified above, will be considered and included in the Administrative Record. Records of meetings and telephone conversations, and all public comments received will be made available for public review in the Administrative Record. Following the close of the public comment period, OSM will publish a final rule. That rule will also contain responses to the public comments received by OSM.

Proposed Effective Date

Under Section 529 of SMCRA, to the extent that the Pennsylvania State program incorporates statutory provisions revised since August 3, 1977, the Federal rules should incorporate those provisions. Thus, to provide the consistency between the Federal rules and the Pennsylvania State program, OSM is putting operators on notice that a final rule adopting the changes proposed today would be made effective retroactive to the effective date for the Pennsylvania State program.

IV. Procedural Matters

Paperwork Reduction Act

There are no information collection requirements in 30 CFR 820.11 requiring approval by the Office of Management and Budget under 44 U.S.C. 3507.

Executive Order 12291

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs, actions, or amendments. Therefore, this action is exempt from preparation of a Regulatory Impact analysis and regulatory review by OMB.

Regulatory Flexibility Act

The Department of the Interior has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this rule will not have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act

Because OSM would by this rulemaking incorporate all of

Pennsylvania's revisions to its environmental protection revisions concerning anthracite mining without exercising discretion under Section 529 of SMCRA, this would not be a major Federal action that may significantly affect the human environment under 43 U.S.C. 4231 *et seq.*

List of Subjects in 30 CFR Part 820

Coal mining, Environmental protection, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 820 is proposed to be amended, subject to public comment, as set forth herein.

Dated: July 29, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 820—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—ANTHRACITE MINES IN PENNSYLVANIA

1. The Authority Citation for Part 820 is:

Authority: Secs. 102, 201, 501, 503, 504, 529, Pub. L. 95–87, 91 Stat. 448, 449, 467, 470, 471, 514 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1279).

2. Section 820.11 is revised to read as follows:

§ 820.11 Performance standards: Anthracite mines in Pennsylvania.

Anthracite mines in Pennsylvania, as specified in Section 529 of the Act, shall comply, when approved by OSM pursuant to Part 732 of this chapter, with its approved State program, including Commonwealth of Pennsylvania statutes and regulations, and revisions thereto.

[FR Doc. 82–21211 Filed 8–4–82; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 115

[CGD82–074]

Applications for Processing Bridge Permits

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal would provide that water quality certification requirements for bridge permits are waived if a state, or interstate agency, or the Environmental Protection Agency (EPA) as appropriate, fails or refuses to act on the request for certification within 30 days after a district commander issues the public notice on a proposed bridge project. The reason for this proposal is that the affected states or agencies often fail to issue a water quality certification, not because they object to the proposed bridge project, but because they have determined that bridge construction does not affect the water quality adversely. This practice has resulted in unnecessary delays in the issuance of bridge permits. This proposal would provide for expeditious processing of applications and timely issuance of permits.

DATE: Comments must be received on or before September 20, 1982.

ADDRESSES: Comments should be mailed to Commandant (G–CMC/44), (82–074), U.S. Coast Guard, Washington, DC 20593. The comments will be available for inspection or copying at the offices of the Executive Secretary, Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC. Normal working hours are 8:00 a.m. to 4:00 p.m. Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Nick E. Mpras, Chief, Bridge Permits Branch, Bridge Administration Division (G–NBR/24), Office of Navigation, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593, (202) 426–0942.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 82–074), and the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt of the comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed.

The rules 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 for a hearing are recieved and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Discussion

The Federal Water Pollution Control Act, as amended by the Clean Air Act, provides in pertinent part (33 U.S.C. 1341(a)(1)), "If the State, interstate agency, or Administrator, as the case may be, fails to refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence."

Applicants for bridge permits must comply with several environmental laws, orders, and directives before the Coast Guard issues the permit. One of these requirements is that the applicant must obtain a water quality certification from the appropriate state, or interstate agency, or the EPA. If the applicant has not obtained the certification, the Coast Guard practice is to proceed with public notice of the bridge proposal, but to withhold issuance of the bridge permit until the water quality certification has been obtained or waived (which can take up to one year). In many cases, the appropriate authority does not respond to the water certification request, not because it objects to the proposed bridge project, but because the authority feels the bridge construction will not adversely affect water quality and neglects to provide the necessary certification or waiver. The result has been prolonged delays in the issuance of bridge permits.

This proposal would provide that water quality certification requirements for bridge permits are waived if a state or appropriate agency fails or refuses to issue the certification by the end of the 30 day comment period on the public notice of a proposed bridge permit. if a state or appropriate agency is of the opinion that a particular bridge construction proposal would adversely affect the water quality or more time is needed to study the proposal, the cognizant Coast Guard district commander will grant additional time.

Evaluation

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major. In addition, these proposed regulations are 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 since its impact is expected to be minimal. This proposal would eliminate unnecessary delays in the issuance of bridge permits. It is anticipated that the timely issuance of

bridge permits would also help to keep construction costs from increasing while the applicant awaits a state or agency to issue the water quality certification. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal persons involved in the drafting of this document are Mr. Nick E. Mpras, Chief, Bridge Permits Branch, Officer of Navigation, and LT Walter J. Brudzinski, project counsel, Office of Chief Counsel.

List of Subjects in 33 CFR Part 115

Bridge, Administrative practice and procedure.

PART 115—BRIDGE LOCATIONS AND CLEARANCES: ADMINISTRATIVE PROCEDURES

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 115 of Title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 115 is revised to read as follows:

Authority: c. 425, sec. 9, 30 Stat. 1151 (33 U.S.C. 401); c. 1130, sec 1, 34 Stat. 84 (33 U.S.C. 491); sec 5, 28 Stat. 362, as amended (33 U.S.C. 499); sec. 11, 54 Stat. 501, as amended (33 U.S.C. 521); c. 753, Title V, sec. 502, 60 Stat. 847, as amended (33 U.S.C. 525); 86 Stat. 732 (33 U.S.C. 535); 14 U.S.C. 633; sec. g(6), 80 Stat. 941 (49 U.S.C. 1655(g)); 49 CFR 1.46(c).

2. Section 115.60 is amended by revising paragraph (a) to read as follows:

§ 115.60 Procedures for handling applications for bridge construction permits.

* * * * *

(a) *District Commander's review of application and plans.* When an application is received, the District Commander verifies the authority for construction of the bridge, reviews the application and plans for sufficiency, ascertains the views of local authorities and other interested parties, and ensures that the application complies with relevant environmental laws, regulations, and orders. If the application contains any defects that would prevent issuance of a permit (as for example, if the proposed bridge provided insufficient clearance), the applicant is notified that the permit cannot be granted and given reasons for this determination. The applicant may then request that the applicant be considered by the Commandant. If the applicant makes such a request, or if the application is not found defective, the District Commander notifies the public that the application has been received and continues the processing. A copy of this notice is sent to the state, interstate agency or the Environmental Protection Agency (EPA). If the state, interstate agency, or the EPA fails or refuses to issue the water quality certification within 30 days after receiving the copy of this notification, the requirements for water quality certification are waived. Upon request, the District Commander will grant additional time for a state, interstate agency, or the EPA to review the water quality certification.

* * * * *

Dated: July 29, 1982.

R. A. Bauman,

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

[FR Doc. 82-21203 Filed 8-4-82; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 2

[Document No. 2512-96A]

Trademark Applications and Examination Proceedings; Trademark Interference, Concurrent Use, Opposition and Cancellation Proceedings; Trademark Post-Registration Proceedings

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Proposed rulemaking; change of hearing date and extension of comment period.

SUMMARY: On June 29, 1982 a notice was published in the **Federal Register** (47 FR 28324-28343) announcing September 27, 1982 as the date for a hearing concerning proposed amendments to the rules of practice in trademark cases. Because that day is Yom Kippur, a religious holiday for many people, the hearing has been rescheduled for the following Monday, October 4, 1982, at 10:00 a.m. The period for filing comments is extended to that date as well.

DATE: The date on which the hearing will be conducted is changed to October 4, 1982, at 10:00 a.m. The period for filing comments is also changed to October 4, 1982.

ADDRESSES: The hearing will be held in Room 11C24 of Building 3, Crystal Plaza, 2021 Jefferson Davis Highway, Arlington, Virginia. Comments may be mailed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

FOR FURTHER INFORMATION CONTACT: Miss Janet E. Rice by telephone at (703) 557-3551 or by mail marked to her attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Dated: July 29, 1982.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 82-21128 Filed 8-4-82; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-6-FRL 2166-4]

Approval and Promulgation of Implementation Plans; Texas Bulk Gasoline Plants, Bulk Terminals, and Service Station Stage I; Vapor Recovery

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes approval of revisions to the Texas State Implementation Plan (SIP) submitted by the Governor on April 13, 1979 and July 25, 1980. The April 13, 1979 submittal revised Texas Air Control Board (TACB) Regulation V to provide control of volatile organic compound (VOC) emissions at gasoline bulk plants, bulk terminals, and provides for the control of VOC emissions from the filling of gasoline storage vessels at motor vehicle fuel dispensing facilities (Stage I vapor recovery at service stations). In addition, this action proposes to exempt counties from federally promulgated regulations that control VOC emissions from the above mentioned gasoline marketing operations where approval of the State revision causes equivalent federal and State Regulations to be applicable.

DATE: Interested persons are invited to submit comments or request a hearing on the proposed actions on or before September 7, 1982.

ADDRESSES: Written comments should be submitted to the following address: Environmental Protection Agency, Region 6, Air and Waste Management Division, Air Branch, 1201 Elm Street, Dallas, Texas 75270.

Copies of the State's submittals and copies of the test methods and procedures are available for inspection

during normal business hours at the address above and at the following location: Texas Air Control Board, 6330 Highway, 290 East, Austin, Texas 78723.

FOR FURTHER INFORMATION CONTACT: Richard Raybourne, SIP Section, 6AW–AS, Environmental Protection Agency, Region 6 Office, (214) 767–1518.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 1973, at 38 FR 30643 and 44 (amended at 42 FR 37380, July 21, 1977) EPA promulgated regulations providing control of certain VOC sources in a total of 23 Texas counties. These regulations were promulgated because the State's ozone control strategy was determined to be inadequate with regard to attainment of the ozone standards within the time frame specified by the Clean Air Act (CAA). The federal regulations as written provide coverage for 12 counties in the Houston and San Antonio area (40 CFR 52.2285), and 11 counties in the Dallas-Forth Worth area (40 CFR 52.2286). The intent of both federal promulgations was to control VOC emissions from gasoline bulk terminals, bulk plants, and from the filling of gasoline storage vessels at motor vehicle fuel dispensing facilities (Stage I vapor recovery at service stations).

Pursuant to Part D of Title I of the Clean Air Act (CAA) as amended in 1977, the Governor of Texas submitted SIP revisions on April 13, 1979, after adequate notice and public hearing. As part of the ozone control strategy, these revisions provide control of VOC emissions via TACB Regulation V Subsections 131.07.52.101–.104 (now 115.111–.113) regarding bulk terminals, 131.07.53.101–.103 (now 115.121.123) regarding bulk plants, and 131.07.54.101–.104 (now 115.131–.135) regarding stage I vapor recovery at service stations.

After evaluation of the State's submittal, EPA issued a final rule (45 FR 19231) on March 25, 1980 in which no action was taken regarding the State's revisions to the above referenced Subsections. The no action specified that the federal regulations would remain in effect for Harris, Galveston, Brazoria, Bexar, Dallas, and Tarrant Counties, based on differences between the State and federal versions of the regulations. The State regulations were approved for El Paso, Nueces, Ector, Gregg, Jefferson, Orange and Travis Counties, since these counties were not covered by the federally promulgated regulations.

EPA's evaluation of the State's submittal, "Review of Texas State Implementation Plan Revision of April 13, 1979; June 1979," discusses the differences between the State and federal versions of the regulations. This evaluation is available at the region 6 address given previously in this notice. EPA has reevaluated the State's submittal in light of information provided in the applicable Control Technique Guidelines [1] for gasoline marketing operations and current EPA policy. This evaluation [2] indicates that the State's revisions of April 13, 1979 regarding the above referenced subsections are equivalent to the federally promulgated regulations. In view of the above, EPA proposes approval of the State's Regulations.

Exemption From Federal Regulations

Approval of the State's above referenced Subsections causes equivalent federal and State Regulations to become applicable in certain counties. EPA proposes to exempt these counties from the federal regulations to avoid a situation of overlapping requirements as follows:

Harris County is subject to all three State Subsections, therefore EPA proposes to exempt Harris County from the federally promulgated regulations.

Dallas, Tarrant, Bexar, Brazoria, and Galveston Counties are subject to the State's Subsections with regard to bulk terminals and Stage I vapor recovery at service stations. EPA proposes to exempt these counties from the federally promulgated regulations as they pertain to bulk terminals and Stage I vapor recovery at service stations.

Submittal of July 25, 1980

On July 25, 1980, the Governor of Texas submitted, among other things, TACB Regulation V subsection 115.261, "Control of Volatile Organic Compound Leaks From Gasoline Tank Trucks in Harris County," after adequate notice and public hearing. This subsection was submitted as a control measure required as part of the ozone nonattainment area control strategy developed to meet the requirements of Part D of Title I of the CAA, as amended in 1977. Subsection 115.261 was approved by EPA on May 3, 1982, at 47 FR 18857.

A related portion of the July 25, 1980 submittal specifies a leak tight condition for vapor collection systems while operating at the three gasoline marketing operations discussed previously in this notice. This portion of the submittal thus becomes an integral part of the State's applicable Subsections, which are proposed for approval by this notice. The State, however, has not included appropriate test methods and procedures for determining compliance with the emission limitations for vapor collection systems as required by the State's Subsections. The lack of such test methods renders these regulations federally unenforceable. EPA proposes to use the test methods and procedures adopted by the State of Louisiana and approved by EPA on October 29, 1981 (at 46 FR 53412) for the purpose of Federal enforcement for the affected vapor collection systems. Therefore, EPA proposes to approve the addition of this portion of the July 25, 1980 submittal to Regulation V on this basis. This approval will approve the complete Subsections (as referenced previously) submitted by the Governor on July 25, 1980.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed regulation is not major because it imposes no new requirements.

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

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709). The proposal to include test methods in the Texas SIP, if promulgated, also would not have significant impact on a substantial number of small entities since it adds no new requirements. It would, if promulgated, merely identify the test method EPA will use for a particular source category for ascertaining compliance.

This notice of proposed rulemaking is issued under the authority of Sections 110 and 172 of the Clean Air Act, 42 U.S.C. 7410 and 7502.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon Monoxide, Hydrocarbons.

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[1] The Control Technique Guidelines (CTG) provide information that describes the presumptive norm for RACT, or Reasonably Available Control Technology. RACT is required as part of an approvable ozone control strategy for stationary sources for which EPA has published a CTG by January, 1978.

[2] "EPA Review of Texas State Implementation Plan Revision: Bulk Gasoline Plants, Bulk Terminals and Service Station Stage I Vapor Recovery, April 13, 1979; May, 1982. This Evaluation is available at the region 6 address given previously in this notice.

Dated: June 29, 1982.

Frances E. Phillips,

Regional Administrator.

[FR Doc. 82-21149 Filed 8-4-82; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

41 CFR Part 101-47

Holding Agency Disposal Authority

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: In order to avoid confusion that has been experienced in the past, the General Services Administration proposes to clarify the disposal authority delegated to holding agencies.

DATE: Comments must be received on or before October 4, 1982.

ADDRESS: Written comments should be sent to the General Services Administration (DR), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: James H. Pitts, Office of Real Property (202-535-7067).

SUPPLEMENTARY INFORMATION: The Administrator of General Services is authorized to delegate certain authorities to heads of other agencies under the Federal Property and Administrative Services Act of 1949, as amended (63 Stat. 378; 40 U.S.C. 471 et seq.), and other applicable laws. One such authority designates the holding agency as disposal agency regarding the disposal of certain surplus real property. This proposed rule reflects the concern of Congress that it is the responsibility of the General Services Administration (GSA), not the holding agency, to dispose of federally-owned machinery and equipment which are fixtures being used by a contractor-operator where the machinery and equipment will be sold to the contractor-operator. In this regard, it is also the responsibility of GSA, not the holding agency, to provide an explanatory statement of the circumstances of each disposal by negotiation of any real or related personal property having a fair market value in excess of $1,000 to the appropriate committees of Congress in advance of such disposal.

GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-47

Surplus Govenment Property and Government Property Management.

PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Accordingly, it is proposed to amend 41 CFR Part 101-47 as follows:

1. Section 101-47.302-2(a)(2) is revised to read as follows:

§ 101-47.302-2 Holding agency.

(a) * * *

(2) Fixtures, structures, and improvements of any kind to be disposed of without the underlying land with the exception of Government-owned machinery and equipment, which are fixtures being used by a contractor-operator, where such machinery and equipment will be sold to the contractor-operator.

* * * * *

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

Dated: July 8, 1982.

Carroll Jones,

Commissioner, Federal Property Resources Service.

[FR Doc. 82-21126 Filed 8-4-82; 8:45 am]

BILLING CODE 6820-96-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1128

[Ex Parte No. 395 (Sub-1)]

Feeder Railroad Development Program

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: We propose to modify our regulations governing the feeder railroad development program (49 CFR Part 1128). This program was created to enable shippers and communities to acquire rail lines prior to downgrading or abandonment. These revisions are proposed to remedy problems which have arisen with the existing regulations and to streamline and clarify our application procedures.

DATES: Comments should be filed by September 7, 1982.

ADDRESS: An original and 10 copies of comments should be submitted to: Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245
Wayne A. Michel, (202) 275-7657
or
Karen A. Osterloh, (202) 275-7483.

SUPPLEMENTARY INFORMATION: In the Staggers Rail Act of 1980, Congress created the feeder railroad development program to enable shippers and communities to acquire rail lines prior to downgrading or abandonment. Under the statute (49 U.S.C. 10910), the Commission is authorized to require railroads to sell certain lines to financially responsible persons[1] if the line meets one of two criteria: (1) the line was listed on a carrier's system diagram map in category 1 or 2 (an abandonment candidate) and no abandonment application has been filed (49 U.S.C. 10910(b)(1)(A)(ii)); or (2) the public convenience and necessity require or permit the sale [49 U.S.C. 10910(b)(1)(A)(i)].[2]

Proposed rules governing the filing and processing of feeder line applications were published November 4, 1980. Those proposed rules were adopted with minor modifications on July 9, 1981 in Ex Parte No. 395, *Feeder Railroad Development Program*, 365 I.C.C. 93 (1981). Under those regulations, a financially responsible person seeking to acquire a rail line pursuant to the feeder line development program is required to give 90-days notice of its intent to file an application to acquire a line (49 CFR 1128.2). This notice provision was imposed to allow the potential applicant and the carrier an opportunity to meet and conduct negotiations for the voluntary sale of the line and to alert other potential participants to the proceeding. See *Feeder Railroad Development Program*, 45 FR 73105, 73107 (November 4, 1980).

Unfortunately, the prior notice provisions have had an unforeseen adverse effect on the feeder line program. As an example, in Docket No. AB-43 (Sub-No. 85F), *Illinois Central Gulf Railroad Company—Abandonment—Between Cisco and Green's Switch in Mason and Piatt Counties, IL*, and Finance Docket No. 29813, *Cisco Cooperative Grain*

[1] Class I and II rail carriers cannot use these provisions.

[2] Specific criteria for this option are detailed in 49 U.S.C. 10910(c)(1).

Company—Feeder Line Acquisition—Illinois Central Gulf Railroad Company Line Between Cisco and Green's Switch, IL, (not printed), served May 10, 1982, a party filed a notice of intent to file a feeder line application. The notice stated that the feeder line application would be based on the line being listed as a potential candidate for abandonment on the owning carrier's system diagram map. Due to the 90-day notice period, however, the party was unable to file its feeder line application prior to the date the owning carrier filed an abandonment application for the line.[3] As a result of the abandonment application, the Commission dismissed the notice and found: (1) that the filing of a feeder line notice was insufficient to trigger section 10910 jurisdiction; and (2) that feeder line jurisdiction could not be invoked after the filing of an abandonment application. A petition to reopen was filed alleging that we committed material error. On July 19, 1982 the Commission denied this petition.

As illustrated above, the practical effect of the 90-day notice requirement has been to frustrate the feeder line program. While the notice provisions were originally imposed to encourage voluntary agreements and provide maximum public notice, because of the ways in which railroads can avoid the program, the public interest is best served by the elimination of this requirement.

Even with elimination of the 90-day notice requirement it is still possible for an owning carrier to file an abandonment application prior or subsequent to the filing of a feeder line application. It is therefore necessary to explain our policy regarding the interrelationship between feeder line and abandonment proceedings.

In recognition of Congress' express intent that the feeder line program must be subordinate to the abandonment program,[4] we will automatically reject any feeder line application which involves all or any portion of a line which is the subject of a pending abandonment application that was filed prior to the feeder line application. Conversely, if the feeder line application is filed prior to the abandonment application, both proceedings will be processed concurrently (but not on a consolidated basis). However, because unopposed abandonment applications must be summarily granted 45 days after their filing (49 U.S.C. 10904(b)), it is incumbent upon the feeder line applicant to file a timely protest in the related abandonment proceeding. Such a protest need only note the pendency of the feeder line application. It will result in the automatic investigation of the abandonment application.[5]

Because it will be necessary to conclude the feeder line proceeding prior to the issuance of the later-filed abandonment decision, we have proposed changes which will substantially accelerate consideration of the feeder line proceeding. Our current regulations provide that feeder line applications will be considered in a multi-step procedure including: (1) The preapplication notice requirement; (2) an initial evidentiary submission and a Commission determination on all issues except acquisition price, and (3) a possible second evidentiary proceeding and Commission decision setting the acquisition price. In addition to eliminating the preapplication notice procedure as discussed above, the proposed rules combine the two evidentiary steps and provide for one Commission decision. We have also compressed the timetable for the submission of evidence; imposed a deadline on the Commission for the issuance of its decision; and eliminated the provisions allowing the Commission to require additional oral or written testimony. With these changes, the parties and the Commission will know whether a forced sale will occur within 140 days of the filing of the feeder line application.[6] Since the statutory deadline for an investigated abandonment proceeding is 165 days from its filing date (49 U.S.C. 10904(c)(3)), we anticipate that feeder line applications will be resolved prior to the deadline for consideration of the abandonment application.

In addition to the changes described above, the proposed rules consider several other matters including: public notice, final offer arbitration, competing application, and **Federal Register** publication of a finding of public convenience and necessity. Also, most sections of the present regulations have been modified for clarity and to eliminate unnecessary regulations. The major changes are discussed below.

Public Notice.—The elimination of the 90-day notice of intent to file a feeder line application requires the modification of our procedures for public notification of the application. Our proposed rules require the notification of certain designated parties by certified mail and the publication of a summary of the accepted application in the **Federal Register**. While this notice is not as extensive as that required under the current procedure,[7] it notifies all potential participants of the issues in the proceeding.

Final offer arbitration.—The proposed rules eliminate the specific provisions for final offer arbitration of the acquisition price of the line. The proposed rules, however, do not foreclose the use of this procedure or any other negotiation or arbitration method designed to assist the parties in reaching a voluntary agreement on any matter in controversy.

Competing Applications.—The present regulations permit submission of competing applications for acquisition of the same feeder line. *See*, 49 CFR 1128.4(d), 1128.5(d), and 1128.3(a). Our proposed rules eliminate the provisions because consideration of competing applications would broaden the issues in the proceeding and delay the timely issuance of a final determination. Because there appear to be advantages to allowing competing applications, however, we specifically request comments on whether competing applications should be allowed and, if so, how they should be processed.

Federal Register *Publication of Public Convenience and Necessity Findings.*—Our prior regulations overlooked the statutory requirement of 49 U.S.C. 10910(c)(2) which states, in part, "* * * If the Commission finds under this subsection that the public convenience and necessity require or permit the sale of a particular railroad line, the Commission shall concurrently notify

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[3] An application for abandonment removes the line from category 1 on the system diagram map. 49 CFR 1121.20(b)(3).

[4] H.R. Rep. No. 96-1430, 2nd Sess. 124 (1980) provides "* * * the feeder railroad program is not intended to su[p]plant the branch line program under existing law. Where an application for abandonment has been actually filed with the Commission, existing provisions of the Interstate Commerce Act and of the Local Rail Service Assistance Act will be available." See also 49 U.S.C. 10903-10905, and 10910.

[5] If the feeder line application only involves a portion of the line involved in the related abandonment proceeding, we will bifurcate the abandonment application and only set the segment subject to the feeder line application for investigation.

[6] The following table summarizes our proposed procedural schedule.

Day 1—Application filed.

Day 15—The Commission accepts or rejects the application on the basis of completeness. If the application is accepted, a notice of the acceptance will be published in the **Federal Register**.

Day 50—Comments due from interested parties.

Day 70—Applicant's reply due.

Day 130—Commission's issuance of final decision.

Day 140—Applicant's decision accepting or rejecting the Commission's determination is due.

[7] Presently, the regulations also provide for the posting of a notice at all rail stations on the line and the publication of a notice in local newspapers for three weeks. We propose to eliminate these requirements.

the parties of such finding and publish such finding in the **Federal Register.**"

Accordingly, we have provided for this publication in the proposed regulations.

The proposed rules are set forth in the appendix.

We invite public comment on our proposed revisions to the feeder railroad development program regulations. After considering all the comments, we will issue final rules.

The proposed revisions will not increase the burdens on regulated carriers or interested members of the public, including small entities. For the foregoing reasons, it is certified that the regulations proposed in this proceeding, if adopted, will not have a significant economic impact on a substantial number of small entities.

This action does not appear to have a significant affect on the quality of the human environment or conservation of energy resources.

List of Subjects in 49 CFR Part 1128

Administrative Practice and Procedure, Railroads.

This notice of proposed rulemaking is issued under the authority of 5 U.S.C. 553 and 49 U.S.C. 10321 and 10910.

Decided: July 23, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam concurred with a separate expression. Commissioner Sterrett, joined by Commissioner Andre, dissented in part with a separate expression.

Agatha L. Mergenovich,

Secretary.

Vice Chairman Gilliam, Concurring

The proposed regulations will help to revitalize the feeder line program by simplifying and streamling the process for acquiring feeder lines. The prupose of the program is to provide communities and shippers with the opportunity to ensure adequate rail service and to avoid down-grading by the owning carrier. Many rail carriers in anticipation of abandonment or in hopes of reducing their losses downgrade service on their lines. The feeder line provision provides the public with an opportunity, before the abandonment process begins, to take over the line and upgrade the service.

The proposed rules properly do not allow the subsequent filing of an abandonment application to displace the feeder line application. If we permitted this it would have the effect of allowing the carrier, not the Commission, to control the disposition of these applications. Carriers are not the appropriate parties to make the decision as to whether or not a feeder line application should be considered by the Commission. I do not believe that Congress intended this result. If a feeder line application is filed before an abandonment application, the feeder line applicant must be afforded an opportunity to acquire the line. Fairness as well as the legislative history demands this result. However, I do agree that once an abandonment application has been filed by a carrier a subsequent feeder line application may *not* be entertained by the Commission.

My major concern is the potential harm to shippers and local communities if they are precluded from the feeder line program by the carrier's subsequent filing of an abandonment application. The feeder line provisions are more beneficial to the public than those available under the forced sale provisions of 49 U.S.C. 10905. Under the feeder line statute, the Commission can require the selling carrier to provide the buyer with trackage rights and reasonable joint rates. Moreover, the buyer can elect to be exempt from all of Title 49, with the exception of joint rates. By contrast, a forced sales after abandonment provides the buyer with none of these advantages.

I might add that the proposed regulations should not harm the abandoning railroad because if an abandonment application is filed after the feeder line application one of two events will occur. Either the line will be sold at no less than the constitutional minimum value if the feeder line applicant goes through with the purchase; or if the feeder line applicant rejects the purchase terms, the abandonment will be authorized, assuming the facts warrant that result. Additionally, the time frames proposed will not result in any delay of the processing of the carrier's application.

Finally, I encourage members of the public to comment on the question of competing applications. If there appears to be support for competing applications I am certain that the proposed regulations can be modified so as to allow for the filing and processing of these applications.

Commissioner Sterrett, joined by Commissioner Andre, dissenting in part:

I agree with the decision to the extent it proposes to reconsider the 90-day notice requirement. However, the decision misinterprets the relationship of the feeder line to the abandonment program.

The purpose of section 10910 is to provide for continuation of adequate service to rail users. As stated in the Conference Report:

The conferees believe that the feeder line program will give shippers and communities an opportunity to insist upon adequate rail service. Where such service is not forthcoming the provision provides, through acquisition, a viable alternative to poor service or total abandonment. (H. Rpt. No. 96–1430, 96th Cong. 2d Sess. (1980), p. 125.)

The legislative history indicates that the intent was to preserve feeder lines prior to total downgrading.

Thus, Congress did not intend the feeder line program to supersede existing statutory provisions governing the transfer of rail lines. Instead, it saw section 10910 as an impetus to carrier action, and provided for forced acquisition only as a last resort. In fact, the feeder line program authorizes a forced sale if a line has been placed on the system diagram map *only* if the carrier has not filed an abandonment application. See 49 U.S.C. 10910(b)(1)(A)(ii). The Conference Report states that:

The feeder railroad program is not intended to surplant the branch line program under existing law. Where an application for abandonment has been actually filed with the Commission, existing provisions of the Interstate Commerce Act and of the Local Rail Service Assistance Act will be available. (H. Rpt. No. 96–1430, *supra,* at 124.)

Contrary to this guidance, the proposed rules adopted by the majority would allow a feeder line application to supersede an abandonment proceeding. The feeder case would be decided first, although the statute contains no such requirement and, indeed, no deadline for a decision.

I believe the statute would be properly implemented if the interests of a feeder line applicant were considered in a subsequent abandonment proceeding. The filing of an abandonment application (or a proposed voluntary sale) eliminates the need for a purchase under the feeder line program since a forced sale is an option in the abandonment proceeding and the feeder line applicant treated as a potential purchaser. The record developed in the feeder proceeding, if any, would be available.

This approach appears advantageous, from a price standpoint, to the feeder line applicant. Section 10910's purchase price standard is "not less than Constitutional minimum value" (CMV), defined as not less than the higher of net liquidation value (NLV) or going concern value (GCV). Section 10905 sets the floor at fair market value—interpreted by the Commission as not less than NLV.

Furthermore, while section 10910 offers threshold opportunities to purchasers that may not be immediately available through other purchase programs, the existence of these opportunities should not override our responsibility to interpret and apply the statute as it was intended by Congress. Moreover, the trackage rights and joint rate provisions are limited, and relief is available elsewhere in the statute. (49 U.S.C. 10742 requires reasonable interchange, 49 U.S.C. 10705 authorizes prescription of joint rates and divisions, when in the public interest.)

Finally, the majority's overriding purpose to shorten the process in a manner inconsistent with statutory intent threatens the competing application process. I am pleased that the majority appears to share some of my concern regarding the benefit of competing applications. A race to the Commission is unfair to potential purchasers. It is also inconsistent with section 10910(b)(1)(B), which provides that the sale price be *not less* than the CMV. The parties' ability to negotiate would be improperly and unnecessarily restricted by such a requirement. Moreover, the statute defines CMV as the higher of GCV or NLV. As GCV is estimated on the basis of profit expectations, eliminating or severely restricting competing bids adversely affects our best means of estimating GCV. I do not see how the abbreviated procedural schedule can include a reasonable and fair consideration of competing applications.

Appendix

In Title 49 CFR, Part 1128 would be revised to read as follows:

PART 1128—FEEDER RAILROAD DEVELOPMENT PROGRAM

Sec.
1128.1 Scope.
1128.2 Procedures.
1128.3 Contents of application.
1128.4 Commission determination.
1128.5 Verification and copies.

Authority: 5 U.S.C. 553, 49 U.S.C. 10910.

§ 1128.1 Scope.

This part governs applications filed under 49 U.S.C. 10910. The Commission can require the sale of a rail line to a financially responsible person. A rail line is eligible for a forced sale if it appears in category 1 or 2 of the owning railroad's system diagram map (but the railroad has not filed an application to abandon the line), or the public convenience and necessity (PC&N), as defined in 49 U.S.C. 10910(c)(1), permit or require the sale of the line. Until October 1, 1983, section 10910 is only applicable to lines that carried less than 3 million gross ton-miles of traffic per mile in the preceding calendar year.

§ 1128.2 Procedures.

(a) Before an application is filed, the applicant must obtain a docket number from the Commission's Section of Finance.

(b) The application proceeding commences on the filing of the application with the Commission.

(c) Within 15 days of the receipt of the application, a decision accepting or rejecting the application will be issued. Any application which does not substantially conform to these regulations regarding form and content will be rejected. If the application is accepted, a notice of the application will be simultaneously published in the **Federal Register**.

(d) Within 50 days of the filing of the application, the owning railroad and other interested parties shall file their verified statements addressing the application.

(e) Within 70 days of the filing of the application, applicant may file a verified reply.

(f) Within 130 days of the filing of the application, the Commission decision disposing of all issues shall be issued. If the Commission finds that the PC&N require or permit the sale of a line, the Commission shall concurrently publish this finding in the **Federal Register**.

(g) Within 10 days of the service date of the decision ordering the sale, the applicant must file a notice accepting or rejecting the Commission's determination.

§ 1128.3 Contents of application.

(a) The application must include: (1) Identification of the line to be purchased including:

(i) The name of the owning carrier; and

(ii) The exact location of the line to be purchased including milepost designations, origin and termination points, stations located on the line, and cities, counties and States traversed by the line.

(2) Identification of applicant including:

(i) The applicant's name and address;

(ii) The name, address, and phone number of the representative to receive correspondence concerning this application;

(iii) A description of applicant's affiliation with any railroad; and

(iv) If the applicant is a corporation, the names and addresses of its officers and directors.

(3) Information sufficient to demonstrate that the applicant is a finanically responsible person. In this regard, the applicant must demonstrate its ability:

(i) To pay the higher of the net liquidation value (NLV) or going-concern value (GCV) of the line; and

(ii) To cover expenses associated with providing service over the line (including, but not limited to, operating costs, rents, and taxes) for the first 3 years after acquisition of the line.

(4) An estimate of the NLV and the GCV of the line.

(5) An offer to purchase the line at the higher of the two estimates submitted pursuant to paragraph(a)(4) of this section.

(6) The dates for the proposed period of operation of the line covered by the application.

(7) An operating plan that identifies the proposed operator; attaches any contract that the applicant may have with the proposed operator; describes in detail the service that is to be provided on the line, including all interline connections; and demonstrates that adequate transportation will be provided over the line for at least 3 years from the date of acquisition.

(8) A description of the liability insurance coverage carried by applicant or any proposed operator. If trackage rights are requested, the insurance must be at a level sufficient to indemnify the owning railroad against all personal and property damage that may result from negligence on the part of the operator in exercising the trackage rights.

(9) Any preconditions (such as assuming a share of any subsidy payments) that will be placed on shippers in order for them to receive service, and a statement that if the application is approved, no further preconditions will be placed on shippers without Commission approval. (THIS STATEMENT WILL BE BINDING UPON THE APPLICANT IF THE APPLICATION IS APPROVED.)

(10) The name and address of any person(s) who will subsidize the operation of the line.

(11) A statement that the applicant will seek a finding by the Commission that the PC&N permit or require the acquisition, or a statement that the line is currently in category 1 or 2 of the owning railroad's system diagram map.

(i) If the applicant seeks a finding of PC&N, the application must contain detailed evidence that permit the Commission to find that:

(A) The rail carrier operating the line refused within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over the line;

(B) The transportation over the line is inadequate for the majority of shippers who transport traffic over the line

(C) The sale of the line will not have a significantly adverse financial effect on the rail carrier operating the line;

(D) The sale of the line will not have an adverse effect on the overall operational performance of the rail carrier operating the line; and

(E) The sale of the line will be likely to result in improved railroad transportation for shippers who transport traffic over the line.

(ii) If the applicant seeks a finding that the line is currently in category 1 or 2 of the owning carrier's system diagram map, the relevant portion of the current map must be attached to the application.

(12) A statement detailing applicant's election of exemption from any of the provisions of Title 49, United States Code, and a statement that if the application is approved; no further exemptions will be elected. (THIS STATEMENT WILL BE BINDING UPON THE APPLICANT IF THE APPLICATION IS APPROVED.)

(13) A description of any trackage rights sought over the owning railroad that are required to allow reasonable interchange or to move power equipment or empty rolling stock between noncontiguous feeder lines operated by the applicant, and an estimate of the reasonable compensation for such rights, including a full explanation of how the estimate was reached. The description of the

trackage rights shall include the following information: milepost or other identification for each segment of track; the need for the trackage rights (interchange of traffic, movement of equipment, etc.); frequency of operations; times of operation; any alternative to the use of trackage rights; and any other pertinent data. Trackage rights that are necessary for the interchange of traffic shall be limited to the closest point to the junction with the owning railroad's line that allows the efficient interchange of traffic. A statement shall be included that the applicant agrees to have its train and crew personnel take the operating rules examination of the railroad over which the operating rights are exercised.

(14) A description of any joint rate and division agreements that must be established. The description(s) shall include the following information: the railroad(s) involved; the estimated revenues that will result from the division(s); the total costs of operating the line segment purchased (including the trackage rights fees); and any other pertinent data.

(15) The extent to which the owning railroad's employees who normally service the line will be used.

(16) If the application is filed before October 1, 1983, information sufficient to allow the Commission to determine that the line sought to be acquired carried less than 3 million gross ton-miles of traffic per mile in the preceding calendar year. Gross ton-miles are calculated by adding the ton-miles of the cargo and the ton-miles related to the tare (empty) weight of the freight cars used to transport the cargo in the loaded movement. In calculating the gross ton-miles, only those related to the portion of the segment being purchased shall be included.

(17) An affidavit stating that the service requirements of § 1128.3(b) have been met.

(b) Concurrently with the filing of the application, applicant shall serve a copy of the application by certified mail on the following parties; each of the 10 rail patrons who originated and/or received the largest number of carloads on the line (or each patron if there are fewer than 10), and (2) any other rail patron who originated and/or received 50 or more carloads on the line proposed for acquisition during the 12-month period preceding the month in which the application is filed, the Designated State Agency in the State(s) in which the property is located, the owning railroad, and the Railway Labor Executives' Association, 400 1st Street N.W., Washington, D.C. 20001.

(c) Applicant shall make copies of the application available to interested parties upon request.

§ 1128.4 Commission determination.

(a) If the Commission determines: (1) The applicant is a financially responsible person capable of paying the constitutional minimum value of the line and able to assure that adequate transportation will be provided over the line for at least 3 years;

(2) The applicant is not a class I or class II railroad or an entity affiliated with a class I or class II railroad;

(3) Either (i) the PC&N require or permit the sale of the line, or

(ii) The line is classified in category 1 or 2 of the owning carrier's system diagram map; and

(4) The traffic level on the line sought to be acquired was less than 3 million gross ton-miles of traffic per mile in the preceding calendar year (Note: this finding will not be required for applications filed after October 1, 1983), the Commission shall order the owning carrier to sell the rail line to the applicant, set the acquisition cost of the line at the higher of NLV and GCV, and resolve any related issues raised in the application.

If trackage rights are sought in the application, the Commission shall, based on the evidence of record, set the adequate compensation for such rights, if the parties have not agreed to a price.

(c) If the applicant requests the Commission to set joint rates or divisions, the Commission shall do so, based on the evidence of record in the proceeding. Unless specifically requested to do so by the selling carrier, the Commission will not set the rate for the selling railroad's share of the joint rate at less that the applicable level (for the year in which the acquisition is made) set by 49 U.S.C. 10709(d)(2), which limits Commission maximum ratemaking jurisdiction to rates above certain cost/price ratios.

§ 1128.8 Verification and copies.

(a) All pleadings permitted by these regulations must be verified.

(b) An original and 10 copies of an application, verified statement, comment or any other pleading permitted by these rules should be submitted to the Section of Finance, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423. The outside envelope and the first page of any document submitted under these rules should be clearly marked "Feeder Line Development."

[FR Doc. 82-21119 Filed 8-4-82; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 47, No. 151
Thursday, August 5, 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

Middle Fork Judith and Big Snowies Wilderness Study Area Report Hearing Announcement; Public Hearing

Notice is hereby given that a public hearing will be held, beginning at 1:30 p.m. on October 5, 1982, in the Yugo Inn, Lewistown, Montana; and 1:30 p.m. on October 6, 1982, in the Rainbow Hotel, Great Falls, Montana, on a proposal for the future management of the Middle Fork Judith Wilderness Study Area comprised of approximately 92,000 acres, and Big Snowies Wilderness Study Area comprised of approximately 97,885 acres, within the Lewis and Clark National Forest in the Counties of Fergus, Golden Valley, and Judith Basin in the State of Montana.

A report containing a map and information about the proposal may be obtained from the Forest Supervisor, Lewis and Clark National Forest, P.O. Box 871, Great Falls, Montana 59403.

Individuals and organizations may express their views by appearing at this hearing or may submit written comments for inclusion in the official record to the Regional Forester, Box 7669, Missoula, Montana 59807. Those persons wishing to present oral testimony at the hearing should notify the Regional Forester at the above address prior to September 15, 1982.

Tom Coston,

Northern Regional Forester.

July 23, 1982.

[FR Doc. 82-21135 Filed 8-4-82; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

Pan American World Airways, Inc.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (82-7-115).

SUMMARY: The Board has tentatively decided to renew for a period of five years the authority of Pan American World Airways, Inc. to operate scheduled air transportation of persons, property and mail between the coterminal points New York, San Francisco, Los Angeles, and Honolulu, the intermediate point Tokyo or another point in Japan, and the coterminal points Shanghai and Beijing, People's Republic of China (Route 246).

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this action be taken, as described in the order cited above, shall no later than August 23, 1982, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 40651, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to Pan American World Airways, Inc., Northwest Airlines, Inc., Transamerica Airlines, Inc., United Air Lines, Inc., the Departments of State and Transportation, and the Attorney General. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will make final the Board's tentative findings and conclusions, and, subject to the disapproval of the President under section 801(a) of the Act, renew the carrier's certificate to authorize it to engage in the foreign air transportation described above.

To get a copy of the complete order, request it from the Civil Aeronautics Board, Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington Metropolitan area may send a postcard request.

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

By the Civil Aeronautics Board: July 30, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-21146 Filed 8-4-82; 8:45 am]

BILLING CODE 6320-01-M

U.S.-People's Republic of China Service Proceeding (Phase II) Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (82-7-119).

SUMMARY: The Board has decided to institute the *U.S.-People's Republic of China Service Proceeding (Phase II),* in order to select a second U.S.-flag air carrier to operate scheduled air transportation of persons, property, and mail between points in the United States, an intermediate point or points, and points in the People's Republic of China, and to determine what terms, conditions, or limitations should be attached to that authority.

OBJECTIONS: All applications, motions to consolidate, petitions for intervention, and petitions for reconsideration shall be filed NO LATER THAN August 12, 1982, (20 copies, addressed to Docket 40887, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to all certificated air carriers, the United States Departments of State and Transportation, the Governors and Public Utility Commissions of California, Hawaii, Illinois, New York, Oregon, and Washington, the Mayors and aviation authorities of Chicago, Honolulu, Los Angeles, New York, Portland, San Francisco, and Seattle, and the United States Postmaster General. A pleading must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence. Answers to these motions must be filed NO LATER THAN August 23, 1982, and must follow the same procedures indicated above for applications, motions to consolidate, petitions for intervention, and petitions for reconsideration.

To get a copy of the complete order, request it from the Civil Aeronautics Board, Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington Metropolitan area may send a postcard request.

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

By the Civil Aeronautics Board: July 30, 1982.

Phillis T. Kaylor,

Secretary.

[FR Doc. 82-21147 Filed 8-4-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Amoxicillin Trihydrate and Its Salts From Spain; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On November 27, 1981, the Department of Commerce published in the **Federal Register** a notice of the preliminary results of its administrative review of the countervailing duty order on amoxicillin trihydrate and its salts from Spain. The review covered the period January 1, 1980 through December 31, 1980. The notice stated that the Department had preliminarily determined the amount of the aggregate net subsidy to be 3.66 percent *ad valorem*.

Interested parties were invited to comment on the preliminary results. Upon review of all comments received, and after correcting a clerical error, the Department has determined that countervailing duties equal to the calculated value of the net subsidy, 2.03 percent of the f.o.b. invoice price of the merchandise, shall be assessed on all unliquidated entries entered on or after January 1, 1980, and exported on or before December 31, 1980.

Further, due to changes in Spanish banking practices which occurred subsequent to the period of review, we have determined that cash deposits of estimated countervailing duties of 1.16 percent of the f.o.b. invoice price of the merchandise shall be collected on future entires pending the results of the next administrative review.

EFFECTIVE DATE: August 5, 1982.

FOR FURTHER INFORMATION CONTACT: Charles Anderson or Claire Richard, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2786/1487).

SUPPLEMENTARY INFORMATION:

Background

On November 27, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 57945) the preliminary results of its administrative review of the countervailing duty order on amoxicillin trihydrate and its salts from Spain (T.D. 79-211, 44 FR 44154). The Department has now completed that administrative review.

Scope of the Review

The merchandise covered by the review is amoxicillin trihydrate and its salts ("amoxicillin") from Spain. This merchandise is currently classifiable under item 411.7400 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1980 through December 31, 1980. The Department reviewed the program found countervailable in the original determination, the rebate of indirect taxes under the Desgravacion Fiscal a la Exportacion ("DFE"). It also investigated an operating capital loans program found countervailable in other Spanish cases.

Analysis of Comments Received

Interested parties were invited to comment on our preliminary results. Only the petitioner, Biocraft Industries, submitted comments.

(1) *Comment:* Petitioner claims that commercially available rates for short-term loans comparable to those under the operating capital loans program ranged in Spain during 1980 from 15 to 17 percent, making the differential between the commercial rate and the 8 percent operating capital loan rate range from 7 to 9 percent.

Position: Petitioner failed to provide any information supporting the allegation that comparable commercial interest rates in 1980 range from 15 to 17 percent. The Department did find that loans for one to three years carried interest rates in this range. However, the loans at issue here were for less than one year. The legally established rate of interest for short-term loans of up to one year therefore represents the best benchmark by which to measure the benefit bestowed upon the manufacturer of amoxicillin through the operating capital loans program. Short-term loans of up to one year carried interest rates of 9.5 percent, as decreed by the Spanish government in the Ministerial Order of July 23, 1977. Operating capital loans were of similar duration and had an interest rate of 8 percent fixed by the same order during this period. The differential is therefore 1.5 percent, not from 7 to 9 percent.

(2) *Comment:* Because the production of amoxicillin involves several discrete steps, it is possible that waste products from one step are utilized as recycled inputs at another step. Hence, in its cost structure, the only exporter to the U.S., Antibioticos, could have counted the value of the re-used material both at the original step and subsequent steps, thereby claiming more than once a rebate for indirect tax on on an input when actual payment of the indirect tax was made only on the original purchase.

Position: Antibioticos has informed us that, if an input was used in one step of production, recycled and reused at another step, then the cost at the second step will not include the value of the product previously claimed at the first step.

(3) *Comment:* The table used by the Department to calculate the incidence of indirect tax on amoxicillin aggregated organic and inorganic chemical products. Because the Department did not reveal the exact identities of the compounds which comprise these two categories, the petitioner found it impossible to determine which of these elements are physically incorporated into the final product, or even used in the process of production.

Position: The identities of the organic and inorganic compounds were revealed to us during the verification. Based upon the respondent's explanation of the process of production of amoxicillin, we have concluded that the compounds listed were either physically incorporated or necessary waste. The identities of the compounds have not been disclosed to the petitioner because their release would cause the respondent competitive harm.

(4) *Comment:* Petitioner raises the possibility that the improper conversion of the units of measurement, "chemical activity" into kilogram wight, when calculating the company's cost structure may have introduced inaccuracies in the amount of inputs claimed.

Position: During the verification, we examined company cost structure records which showed the methods of conversion from chemical activity to kilogram wight. Based on our examination of these records, we are satisfied that Antibiotiocos consistently and accurately converted these units in the records we used to calculate the percentages of allowable indirect taxes on inputs.

(5) *Comment:* Petitioner alleges that the only inputs physically incorporated in the final product are part of the molecule of penicillin G and part of the molecule of the dane salt.

Position: The concept of physical incorporation presents particular difficulties with regard to amoxicillin. While it is true that certain products

used in the intermediate steps of production do not enter the final product in their original compound form, some of the constituent elements of these products are passed through to the final product. Therefore, in order to apply the physical incorporation principle to amoxicillin, it is necessary to look at the process of production at the molecular level. At this level we can distinguish nutrients and chemicals used to grow microorganisms, which produce amoxicillin as a byproduct, from energy used in a manufacturing process. Energy can in no way be considered physically incorporated in the final product. (See the Commerce Regulations on countervailing duties (19 CFR Part 355 Annex 1, para. 1)). On the other hand, we allow nutrients and other products used in the production of amoxicillin because they impart molecules and/or atoms to the final product. Because these particles are necessarily and purposefully incorporated, we have also followed our established administrative practice of considering the parts of these inputs utilized in the production of amoxicillin but not physically incorporated to be necessary waste. (See "Preliminary Results of Administrative Review of Countervailing Duty Order on Oleoresins of Paprika from Spain", 46 FR 61684.) Using this standard, the following inputs used in the production process have been allowed: Corn or soy oil, corn steep, sucrose, and certain organic and inorganic chemicals.

Since publishing the preliminary results we have learned that liquid nitrogen and demulso-1 are used in the production process as a cooling agent and defoaming agent, respectively. Because they are not physically incorporated into the final product, we have removed them from our calculations of allowable inputs.

Final Results of the Review

In our preliminary results, we calculated the overrebate attributable to the DFE program using 10.5 percent as the size of the rebate given to producers of amoxicillin. In 1980, the actual DFE rebate was 8.5 percent. Using 8.5 percent in calculating our final results, we have determined that the benefit conferred by this program during 1980 is 1.64 percent *ad valorem*. Our calculation of the benefit conferred by the operating capital loans program remains 0.39 percent.

As a result of our review, we determine that the aggregate net subsidy conferred on the manufacture of amoxicillin trihydrate and its salts by the two programs during the period of review is 2.03 percent *ad valorem*. Accordingly, the Department will instruct the Customs Service to assess countervailing duties of 2.03 percent of the f.o.b. invoice price on all unliquidated entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1980 and exported on or before December 31, 1980.

Since the publication of our preliminary results, we have learned that, effect March 1, 1981, the Spanish government increased the interest rates on operating capital loans from 8 to 10 percent, while eliminating the ceiling on comparable short-term commercial loans. Our investigation conducted after this discovery showed that the average interest rate for comparable short-term loans of up to one year was 19.45 percent for the remainder of 1981. This results in a differential of 9.45 percent beteen interest rates for operating capital loans and comparable commercial loans. In addition, the Spanish government reduced the maximum eligibility amount for operating capital loans by 20 percent, effective November 19, 1981, and by an additional 5 percent, effective April 2, 1982. As a result of these changes, we have determined, for purposes of cash deposit of estimated countervailing duties, that the net subsidy attributable to the operating capital program has increased from 0.39 percent to 1.16 percent *ad valorem*. As stated in our preliminary results, the net subsidy attributable to the DFE for purposes of cash deposit is zero.

Therefore, as provided by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), a cash deposit of estimated countervailing duties of 1.16 percent of the f.o.b. invoice price shall be required on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The Department is now commencing the next administrative review of the order. The amount of countervailing duties to be imposed on the merchandise exported during 1981 will be determined in that review. Consequently, the suspension of liquidation previously ordered will continue for all entries of this merchandise exported on or after January 1, 1981.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative 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 § 355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-21145 Filed 8-4-82; 8:45 am]

BILLING CODE 3510-25-M

Ampicillin Trihydrate and its Salts From Spain; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On November 27, 1981, the Department of Commerce published in the **Federal Register** a notice of the preliminary results of its administrative review of the countervailing duty order on ampicillin trihydrate and its salts from Spain. The review covered the period January 1, 1980 through December 31, 1980. The notice stated that the Department had preliminarily determined the amount of the aggregate net subsidy to be 3.66 percent *ad valorem*.

Interested parties were invited to comment on the preliminary results. Upon review of all comments received, and after correcting a clerical error, the Department has determined that countervailing duties equal to the calculated value of the net subsidy, 2.04 percent of the f.o.b. invoice price of the merchandise, shall be assessed on all unliquidated entries entered on or after January 1, 1980, and exported on or before December 31, 1980.

Further, due to changes in Spanish banking practices which occurred subsequent to the period of review, we have determined that cash deposits of estimated countervailing duties of 1.56 percent of the f.o.b. invoice price of the merchandise shall be collected on future entries pending the results of the next administrative review.

EFFECTIVE DATE: August 5, 1982.

FOR FURTHER INFORMATION CONTACT: Charles Anderson or Claire Rickard, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2786/1487).

SUPPLEMENTARY INFORMATION:

Background

On November 27, 1981, the Department of Commerce ("the Department") published in the Federal Register (46 FR 57946) the preliminary results of its administrative review of the countervailing duty order on ampicillin trihydrate and its salts from Spain (T.D. 79-90, 44 FR 17484). The Department has now completed that administrative review.

Scope of the Review

The merchandise covered by the review is ampicillin trihydrate and its salts ("ampicillin") from Spain. This merchandise is currently classifiable under item 411.6000 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1980 through December 31, 1980. The Department reviewed the program found countervailable in the original determination, the rebate of indirect taxes under the Desgravacion Fiscal a la Exportacion ("DFE"). It also investigated an operating capital loans program found countervailable in other Spanish cases.

Analysis of Comments Received

Interested parties were invited to comment on our preliminary results. Only the petitioner, Biocraft Industries, submitted comments.

(1) *Comments:* Petitioner claims that commercially available rates for short-term loans comparable to those under the operating capital loans program ranged in Spain during 1980 from 15 to 17 percent, making the differential between the commercial rate and the 8 percent operating capital loan rate range from 7 to 9 percent.

Position: Petitioner failed to provide any information supporting the allegation that comparable commercial interest rates in 1980 ranged from 15 to 17 percent. The Department did find that loans for one to three years carried interest rates in this range. However, the loans at issue here were for less than one year. The legally established rate of interest for short-term loans of up to one year therefore represents the best benchmark by which to measure the benefit bestowed upon the manufacturer of ampicillin through the operating capital loans program. Short-term loans of up to one year carried interest rates of 9.5 percent, as decreed by the Spanish government in the Ministerial Order of July 23, 1977. Operating capital loans were of similar duration and had an interest rate of 8 percent fixed by the same order during this period. The differential is therefore 1.5 percent, not from 7 to 9 percent.

(2) *Comments:* Because the production of ampicillin involves several discrete steps, it is possible that waste products from one step are utilized as recycled inputs at another step. Hence, in its cost structure, the only exporter to the U.S., Antibioticos, could have counted the value of the re-used material both at the original step and subsequent steps, thereby claiming more than once a rebate for indirect tax on an input when actual payment of the indirect tax was made only on the original purchase.

Position: Antibioticos has informed us that, if an input was used in one step of production, recycled and reused at another step, then the cost at the second step will not include the value of the product previously claimed at the first step.

(3) *Comment:* The table used by the Department to calculate the incidence of indirect tax on ampicillin aggregated organic and inorganic chemical products. Because the Department did not reveal the exact identities of the compounds which comprise these two categories, the petitioner found it impossible to determine which of these elements are physically incorporated into the final product, or even used in the process of production.

Position: The identities of the organic and inorganic compounds were revealed to us during the verification. Based upon the respondent's explanation of the process of production of ampicillin, we have concluded that the compounds listed were either physically incorporated or necessary waste. The identities of the compounds have not been disclosed to the petitioner because their release would cause the respondent competitive harm.

(4) *Comment:* Petitioner raises the possibility that the improper conversion of the units of measurement, "chemical activity" into kilogram weight, when calculating the company's cost structure may have introduced inaccuracies in the amount of inputs claimed.

Position: During the verification, we examined company cost structure records which showed the methods of conversion from chemical activity to kilogram weight. Based on our examination of these records, we are satisfied that Antibioticos consistently and accurately converted these units in the records we used to calculate the percentages of allowable indirect taxes on inputs.

(5) *Comment:* Petitioner alleges that the only inputs physically incorporated in the final product are part of the molecule of penicillin G and part of the molecul of the dane salt.

Position: The concept of physical incorporation presents particular difficulties with regard to ampicillin. While it is true that certain products used in the intermediate steps of production do not enter the final product in their original compound form, some of the constituent elements of these products are passed through to the final product. Therefore, in order to apply the physical incorporation principle to ampicillin, it is necessary to look at the process of production at the molecular level. At this level we can distinguish nutrients and chemicals used to grow microorganisms, which produce ampicillin as a byproduct, from energy used in a manufacturing process. Energy can in no way be considered physically incorporated in the final product. (See the Commerce Regulations on countervailing duties (19 CFR Part 355, Annex 1, para. 1).) On the other hand, we allow nutrients and other products used in the production of ampicillin because they impart molecules and/or atoms to the final product. Because these particles are necessarily and purposefully incorporated, we have also followed our established administrative practice of considering the parts of these inputs utilized in the production of ampicillin but not physically incorporated to be necessary waste. (See "Preliminary Results of Administrative Review of Countervailing Duty Order on Oleoresins of Paprika From Spain", 46 FR 61684.) Using this standard, the following inputs used in the production process have been allowed: corn or soy oil, corn steep, sucrose, and certain organic and inorganic chemicals.

Since publishing the preliminary results we have learned that liquid nitrogen is used in the production process as a cooling agent. Because it is not physically incorporated into the final product, we have removed it from our calculations of allowable inputs.

Final Results of the Review

In our preliminary results, we calculated the overrebate attributable to the DFE program using 10.5 percent as the size of the rebate given to producers of ampicillin. In 1980, the actual DFE rebate was 8.5 percent. Using 8.5 percent in calculating our final results, we have determined that the benefit conferred by this program during 1980 is 1.69 percent *ad valorem*. Our calculation of the benefit conferred by the operating capital loans program remains 0.35 percent.

As a result of our review, we determine that the aggregate net subsidy conferred on the manufacture of

ampicillin trihydrate and its salts by the two programs during the period of review is 2.04 percent *ad valorem*. Accordingly, the Department will instruct the Customs Service to assess countervailing duties of 2.04 percent of the f.o.b. invoice price on all unliquidated entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1980 and exported on or before December 31, 1980.

Since the publication of our preliminary results, we have learned that, effective March 1, 1981, the Spanish government increased the interest rates on operating capital loans from 8 to 10 percent, while eliminating the ceiling on comparable short-term commercial loans. Our investigation conducted after this discovery showed that the average interest rate for comparable short-term loans of up to one year was 19.45 percent for the remainder of 1981. This results in a differential of 9.45 percent between interest rates for operating capital loans and comparable commercial loans. In addition, the Spanish government reduced the maximum eligibility amount for operating capital loans by 20 percent, effective November 19, 1981, and by an additional 5 percent, effective April 2, 1982. As a result of these changes, we have determined, for purposes of cash deposit of estimated countervailing duties, that the net subsidy attributable to the operating capital program has increased from 0.35 percent to 1.56 percent *ad valorem*. As stated in our preliminary results, the net subsidy attributable to the DFE for purposes of cash deposit is zero.

Therefore, as provided by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), a cash deposit of estimated countervailing duties of 1.56 percent of the f.o.b. invoice price shall be required on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The Department is now commencing the next administrative review of the order. The amount of countervailing duties to be imposed on the merchandise exported during 1981 will be determined in that review. Consequently, the suspension of liquidation previously ordered will continue for all entries of this merchandise exported on or after January 1, 1981.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative 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 § 355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-21144 Filed 8-4-82; 8:45 am]

BILLING CODE 3510-25-M

Exemption of Foreign Air Carriers From Customs Duties and Taxes; Consideration of Partial Withdrawal of Finding of Reciprocity (Japan)

AGENCY: International Trade Administrative, Commerce.

ACTION: Notice of review and request for comments.

SUMMARY: The Department of Commerce is reviewing its 1954 finding that Japan allowed substantially reciprocal privileges in exempting from import duties and taxes ground handling equipment imported into Japan by U.S. air carriers. Interested parties are invited to submit their views and comments on this review.

DATE: Comments must be submitted on or before September 7, 1982.

ADDRESS: Comments may be sent to: Albert N. Alexander, Office of Service Industries, International Trade Administration, Room 1124, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Fred Elliott, 202-377-5071.

SUPPLEMENTARY INFORMATION: Pursuant to a request of a U.S.-flag air carrier, the Department of Commerce (the Department) is undertaking a review to determine whether under sections 309 and 317 of the Tariff Act of 1930, as amended (19 U.S.C. 1309 and 1317), and section 4221 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 4221) there should be a partial withdrawal of the Department's 1954 finding of reciprocity with Japan. The purpose of this review is to supplement comments received in the Department's 1977 review (See 42 FR 41654 of August 18, 1977) so that a final determination may be based on the most current information. The basis for the request is a complaint that aircraft of U.S. registry are being assessed customs duties on ground handling and support equipment imported into Japan for use in international commercial operations.

The above-cited statutes provide exemptions for aircraft of foreign registry from payment of import duties and certain internal revenue taxes on the import or purchase of supplies in the United States for such aircraft in connection with their international commercial operations. "Supplies" as used in this context includes a wide range of articles used by aircraft in international operations including fuel and lubricants, spare parts, consumable supplies, and ground handling and support equipment. These exemptions apply upon a finding by the Secretary of Commerce, or his designee, and communicated to the Department of Treasury, that such country allows, or will allow, "substantially reciprocal privileges" to aircraft of United States registry.

In its 1954 finding with respect to Japan, the Department determined that Japan allowed substantially reciprocal privileges to aircraft of United States registry. The Department's review will be for the purpose of determining whether there should be a withdrawal, in part, of that finding with respect to ground handling and support equipment.

Written comments regarding this review will be maintained in the International Trade Administration, Freedom of Information Records Inspection Facility, Room 4001B, U.S. Department of Commerce, 14th Streeet and Constitution Avenue, N.W., Washington, D.C. 20230.

Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information officer, at the above address or by calling (202) 377-3031.

Dated: July 30, 1982.

Donald V. Earnshaw,

Deputy Assistant Secretary for Export Development.

[FR Doc. 82-21218 Filed 8-4-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of

information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Signature and Tally Record, DD Form 1907.

Continuous accountability for movement of classified and protected materials is required when using commercial carriers. Although signature security service is provided by carriers, this form records the shipment transfer from one carrier to another.

Commercial Freight Carriers: 28,000 responses; 934 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAG–OPI, Room 1D667, Pentagon, Washington, D.C. 20310, telephone (202) 695–5111.

Dated: July 30, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82–21104 Filed 8–4–82; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers; Department of the Army

Intent To Prepare a Revised Draft Environmental Impact Statement (RDEIS) To Construct a Breakwater at Eastpoint, Florida

AGENCY: US Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a revised draft environmental impact statement (RDEIS).

SUMMARY: 1. Proposed Action: The proposed action consists of the construction of a 5,000-foot rubble breakwater at Eastpoint, Florida. Eastpoint is located in Franklin County, Florida, approximately 6 miles east of Apalachicola, Florida. Construction of the breakwater would require about 14,000 cubic yards of graded stone. Construction by dragline of a flotation channel parallel and south of the breakwater is required. Material removed from the flotation channel would be replace upon completion of construction of the breakwater.

2. Alternatives:

a. No action. This alternative will be the "without" condition against which the impacts of the proposed action will be measured.

b. Several alternatives listed below were considered during the initial stage of the Eastpoint breakwater study. As a result of extensive coordination and evaluation of economic and environmental impacts, the alternatives which will not be considered in the RDEIS are as follows:

(1) Construction of a rubble breakwater, relocation of the existing Federal navigation channel that is parallel to the shoreline, and marsh creation. This alternative would follow the same construction method for the rubble breakwater stated in the proposed action. By relocating the existing channel and placement of excavated material between the channel and breakwater, a 27-acre marsh area would be established.

(2) Construction of a 5,000-foot concrete sheet pile breakwater. The same flotation channel as stated for the proposed action would be constructed.

Construction of a 5,500-foot continuous earthen breakwater relocation of the existing Federal navigation channel, and marsh creation. The earthern breakwater would be constructed from material excavated from the flotation channel and from relocating the existing navigation channel. Approximately 37 acres of marsh would be established between the earthen breakwater and relocated shoreline channel.

3. Scoping Process:

a. The scoping process as outlined by the Council on Environmental Quality in the November 29, 1978, **Federal Register** had been followed and will continue to be followed in the preparation of the RDEIS and FEIS. This study was initiated in 1972 and has involved extensive coordination with the public and Federal, State and local agencies. Significant issues to date center primarily on potential physical and water quality impacts in St. George Sound resulting from the breakwater. Additional views and suggestions to be considered in the RDEIS will be appreciated. All comments and suggestions on significant issues which should be addressed in the RDEIS should be provived to the Mobile District of the U.S. Army Corps of Engineers at the address shown below by 1 September 1982.

b. Coordination with the US Fish and Wildlife Service and National Marine Fisheries Service as required by the Fish and Wildlife Coordination Act and the Endangered Species Act is continuing. Coordination required by other laws will also be conducted.

4. *RDEIS Preparation.* It is estimated that the RDEIS will be available to the public by 1 October 1982.

5. *Address.* Questions concerning the proposed action can be answered by contacting: District Engineer US Army Engineer District, Mobile Attn: SAMPD–ES (Mr. Dru Barrineau) PO Box 2288 Mobile, AL 36628.

Dated: July 28, 1982.

Roland A. Krizman,

LTC, Corps of Engineers, Acting District Engineer.

[FR Doc. 82–21140 Filed 8–4–82; 8:45 am]

BILLING CODE 3710–85–M

Intent To Prepare Draft Environmental Impact Statement (DEIS); Proposed Addition of Hydropower Facilities at Tygart Lake Project Near Grafton, West Virginia

AGENCY: U.S. Army Corps of Engineers, Pittsburgh District, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: The Pittsburgh District, Corps of Engineers, is studying the feasibility of utilizing the existing Tygart Lake project to generate hydroelectric power. The District, in their intermediate analysis, has identified five alternative plans for developing hydropower. These alternative plans contain either conventional run-of-river hydropower or peaking power utilizing various winter and summer pool levels. The peaking power alternatives may require a small re-regulation dam, located approximately nine miles downstream of Tygart Dam, to reduce extreme fluctuations of the Tygart River resulting from peaking power operation and provide water for river flow during non-peaking periods. Depending on the alternative selected, the installed capacity could vary from 20,000 to 100,000 kilowatts.

The Pittsburgh District has coordinated with the West Virginia Department of Natural Resources

(WVDNR), the U.S. Fish and Wildlife Service (USFWS), the Federal Energy Regulatory Commission (FERC) and others in the development of a work plan for project studies. Scoping meetings have been held to insure that the stuides address all appropriate environmental statutes. Currently, the WVDNR and USFWS are participating in an extensive fish sampling and testing program to determine potential environmental impacts that could result from hydropower development. Information generated by these studies would be included within the DEIS. The primary impacts of hydropower development at Tygart Lake are those related to limiting fish migration downstream, fish mortality as a result of passing through the turbine, and fluctuating water levels both within the lake and downstream. Because of the presence of acid mine drainage in the Tygart River Basin, the effect of hydropower development on water quality is also of prime concern.

Two public involvement meetings have been held by the District in Grafton, West Virginia's High School auditorium. These meetings, held on July 18, 1979 and October 22, 1981, were informational and described the various alternatives being considered. Comments were encouraged from concerned Federal, State and local agencies, as well as from local groups and the general public. For further details, contact Mr. James Purdy at the Pittsburgh District, U.S. Army Corps of Engineers, 1000 Liberty Avenue, Pittsburgh, PA 15222, commercial phone number (412) 644–6844 or FTS 722–6844.

The DEIS should be available to the public by November 1982.

John L. Richards,

LTC, Corps of Engineers, District Engineer.

[FR Doc. 82–21182 Filed 8–4–82; 8:45 am]

BILLING CODE 3710–85–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP82–423–000]

Texas Eastern Transmission Corp.; Application

July 29, 1982.

Take notice that on July 16, 1982, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP82–423–000 an application pursuant to Section 3 of the Natural Gas Act for authorization to import up to 100,000 Mcf of natural gas per day from Canada into the United States, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to purchase from TransCanada Pipelines Limited (TransCanada) 100,000 Mcf of natural gas per day plus daily volumes in excess thereof on a best-efforts basis not to exceed 10 percent. It is stated that such sales would commence on November 1, 1985, or as soon as practical thereafter, and continue for 14 years from the date of first deliveries.

In addition, Applicant proposes to track on a current basis the cost of the imported gas and the cost of transporting that gas from the import point to its pipeline system in the United States under the purchase gas adjustment provisions of its FERC gas tariff.

Applicant explains that it would purchase the natural gas at the price prescribed by the National Energy Board of Canada from time to time. Applicant asserts that the current border price is $4.94 (U.S.) per million Btu.

It is asserted that Applicant's existing sources are declining and that the purchases proposed in this application would assist Applicant in meeting the future requirements of its customers at its current level of commitments to them.

Applicant asserts the gas would be imported at the proposed point of interconnection between the facilities of TransCanada and Applicant or Applicant's transporter located near Niagara Falls, Ontario. Further it is stated that the gas would be transported from the import point to Applicant's pipeline in Pennsylvania through the proposed Trans-Niagara Pipeline.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 23, 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 in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–21180 Filed 8–4–82; 8:45 am]

BILLING CODE 6450–85–M

[Project No. 6495-000]

Town of Skykomish, Washington; Application for Preliminary Permit

July 30, 1982.

Take notice that the Town of Skykomish (Applicant) filed on July 8, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6495 to be known as the Salmon Creek Project located on Salmon Creek, near Index, in Snohomish County, Washington. The project would occupy U.S. lands in Mt. Baker-Snoqualmie National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: The Mayor, Town of Skykomish, P.O. Box 308, Skykomish, Washington 98288; and Donald White, #600, CSB Tower, 50 S. Main St. Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) Two 36-inch-wide concrete drain diversion structures, one on Salmon Creek and one on the South Fork Salmon Creek; (2) two 36-inch-diameter pipelines totaling 15,000 feet; (3) a powerhouse containing one generating unit with a total installed capacity of 2.88 MW; and (4) a 7-mile-long transmission line. The average annual energy generation is estimated to be 12.6 million KWh.

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 24 months during which time it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work to be done under the preliminary permit is estimated to $100,000.

Competing Applications—This application was filed as a competing application to Lawrence McMurtrey's application for Project No. 6172 filed on April 6, 1982. 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 acccordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be receive on or before September 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", 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. 82-21165 Filed 8-4-82; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RM79-343, ST82-311]

Transportation Certificates for Natural Gas Displacement of Fuel Oil and Transcontinental Gas Pipe Line Corp.; Self-Implementing Transactions

July 30, 1982.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's regulations and § 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's regulations and Section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's regulations. Any interested persons may file a complaint concerning such transaction pursuant to § 284.205(d) of the Commission's regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G (HT)" or "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the the Commission's regulations.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter and seller	Recipient	Date filed	Part 284 subpart	Expiration Date [1]	Transportation rate (C/MMBtu)
ST82-311	Transcontinental Gas Pipe Line Corp	Consolidated Edison Co. of New York	6/01/82	B		
ST82-312	Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co	6/01/82	B		
ST82-313	East Tennessee Natural Gas Co	Tennessee Gas Pipeline Co	6/01/82	G		
ST82-314	East Tennessee Natural Gas Co	Tennessee Gas Pipeline Co	6/01/82	G		
ST82-315	East Tennessee Natural Gas Co	Tennessee Gas Pipeline Co	6/01/82	G		
ST82-316	East Tennessee Natural Gas Co	Tennessee Gas Pipeline Co	6/01/82	G		
ST82-317	United Gas Pipe Line Co	Tennessee Gas Pipeline Co	6/02/82	G		
ST82-318	Delhi Gas Pipeline Corp	United Gas Pipe Line Co	6/03/82	C	10/31/82	37.89
ST82-319	Tennessee Gas Pipeline Co	East Tennessee Natural Gas Co	6/02/82	G		
ST82-320	Delhi Gas Pipeline Corp	United Gas Pipe Line Co	6/03/82	C	10/31/82	37.90
ST82-321	Delhi Gas Pipeline Corp	Columbia Gas Transmission Corp	6/03/82	C	10/31/82	37.89
ST82-322	Dow Intrastate Gas Co	Natural Gas Pipeline Co. of America	6/01/82	C		
ST82-323	Transok Pipe Line Co	Panhandle Eastern Pipe Line Co	6/04/82	C	11/01/82	27.94
ST82-324	United Gas Pipe Line Co	Entex, Inc	6/03/82	B		
ST82-325	United Gas Pipe Line Co	Mid Louisiana Gas Co	6/07/82	G		
ST82-327	Lone Star Gas Co	Natural Gas Pipeline Co. of America	6/07/82	C		
ST82-328	Mississippi River Transmission Corp	Texas Gas Transmission Corp	6/09/82	G		
ST82-329	Gas Gathering Corp	Southern Natural Gas Co	6/09/82	G		
ST82-330	Valero Transmission Co		6/10/82	C		
ST82-331	Valero Transmission Co	Texas Eastern Pipeline Co	6/10/82	C		
ST82-332	Valero Transmission Co	Tennessee Gas Pipeline Co	6/10/82	C		
ST82-333	Valero Transmission Co	Tennessee Gas Pipeline Co	6/10/82	C		
ST82-334	Valero Transmission Co	United Gas Pipe Line Co	6/10/82	C		
ST82-335	Valero Transmission Co	United Gas Pipe Line Co	6/10/82	C		
ST82-336	Valero Transmission Co	United Gas Pipe Line Co	6/10/82	C		
ST82-337	Valero Transmission Co	United Gas Pipe Line Co	6/10/82	C		
ST82-338	Florida Gas Transmission Co	Tennessee Gas Pipeline Co	6/14/82	G		
ST82-339	Tennessee Gas Pipeline Co	Transcontinental Gas Pipe Line Corp	6/15/82	G		
ST82-340	Consumers Power Co	The Kansas Power and Light Co	6/15/82	G(HT)	11/12/82	54.89
ST82-341	Michigan Gas Storage Co	Consumers Power Co	6/15/82	B		
ST82-342	Consumers Power Co	The Kansas Power and Light Co	6/15/82	G(HS)		

Docket No.	Transporter and seller	Recipient	Date filed	Part 284 subpart	Expiration Date [1]	Transportation rate (C/MMBtu)
ST82-343	Mountain Fuel Supply Co	United Gas Pipe Line Co	6/17/82	G		
ST82-344	Trunkline Gas Co	Louisiana Intrastate Gas Corp	6/17/82	B		
ST82-345	Louisiana Intrastate Gas Corp	Tennessee Gas Pipeline Co	6/17/82	C	11/14/82	20.00
ST82-346	Transcontinental Gas Pipe Line Corp	United Gas Pipe Line Co	6/18/82	G		
ST82-347	Mountain Fuel Resources, Inc	Colorado Interstate Gas Co		6/18/82	G	
ST82-348	Mountain Fuel Supply Co	Colorado Interstate Gas Co	6/21/82	G		
ST82-349	Mountain Fuel Supply Co	Colorado Interstate Gas Co	6/21/82	G		
ST82-350	Panhandle Eastern Pipe Line Co	Utah Gas Service Co	6/22/82	B		
ST82-351	Natural Gas Pipeline Co. of American	Lone Star Gas Co		6/24/82	B	
ST82-352	J-W Gathering Co	United Gas Pipe Line Co	6/24/82	C	11/21/82	22.00
ST82-353	Tennessee Gas Pipeline Co	East Tennessee Natural Gas Co	6/24/82	F		
ST82-354	Trunkline Gas Co	Cajun Natural Gas Co	6/25/82	B		
ST82-355	Tennessee Gas Pipeline Co	Entex, Inc	6/24/82	B		
ST82-356	Delhi Gas Pipeline Corp	United Gas Pipe Line Co	6/24/82	C	11/21/82	8.00
ST82-357	Delhi Gas Pipeline Corp	United Gas Pipe Line Co	6/24/82	C	11/21/82	46.78
ST82-358	United Gas Pipe Line Co	Columbia Gas Transmission Corp	6/28/82	G		

[1] The Intrastate Pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(b)(2) of the Commission's regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 82-21152 Filed 8-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6423-000]

Uncompahgre Valley Water Users Assoc. & Montrose Partners; Application for License (5 MW or Less)

July 29, 1982.

Take notice that Uncompahgre Valley Water Users Assoc. & Montrose Partners (Applicant) filed on June 14, 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 South Canal Site No. 1 Project No. 6423. The project would be located on the South Canal in Montrose County, Colorado. Correspondence with the Applicant should be directed to: Mr. James Hokit, Uncompahgre Valley Water Users Assoc., 601 No. Park, Montrose, Colorado 81401.

Project Description—The proposed project would be constructed within the Bureau of Reclamation's right-of-way on the South Canal, and would consist of the following: (1) A proposed diversion and intake structure approximately 1,400 feet above Station 19+10; (2) a proposed 1,400-foot-long, 10-foot-diameter, steel penstock; (3) a proposed powerhouse at Station 19+10, containing one turbine/generator unit operating under a head of 57.2 feet with an installed capacity of 3,960 kW; (4) an existing afterbay stilling basin; (5) a proposed 3,000-foot-long 12.5-kV transmission line; and (6) appurtenant facilities. The average annual generation of 24,922 MWh would be sold to Delta-Montrose Electrical Association.

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—Anyone desiring to file a competing application must submit to the Commission, on or before October 12, 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 October 12, 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. 82-21166 Filed 8-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6424-000]

Uncompahgre Valley Water Users Assoc. & Montrose Partners; Application for License (5 MW or Less)

July 29, 1982.

Take notice that Uncompahgre Valley Water Users Assoc. & Montrose Partners (Applicant) filed on June 14, 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 South Canal Site No. 2

Project No. 6424. The project would be located on the South Canal in Montrose County, Colorado. Correspondence with the Applicant should be directed to: Mr. James Hokit, Uncompahgre Valley Water Users Assoc., 601 No. Park, Montrose, Colorado 81401.

Project Description—The proposed project would be constructed within the Bureau of Reclamation's right-of-way on the South Canal, and would consist of the following: (1) A proposed diversion and intake structure; (2) a proposed 200-foot-long, 25-foot-wide headrace; (3) a proposed powerhouse containing one turbine/generator unit operating under a head of 13.2 feet with an installed capacity of 990 kW; (4) an existing stilling basin; (5) a proposed 6,500-foot-long 12.5-kV; transmission line; and (6) appurtenant facilities. The average annual generation of 6,022.3 MWh would be sold to Delta-Montrose Electrical Association.

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—Anyone desiring to file a competing application must submit to the Commission, on or before October 12, 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 applications. 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 October 2, 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 regulation 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 204 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. 82–21167 Filed 8–4–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–425–000]

Williams Gas Supply Co.; Application

July 29, 1982.

Take notice that on July 16, 1982, Williams Gas Supply Company (Applicant), P.O. Box 3102, Tulsa, Oklahoma 74101, filed in Docket No. CP82–425–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of up to 175 billion Btu of gas per day to Faustina Pipeline Company (Faustina) for resale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that no facilities are necessary to make this sale and that deliveries would be made by Natural Gas Pipeline Company of America for Applicant's account at an existing point of interconnection between Stingray Pipeline Company and Louisiana Resources Company (Louisiana Resources) in Cameron Parish, Louisiana. Applicant further states that Faustina has arranged for the transportation of such supplies ultimately to its facilities with Louisiana Resources.

Applicant proposes to charge for all sales made to Faustina a rate determined by cost-formula basis.

It is asserted that said sale to Faustina is necessary because of alleged market disruptions causing a substantial decline in the availability to Faustina of its intrastate sources of natural gas. Applicant, it is asserted, would be able to provide more secure service to Faustina.

It is indicated that the gas proposed to be sold to Faustina would be used to meet system supply requirements, the predominate share of which would be composed of large volume agricultural and industrial feedstock and process fuel loads.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 23, 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. 82-21181 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-404-000]

Algonquin Gas Transmission Co.; Application

July 29, 1982.

Take notice that on July 7, 1982, Algonquin Gas Transmission Company (Applicant), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP82-404-000 an application as supplemented July 14, 1982, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a limited-term single winter storage service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically Applicant proposes to render a temporary storage service for the single winter season for the period commencing during the current injection season upon receipt of Commission authorization and ending April 15, 1983, under its proposed Rate Schedule ST-T to the following participating customers:

Participating customer	Million Btu		
	Temporary storage demand	Temporary storage capacity	Minimum inventory sale gas
Bay State Gas Co	2,830	429,559	286,086
Boston Gas Co	10,614	715,932	476,811
The Connecticut Gas Co	2,123	214,779	143,043
Connecticut Natural Gas Corp	19,317	2,147,796	1,430,432
Providence Gas Co	3,144	286,373	190,724
The Southern Connecticut Gas Co	7,076	715,932	476,811
Total	45,104	4,510,371	3,003,907

Applicant submits that it would not be obligated to deliver gas under this proposal on any day to the extent that such delivery in conjunction with deliveries being made to such customer under Appliant's Rate Schedules F-1, WS-1, and STB exceeds such customer's total firm maximum daily quantity for service under such Rate Schedules. It is explained that the participating customers are obligated to schedule their withdrawals from storage to insure that their temporary storage inventory is no higher than two-thirds of their temporary storage capacity on and after January 1, 1983, and is reduced to zero by April 16, 1983.

Applicant states that the other parties necessary to the rendition of the service under proposed Rate Schedule ST-T to its participating customers are: (1) Texas Eastern Transmission Corporation (Texas Eastern) which would render service to Applicant pursuant to Texas Eastern's proposed Rate Schedule ISS-II, and (2) Consolidated Gas Supply Corporation (Consolidated), which would render sales service at the rates contained in Consolidated's Rate Schedule E. Therefore, Applicant requests authorization to flow through the changes in the rates charged by Texas Eastern and Consolidated pursuant to those rate schedules.

In addition, Applicant requests waiver of §§ 154.38(d)(3) and 154.63 of the Regulations to permit the tracking of changes in charges by Texas Eastern and Consolidated in accordance with provisions of Applicant's proposed Rate Schedule ST-T.

Applicant submits that the proposed temporary service agreement is required to allow added flexibility which would permit the customers to protect high-priority needs.

Applicant states that the initial rate which Algonquin Gas proposes to charge for the proposed ST-T service reflects three components. First, for reimbursement of payments to Consolidated, the participating customers would be charged Consolidated's sales rate specified under its Rate Schedule E for the inventory sale gas purchased on the gross, within the storage field, basis. Secondly, for reimbursement of payments to Texas Eastern for storage service; Applicant would pay Texas Eastern the sum of the temporary storage demand charge, the temporary storage capacity charge, the injection charge and the withdrawal charge. It is stated that all billing quantities would be gross at the storage field prior to the fuel reimbursement adjustment. Thirdly, Applicant would charge 14.74 cents per million Btu for the net quantities delivered to compensate for its handling costs, which rate is the same rate Applicant is authorized to charge for similar services. Under the terms of the proposed Rate Schedule ST-T, therefore, Applicant would pass directly on to the participating customers the charges based on Consolidated's E rate for inventory sale gas and Texas Eastern's rate pursuant to Rate Schedule ISS-II.

Applicant further states that it would make the sale of Inventory Sale Gas on the terms in proposed Rate Schedule ST-T.

Applicant submits that under the proposed storage service participants are required to purchase from Consolidated's supplies at least two-thirds of the total quantity to be stored. To the extent that such sales by Consolidated displace sales by Applicant from its regular supplies, Applicant's net sales revenue under its regular rate schedules would be reduced. Therefore, Applicant states a condition requiring a credit or other flow through to the customers of revenues received from the proposed service would not be acceptable to Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 23, 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. 82-21168 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST81-6-001]

Cabot Corp.; Extension Reports

July 30, 1982.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the names and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before August 27, 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 party to a 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.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date
ST81-6-001	Cabot Corp., P.O. Box 1473, Charleston, WV 25325	Tennessee Gas Pipeline Co	7/13/82	C	10/07/82
ST81-8-001	Consumers Power Co., 212 West Michigan Ave., Jackson, MI 49201	Cajun Natural Gas Co	7/07/82	G(HS)	10/03/82
ST81-12-001	Trunkline Gas Co., P.O. Box 1542, Houston, TX 77251	Consumers Power Co	7/06/82	B	10/03/82
ST81-19-001	Transwestern Pipeline Co., P.O. Box 2521, Houston, TX 77001	Delhi Gas Pipeline Corp	7/02/82	B	10/01/82
ST81-43-001	Rocky Mountain Natural Gas Co., Inc., 1600 Sherman St., Denver, CO 80203	Northern Natural Gas Co	7/06/82	C	9/30/82
ST81-45-001	Houston Pipe Line Co., P.O. Box 1188, Houston, TX 77001	United Gas Pipe Line Co	7/02/82	C	10/02/82
ST81-46-001	Oasis Pipe Line Co., P.O. Box 1188, Houston, TX 77001	United Gas Pipe Line Co	7/02/82	C	10/02/82
ST81-63-001	Houston Pipe Line Co., P.O. Box 1188, Houston, TX 77001	Transcontinental Gas Pipe Line Corp	7/06/82	C	10/09/82
ST81-64-001	Oasis Pipe Line Co., P.O. Box 1188, Houston, TX 77001	Transcontinental Gas Pipe Line Corp	7/08/82	C	10/09/82
ST81-78-001	Colorado Interstate Gas Co., P.O. Box 1087, Colorado Springs, CO 80944	Northern Natural Gas Co	7/06/82	G	10/06/82
ST81-89-001	Natural Gas Pipeline Co. of America, 122 South Michigan Ave., Chicago, Il 60603	Valero Transmission Co	7/01/82	B	10/01/82
ST81-90-001	Natural Gas Pipeline Co. of America, 122 South Michigan Ave., Chicago, Il 60603	Lone Star Gas Co	7/14/82	G	10/14/82
ST81-100-001	Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102	Houston Pipe Line Co	7/09/82	B	12/02/82
ST81-328-001	Natural Gas Pipeline Co. of America, 122 South Michigan Ave., Chicago, Il 60603	United Gas Pipe Line Co	7/15/82	G	10/15/82

[FR Doc. 82-21169 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4103-001]

City Utilities of Springfield, Missouri; Surrender of Preliminary Permit

July 29, 1982.

Take notice that the City Utilities of Springfield, Missouri, Permittee for the proposed Pomme de Terre Lake Project No. 4103, has requested that its preliminary permit be terminated. The permit was issued on August 26, 1981, and would have expired on August 1, 1983. The project would have been located on Pomme de Terre River in Hickory County, Missouri.

The Permittee filed its request on July 7, 1982, and the surrender of the preliminary permit for Project No. 4103 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-21153 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4298-001]

Colorado River Water Conservation District; Surrender of Preliminary Permit

July 29, 1982.

Take notice that the Colorado River Water Conservation District, Permittee for the proposed Grand Valley Project No. 4298, requested on June 25, 1982, that its preliminary permit be terminated. The preliminary permit was issued on June 2, 1981, and would have expired on January 1, 1983. The project would have been located at the existing Grand Valley Dam and Reservoir on the Colorado River in Mesa County, Colorado. Permittee cites that the project would not be an economic source of energy.

The surrender of the permit is in the public interest. Therefore, the surrender of the preliminary permit for Project No. 4298 is accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-21154 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6337-000]

County of Santa Cruz, Calif.; Application for Preliminary Permit

July 30, 1982.

Take notice that the County of Santa Cruz, California (Applicant) filed on May 17, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6337 to be known as the Big Creek Waterpower Project located on Big Creek in Santa Cruz County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Dwight Herr, Deputy Chief County Counsel, 701 Ocean Street, Santa Cruz, California 95060.

Project Description—The proposed project would consist of: (1) A 400-foot-high, 1200-foot-long concrete storage dam; (2) an additional 80-foot-high, 450-foot-long concrete diversion dam; (3) a 26-inch-diameter penstock for storage dam; (4) a 26-inch-diameter, 2000-foot-long penstock for diversion dam; (5) a powerhouse with an installed capacity of 1500 kW at storage dam; (6) a powerhouse with an installed capacity of 100 kW at diversion dam; (7) a 2.5-mile-long, 12-kV transmission line from the storage dam powerhouse to an existing transmission line; and (8) a 0.7-mile-long, 12-kV transmission line from the diversion dam powerhouse to an existing transmission line. The Applicant estimates that the average annual energy production would be 9 million 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 36 months during which it would conduct the technical, environmental and economic studies, and also prepare an FERC license application. An existing road to the site of the abandoned powerplant will need to be extended approximately 500 feet for the purpose of conducting the studies at the diversion dam site. It is anticipated that core borings and other activities that may alter or disturb lands or waters in the vicinity will be necessary. The use of a bulldozer may be needed to grade portions of the fire trails and extend the road to the diversion dam site, and to grade small areas where the borings will be made. These areas, except for the extension of the existing road at the diversion dam site, will be restored to as near original condition as possible using a bulldozer and hand tool implements. The Applicant estimates that the cost of undertaking these studies would be $890,000.

Competing Applications—This application was filed as a competing application to Lockheed Missiles and Space Company, Inc.'s application for Project No. 5809 filed on December 23, 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 September 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. 82-21155 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-672-000]

El Paso Electric Co.; Filing

July 29, 1982.

The filing Company submits the following:

Take notice that El Paso Electric Company ("EPE") on July 22, 1982, tendered for filing a transmission service schedule between EPE and Arizona Electric Power Cooperative (AEPCO"). Under the service schedule EPE and AEPCO will provide non-firm transmission service upon request over their respective transmission systems for delivery of each other's electric power and energy.

EPE requests waiver of the Commission's 60-day notice requirement in order to allow an effective date of June 15, 1982.

Copies of this filing have been served on AEPCO, the Public Utilities Commission of Texas and the New Mexico Public Utilities Commission.

Any person wishing to be heard or to protest said application 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 August 18, 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-21170 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-665-000]

Florida Power & Light Co.; Filing

July 29, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on July 22, 1982, tendered for filing documents entitled Amendment Number Six to Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and Jacksonville Electric Authority.

Amendment Number Six updates the rates for transmission service provided by FPL, bringing them in accord with the increased rates filed by the Commission on July 1, 1981, in Florida Power & Light Company, Docket No. ER81-588-000.

FPL requests that waiver of Section 35.3 of the Commission's Regulations be granted and that the proposed Amendment(s) be made effective immediately. FPL states that copies of the filing were served on the Managing Director, Jacksonville Electric Authority.

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 petitons or protests should be filed on or before August 17, 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. 82-21171 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-421-000]

Gas Gathering Corp.; Application

July 29, 1982.

Take notice that on June 30, 1982, Gas Gathering Corporation (Applicant), P.O. Box 519, Hammond, Louisiana 70404, filed in Docket No. CP82-421-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In accordance with a gas transportation agreement between Applicant and Southern dated February 1, 1981, Applicant proposes to transport and deliver for Southern up to 6,500 Mcf of natural gas per day to Transcontinental Gas Pipe Line Corporation (Transco) at Transco's Sherburne Meter Station, Pointe Coupee Parish, Louisiana. Applicant states that the natural gas which would be transported is produced from Southern's reserves located in St. Martin Parish and Iberville Parish, Louisiana, and delivered by Southern to Applicant at the outlet of Southern's Happytown Station in St. Martin Parish, Louisiana.

Applicant further states that the applicable transportation charge for such service is the gathering charge component of the base tariff rate contained in Sheet No. 8, Supplement No. 24 to Rate Schedule No. 2 of Applicant's FERC gas tariff as long as the charge does not exceed 5.75 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 23, 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. 82-21172 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6278-000]

Town of Grafton; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

July 30, 1982.

Take notice that on April 30, 1982, the Town of Grafton (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6278 would be located on the Quinsigamond River in Worcester County, Massachusetts. Correspondence with the Applicant should be directed to: Mr. Mark Popham, Cullinan Engineering Co. Inc., Auburn St., Auburn, Massachusetts 01501.

Project Description—The proposed run-of-river project would consist of: (1) Rehabilitation of an existing 120-foot-long, 8-foot-high earthfill dam owned by the Applicant; (2) restoration, to the original 1979 pool elevation of 304 foot M.S.L and surface area of 63 acres, of an existing lake; (3) modifications to the main channel gate house; (4) a proposed concrete platform containing one turbine/generator unit with a rated capacity of 25 kW operating under an effective head of 8.2 feet; (5) a proposed 500-foot-long underground transmission line; and (6) appurtenant facilities. The estimated average annual generation would be 122,000 kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of Massachusetts, Department of Fisheries, Wildlife, and Recreational Vehicles, are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before September 20, 1982, either the competing license application that proposes to

develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

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 September 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. 82-21156 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RO82-79-000]

Imperial Refineries, Inc.; Extension of Time

Issued: July 29, 1982.

On July 19, 1982, Imperial Refineries, Inc. (Imperial) filed a motion for an extension of time to file an answer in the above-captioned proceeding (DOE Case No. BRO-0093). The motion requests a 60 day extension on two grounds.

Imperial first claims that its recently retained counsel requires the additional time in order to review the extensive record in the proceeding and to prepare its answer to the remedial order. Further, Imperial states that it intends to file a motion for reconsideration with the Office of Hearings and Appeals (OHA) no later than July 28, 1982, which, if granted by OHA, would be dispositive of the entire matter and therefore obviate the necessity for filing an answer. Imperial apparently seeks an extension pending filing and resolution of its reconsideration motion.

In response to Imperial's motion the Secretary of Energy (DOE) states that while the Remedial Order requires no reconsideration, OHA does not oppose Imperial's request for a two month extension in order to permit petitioner's present counsel an adequate opportunity to review the record.

Upon consideration notice is hereby given that a 60 day extension of time is granted in order to permit counsel to review the record and prepare an answer. However, an answer shall be filed by September 28, 1982. In the event OHA agrees to reconsider the remedial order, Imperial may file a motion by September 13, 1982, for a further extension.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-21157 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2609-002]

International Paper Co.; Application for Amendment of License

July 29, 1982.

Take notice that International Paper Company (Applicant) filed on February 11, 1982, and revised on June 3, 1982, an application for amendment of license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for reconstruction and continued operation of a water power project known as the Curtis-Palmer Falls Project No. 2609. The project is located on the Hudson River in Saratoga and Warren Counties, New York. Correspondence with the Applicant should be directed to: Mr. Andrew E. Sims, Kleinschmidt & Dutting, 75 Main Street, P.O. Box 76, Pittsfield, Maine 049670076.

Project Description—The Applicant-owned and operated project consists of the following existing facilities:

(A) The Curtis development consisting of:

(1) A concrete dam about 25 feet high and 736 feet long in two sections: (a) An overflow spillway having crest elevation 545.3 feet USGS datum about 663 feet long and having 46-inch high flashboards; and (b) a gate section about 73 feet long; (2) a reservoir about 5.8 miles long with a surface area of about 390 acres and a usable storage capacity of 1,368 acre-feet at a maximum drawdown of three feet; (3) an integral-intake powerhouse containing five generating units, one rated at 900 kW, two each rated at 1,000 kW and two each rated at 1,200 kW, totaling 5,300 kW, their associated 4,160 volt electrical leads, circuit breakers and disconnect switches; (4) a 4,160 volt transmission line approximately 3,300 feet long to the Palmer Falls Mill; (5) a 4,160/13,800 volt step-up transformer; and (6) appurtenant facilities.

(B) The Palmer Falls development consisting of:

(1) A concrete hollow-arch dam about 37 feet high and 369 feet long with (a) a spillway having crest elevation 517.2 feet USGS datum 334 feet long and having 45-inch high flashboards, and (b) a central log sluice and sluice gates in the remaining 35 feet; (2) a reservoir about 2,700 feet long with a surface area of about 27 acres and negligible storage capacity; (3) an upper forebay at reservoir level controlled by an intake with eight slide gates and a 92-foot-long spillway having crest elevation 518.5 feet USGS datum and having 36-inch high flashboards from which water may be released to: (a) The lower forebay through two waste gates, and (b) eight penstocks through a gate structure with eight gates; (4) a lower forebay which is controlled by: (a) a 168-foot-long spillway having crest elevation 467.9 feet USGS datum and having 28-inch high flashboards, and (b) a gate structure from which water may be released to eight penstocks; (5) the Upper Pulp Mill A powerhouse containing four generating units receiving water through seven steel penstocks and releasing water to the lower forebay, one unit rated at 900 kW, one rated at 2,320 kW and two each rated at 4,000 kW, totaling 11,220 kW, their associated 4,160 volt leads, circuit breakers and disconnect switches; (6) the Lower Pulp Mill B powerhouse containing two generating units receiving water through nine steel penstocks and releasing water to the tailrace, one unit rated at 600 kW and

one rated at 800 kW, totaling 1,400 kW, their associated 600-volt leads, circuit breakers, disconnect switches and the 40–60 cycle frequency changer; (7) a tailrace having average water surface elevation 434.4 feet USGS datum; and (8) appurtenant facilities.

Applicant proposes to redevelop the project:

(A) At the Curtis development Applicant would:

(1) Install new steel intake gates; (2) modify the powerhouse interior to contain: (a) Three new generating units having a total rated capacity of 8,100-kW at a net head of 4.5 feet and hydraulic capacity of 4,740 cfs; and (b) two refurbished generating units having a total rated capacity of 2,200-kW at a net head of 24.5 feet and hydraulic capacity of 1,750 cfs; (3) install new 4.16/13.8-kV substation tranformers; (4) upgrade the transmission line to 13.8-kV; and (5) repair and/or replace miscellaneous auxiliary equipment and/or appurtenances. The average annual energy output would be 61,055 MWh. Redevelopment would cost $19,274,000. When the remaining two old generating units become unserviceable in the future, they would be replaced.

(B) At the Palmer Falls development Applicant would:

(1) Deepen the upper forebay about 14 feet; (2) replace the upper forebay water release structure; (3) remove both existing powerhouses and their appurtenances; (4) construct two 20-foot-diameter, 150-foot-long steel penstocks; (5) construct a powerhouse containing two generating units having a total rated capacity of 48,000-kW at a net head of 82.5 feet and hydraulic capacity of 7,500 cfs; (6) deepen the tailrace about 26 feet; (7) construct a 13.8/115-kV substation; and (8) construct a 700-foot-long 115-kV transmission line. The average annual energy output would be 202,200 MWh. Redevelopment would cost $71,097,000.

Applicant proposes no changes in project storage capacity or other impoundment characteristics. The existing flow regime in the affected reach of the Upper Hudson River would remain unchanged. Applicant estimates that project redevelopment would cost $90,371,000. The redeveloped project would have a total installed capacity of 58,300-kW.

Purpose of Project—Project energy would be used by Applicant within its Hudson River Paper Mill or sold to Niagara Mohawk Power Corporation. Applicant estimates that the average annual energy output would be 300,055 MWh.

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 August 25, 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. 82–21158 Filed 8–4–82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER77–578–000]

Kansas Gas & Electric Co.; Compliance Filing

July 29, 1982.

The filing company submits the following:

Take notice that on June 21, 1982, Kansas Gas & Electric Company filed responses to compliance filing data requests pursuant to the Commission's order of June 4, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 9, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–21173 Filed 8–4–82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER77–578–000]

Kansas Gas and Electric Co.; Compliance Filing

July 30, 1982.

The filing company submits the following:

Take notice that on July 7, 1982, Kansas Gas and Electric Company filed a response to the Commission's letter of June 25, 1982 relating to the revised refund report for the City of Augusta, Kansas submitted January 22, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 13, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 82–21174 Filed 8–4–82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6410–000]

K–W Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

July 30, 1982.

Take notice that on June 7, 1982, K–W Company (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 as amended), for exemption of a proposed hydroelectric project from licening under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6410 would be located on an unnamed stream channel formed by run-offs from a spring, seepage water, and waste irrigation water in Twin Falls County, near the City of Twin Falls, Idaho. Correspondence with the Applicant should be directed to: K–W Company, Route 6, Twin Falls, Idaho 83301, with a copy to: John A. Rosholt, Esquire, P.O. Box 1906, Twin Falls, Idaho 83301.

Project Description—The proposed project would consist of: (1) An intake structure; (2) a 1440-foot-long, 30-inch diameter penstock; (3) a powerhouse

with a proposed installed capacity of 1.0 MW operating under a head of 440 feet; and (4) a 1,500-foot-long transmission line. The estimated average annual generation is 10.9 million kWhs.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before September 20, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

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 determinating 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 September 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. 82-21159 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6267-001]

Mr. Lester Kelley, et al.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

July 30, 1982.

Take notice that on July 6, 1982, Mr. Lester Kelley, et al. (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6267 would be located on Reegan Creek, within Boise National Forest in Valley County, Idaho. Correspondence with the Applicant should be directed to: Consulting Associates, Inc., P.O. Box 893, Boise, Idaho 83701.

Project Description—The proposed project would consist of: (1) Four streamside intake structures utilizing natural tributary pools at elevation 5,800 feet; (2) a penstock 16 inches in diameter and totalling 14,800 feet in length; (3) a powerhouse at elevation 4,320 feet containing a turbine-generator with a 621-kW capacity and a 3.098 GWh average annual output; and (4) a transmission line 4.5 miles long. The proposed project boundary encloses 480 acres of Federal land.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Fish and Game Department are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before September 20, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments,

protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

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 September 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 APPLICATIONS," "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. 82-21160 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6246-002]

Mr. Lester Kelley, et al.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

July 30, 1982.

Take notice that on June 30, 1982, Mr. Lester Kelley, et al. (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6246 would be located on Ditch Creek, within Boise National Forest in Valley County, Idaho. Correspondence with the Applicant should be directed to: Consulting Associates, Inc., P.O. Box 893, Boise, Idaho 83701.

Project Description—The proposed project would consist of: (1) A streamside intake structure utilizing a natural pool at elevation 5,920 feet; (2) A penstock 16 inches in diameter by 2,700 feet long; (3) A powerhouse at elevation 5,360 feet containing a turbine-generator with a 331-kW capacity and a 1.538 GWh average annual output; and (4) A transmission line 100 yards long. The proposed project boundary encloses 120 acres of Federal land.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the Idaho Fish and Game Department are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before September 20, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must confoirm with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, of 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 September 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. 82-21161 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6440-000]

Lakeport Hydroelectric Associates; Application for License (5 MW or less)

July 29, 1982.

Take notice that Lakeport Hydroelectric Associates (Applicant) filed on June 17, 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 Lakeport Project No. 6440. The project would be located on the Winnipesaukee River in Belknap County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Irvin Tolles, Lakeport Hydroelectric Associates, 83 Bay Street, P.O. Box 240, Manchester, New Hampshire 03105.

Project Description—The proposed project would consist of: (1) A 220-foot-long, 10-foot-high, existing concrete gravity dam owned by the New Hampshire Water Resources Board; (2) an existing 73-square-mile reservoir at a surface elevation of 504 feed NGVD; (3) a proposed gated intake structure; (4) three proposed penstocks, each 100 feet long and 6 feet in diameter; (5) three proposed turbine/generator units, each with a capacity of 200 kW; (6) a proposed 200-foot-long tailrace; (7) a proposed 15-foot by 15-foot control building; (8) a 250-foot-long, 12-kV transmission line; and (9) appurtenant facilities. Application estimates that the average annual generation would be 2,000 MWh.

Purpose of Project—Project energy 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 statues. 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—Anyone desiring to file a competing application must submit to the Commission, on or before October 12, 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 October 12, 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. 82-21162 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC82-14-000]

Minnesota Power & Light Co.; Application

July 29, 1982.

The filing Company submits the following:

Take notice that on July 23, 1982, the Minnesota Power & Light Company (MPL) filed an application pursuant to Section 203 of the Federal Power Act for authority to transfer property from FERC account No. 105, Electric plant held for future use, to account No. 121, Nonutility property. This application is made pursuant to 18 CFR Part 101—Account 105c. All lands are in the City of Duluth, St. Louis County, Minnesota (Duluth).

The lands to be transferred were purchased for future use for electric facilities, mainly transmission or distribution lines or substations. The load in the area of the property in Western Duluth is now being adequately served by existing facilities and future use of these lands is not anticipated. MPL intends to sell these properties.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before August 18, 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. 82-21175 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-128-000]

Mississippi Power & Light Co.; Order Granting Motion To Collect Interim Rates

Issued: July 28, 1982.

By motion filed on July 8, 1982, as amended on July 16, 1982, Mississippi Power & Light Company (MP&L) seeks Commission authorization to impose reduced interim rates in lieu of some of the rates originally filed in this docket. MP&L seeks permission to collect the reduced rates, subject to refund, as of July 3, 1982, the date on which all of the originally filed rates would otherwise become effective following suspension. For the reasons stated below, we shall grant the motion, as amended.

On December 4, 1981, MP&L tendered its originally proposed rate for filing for three categories of wholesale service. These categories are (1) full requirements service to five municipals, (2) transmission service to three self-generating municipals and (3)

transmission service to South Mississippi Electric Power Association (SMEPA). The Municipal Energy Agency of Mississippi (MEAM) represents both the full requirements and transmission service municipals.

By order issued February 2, 1982, the Commission, *inter alia*, accepted the proposed rates for filing, suspended their effectiveness until July 3, 1982, and ordered a hearing to be convened. Settlement negotiations among the parties have since resulted in a complete settlement in principle between SMEPA and MP&L and a partial settlement in principle between MEAM and MP&L. The partial settlement with MEAM relates only to the rate for full requirements service to the five municipals.

MP&L's motion is designed to make the lower settlement rates immediately available. In addition, the motion requests that MP&L may immediately commence billing under the original filed rates in either of the following two situations: (1) If a formal settlement agreement reflecting the settlements in principle is not filed by September 2, 1982 or (2) if a filed settlement agreement is disapproved, or modified by the Commission without consent of the parties. Also, in either of the two situations, MP&L seeks authorization to collect, over the succeeding six month period, a surcharge reflecting the difference between the originally filed rates and the settlement rates retroactive to July 3, 1982.

MP&L's motion contains two other conditions to its request. These conditions apply to rates for the transmission service to MEAM's three self-generating municipals, which rates are not included within the scope of the settlements in principle. The first condition is that MP&L shall be able to charge these filed rates on their effective date. The second condition is that MP&L shall maintain its right to seek 100% of such rates in this proceeding and may be entitled by final Commission order in this case to continue to charge the three municipals higher transmission rates than are established in this proceeding for SMEPA through settlement. As a final matter, MP&L's motion states that SMEPA concurs in the request to charge SMEPA interim transmission rates and MEAM concurs in the request to charge interim full requirements rates for service to MEAM's municipal customers taking such service.

On July 15, 1982, MEAM filed its response to MP&L's motion, wherein it stated that it concurred with MP&L's request to charge interim rates to MEAM's full requirements customers and that it did not object to the conditional surcharge procedure proposed by MP&L. However, MEAM stated it did not concur in MP&L's proposal to charge settlement transmission rates to SMEPA so long as MEAM's self-generating municipals are charged the higher filed rate. Also, on July 16, 1982, MP&L filed an amended motion wherein it stated that SMEPA did not object to MP&L's proposed conditional surcharge procedure.

Under the circumstances noted above, we believe that the public interest will be served by granting MP&L's motion, as amended. In doing so, we note that MEAM does not concur in MP&L's proposal to charge settlement transmission rates to SMEPA. However, we cannot agree with the apparent basis for MEAM's position that it would be unreasonable to charge, in essence, settlement rates to MP&L's customers which have settled while charging the higher, filed rates to those customers who have not. A difference in rates is the usual result when some customers reach a settlement and some do not. Absent allegations of discrimination in the settlement process itself, MP&L's general opposition is insufficient for us to deny MP&L's request to collect interim rates. However, we cannot and will not prejudge the question of whether the settlement with SMEPA will be approved or whether it will be found to be nondiscriminatory *vis-a-vis* the transmission rates to MEAM, should such allegations be raised.

Pursuant to sections 35.1(e), 35.11, and 35.17(b) of the Commission's regulations, we find that good cause exists to permit the collection of the revised interim rates, subject to refund, as of July 3, 1982, until such time as the Commission acts upon the settlement agreement to be filed by MP&L, or until September 2, 1982, if a settlement agreement has not been filed by that date. This order shall be without prejudice to our subsequent determination on the merits of any proposed settlement which is filed.

The Commission orders:

(A) The July 8, 1982, motion filed by MP&L as amended on July 16, 1982, requesting permission to collect reduced interim rates in lieu of some of the rates originally filed in this proceeding is hereby granted as discussed above.

(B) Good cause having been shown, MP&L is hereby authorized, pursuant to §§ 35.1(e), 35.11 and 35.17(b) of the Commission's regulations, to collect, subject to refund, the revised rates reflected in its motion from July 3, 1982, until final Commission action on the settlement or until September 2, 1982 if a settlement agreement has not been filed by that date. In the event that a settlement agreement has not been filed by September 2, 1982, or the settlement is not approved, the provisions of MP&L's motion shall apply as to rates for the interim period.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-21163 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-457-005]

Mississippi River Transmission Corp.; Petition To Amend

July 29, 1982.

Take notice that on July 12, 1982, Mississippi River Transmission Corporation (Petitioner), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP79-457-005 a petition to amend the order issued April 18, 1980, in Docket No. CP79-457-000, as amended, pursuant to Section 7(c) of the Natural Gas Act so as to permit more effective use of the off-system storage capacity in serving Laclede Gas Company's (Laclede) winter requirements by providing for use of a limited quantity of summer period gas from Petitioner's general system supply to supplement the field production volumes for which Laclede receives storage gas credit under Petitioner's Rate Schedule A-10, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued April 18, 1980, as amended, it was authorized to make winter season gas sales to Laclede up to 1,611,300 Mcf under Petitioner's Rate Schedule X-19. Petitioner submits that the field production volumes which are used under Petitioner's and Laclede's winter service contract dated April 16, 1979, as the basis for determining the storage gas component of Laclede's winter service gas availability and its total winter period gas entitlement have been less than the volumes that had been projected.

In order to permit more effective use of the off-system storage capacity for which Laclede is charged, Petitioner proposes to use a limited quantity of summer period gas from its general system supply to supplement the field production volumes for which Laclede receives storage gas credit. Petitioner states that such quantities of gas would be made available on a generally uniform daily basis each year from April

through September up to the maximum seasonal storage of 1,611,300 Mcf.

Petitioner indicates that in addition to other charges payable under Rate Schedule X–19 Laclede would be billed at the commodity charge in effect when such supplemental storage gas is taken under Petitioner's Rate Schedule CD–1.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 23, 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. 82–21176 Filed 8–4–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–671–000]

Pacific Power & Light Co.; Filing

July 29, 1982.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on July 21, 1982, tendered for filing, in accordance with Section 35.13a(d) Part IV of the Commission's Regulations, Pacific's Revised Appendix 1 for the state of Idaho dated March 5, 1982. The Revised Appendix 1 calculates an average system cost for the state of Idaho applicable to the exchange of power between Bonneville Power Administration (Bonneville) and Pacific.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective March 5, 1982, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Idaho Public Utility Commission and Bonneville's Direct Service Industrial Customers.

Any person desiring to be heard or to protest said application 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 August 18, 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–21178 Filed 8–4–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP80–6–002]

Panhandle Eastern Pipe Line Co.; Petition To Amend

July 29, 1982.

Take notice that on July 15, 1982, Panhandle Eastern Pipe Line Company (Petitioner), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80–6–002 a petition to amend the order issued January 1, 1980, pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) so as to authorize the construction and operation of gas purchase facilities in excess of the total cost limitation of $20,000,000, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it was authorized by order issued January 1, 1980, to construct and operate certain natural gas facilities with a maximum total cost of $20,000,000.

Petitioner states that it is currently in an emergency situation in which valuable summertime construction activities have been stopped due to the total dollar limitation.

Petitioner requests amendment of the order issued January 1, 1980, so as to authorize the construction and operation of gas purchase facilities with a total annual cost limitation for 1982 of $50,000,000. Applicant asserts that current delays of LNG deliveries from Trunkline LNG, potential delays of gas supplies from Northern Border Pipeline Company as well as recent past winter emergency purchases all serve to highlight the fact that it is imperative for Applicant to continue the construction of facilities needed to connect additional gas supplies to the system.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 23, 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. 82–21177 Filed 8–4–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RE82–29–000]

Potomac Electric Power Co.; Application for Exemption

July 30, 1982.

Take notice that Potomac Electric Power Company (PEPCO) filed an application on June 30, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, and biennially thereafter, information on the costs of providing electric service as specified in § 290.401(b) as it applies to the State of Virginia segment of its service area.

In its application for exemption PEPCO states that it should not be required to file the specified data for the following reasons:

(1) The proportion of all of PEPCO's business done in Virginia is extremely small, and the proportion of all of Virginia electricity sales made by PEPCO is extremely small.

(2) The cost of complying is substantial and, in view of the data's limited usefulness, unduly burdensome.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of

the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 20, 1982. Within that 45 day period such person must also serve a copy of such comments on: Potomac Electric Power Company, Attention: Edward A. Caine, Esquire, Vice President, Regulatory Law and Deputy General Counsel, Suite 841, 1900 Pennsylvania Avenue, NW., Washington, D.C. 20068.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-21179 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-579-000]

Southern Company Services; Further Extension of Time

July 29, 1982.

On July 27, 1982, Middle South Services, Inc. (Services), on behalf of Arkansas Power and Light Company, Louisiana Power and Light Company, and New Orleans Public Service, Inc., filed a motion for a further extension of time to file protests and petitions to intervene in response to the Commission's Notice of Filing issued June 16, 1982, in the above-docketed proceeding. In support of this request, the motion states that Services is presently engaged in joint studies with the Southern Companies and the Tennessee Valley Authority to evaluate the impact of the proposed transactions and to determine the necessity of Services' intervention in this proceeding. The motion further states that Southern Company Services and the Southern Companies support this extension request.

Upon consideration, notice is hereby given that a further extension of time for the filing of protests and petitions to intervene is granted to and including September 28, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-21164 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6485-000]

Alternate Energy Resources, Inc.; Application for Preliminary Permit

August 3, 1982.

Take notice that Alternative Energy Resources, Inc. (Applicant) filed on July 6, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)) for Project No. 6485 to be known as the Long Canyon Creek Hydroelectric Project located on Long Canyon Creek, within the Eldorado National Forest, near Georgetown, in Placer County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Dale L. R. Lucas, Alernate Energy Resources, Inc., 36600 Orange Grove Avenue, Madera, California 93637.

Project Description—The proposed project would consist of: (1) A 5-foot-high, 30-foot-long concrete diversion structure; (2) an 11,700-foot-long, 36-inch-diameter low pressure conduit; (3) a 1,500-foot-long, 30-inch-diameter penstock; (4) a powerhouse with total installed capacity of 1,360 kW; and (5) a 10,500-foot-long transmission line from the powerhouse to an existing PG&E Company transmission line. The Applicant estimates that the average annual energy production would be 5.8 million 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 36 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $50,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 12, 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 October 12, 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 December 13, 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 October 12, 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. 82-21221 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6487-000]

Alternate Energy Resources, Inc.; Application for Preliminary Permit

August 2, 1982.

Take notice that Alternate Energy Resources, Inc. (Applicant) filed on July 6, 1982, an application for preliminary

permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)) for Project No. 6487 to be known as the Big Grizzly Canyon Creek Hydroelectric Project located on Big Grizzly Canyon Creek, within the Eldorado National Forest, near Georgetown, in Placer County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Dale L. R. Lucas, Alternate Energy Resources, Inc., 36600 Orange Grove Avenue, Madera, California 93637.

Project Description—The proposed project would consist of: (1) A 5-foot-high, 30-foot-long concrete diversion structure; (2) a 6,100-foot-long, 20-inch-diameter low pressure conduit; (3) a 1,920-foot-long, 12-inch-diameter penstock; (4) a powerhouse with total installed capacity of 952 kW; and (5) a 14,460-foot-long transmission line from the powerhouse to an existing PG&E Company transmission line. The Applicant estimates that the average annual energy production would be 4.1 million 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 36 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $35,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 12, 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 October 12, 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 December 9, 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 October 12, 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. 82-21229 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6486-000]

Alternate Energy Resources, Inc.; Application for Preliminary Permit

August 2, 1982.

Take notice that Alternate Energy Resources, Inc. (Applicant) filed on July 6, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)) for Project No. 6486 to be known as the Duncan Canyon Creek Hydroelectric Project located on Duncan Canyon Creek, within the Eldorado National Forest, near Forest Hill, in Placer County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Dale L. R. Lucas, Alternate Energy Resources, Inc., 36600 Orange Grove Avenue, Madera, California 93637.

Project Description—the proposed project would consist of: (1) A-5 foot-high, 30-foot-long concrete diversion structure; (2) a 2,580-foot-long, 48-inch-diameter low pressure conduit; (3) a 1,600-foot-long, 36-inch-diameter penstock; (4) a powerhouse with total installed capacity of 4,760 kW; and (5) a 2,100-foot-long transmission line from the powerhouse to an existing PG&E Company transmission line. The Applicant estimates that the average annual energy production would be 20.6 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $60,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 12, 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 October 12, 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 December 13, 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 October 12, 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. 82-21230 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-667-000]

Appalachian Power Co.; Filing

July 29, 1982.

Take notice that Appalachian Power Company (APCo), on July 20, 1982, tendered for filing a power sales agreement executed with Elk Power Company, Clay, West Virginia dated February 26, 1979. This agreement provides for APCo to furnish service to Elk Power Company (Clay) at a new delivery point which is expected to be placed in service by July 1982.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.0). All such petitions or protests should be filed on or before August 11, 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-21244 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC82-11-000]

Cliffs Electric Service Co.; Application

July 29, 1982.

Take notice that on July 7, 1982, Cliffs Electric Service Company (Applicant), filed an application with the Federal Energy Regulatory Commission, pursuant to Section 203 of the Federal Power Act, seeking an amendment to the authorization granted in Docket No. EC81-12-000 to allow Service Company to acquire up to $5,000,000 in short term notes and commercial paper to be issued by Upper Peninsula Generating Company, to mature on or before June 30, 1985.

The Applicant is incorporated under the laws of the State of Michigan with its principal business office at Ishpeming, Michigan. Applicant is a wholly owned subsidiary of The Cleveland-Cliffs Iron Company and operates certain electric facilities in the upper peninsula of Michigan. Energy from those facilities is sold principally to iron mines and related mining facilities which are operated by the parent company. Upper Peninsula Generating Company is engaged in the generation of electric energy for sale to its owners, the Applicant and Upper Peninsula Power Company.

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 on or before August 26, 1982, 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 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. 82-21245 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6445-000]

Georgetown Irrigation Co., Application for Exemption of Small Conduit Hydroelectric Facility

August 3, 1982.

Take notice that on June 18, 1982, Georgetown Irrigation Company (Applicant) filed an application, under Section 30 of the Federal Power Act (Act) (16 U.S.C. 823(a)), for exemption of a proposed hydroelectric project from requirements of Part I of the Act. Applicant concurrently filed a request, under Section 1.7(b) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(b) (1982)) for waiver of the discharge requirement of § 4.91(f)(5). The proposed Irrigation Hydroelectric Plant Project (FERC Project No. 6445) would be located on lands owned by 2 L Farms near the Town of Georgetown in Bear Lake County, Idaho. Correspondence with the Applicant should be directed to: Ted S. Sorenson, 550 Linden Drive, Idaho Falls, Idaho 83401.

Purpose of Project—The existing complex system of water conveyance conduits is used primarily to supply irrigation water to 3,500 acres of farmland. The energy generated by the proposed facility would be incidental to the irrigation water supply function of the system. The water surplus to irrigation needs would be discharged back into Georgetown Creek after being used for power generation.

Project Description—The proposed project would be located at Station 150+00 along Georgetown Irrigation Company's main pipeline and would

consist of: (1) A 1,600-foot-long 30-inch diameter welded steel penstock; (2) a powerhouse containing two generating units having a total installed capacity of 450-kW operated under a 206-foot head and at a flow of 30 cfs; (3) a 100-foot-long 36-inch diameter steel pipe tailrace; and (4) appurtenant facilities. Applicant estimates that the average annual energy output would be 1,870,000 kWh.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 30 of the Act, to submit within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

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 September 20, 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. 82-21222 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-666-000]

Iowa Power and Light Co.; Filing

July 29, 1982.

Take notice that Iowa Power and Light Company (Iowa) on July 19, 1982, tendered for filing Revised Service Schedules (Schedules), between Iowa and Montezuma Municipal Light and Power (Montezuma) dated May 12, 1982.

Iowa states that these Schedules relate to base load power and energy, transmission service, and charges associated therewith.

Iowa Power requests that the Commission waive its prior notice requirements and accept this Agreement for filing with an effective date of May 12, 1982.

Copies of this filing were served upon each affected party and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 or 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 August 11, 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. 82-21246 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-674-000]

Lake Superior District Power Co.; Filing

July 29, 1982.

Take notice that Lake Superior District Power Company (LSDP) on July 23, 1982 tendered for filing proposed rate schedule changes in a Supplement #2 to contracts for electric service with the following wholesale customers:

	FERC rate schedule No.
City of Medford	27
City of Wakefield	28
North Central Power Co., Inc	29

LSDP states that the rate schedule changes will reduce wholesale customers' rates by $439,500 or 14.51% based on a calendar 1982 test year. The rate decrease results from LSDP's affiliation with the other Northern States Power electric companies under the terms of the FERC-approved superseding Coordinating Agreement which became effective on June 30, 1982.

The Company has requested that the rate schedule become effective on August 1, 1982 to allow LSDP to recover its costs and wholesale customers to receive all of the net cost reduction resulting from single system operations under the terms of the Coordinating Agreement.

Copies of the filing were served upon each of LSDP's three wholesale customers, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application 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 August 18, 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-21247 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6412-000]

Lyonsdale Hydroelectric Co., Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

August 2, 1982.

Take notice that on June 8, 1982, Lyonsdale Hydroelectric Co., Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6412 would be located on the Black River in the village of Port Leyden, Towns of Leyden ad Lyonsdale, Lewis County, New York. Correspondence with the Applicant should be directed to: Mr. Phillip J. Movish, 500 South Salina Street, Syracuse, New York 13202.

Project Description—The proposed project would utilize existing Applicant-owned facilities consisting of: (1) A 10-foot-high and 180-foot-long concrete, log crib, and natural rock dam having a 20-foot-long section breached in 1980; (2) a reservoir with a surface area of 10 acres and a storage capacity of 45 acre-feet at normal historic surface elevation 870.0 feet m.s.l.; (3) an intake structure near the dam's right (east) abutment; (4) a 20-foot-deep 20-foot-wide and 60-foot-long intake channel; (5) a former mill; (6) a tailrace; and (7) appurtenant facilities.

Applicant proposed to: (1) Replace the breached section of the dam and the log crib section of the dam with concrete overflow-type sections having spillway crest elevation 869.9 feet m.s.l.; (2) restore the reservoir to its historic (pre-1980) elevation 870.0 feet m.s.l.; (3) remove the intake structure; (4) construct a powerhouse containing two generating units having a total rated capacity of 1,100–kW operated under a 14-foot-head and at a flow of 1,234 cfs; (5) construct a switchyard; and (6) construct a 200-foot-long 23–kV transmission line.

Project energy would be sold to Niagara Mohawk Power Corporation. Applicant estimates that the average annual energy output would be 6,703,000 kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the New York State Department of Environmental Conservation are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before September 17, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

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 and 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 September 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. 82-21231 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3562-001]

Maine Hydro-Electric Development Corp.; Application for License (5 MW or Less)

August 4, 1982.

Take notice that Maine Hydro-Electric Development Corporation (Applicant) filed on June 21, 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 Barker Mill Upper Project No. 3562. The project would be located on the Little Androscoggin River near the town of Auburn, Androscoggin County, Maine. Correspondence with the Applicant should be directed to: Mr. Lawrence Gleeson, Maine Hydro-Electric Development Corporation, Mill Lane, P.O. Box 402, Belfast, Maine 04915.

This license application was filed during the term of Applicant's Preliminary Permit for Project No. 3562.

Project Description—The proposed project would consist of: (1) An existing 21-foot-high, 230-foot-long masonry-gravity dam topped by 3-foot-high flashboards, and breached at the west abutment, which would be repaired and given a concrete face; (2) a 41 acre reservoir with negligible storage capacity at elevation 192 feet M.S.L.

(with flashboards); (3) a new powerhouse located immeditely below the dam at the east abutment containing a turbine-generator with a total rated capacity of 950–kW; (4) an existing tailrace; (5) a 50-foot-long transmission line; and (6) appurtenant facilities. Applicant has obtained a perpetual lease of the project works and property.

Purpose of Project—Energy produced at the project would be sold to Central Maine Power Company.

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 Coordiantion 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—Anyone desiring to file a competing application must submit to the Commission, on or before October 13, 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 thsoe 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 October 13, 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. 82–21232 Filed 8–4–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–670–000]

Michigan Power Co.; Filing

July 29, 1982.

Take notice that Michigan Power Company (MPCo) on July 21, 1982, tendered for filing proposed changes in its FERC Electric Tariff MRS, Volume No. 1 for wholesale for resale electric service to the City of Dowagiac, Michigan and the Village of Paw Paw, Michigan. MPCo requests that its proposed tariff changes be made effective on two separate dates as follows:

The proposed tariff changes encompassed in the Ninth Revised Sheet No. 6 and Fifth Revised Sheet No. 7, are to become effective concurrent with the effective date of Indiana & Michigan Electric Company's proposed step one rate increased purchased power expense which will be incurred by MPCo pursuant to the Commission's decision in Docket No. ER82–555–000 and would increase revenues from jurisdictional sales and service by $247,607 based on the 12-month period ending December 31, 1981.

MPCo has requested an effective date of December 29, 1982 for the tariff changes encompassed in Tenth Revised Sheet No. 6 to become effective concurrent with the effective date of Indiana & Michigan Electric Company's proposed step two rate increase in Docket No. ER82–555–000. Such tariff changes involve recovering I&M's step two rate increase and would increase revenues from jurisdictional sales and service by a total increase of $562,144 based on the twelve month period ending December 31, 1981.

MPCo requests a waiver of the Commission's Rules and Regulations so as to permit the proposed rate increase to become effective in less than 60 days.

MPCo states that a copy of the filing has been provided to the City of Dowagiac and the Village of Paw Paw and the Michigan 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, 1.10). All such petitions or protests should be filed on or before August 17, 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. 82–21248 Filed 8–4–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–483–000]

Middle South Services, Inc.; Order Accepting for Filing and Suspending Rates, Granting and Denying Intervention, and Establishing Hearing Procedures

Issued: July 29, 1982.

On April 30, 1982, Middle South Services, Inc. tendered for filing a revised system pooling agreement among Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service Inc.[1] The new system agreement is intended to govern transactions among the parties operating as a single pooled interconnected system. All of the parties are operating company subsidiaries of Middle South Utilities, Inc. (Middle South), a public utility holding company. The new Middle South system agreement will govern relations among the operating companies under which they coordinate their daily oeprations and plan jointly for the addition of transmission and generating capacity. Among other

[1] *See* Attachment A for rate schedule designations.

changes, the new agreement provides for (1) a different methodology for determining each party's load responsibility, (2) different investment costs to be used in calculating capability and transmission equalization payments, and (3) different treatment of power and energy from cogeneration and small power production facilities. Middle South has proposed an August 1, 1982 effective date, but requests a five month suspension until January 1, 1983, to allow for settlement discussions.

Notice of the filing was issued on May 11, 1982, with responses due by May 26, 1982. Timely notices of intervention were filed by the Louisiana Public Service Commission, the Arkansas Public Service Commission, and the Mississippi Public Service Commission.

On May 26, 1982, separate petitions to intervene were filed by the Cities of Conway and West Memphis, Arkansas; by the Municipal Energy Agency of Mississippi; and by the City of Lafayette, Louisiana. Conway and West Memphis note that they are wholesale customers of Arkansas Power & Light Company and assert that the new system agreement may adversely affect their rates for service from Arkansas Power & Light Company. The Municipal Energy Agency of Mississippi likewise notes that its members are wholesale customers of Mississippi Power & Light Company and that their rates may be affected by the new system agreement.

The City of Lafayette states that it is seeking to sell power and energy from its own resources that are excess of its requirements and that it needs to obtain wheeling service from Mississippi Power & Light Company in order to make such sales possible. Lafayette, to date, has been unable to obtain commitments for such transmission service but states that it is uncertain whether Mississippi Power & Light Company (or Gulf States Utilities, another intermediate utility) is responsible for preventing Lafayette from obtaining the desired wheeling service. Lafayette requests that the Commission allow it to intervene and make the effectiveness of the new system agreement conditional upon agreement by the Middle South operating companies that transmission or interconnection services will be made available to Lafayette or others on a reasonable and non-discriminatory basis.

On July 14, 1982 the Mississippi Legal Services Coalition (MSLC) filed a petition for leave to intervene out-of-time. MLSC describes itself as a joint venture of the Mississippi grantees of the Legal Services Corporation. MLSC states that the low income consumers of electric power in the servcie area of Mississippi Power & Light Company have special needs and special problems with regard to electricity consumption and that there is no consumer advocate with any statutory or other responsibility for representing the special interests of low income consumers of electric power in the service area of Mississippi Power & Light Company. MLSC contends that the changes in the revised Middle South system pooling agreement will have a direct impact upon the low income customers of Mississippi Power & Light Company. MLSC contends that as a result of these facts its intervention would not duplicate any other interests appearing before the Commission in this proceeding.

MLSC offers as additional reasons for granting its petition for late intervention: (1) That allowing its intervention will not prejudice any other party to the proceeding; (2) that allowing its intervention will not delay resolution of the proceeding because the Commission had not issued any orders in the proceeding because the Commission had not issued any orders in the proceeding at the date of MLSC's intervention; and (3) that MLSC was not notified of the filing until after the time for intervention had lapsed and that MLSC preferred to give time for other parties to intervene that would adequately represent the interests of those whose interests MLSC represents.[2]

Discussion

The Commission finds that participation in this proceeding by each of the petitioners other than Lafayette is in the public interest and that, for the reasons given by MLSC, good cause exists to permit Mississippi Legal Services Coalition to intervene out of time. Except as to Lafayette, the petitions to intervene will therefore be granted. The timely-filed notices of intervention are sufficient to initiate participation in this proceeding by the Arkansas, Louisiana, and Mississippi Commissions.

We shall deny Lafayette's request to conditionally accept the revised pooling agreement for filing inasmuch as this proceeding is not an appropriate forum for addressing the issue raised by that city. In the instant docket, the Middle South pool members are seeking to redetermine the capability and transmission equalization payments among themselves based on revised investment criteria and updated cost data. The request by Lafayette to be assured of receiving transmission service is not germane to an investigation into the justness and reasonableness of the proposed changes to the pooling agreement and certainly does not constitute a basis for conditioning our acceptance of the revisions for filing. Furthermore, Lafayette has not thus far even suggested with cvertainty that a party to the pooling agreement has affirmatively refused to provide requested sevice. Appropriate procedures and standards exist pursuant to sections 211 and 212 of the Federal Power Act in the event that Lafayette finds it necessary to request a compulsory wheeling order. Because the concerns identified in Lafayette's pleading are limited to the prospective availability of transmission service and do not pertain to the proposed amendments to the pooling agreement, we find that intervention is unnecessary and may unduly delay this proceeding. Accordingly, the petition to intervene will be denied.

Our preliminary review indicates that the revised system agreement has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Consequently, we shall accept the new agreement for filing and we shall suspend its operation as ordered below.

Since Middle South has requested that we suspend the new system agreement for five months in order to allow the parties an opportunity to attempt to settle the proceeding, we shall accommodate that request and order the new system agreement to be suspended for five months from August 1, 1982, to become effective, subject to refund, on January 1, 1983.

The Commission orders

(A) Lafayette's request to make approval of the revised system agreement conditional on agreement by the Middle South operating companies and Middle South Utilities, Inc. to provide reasonable and non-discriminatory transmission and interchange service is denied without prejudice to Lafayette's right to seek Commission action in accordance with sections 211 and 212 of the Federal Power Act. Lafayette's petition to intervene in this proceeding is hereby denied.

(B) The revised system agreement is hereby accepted for filing and is suspended for five months from August 1, 1982, to become effective on January 1, 1983, subject to refund.

[2] On July 23, 1982, Middle South filed an answer in opposition to MLSC's petition to intervene. Middle South contends that MLSC has not shown good cause why its late petition should be granted, and further asserts that MLSC's intervention may delay the proceeding.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules and Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the revised system agreement.

(D) With the exception of Lafayette, the petitions to intervene are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shal not be construed as recognition by the Commission that they might be aggrieved by any order of the Commission in this proceeding.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately thirty (30) days of the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Such conference shall be held for purposes of delineating the issues and establishing a procedural schedule, including a date for the submittal of testimony and exhibits by the filing utilities. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Middle South Services, Inc.

Docket No. ER82-483-000

RATE SCHEDULE DESIGNATIONS

Designation	Description	Other party
(1) Rate Schedule FERC No. 94 (Supersedes Rate Schedule FPC No. 69, as supplemented)	Operating agreement	Arkansas Power & Light Co.
(2) Supplement No. 1 to (1) above	Service Schedule MSS-1 Reserve Equalization	do.
(3) Supplement No. 2 to (1) above	Service Schedule MSS-2 Transmission Equalization.	do.
(4) Supplement No. 3 to (1) above	Service Schedule MSS-3 Exchange Energy	do.
(5) Supplement No. 4 to (1) above	Service Schedule MSS-4 Unit Power Purchase	do.
(6) Supplement No. 5 to (1) above	Service Schedule MSS-5 Distribution of Revenues from Sales for Joint Account.	do.
(7) Supplement No. 6 to (1) above	Service Schedule MSS-6 Distribution of Operating Expenses of System Operations Genter.	do.
(8) Rate Schedule FERC No. 262 (Supersedes Rate Schedule FPC No. 228, as supplemented)	Operating Agreement	Mississippi Power & Light Co.
(9) Supplement No. 1 to (8) above	Same as (2) above	do.
(10) Supplement No. 2 to (8) above	Same as (3) above	do.
(11) Supplement No. 3 to (8) above	Same as (4) above	do.
(12) Supplement No. 4 to (8) above	Same as (5) above	do.
(13) Supplement No. 5 to (8) above	Same as (6) above	do.
(14) Supplement No. 6 to (8) above	Same as (7) above	do.
(15) Rate Schedule FERC No. 8 (Supersedes Rate Schedule FPC No. 5, as supplemented)	Operating Agreement	New Orleans Public Service, Inc.
(16) Supplement No. 1 to (15) above	Same as (2) above	do.
(17) Supplement No. 2 to (15) above	Same as (3) above	do.
(18) Supplement No. 3 to (15) above	Same as (4) above	do.
(19) Supplement No. 4 to (15) above	Same as (5) above	do.
(20) Supplement No. 5 to (15) above	Same as (6) above	do.
(21) Supplement No. 6 to (15) above	Same as (7) above	do.
(22) Rate Schedule FERC No. 69 (Supersedes Rate Schedule FPC No. 48, as supplemented)	Operating Agreement	Louisiana Power & Light Co.
(23) Supplement No. 1 to (22) above	Same as (2) above	do.
(24) Supplement No. 2 to (22) above	Same as (3) above	do.
(25) Supplement No. 3 to (22) above	Same as (4) above	do.
(26) Supplement No. 4 to (22) above	Same as (5) above	do.
(27) Supplement No. 5 to (22) above	Same as (6) above	do.
(28) Supplement No. 6 to (22) above	Same as (7) above	do.

[FR Doc. 82-21223 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6421-000]

New Hampshire Water Resources Board; Application for Preliminary Permit

August 2, 1982.

Take notice that New Hampshire Water Resources Board (Applicant) filed on June 14, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6421 to be known as the Lakeport Dam Project located on the Winnipesaukee River in Belknap 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. Delbert F. Downing, Chairman, New Hampshire Water Resources Board, 37 Pleasant Street, Concord, New Hampshire 03301.

Project Description—The proposed project would consist of: (1) A 230-foot-long, 12-foot-high, existing stone/masonry/concrete dam owned and operated by the Applicant; (2) an existing 73 square mile reservoir, Lake Winnipesaukee, at an elevation of 504 feet M.S.L.; (3) a proposed 200-foot-long intake canal; a proposed powerhouse containing 2 turbine/generator units, each rated at 160 kW, operating under a head of 10 feet; (4) a proposed tailrace; (5) a proposed 200-foot-long transmission line; and (6) appurtenant facilities. The average annual generation of 1,900 MWh 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 that the cost of the studies under permit would be $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before November 9, 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 October 12, 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 and 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 October 12, 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 82-21233 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-675-000]

Niagara Mohawk Power Corp.; Filing

July 29, 1982.

Take notice that Niagara Mohawk Power Corporation (Niagara) on July 23, 1982, tendered for filing as a rate schedule, a supplemental agreement between Niagara and Consolidated Edison Company of New York Inc. (Consolidated Edison) dated April 1, 1981.

Niagara presently has on file an agreement with Consolidated Edison dated April 1, 1979 and amended April 1, 1980. The original agreement is to provide transmission service for the delivery of diversity power and energy from the Power Authority of the State of New York (PASNY) and Consolidated Edison. This agreement is designated as Nigara Mohawk Power Corporation Rate Schedule FERC No. 113 with Supplement 1. This new agreement is being transmitted as a supplement to the existing agreement and supersedes Supplement No. 1.

The April 1, 1981 agreement, which is a supplement to the original agreement, revises the transmission rates.

Niagara requests waiver of the Commission's notice requirements in order to allow an effective date of April 1, 1981.

Copies of this filing were served upon Consolidated Edison Company of New York, Inc. 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 August 18, 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. 82-21249 Filed 8-4-82; 8:45am]

BILLING CODE 6717-01-M

[Docket No. ER82-676-000]

Niagara Mohawk Power Corp.; Filing

July 29, 1982.

Take notice that Niagara Mohawk Power Corporation (Niagara) on July 23, 1982, tendered for filing as a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (RG&E) dated April 1, 1981.

Niagara presently has on file an agreement with RG&E dated April 1, 1979. The Original Agreement is to provide transmission service for the delivery of diversity power and energy from the Power Authority of the State of New York (PASNY) and RG&E. The diversity power and energy is in turn exchanged by PASNY with Hydro Quebec. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC with Supplements 1 through 3–1. This agreement is being transmitted as a supplement to the existing agreement and supersedes 1, 2, 2–1, 3 and 3–1.

The April 27, 1982 Agreement, which is a supplement to the original agreement, revises the transmission rates.

Niagara requests an effective date of April 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Rochester Gas & 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 August 18, 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. 82-21250 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6511-000]

NortHydro, Inc.; Application for Preliminary Permit

August 3, 1982.

Take notice that NortHydro, Inc. (Applicant) filed on July 12, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)) for Project No. 6511 to be known as the Ball Creek Hydroelectric Project located on Ball Creek in Boundary County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Richard W. Kochansky, 2005 Ironwood Parkway #141, Coeur d'Alene, Idaho 83814.

Project Description—The proposed project would consist of: (1) A 6-foot-high, 40-foot-long diversion structure; (2) a 30-inch-diameter, 18,500-foot-long penstock; (3) a powerhouse containing generating units with a total rated capacity of 3,150 kW, operating under a head of 1,740 feet; (4) a tailrace; (5) a .25-mile-long transmission line tieing into an existing 7.6-kV line. The estimated average annual energy production is 16,000,000 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 engineering, environmental and economic feasibility studies and prepare an application for an FERC license. The estimated cost for conducting these studies and preparing an application for an FERC license is between $75,000 and $115,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 12, 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 October 12, 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 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 December 3, 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 and 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 October 12, 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. 82-21224 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6510-000]

NortHydro, Inc.; Application for Preliminary Permit

August 2, 1982.

Take notice that NortHydro, Inc. (Applicant) filed on July 12, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6510 to be known as the Trout Creek Project located on Trout Creek, near Bonners Ferry, in Boundary County, Idaho. The project would occupy U.S. lands within the Panhandle National Forest and under Bureau of Land Management. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Richard W. Kochansky, 2005 Ironwood Parkway #141, Coeur d'Alene, Idaho 83814.

Project Description—The proposed project would consist of: (1) A 6-foot-long concrete diversion structure; (2) a 15,500-foot-long, 34-inch diameter steel penstock; (3) a powerhouse containing one generating unit rated at 3,780 kW; and (4) a 2.5-mile-long transmission line. The average annual energy generation is estimated to be 17 million kWh.

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 24 months, during which time it would conduct engineering, environmental, economic, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work to be done under the preliminary permit is estimated to be $115,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before October 2, 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 October 12, 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 December 13, 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 October 12, 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. 82-21234 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2101-011]

Sacramento Municipal Utility District; Application for Approval of Exhibit R

August 3, 1982.

Take notice that an application for approval of Exhibit R (recreation plan) was filed on June 1, 1982, under the Federal Power Act, (16 U.S.C. 791(a)–825(r)) by Sacramento Municipal Utility District (SMUD), Licensee for the Upper American River Project No. 2101, located on the Rubicon River, Silver Creek, South Fork of the American River, and their tributaries in Eldorado County, California. Correspondence with the SMUD should be directed to: Mr. J. J. Mattimoe, Sacramento Municipal Utility District, 6201 S Street, Box 15830, Sacramento, California 95813. The SMUD's proposals for additional recreational facilities to be provided at the existing recreation areas are as follows:

Crystal Basin—Improvements to the Crystal Basin would include an entrance kiosk, restrooms, day use facilities, parking, and a 5 to 10-person barracks to be constructed adjacent to the existing Capital Basin Ranger Station.

Ice House Reservoir—It is proposed to increase the capacity of the Ice House Reservoir by 100 PAOT (Persons At One Time). This would include campgrounds, parking, garbage pickup, and sanitation facilities. The plan also includes development of shoreline access for disabled persons.

Union Valley Reservoir—Fashoda Picnic Area would be converted to a walk-in campground by converting 30 picnic units to overnight camp sites. Five picnic tables will be placed near the reservoir high water line to accomodate day users. A trail is proposed to link the Sunset Campground with the new Fashoda Campground. County Road Site, an area southeast of Union Valley Reservoir, would be converted to a self-contained campground for ten vehicles, to include paved surface, toilet facilities, and garbage pickup. A vault-type toilet facilities would be provided at West Point, an area on the north shore of Union Valley.

Gerle Creek Reservoir—Minor road improvements and surfacing of an existing 8-unit parking area are proposed for an area east of the Gerle Creek Reservoir known as Site 62.1. An 8-unit parking lot located in an area west of the reservoir known as Site 64.3 is proposed to be paved. At both sites, vault-type toilets and garbage pickup would be provided.

Loon Lake Reservoir—A 40-unit, all-season parking area with signs, all-weather toilet facilities, warming hut, and garbage pickups are proposed for an area near the South Dam. SMUD is also proposing to expand the existing 180-unit Loon Lake Family Campground by 45 additional units and by providing a Trailer Sanitation Station. Site 26.5 on the north shore of the Loon Lake Reservoir is proposed to be developed to accommodate 20 self-contained vehicles. The site would have vault-type toilets and garbage pickup. Site 613.0, an area below the North Dam is proposed to be developed into an 50–PAOT group camp.

The estimated cost of the above proposals has been estimated by the SMUD to be about $1.74 million.

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 applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the approval of an Exhibit R. 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.

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 (1981). 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 September 13, 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. 82-21225 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6496-000]

Town of Skykomish, Washington; Application for Preliminary Permit

August 2, 1982.

Take notice that the Town of Skykomish, Washington (Applicant) filed on July 8, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)) for Project No. 6496 to be known as the Skykomish Tributaries Hydropower Project located on Bitter, Lewis and Canyon Creeks, within Snoqualmie—Mt. Baker National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mayor, Town of Skykomish, P.O. Box 308, Skykomish, Washington 98288; and Donald Jay White, Agent for the Town of Skykomish, #600, CSB Tower, 50 South Main Street, Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) 36-inch wide concrete intake structures placed in the stream beds at elevation 2,600 feet; (2) diversion pipelines 24 inches in diameter totalling 15,000 feet in length; (3) a powerhouse at elevation 800 feet containing a turbine-generator with a 3.26-MW capacity and a 14.29-GWh average annual output and (4) a transmission line 2 miles long. Project output would be used to offset power purchases made by the City.

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 24 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 estimated cost of permit activities is $100,000.

Competing Applications—This application was filed as a competing application to Lawrence J. McMurtrey's application for Project No. 6183 filed on April 7, 1982. 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 and 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 September 14, 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. 82-21235 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6507-000]

Town of Skykomish, Washington; Application for Preliminary Permit

August 4, 1982.

Take notice that Town of Skykomish, Washington (Applicant) filed on July 12, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)) for Project No. 6507 to be known as the Bear Creek Hydroelectric Project located on Bear Creek within Snoqualmie—Mt. Baker National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mayor, Town of Skykomish, P.O. Box 308, Skykomish, Washington 98288.

Project Description—The proposed project would consist of: (1) Two 1-foot-high diversion structures on Bear Creek and unnamed tributary to Bear Creek; (2) 8,000 feet of 36-inch-diameter pipeline conveying water from diversion points to; (3) a powerhouse to contain a single generating unit with a rated capacity of 2,700 kW, operating under a head of 1,000 feet; and (4) a 12-mile-long, 115-kV transmission line to tie into a utility company line. The estimated average energy output is 11.8 million 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 environmental, economic, and technical studies as well as prepare an application for an FERC license. The estimated cost of such studies and the preparation of an FERC license application is $100,000. No new roads will be needed.

Competing Applications—This application was filed as a competing application to Mr. Lawrence J. McMurtrey's application for Project No. 6173 filed on April 6, 1982. 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 exempton application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or § 4.01 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit coments 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 September 7, 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. 82-21236 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6505-000]

Town of Skykomish, Washington; Application for Preliminary Permit

August 4, 1982.

Take notice that Town of Skykomish, Washington (Applicant) filed on July 12, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6505 to be known as the Howard Creek Hydropower Project located in Howard Creek, within Snoqualmie-Mt. Baker National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mayor, Town of Skykomish, P.O. Box 308, Skykomish, Washington 98288; and Donald Jay White, Agent for the Town of Skykomish, #600, CSB Tower, 50 South Main Street, Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) Five 36-inch wide concrete intake structures placed in tributary stream beds at elevation 3000 feet; (2) diversion pipelines 24 inches in diameter, totalling 10,000 feet in length; (3) a powerhouse at elevation 1120 feet containing a turbine generator with a 3.45-MW capacity and a 15.13-GWh average annual output; and (4) a transmission line 7 miles long. Project output would be used to offset power purchases made by the Applicant.

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 24 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 estimated cost of permit activities is $100,000.

Competing Applications—This application was filed as a competing application to Lawrence J. McMurtrey's application for Project No. 6177 filed on April 7, 1982. 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 and 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 September 7, 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. 82-21237 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6506-000]

Town of Skykomish, Washington; Application for Preliminary Permit

August 4, 1982.

Take notice that the Town of Skykomish, Washington (Applicant) filed on July 12, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C 791(a)–825(r)) for Project No. 6506 to be known as the Excelsion Creek Hydropower Project located on Excelsion Creek in

Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mayor, Town of Skykomish, P.O. Box 308, Skykomish, Washington 98288; and Donald Jay White, Agent for the Town of Skykomish, #600, CSB Tower, 50 South Main Street, Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) A 36-inch wide concrete intake structure placed in the stream bed at elevation 2000 feet; (2) a diversion pipeline 24 inches in diameter by 4000 feet in length; (3) a powerhouse at elevation 1100 feet containing a turbine generator with a 1.63-MW capacity and a 7.15-GWh average annual output; and (4) a transmission line 4 miles long. Project output would be used to offset power purchases made by the Applicant.

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 24 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 estimated cost of permit activities is $100,000.

Competing Applications—This application was filed as a competing application to Lawrence J. McMurtrey's application for Project No. 6182-000 filed on April 7, 1982. 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 September 7, 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 St., 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. 82-21238 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6504-000]

Town of Skykomish, Washington; Application for Preliminary Permit

August 4, 1982.

Take notice that the Town of Skykomish, Washington (Applicant) filed on July 12, 1982, an application for prelimianry permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6504 to be known as the Upper Found Creek Hydropower Project located on Found Creek, within Snoqualmie-Mt. Baker National Forest in Skagit County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mayor, Town of Skykomish, P.O. Box 308, Skykomish, Washington 98288; and Donald Jay White, Agent for the Town of Skykomish, #600, CSB Tower, 50 South Main Street, Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) A 36-inch wide concrete intake structure placed in the streambed at elevation 3,000 feet; (2) a diversion pipeline 24 inches in diameter by 8,000 feet in length; (3) a powerhouse at elevation 2,000 feet containing a turbine-generator with a 1.87-MW capacity and an 8.2-GWh average annual output; and (4) a transmission line 8 miles long. Project output would be used to offset power purchases made by the Applicant.

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 24 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 estimated cost of permit activities is $100,000.

Competing Applications—This application was filed as a competing application to Lawrence J. McMurtrey's application for Project No. 6179 filed on April 7, 1982. 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 September 7, 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 82-21239 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6503-000]

Town of Skykomish, Washington; Application for Preliminary Permit

August 2, 1982.

Take notice that the Town of Skykomish, Washington (Applicant) filed on July 12, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6503 to be known as the Goblin Creek Hydropower Project located on Goblin Creek, within Snoqualmie-Mt. Baker National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mayor, Town of Skykomish, P.O. Box 308, Skykomish, Washington 98288; and Donald Jay White, Agent for the Town of Skykomish, #600, CSB Tower, 50 South Main Street, Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) Five 36-inch wide concrete intake structures placed in tributary stream beds at elevation 3,000 feet; (2) diversion pipeline 24 inches in diameter and totalling 10,000 feet in length; (3) a powerhouse at elevation 1,920 feet containing a turbine-generator with a 1.9–MW capacity and an 8.66–GWh average annual output; and (4) a transmission line 14 miles long. Project output would be used to offset power purchases made by the City.

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 24 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 estimated cost of permit activities is $100,000.

Competing Applications—This application was filed as a competing application to Lawrence J. McMurtrey's application for Project No. 6184 filed on April 7, 1982. 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 September 7, 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. 82-21240 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-658-000]

Southern Company Services, Inc.; Filing

July 29, 1982.

The filing Company submits the following:

Take notice that Southern Company Services, Inc. (SCS) acting as agency for Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company (the Southern Companies) tendered for filing Amendment No. 2 to Service Schedule F to the Interchange Contract between Duke Power Company (Duke) and the Southern Companies dated June 1, 1961. The proposed Amendment No. 2 to Service Schedule F to such Interchange Contract revises the demand and energy rates to be charged by Southern Companies to Duke for special short term power sales during the calendar year 1982. Southern Companies and Duke state that the revised demand and energy charges are made necessary by increases in the cost of providing special short term power.

Any person desiring to be heard or to protest said finding should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 17, 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. 82-21251 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI61-751 (GRS No. 2)]

W.A. Stockard, et al.; Petition for Declaratory Order or in the Alternative, Waiver of Orders and Regulations, and Petition for Stay of Refund Order

July 29, 1982.

Take notice that on June 8, 1982, W.A. Stockard *et al.* (Petitioner), 888 Houston Natural Gas Bldg., Houston, Texas 77002, filed in Docket No. CI61-751 (GRS No. 2), a petition pursuant to §§ 1.7 and 1.12 of the Commission's Rules of Practice and Procedure for an order declaring that it is not required to make refunds for interstate sales made in the years 1961 through 1965 or that such refunds are to be reduced for sales in the year 1965. Alternatively, Petitioner requests that the Commission waive its orders and regulations to the extent necessary to grant it relief from refunds. By separate petition on the same date, Petitioner requests that the Commission grant a stay of its October 24, 1979 refund order pending its consideration of the first petition.

Petitioner submits that it entered into a contract dated "as of" October 6, 1960, with Natural Gas Pipeline Company of America for gas that Petitioner would produce from the Normanna Field, Bee County, Texas. Petitioner submits that the contract provided for two things. First, it contained conditions precedent to the sale and purchase of gas. Second, the contract contained terms and provisions which would govern the rights and obligations of the parties to the gas sale and purchase, once the conditions precedent were satisfied.

On October 24, 1979, the Commission issued an order directing refunds from certain producers (including Petitioner) if their contract rates exceeded the higher of the just and reasonable or in-line rates for the gas. Opinion 595 (Texas Gulf Coast Area Rate Proceeding), issued May 6, 1971, provides for a lower just and reasonable rate for gas sold under contracts that are dated prior to January 1, 1961 than for contracts subsequently dated.

Petitioner submits that the question of whether it owes refunds depends in part on whether the contract, for purposes relevant to determining whether refunds are required, is "dated" prior to or subsequent to January 1, 1961. Petitioner submits that the "contract date" should be regarded as the date that the conditions precedent terminated and the gas sale and purchase obligations commenced. Petitioner contends that because these events did not occur until March 1961, the applicable just and reasonable rate was the post-January 1, 1961 rate, and as a result, it does not owe any refunds.

Petitioner further submits that if the Commission determines that Petitioner does owe refunds for the years 1961 through 1965, it should reduce the refund obligation for sales in the year 1965. Petitioner contends that during 1965, the just and reasonable rate should have been used as the refund base because it was higher than the in-line rate. Alternatively, Petitioner submits that a waiver of the entire refund obligation should be granted, because the refund amount owed is small ($74,733.38 plus interest), the case is "stale", and the customers who paid for the gas years ago would not receive the benefit of any refund.

Petitioner, by separate filing in the above-captioned docket, requests that the Commission grant a stay of its October 24, 1979 refund order pending its consideration of the first petition.

Any person desiring to be heard or to make any protest with reference to said petitions should on or before August 27, 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 any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-21226 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-424-002]

Toledo Edison Co.; Order Denying Rehearing and Clarifying Letter Order

Issued: July 28, 1982.

By letter order entered May 27, 1982, Toledo Edison Company's (Toledo Edison) filing in this docket was accepted for filing without suspension and this docket was terminated. On June 28, 1982, the Ohio Municipals filed an application for rehearing and a request for clarification.

The Ohio Municipals argue that the Commission must scrutinize each element of the cost of service and not just the overall rate level, that the Commission's acceptance of this filing violates Commission policy as to the suspension of challenged rate increases, and that the existence of material factual issues which are in dispute requires a hearing. They also ask for clarification of the letter order in light of an outstanding motion to sever the coal pricing issue. Finally, they seek a Commission determination that the acceptance of the instant rate increase does not constitute approval of Toledo Edison's depreciation rates.

Discussion

Although the Commission often looks to the individual components of a rate increase in evaluating that increase, the Commission is ultimately guided by an end-result standard. So long as the total effect of the rates is reasonable, infirmities in the Commission's methodology or in certain of the components of the rates will not invalidate Commission acceptance of those rates. [1] The Commission's policy has been to suspend a rate increase only if, after Commission consideration, it appears that the rate increase may run afoul of the applicable statutory standards; for example, if the rate increase appears to yield excessive revenues. [2] Here the Commission's review found that the rate increase at issue would not be excessive and would, in fact, yield substantially *lower* revenues than Toledo Edison could justify.

Similarly, although the Commission will generally order a hearing if it appears that there are material issues of fact in dispute, the Commission will not order a hearing solely because of the filing of a protest and petition to intervene where it appears that the rate increase is substantially cost justified and the matters raised by the intervenor would not reduce the revenue requirement to the point where the rate increase would be excessive. [3] We

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[1] *Permian Basin Area Rate Cases*, 390 U.S. 747, 767 (1968); *FPC* v. *Hope Natural Gas Co.*, 320 U.S. 591, 602 (1944); *Consolidated Gas Supply Corp.* v. *FERC*, 653 F. 2d 129, 133 (4th Cir. 1981); *Indiana Municipal Electric Association* v. *FERC*, 629 F. 2d 480, 485 (7th Cir. 1980).

[2] *See, e.g., West Texas Utilities Co.*, Docket No. ER82-23-000 (February 26, 1982).

[3] *E.g., Iowa Power & Light Co.*, Docket No. ER81-750-000 (January 22, 1982). *See Citizens For Allegan County, Inc.* v. *FPC*, 414 F. 2d 1125, 1128 (D.C. Cir. 1969).

believe that such is the case here. The Commission's review found that the rates were cost justified and that none of the issues raised by the Ohio Municipals, if proved at hearing, would result in a lower rate. Accordingly, we need not order a hearing in this instance.[4]

With respect to the coal pricing issue, our analysis found that the rate increase would be cost justified regardless of the ultimate outcome of this issue. Accordingly, while this issue may be raised again in future filings by Toledo Edison or in other dockets involving Toledo Edison or other companies, it may not be further explored in this docket. [5]

The Commission Orders

(A) The Ohio Municipal's application for rehearing of the letter order entered May 27, 1982 in this docket is hereby denied.

(B) The Ohio Municipal's request for clarification of the letter order entered May 27, 1982 in this docket is hereby granted as described above.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-21252 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6426-000]

Uncompahgre Valley Water Users Assoc. & Montrose Partners; Application for License (5 MW or Less)

August 4, 1982.

Take notice that Uncompahgre Valley Water Users Assoc. & Montrose Partners (Applicant) filed on June 14, 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 South Canal Site No. 4 Project No. 6426. The project would be located on the South Canal in Montrose County, Colorado. Correspondence with the Applicant should be directed to: Mr. James Hokit, Uncompahgre Valley Water Users Associ., 601 No. Park, Montrose, Colorado 81401.

Project Description—The proposed project would be constructed within the Bureau of Reclamation's right-of-way on the South Canal, and would consist of the following: (1) A proposed diversion and radial gated intake structure; (2) a proposed 3,750-foot-long, 10-foot-diameter, steel penstock; (3) a proposed powerhouse containing one turbine/generator it under a head of 53.3 feet, with an installed capacity of 2,950 kW; (4) an existing stilling basin; (5) a proposed 1,900-foot-long 12.5-kV transmission line; and (6) appurtenant facilities. The average annual generation of 19,442.5 MWh would be sold to Delta-Montrose Electrical Association.

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—Anyone desiring to file a competing application must submit to the Commission, on or before October 13, 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 and 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 October 13, 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 applcant ins, or petition to intervene served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6777-09] Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6425-000]

Uncompahgre Valley Water Users Assoc. & Montrose Partners; Application for License (5 MW or Less)

August 2, 1982.

Take notice that Uncompahgre Valley Water Users Assoc. & Montrose Partners (Applicant) filed on June 14, 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 South Canal Site No. 3 Project No. 6425. The project would be located on the South Canal in Montrose County, Colorado. Correspondence with the Applicant should be directed to: Mr. James Hokit, Uncompahgre Valley Water Users Assoc., 601 No. Park, Montrose, Colorado 81401.

Project Description—The proposed project would be constructed within the Bureau of Reclamation's right-of-way on the South Canal, and would consist of the following: (1) A proposed diversion

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[4] Commission acceptance of this filing, as the letter order itself notes, does not constitute approval of the rate increase or of any of its underlying components including the claimed depreciation rates. Nor does acceptance here prejudice any future findings or orders that may be entered by the Commission. *See* 18 CFR 35.4 (1981). Similarly, that the Commission did not discuss at length each of the alleged infirmities in the rate increase does not justify rehearing. The Commission cannot be expected to nor does it believe it necessary to set forth every argument and then to dispose of each at length. The acknowledgment of the Ohio Municipal's protest and petition to intervene indicates that the matters raised therein were considered and given such weight as was deemed appropriate. *See Central Maine Power Co.*, Docket Nos. ER82-155-000, *et al.*, (April 13, 1982).

[5] As noted above, our acceptance of the instant filing does not constitute approval of the company's fuel procurement pratices nor the price it pays for coal from the Quarto Mining Company. *See* note 4 *supra*.

and radial gated intake structure; (2) a proposed 750-foot-long, 10-foot-diameter, steel penstock; (3) a proposed powerhouse containing one turbine/generator unit operating under a head of 33.9 feet, with an installed capacity of 2,200 kW; (4) a proposed afterbay stilling basin; (5) a proposed 9,500-foot-long 12.5-kV transmission line; and (6) appurtenant facilities. The average annual generation of 13,940.6 MWh would be sold to Delta-Montrose Electrical Association.

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—Anyone desiring to file a competing application must submit to the Commission, on or before October 12, 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 October 12, 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. 82–21242 Filed 8–4–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6427–000]

Uncompahgre Valley Water Users Assoc. & Montrose Partners; Application for License (5 MW of Less)

August 4, 1982.

Take notice that Uncompahgre Valley Water Users Assoc. & Montrose Partners (Applicant) filed on June 14, 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 South Canal Site No. 5 Project No. 6427. The project would be located on the South Canal in Montrose County, Colorado. Correspondence with the Applicant should be directed to: Mr. James Hokit, Uncompahgre Valley Water Users Assoc., 601 No. Park, Montrose, Colorado 81401.

Project Description—The proposed project would be constructed within the Bureau of Reclamation's right-of-way on the South Canal, and would consist of the following: (1) A proposed diversion and radial gated intake structure; (2) a proposed 525-foot-long, 10-foot-diameter, steel penstock; (3) a proposed powerhouse containing one turbine/generator unit operating under a head of 24.5 feet, with an installed capacity of 1,335 kW; (4) an existing stilling basin; (5) a proposed 0.3-mile-long 12.5-kV transmission line; and (6) appurtenant facilities. The average annual generation of 8,252.8 MWh would be sold to Delta-Montrose Electrical Association.

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 statutues. 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—Anyone desiring to file a competing application must submit to the Commission, on or before October 13, 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 October 13, 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. 82-21243 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-668-000]

Utah Power & Light Co.; Filing

July 29, 1982.

The filing Company submits the following:

Take notice that Utah Power & Light Company (Utah) on July 20, 1982, tendered for filing a new service agreement under Service Schedule UTAH-1B of Volume 2 to its FERC Electric Tariff under which Utah sells and delivers non-firm energy.

The new service agreement is with Arizona Electric Power Cooperative, Inc. and is dated June 18, 1982.

Utah requests that the new agreement be accepted for filing retroactively as of the date of execution, and that the notice requirements of 18 CFR 35.3 be waived.

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 August 12, 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. 82-21253 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-80-000]

Windfarms, Ltd., Small Power Production and Cogeneration Facilities Qualifying Status; Order Granting Application for Certification as a Qualifiying Small Power Production Facility and Granting Waiver

Issued: June 1, 1982.

On February 19, 1982, Windfarms, Ltd. (Windfarms or Applicant) filed an application pursuant to section 292.207(b) of the Commission's regulations for an order certifying that each of its wind turbine generators (WTGs) to be located in the region of Solano and adjacent counties in California, is a qualifying small power production facility as defined in section 3(17)(C) of the Federal Power Act, as amended by Title II of the Public Utility Regulatory Policies Act of 1978 (PURPA). Notice of the Application was published in the **Federal Register** on March 15, 1982.[1] The Commission has not received any protests or petitions to intervene. In addition, pursuant to section 292.204(a)(3) of the Commission's regulations, Windfarms seeks a waiver of section 292.204(a)(2) of the regulations which defines the term "site" for purposes of determining the qualifying status of a small power production facility.

The Applicant plans to install various designs of WTGs having rated capacities of approximately 2.5 to 5 megawatts capacity each. The facilities derive all of their energy input from a renewable energy source (wind). No electric utility, electric utility holding company, or any consolidation thereof has any ownership interest in the facility.

Determination of Capacity for Purposes of Exemption

Windfarms' application raises an issue concerning the limitation on the power production capacity of a small power production facility. Section 201 of PURPA amends the Federal Power Act to define a small power production facility as, *inter alia*, a facility which "has a power production capacity which, together with other facilities located at the same site (as determined by the Commission), is not greater than 80 megawatts.* * *" Section 292.204(a)(2) of the Commission's regulations further defines the criteria to be used for determining a site:

> Facilities are considered to be located at the same site as the facility for which qualification is sought if they are located within one mile of the facility for which qualification is sought.

Windfarms seeks a waiver of the "one-mile" rule as applies to its facilities in order not to exceed the 30 megawatt limit for exemptions.[2] Section 292.204(a)(3) provides that, for good cause, the Commission may modify the method of calculating the capacity of a facility set forth in § 292.204(a)(2).

The Applicant states that the WTG's are not randomly distributed in the region, but are located in specific locations on separate ridges and that the siting of the WTGs reflects Windfarms' attempt to economically develop the maximum wind power potential. Cost-effective development of the wind resource involves balancing a number of site related factors, including wind velocity, site access, site suitability for construction, construction costs, and interference with other wind generators.

The Commission granted a waiver under similar circumstances in *Windfarms, Ltd.*, Docket No. QF80-13, "Order Granting Application for Certification as a Qualifying Small Power Production Facility and Granting Waiver" (October 3, 1980). In that case, the Applicant sought qulaifying status for WTGs located on 3 separate ridges. Within the one mile area prescribed by section 292.204(a)(2)(i), the aggregate capacity of the WTGs exceeded 30 MW. Although the total capacity of the WTGs on all three ridges was approximately 76 MW, the total capacity of WTGs on each separate ridge was less than 30 MW. The Commission concluded that the three ridges had:

> * * * Sufficiently distinct and identifiable topographical and energy resource-related characteristics so that each constitutes a "separate site" for purposes of determining the aggregate capacity of the small power production facility located at each site. Moreover, the Commission believes that application of the one mile rule to such facilities would arbitrarily aggregate these separate areas and exclude the facility located thereon from exemption.

Mimeo at 10.

The Commission further noted that the wind energy available to the WTGs located on the ridges was substantially greater than that found in the valleys between the ridges. *Id.*

Similarly, in the instant application, the locations, A through I, are identified by the Applicant as constituting separate and independent sites. Each location provides a superior combination of characteristics important to the achievement of economic and reliable wind power, not available in the areas immediately adjacent to the designated locations. The advantageous characteristics include higher wind velocities, terrain more suitable for construction, and avoidance of wind

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[1] 47 FR 11076.

[2] Section 210(e)(2) of PURPA requires that, in order to qualify for the exemptions from State law, the Federal Power Act, or the Public Utility Holding Company Act included in section 210(e)(1), the power production capacity of a qualifying small power production facility may not exceed 30 megawatts except for facilities using biomass or geothermal energy.

stream disturbances affecting other generators. Consequently, the identified locations represent limited areas of special characteristics which are inherent to a site.

The maximum capacities at each site will be: Site A, 12.5 megawatts; Site B, 5.0 megawatts; Site C, 10.0 megawatts; Site D, 15.0 megawatts; Site E, 5.0 megawatts; site F, 5.0 megawatts; Site G, 10.0 megawatts; site H, 5.0 megawatts; site I, 25.0 megawatts.

Based on the information provided by the Applicant as to the nature of the resource and the proposed location of its facilities, the Commission finds good cause to waive the provision of § 292.204(a)(2)(i) with regard to this application. Based on this waiver, the capacity of the facilities for which certification is sought does not exceed 30 megawatts at any site.

For purposes of this application, the nine areas described in the addendum to the application for certification and designated as site A through I may be considered separate sites in calculating the aggregate capacity of the Applicant's facilities for purposes of obtaining exemption under sections 292.601 and 292.602 of the Commission's regulations.

The Commission Orders

(A) The application for qualifying status filed on February 19, 1982, by Windfarms, Ltd. for wind turbine generators to be located in the region of Solano and adjacent counties, in California, pursuant to section 292.207(b) of the Commission's regulations, and section 3(17)(C) of the Federal Power Act, as amended by title II of the Public Utility Regulatory Policies Act of 1978 (PURPA), is hereby granted on the condition that the facility operates in the manner described in the application.

(B) Waiver of § 292.204(a)(2)(i) is hereby granted.

(C) For purposes of this application, the nine areas described in the addendum to the application for certification and designated as areas A, B, C, D, E, F, G, H, and I shall be considered separate sites in calculating the aggregate capacity of the Applicant's wind turbine generators.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-21228 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5358-003]

Woods Creek, Inc.; Application for Preliminary Permit

August 3, 1982.

Take notice that Woods Creek, Incorporated (Applicant) filed on September 15, 1981 and revised June 10, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5358 to be known as the Carroll Creek, Alpine Falls, and Martin Creek Projects located on the Tye River and tributaries in King County, Washington. Portions of the project are in the Snoqualmie National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Neil H. MacDonald, Project Manager, Woods Creek, Inc., 14 South Idaho Street, Seattle, Washington 98134.

The Applicant submitted an application for preliminary permit for the project on September 15, 1981, which included an additional proposed installation to be constructed on Deception Creek. This application for preliminary permit was rejected on January 26, 1982. The Applicant appealed the rejection on February 23, 1982. By order, dated May 21, 1982, the Commission granted the Applicant's appeal with regard to the portions of the preliminary permit application relating to the installations at Alpine Falls, Carroll Creek, and Martin Creek, and reinstated the original application for the three developments. In the same May 21, 1982 order, the Commission denied the portion of the Applicant's appeal relating to the Deception Creek development and determined that the rejection of that component of the original plan of development was proper, because it was located, in part, within the boundaries of the Alpine Lakes Wilderness Area. Commission staff requested that the Applicant pursuant to the aforementioned order submit a revised application for preliminary permit omitting reference to the development of Deception Creek, and allowing the revised application to retain its original filing date of September 15, 1981.

No further competition shall be allowed on the Martin Creek site, since the January 26, 1982 Public Notice of Puget Sound Power and Light Company for Project No. 5404 gave notice of the proposed development of Martin Creek. Therefore, any potential Applicant should have filed during this initial notice period. In addition, this notice states that Woods Creek, Incorporated is the initial Applicant for the Martin Creek site by virtue of its original filing date. Further competition shall be allowed on the Carroll Creek and Alpine Falls sites as prescribed in accordance with the Commission's regulations.

Project Description—The proposed project would consist of three developments: (A) On Carroll Creek, an intake structure with a steel penstock 2750 feet-long to a powerhouse along the Tye River; (B) on Alpine Falls, a diversion weir with a 1500-foot channel and 210-foot penstock to the Tye River powerhouse; (C) on Martin Creek, a diversion structure with a 5700-foot conduit consisting of an open channel and low pressure pipe and a 2100-foot penstock to a powerhouse along the Tye River. No reservoirs are proposed. Individual power plants will have capacities of 0.9, 1.5, and 4.0 MW, respectively. Total annual energy production will be 54.5 GWh. Generated power will be sold to a Pacific Northwest utility.

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 this time, engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support an application for a license to construct and operate the project. The estimated cost of these activities is $350,000.

A. Carroll Creek and Alpine Falls Projects

Competing Applications—Anyone desiring to file a competing application for preliminary permit on Carroll Creek and Alpine Falls must submit to the Commission, on or before October 4, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (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 October 4, 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 December 3, 1982.

B. Martin Creek Project

Competing Applications—Public notice of the filing of Project No. 5404 submitted by Puget Sound Power and Light Company has already 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 October 4, 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. 82-21227 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Pick-Sloan Missouri Basin Program; Submission of Rate Order

Correction

In FR Doc. 82-19828, appearing at page 31738 in the issue for Thursday, July 22, 1982, please make the following corrections:

(1) On page 31742, in the third column, in the third complete paragraph, in the sixth line, "3½ percent" should have been "2½ percent".

(2) On page 31745, in the first column, under the heading "*Further Discussion*", in the fifth line, "1882" should have been "1982".

(3) Also on page 31745, in the third column, under the heading "Order", in the tenth line, "12 miles" should have been "12 mills".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS 81009A; TSH-FRL 2183-2]

TSCA Chemical Substances Inventory; Proposed Actions on Synthetic Fuels and Related Substances; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: EPA is extending the comment period on its proposed actions on synthetic fuels and related substances. The Agency is taking this action to insure all interested persons an adequate opportunity to comment on the proposed actions.

DATE: Written comments must be received on or before October 7, 1982.

ADDRESS: Written comments in triplicate should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

Comments should bear the document control number OPTS 81009A. The public record regarding this notice will be available for public inspection in Rm. E-107, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, toll free: (800-424-9056), in Washington, D.C.: (554-1404), outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the Federal Register of June 10, 1982 (47 FR 25198) announcing the completion of a review of twenty synthetic fuels and related substances currently listed on the TSCA Chemical Substances Inventory. The notice also established a 60-day period for comment on the actions it proposed to take on these chemical substances. It has become apparent that major producers affected by this notice need more time to comment. In response to this need, the Agency has granted a 60-day extension for comments.

Dated: July 23, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-21150 Filed 8-4-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1368]

Petitions for Reconsideration of Actions in Rule Making Proceedings

July 30, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(d). Oppositions to such petitions for reconsideration must be filed on or before August 20, 1982. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Revision of FM Assignment Policies and Procedures. (BC Docket No. 80-130).

Rule: 73.202(b).

Filed By: Pluria W. Marshall, Chairman, for National Black Media Coalition on 7-16-82; Erwin G. Krasnow, Barry D. Umansky & William E. Kennard, Attorneys for National Association of Broadcasters on 7-21-82.

Subject: Amendment of § 90.555(b) of the Commission's Rules to Provide for Geographic Reallocation of Certain Channel in the Detroit Area to the Business Radio Service. (PR Docket No. 81-1).

Filed By: Richard S. Woolf, President for Exposition Communications & Technology Inc., (XTECH) on 7–13–82.

Subject: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Abilene, Texas) (BC Docket No. 81–779, RM–3870).

Filed By: Harry G. Sells, Attorney for Salvador M. Ybarra, Attorney for Salvador M. Ybarra on 7–15–82.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–21103 Filed 8–4–82; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Request for Comments on the Proposed Revised Quarterly Report of Condition and Income Required of All Insured Commerical Banks

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Notice of extension of public comment period and delay of implementation date.

SUMMARY: The FFIEC, in response to requests, is extending for 30 days from July 29, 1982, the period for public comment on the proposed revision of the Reports of Condition and Income (the "Call Report") (47 FR 25615; June 14, 1982). The end of the comment period will now be August 30, 1982.

In conjunction with the extension of the public comment period, the FFIEC is also delaying the implementation date of the revised Reports of Condition and Income. The proposed implementation date is now March 31, 1984. Implementation of the full report and supporting schedules previously had been set for March 31, 1983.

However, the FFIEC believes a critical supervisory need exists during 1983 for certain information in several key areas, such as interest rate sensitivity exposure, past due and nonperforming loans, and contingent liabilities and other off-balance sheet items. The FFIEC plans to ask commerical banks to report data pertinent to these key areas beginning early in 1983, in advance of the now postponed implementation date for the full call report revision. The FFIEC, therefore, requests particularly that comment relating to these critical areas, as noted above, be given priority attention and submitted as soon as possible.

The current Call Report requirements will remain in effect until the full revision is implemented, in 1984.

DATE: Comments should be received on or before August 30, 1982.

ADDRESS: Comments should be sent to Robert J. Lawrence, Executive Secretary, Federal Financial Institutions Examination Council, Eighth Floor, 490 L'Enfant Plaza, SW., Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: Rhoger H. Pugh, Chairman, Report Task Force, Federal Financial Institutions Examination Council, Washington, DC 20219; (202) 447–1164.

Dated: July 30, 1982.

Robert J. Lawrence,

Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 82–21220 Filed 8–4–82; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL HOME LOAN BANK BOARD

[No. AC–180]

First Federal Savings and Loan Association of Madison, Madison, Conn.; Final Action Approval of Post-Approval Amendments To Mutual-To-Stock Conversion Application

August 2, 1982.

Notice is hereby given that on July 27, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of First Federal Savings and Loan Association of Madison, Madison, Connecticut ("Association"). The application had been approved by the Board by Resolution No. 80–576, dated September 3, 1980. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Boston, One Federal Street, 30th Floor, Boston, Massachusetts 02110.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–21186 Filed 8–4–82; 8:45 am]

BILLING CODE 6720–01–M

Mutual Savings Association of El Paso, El Paso, Texas; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in Section 406(c)(2) of the National Housing Act, as amended (12 U.S.C. 1729(c)(2) (1976)), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Mutual Savings Association of El Paso, El Paso, Texas, effective July 30, 1982.

Dated: August 2, 1982.

J. J. Finn,

Secretary.

[FR Doc. 82–21219 Filed 8–4–82; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The Bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Hongkong and Shanghai Banking Corporation*, Hong Kong, *B.C.C., Kellett N.V.*, Netherlands Antilles, *HSBC Holdings B.V.*, the Netherlands, and *Marine Midland*

Banks, Inc., Buffalo, New York (investement advisory activities; entire United States): To engage through their subsidiary, Wardley Marine International Investment Management Limited, London, England, in activities that may be carried on by an investment advisor, including offering portfolio investment advice to individuals, corporations, governmental entities and other institutions on both a discretionary and non-discretionary basis. The activities will be conducted from offices in New York, New York, serving the entire United States. Comments on this application must be received not later than August 30, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Associated Banc-Corp.*, Green Bay, Wisconsin (mortgage banking activities: Wisconsin and Illinois): To engage, through its subsidiary, Associated Mortgage, Inc., in making or acquiring, for its own account or for the account of others, loans and other extensions of credit, such as would be made by a mortgage or finance company, including commercial and residential real estate mortgages and servicing such loans for others in accordance with the Board's Regulation Y. These activities would be conducted from an office in Milwaukee, Wisconsin, serving southern Wisconsin (counties of Marquette, Columbia, Dane, Rock, Walworth, Milwaukee, Dodge and Sheboygan), and northern Illinois (counties of Boone, McHenry, Lake, Winnebago, Kane, Du Page, Cook and Will). Comments on this application must be received not later than August 30, 1982.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation*, Los Angeles, California (commerical finance, leasing and servicing activities; United States): To engage through its subsidiary, Security Pacific Finance Business Center Inc., in making or acquiring for its own account or for the account of others, asset based business loans and other commercial or industrial loans and extensions of credit such as would be made by factoring, rediscount or commercial finance companies and leasing and servicing activities with respect to personal property and equipment and real property. These activities would be conducted from an office of Security Pacific Finance Business Center Inc., located in Cherry Hill, New Jersey, serving the United States. Comments on this application must be received not later than August 30, 1982.

Board of Governors of the Federal Reserve System, July 30, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-21086 Filed 8-4-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have 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 bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Cedar Valley Bankshares, Ltd.*, Charles City, Iowa; to become a bank holding company by acquiring 95 percent of the voting shares of First Security Bank and Trust Company, Charles City, Iowa. Comments on this application must be received not later than August 30, 1982.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Banlou Corporation*, Louisville, Kentucky; to become a bank holding company by acquiring the successor by merger to Bank of Louisville and Trust Company, Louisville, Kentucky. Comments on this application must be received not later than August 30, 1982.

2. *Elliott Bancorp, Inc.*, Jacksonville, Illinois; to become a bank holding company by acquiring the successor by merger to Elliott State Bank, Jacksonville, Illinois. In connection with this proposal ES Bank, Jacksonville, Illinois, will be organized as an interim bank and has applied for membership in the Federal Reserve System; Elliott State Bank and ES Bank have also applied to merge pursuant to section 18(c) of the FDIA. Comments on this application must be received not later than August 30, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Central of Kansas, Inc.*, Junction City, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The Central National Bank of Junction City, Junction City, Kansas. Comments on this application must be received not later than August 30, 1982.

2. *Kersey Bancorp, Inc.*, Kersey, Colorado; to become a bank holding company by acquiring 80 percent of the voting shares of Kersey State Bank, Kersey, Colorado. Comments on this application must be received not later than August 30, 1982.

3. *Maple Hill Bancshares, Inc.*, Maple Hill, Kansas; to become a bank holding company by acquiring 82 percent of the voting shares of The Stockgrowers State Bank, Maple Hill, Kansas. Comments on this application must be received not later than August 30, 1982.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *B.O.A. Bancshares, Inc.*, Houston, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Bank of Almeda, Houston, Texas. Comments on this application must be received not later than August 30, 1982.

2. *First Comanche Bancshares*, Comanche, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First Comanche Bank, Comanche, Texas. Comments on this application must be received not later than August 30, 1982.

E. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *First Merchants Financial Corporation*, Fort Smith, Arkansas; to become a bank holding company by acquiring 80 percent or more of the voting shares of The Merchants National Bank of Fort Smith, Fort Smith, Arkansas. This application may be inspected at the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than August 30, 1982.

Board of Governors of the Federal Reserve System, July 30, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-21087 Filed 8-4-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice 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 voting shares or assets of a 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 indicated. With respect to the application, interested persons may express their views in writing to the address indicated for the application. Any comment on the 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.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Central Colorado Company;* and *C.C.B., Inc.,* both of Denver, Colorado, to acquire through their subsidiary, Central Bancorporation, Inc., Denver, Colorado; 100 percent of the voting shares of the successor by merger to Chatfield Bank, Littleton, Colorado. Comments on this application must be received not later than August 30, 1982.

Board of Governors of the Federal Reserve System, July 30, 1982.

Delores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 21088 Filed 8-4-82; 8:45 am]

BILLING CODE 6210-01-M

Maryland Bank International; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Maryland Bank International (formerly Maryland National Overseas Investment Corporation), Baltimore, Maryland, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under section 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch at Tysons Corner, Virginia. Maryland Bank International operates as a subsidiary of Maryland National Bank.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank of Richmond. Any person wishing to comment on an application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 30, 1982. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 30, 1982.

Delores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-21089 Filed 8-4-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

Advisory Committee on Preservation; Meeting

Notice is hereby given that the Preservation of Current Holdings Subcommittee of the National Archives and Records Service Advisory Committee on Preservation will meet on August 24, 1982 from 9:00 a.m. to 4:00 p.m. in Room 105, National Archives Building, Washington, D.C. This meeting will be devoted to an assessment of the conservation needs at the National Archives.

The meeting will be open to the public. For further information call Alan Calmes, 202-523-3159.

Dated: July 26, 1982.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 82-21093 Filed 8-4-82; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Determination of Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, June—qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and dates of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs).

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, PH.D., Director, Office of Health Maintenance Organizations, Park Building, Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Regulations (42 CFR 110.605(b)) issued under Title XIII of the Public Health Service Act require that a list and description of all newly qualified HMOs be published on a monthly basis in the **Federal Register.** The following entities have been determined to be qualified HMOs under Section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d));

(Preoperational Qualified Health Maintenance Organizations: 42 CFR 110.603(c))

1. Capital Group Health Services of Florida, Inc., (Staff Model, see Section 1310(b)(1) of the Public Health Service Act), 2140 Centerville Road, P.O. Box 13267, Tallahassee, Florida 32308. Service area: Gadsden, Leon, and Wakulla Counties, Florida. Date of qualification: May 18, 1982.

2. Midwest Health Plan (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), 12161 Lackland Road, St. Louis, Missouri 63141. Service area: City of St. Louis, and St. Louis and St. Charles Counties, Missouri. Date of qualification: May 27, 1982.

3. Summit Health, (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), 4321 Goshen Road, Ft. Wayne, Indiana 46818. Service area:

Counties	cities	Zip codes
Adams	Decatur	46733
	Preble	46782
DeKalb	Garrett	46738
	Auburn	46706
	St. Joe	46785
	Spencerville	46788
Huntington	Huntington	46750
	Roanoke	46783
	Markle	46770
Noble	Albion	46701
	Avilla	46710
	Brimfield	46720
	Kendallville	46755
	LaOtto	46763
Wells	Ossian	46777
	Uniondale	46791
Whitley	Churubusco	46723
	Columbia city	46725

and all of Allen County, Indiana

Date of qualification: June 7, 1982.
(Operational Qualified Health Maintenance Organization: 42 CFR 110.603(a))

4. Group Health Service of Michigan, Inc., 4200 Fashion Square Boulevard, Saginaw, Michigan 48603. Service area: zip codes in the following counties:

Saginaw	
48415	48601–7
48724	48623
48417	48637
48734	48722

Tuscola	
48435	48726
48735–6	4857–8
48701	48729
48741	48760
48723	48733
48746	48767–8

Isabella	
48858	48893
48878	48896
48883	49310

Bay	
48611	48631
48732	47634
48613	48650
48747	48706

Date of qualification: October 1, 1980.[1]
(Transitionally qualified—August 27, 1979.)

[1] The determination was made on July 23, 1982, although the effective date is October 1, 1980.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 4:30 p.m. on Tuesdays and Thursdays, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health and Human Services, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857.

Questions about the qualification review process or requests for information about qualified HMOs should be sent to the same office.

Dated: July 28, 1982.

Frank H. Seubold, Ph.D.,

Director, Office of Health Maintenance Organizations.

[FR Doc. 82–21099 Filed 8–4–82; 8:45 am]
BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Fourth Regular Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service publishes the time, place, and draft provisionals agenda for the fourth regular meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora and invites the public to provide information and comments on agenda items. The fourth regular meeting has been tenatively scheduled for April 19 to 30, 1983 in Gaborone, Botswana.

The Service also announces the first of a series of public meetings, to receive information and comments on the provisional agenda; and on species for the purpose of determining if the United States will propose amendments to the lists of species controlled by the Convention.

ADDRESSES: Information and comments should be sent to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240. Information and comments are open to public inspection from 8:00 a.m. to 4:15 p.m. weekdays, except holidays, at the Federal Wildlife Permit Office, located at 1000 North Glebe Road, Room 620, Arlington, Virginia.

DATES: The Service will consider information and comments concerning the provisonal agenda for the Gaborone meeting received by October 31, 1982, except that information and comments concerning suggested new agenda items will be considered if received by August 16, 1982. For the date of the public meeting see "Announcement of Public Meeting Concerning Provisional Agenda Including Species Proposals" in the latter part of this notice.

FOR FURTHER INFORMATION CONTRACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240: telephone 703/235–2418.

SUPPLEMENTARY INFORMATION:

Background:

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, hereinafter referred to as CITES or the Convention is an international agreement designed to control international trade in certain listed animal and plant species which are or may be threatened with extinction. Currently, approximately 77 nations, including the United States, are CITES Parties. The Convention provides for biennial (regular) meetings of the Conference of the Parties to review its implementation, make provisions enabling the Secretariat of CITES to carry out its duties, consider adopting amendments to Appendices I and II to CITES (two of the three lists which contain the names of species and other taxonomic categories controlled by CITES; the third list, Appendix III may be amended unilaterally), consider any reports presented by the Secretariat or any Party, and make recommendations for improving the effectiveness of CITES.

This is the first of a series of notices which together with public meetings provide the public with an opportunity to participate in the development of United States negotiating positions for the fourth regular meeting of the Conference of the Parties.

The Service's regulations governing this process are found in Title 50 of the Code of Federal Regulations, §§ 23.31 through 23.39.

Notice of Fourth Regular Meeting of the Conference of the Parties and The Meeting's Provisional Agenda

The Service sent representatives to a Standing Committee meeting in Gland, Switzerland, June 21–23, 1982. This meeting helped develop the provisional agenda for the fourth regular meeting of the Conference of the Parties which will be held in Gaborone, Botswana from April 19 to 30, 1983. The provisional agenda is here printed in full:

Convention of International Trade in Endangered Species of Wild Fauna and Flora

Fourth Meeting of the Conference of the Parties, Gaborone, (Botswana), 19 to 30 April 1983

AGENDA (provisional)

I Opening Ceremony by the Authorities of Botswana
II Welcoming Addresses
III Establishment of the Credentials Committee and other committees
IV Adoption of the Agenda and Working Programme
V Report of the Credentials Committee
VI Adoption of the Rules of Procedure
VII Admission of observers
VIII Report and recommendations of the Standing Committee
  1. Report by the Chairman
  2. Revision of the membership of the Standing Committee
  3. Payment of travel expenses for Standing Committee members
  4. Election of new members of the Standing Committee
IX Report of the Secretariat
X Financing of the Secretariat and of meetings of the Conference of the Parties
  1. Budget
  2. Transfer of responsibilities
  3. Headquarters matters
XI Relationship with other international agreements and organizations
XII Committee reports and recommendations
  1. Technical Expert Committee
  2. Identification Manual Committee

3. Nomenclature Committee
XIII Interpretation and implementation of the Convention
1. Report by the Technical Expert Committee on national reports under Article VIII, paragraph 7, of the Convention
2. Review and harmonization of annual reports
3. Effects of reservations
4. Parts and derivatives from non-recognizing states
5. Parts and derivatives of plants and Appendix III animals
6. Trade in African elephant ivory
7. Trade in souvenirs
8. Return of illegally traded specimens
9. Time validity of export permits and re-export certificates
10. Exemptions under Article VII of the Convention
11. Specimens in transit
12. Guidelines for transport
13. Animals stressed during transport
14. Control of captive breeding and artifically propagating operations in Appendix I species
XIV General matters of principle relating to the appendices
1. Ten Year Review of Appendices
2. Reverse listing concept for appendices
XV Consideration of proposals for amendment of Appendices I and II
1. Proposals submitted pursuant to Resolution on Ranching
2. Proposals submitted under the Ten Year Review of Appendices
3. Other proposals
XVI Conclusion of the meeting
1. Determination of the time and venue of the next regular meeting of the Conference of the Parties
2. Closing remarks

Explanation of Provisional Agenda Items

Provisional agenda items I–IX are largely procedural in nature and will not be explained here except as follows:

VIII Report and Recommendations of the Standing Committee

2. Revision of membership of the Standing Committee—The Standing Committee will propose that its "charter" be revised to expand its membership to include the chairman of all permanent committees (thus far only TEC). Although there was some discussion at the recent Standing Committee meeting concerning a possible expansion of the role of the Standing Committee, in light of the probable termination of regular UNEP funding of the CITES Secretariat at the end of 1983, it is unlikely that the Standing Committee will recommend an expansion of its mandate in response to such termination.

4. Election of new members of the Standing Committee—the regional memberships for Africa (currently held by Zaire), Asia (Nepal) and South America (Brazil) will become vacant and will be filled more than likely by other countries. The term of the current North American member, (Canada), will expire at the fifth regular meeting of the Conference of the Parties.

IX Report of the Secretariat

Following this item and before the second plenary session of the meeting there will be a meeting, consisting of several sessions, of the Technical Expert Committee (TEC) for the purpose of assuring full consideration of certain matters by the plenary session. Most of these matters are slated for consideration under item XIII of the provisional agenda. Other committee meetings, such as the Identification Manual, Finance, and Species Screening Committees, will take place at the same time. These meetings may take up the balance of the first week.

X Financing of the Secretariat

1. Budget—Interesting elements of this item are: (a) Financial Amendment to CITES—A special meeting of the Conference of the Parties held in 1979 at Bonn, Federal Republic of Germany, adopted an amendment to Article XI of CITES which would make it easier for certain Parties to make their monetary contributions to the Trust Fund for the Convention. As of June 19, 1982, only 14 of the required 36 ratifications necessary for entry into force of the amendment have been made.

(b) Timely contributions—Tardy contributions to the Trust Fund for the Convention continue to leave the Secretariat in a precarious position.

(c) Contributions in nonconvertible currencies or in-kind contributions—Certain Parties have asserted that their contributions of nonconvertible currencies should be accepted (expenditures of such funds would have to be made in the country issuing the nonconvertible currency). At the June 19 Standing Committee meeting, there was some discussion of this and in-kind contributions.

2. Transfer of responsibilities (for the administration of the Trust Fund for the Convention)—Currently United Nations environment Programme (UNEP) charges the Secretariat a 13% "program support cost" for administering the Trust Fund of the Convention. It appears that an agreement to an effective reduction of their cost by one-half has recently been achieved. This may satisfy the Parties and blunt the movement to find another administrator.

3. Headquarters matters—The headquarters of the CITES Secretariat in located in Gland, Switzerland. Negotiations with the Swiss government for tax privileges and other concessions to ease the financial burden on the Secretariat and the Parties are continuing. The Swiss government may make a decision relative to this matter in the fall of this year. Draft agreements on the juridical status of the International Union for the conservation of Nature and Natural Resources (IUCN) and the CITES Secretariat have been submitted to the Swiss government.

XI Relationship With Other International Agreements and Organizations

The implementation of CITES relates to the work of other international agreements and organizations. The CITES Secretariat has established relationships with such organizations as the International Air Transport Association with regard to shipment of live specimens, the International Whaling Commission with regard to concern for the survival of cetaceans, the United Nations Food and Agricultural Organization with regard to the International Plant Protection Convention, and with INTERPOL with regard to illegal trade in wildlife and wildlife products.

XII Committee Reports and Recommendations

1. Technical Expert Committee—Although no formal TEC meetings have been held since the third meeting of the Conference of the Parties was held in New Delhi, India, TEC issues were discussed at a meeting in Christchurch, New Zealand (October 1981) and at the aforementioned Standing Committee meeting in Gland. The TEC chairman has produced draft papers and proposals on a number of issues assigned to the TEC by the Parties at the third regular meeting of the Conference of the Parties. These and some new issues appear as sub-items under agenda item XIII. Another TEC issue, Reverse listing concept for appendices, appears as agenda item XIV 2.

2. Identification Manual Committee—A species identification manual for use of border and port officials continues to be developed by the Secretariat and an international committee. Funding for this project comes in part from a subvention by UNEP. Country contributions have also been made. A section of the manual for the identification of certain species of iguanas is being prepared in the United States by Dr. F. Wayne King, Director of the Florida State Museum. Voluntary contributions of a similar nature would be greatly appreciated. Interested persons should contact Mr. Richard M.

Parsons (see "FOR FURTHER INFORMATION CONTACT," above).

3. Nomenclature Committee—A committee of experts chaired by the United States has produced a program to maintain a standard reference to mammal species names. The program is designed to provide a uniform reference list upon which to base species listings in Appendices I, II and III of CITES and thereby help to eliminate doubt as to which species are meant to be controlled by CITES. A computer printout of those mammalian species of concern to CITES will be presented to the Parties for their approval at Gaborone. The work was compiled by the Association of Systematics Collections, Stephen R. Edwards, Executive Director, with scientific advice from members of the American Society of Mammalogists and its Checklist Committee, A. L. Gardner, Chairman Robert G. Hoffmann, Coordinator. Work on a similar reference list for amphibians and reptiles has begun. These lists have received partial funding from UNEP and the Federal government.

XIII Interpretation and Implementation of the Convention

1. Report by the Technical Expert Committee on national reports under Article VIII, paragraph 7, of the Convention—Resolution of the Conference of the Parties Conf. 3.5 provides, in part, that the TEC shall by means of continual review of the annual reports of the Parties (showing statistics for species in trade) and other techniques identify problems with enforcement and provide guidance to the Secretariat and the Parties on measures that may be undertaken to remedy these problems. The Wildlife Trade Monitoring Unit of the IUCN compiles these statistics. Certain Appendix II reptilian species appear to have been traded in unusually high volumes. Efforts are being made to organize a study of the distribution and abundance of one of these species, the caiman (*Caiman crocodylus*) in central South America. The Secretariat will assist in coordination of the study.

2. Review and harmonization of annual reports—The Secretariat has provided the Parties with a list of standard names of parts and derivatives to be used by the Parties in preparing their annual reports. The Secretariat has expressed concern that some Parties have not submitted their reports on a timely basis.

3. Effects of reservations—CITES Articles XV and XVI enable Parties to take reservations to amendments of the lists of species controlled by CITES. Reserving Parties are to be treated as nonparties with respect to their trade in reserved species. Where an amendment "uplists" a species from Appendix II to Appendix I, it seems clear that trade between reserving Parties and nonreserving Parties if at all possible, would have to be on the basis of the Appendix I status. What is not clear is how reserving Parties are to view themselves when trading with nonparties (or other reserving parties). Should they view themselves as nonparties or as Parties with Appendix II obligations still intact? The former view might enable trade in items smuggled out of Party countries and it would allow unrestricted trade in the reserved species with nonparties.

4. Parts and derivatives from non-recognizing states—A draft TEC resolution recommends that if Parties accept parts and derivatives of listed species from Parties that do not consider them as being "readily recognizable" (parts and derivatives which are not readily recognizable are not covered by CITES), they should treat them as if coming from a reserving Party, and require "nonparty documentation." It also proposes that the Secretariat receive Parties' lists of readily recognizable parts and derivatives and circulate them in summary form, presumably to make it easier for the importing Party to know whether shipments should be accompanied by nonparty documents (for nonrecognized items) or Party documents.

5. Parts and derivatives of plants and Appendix III animals—According to a resolution of the Conference of the Parties adopted at San Jose 1979 (Conf. 2.18), all parts and derivatives of subsequently listed Appendix II and III plants and Appendix III animals should be considered subject to the Convention's controls, except where certain parts are specified in the appendices as not controlled. This appears to be contrary to the CITES Article I definitions of an Appendix II or III plant specimen and an Appendix III animal specimen. *Past* listings were to be reviewed and conformed to this scheme at the third Conference of the Parties (New Delhi 1981). This was never done. Some countries have adopted this new approach to all listings (new and old) and some have not (the U.S. included). The Parties should determine which method they wish to use, since the current situation is uncertain and creates administrative and trade problems. A draft TEC resolution proposes the full implementation of Conf. 2.18.

6. Trade in souvenirs—A draft TEC resolution stating concern with the widespread sale of Appendix I and II specimens and the lack of knowledge among international tourists of the CITES requirements and domestic controls, proposes that exporting countries require export permits for souvenirs. By so doing, the availability of the personal effects exemption on arrival of the tourist at his or her country of usual residence would be eliminated. The proposal would also have importing countries require pre-Convention certificates for first time imports of items which qualified for both the "personal effects exemption" and the "pre-Convention exemption" (see CITES Article VII, paras. 2 and 3).

8. Return of illegally traded specimens—CITES Articles III and IV require, as a precondition to the issuance of a re-export certificate, a finding that the specimen concerned was imported in accordance with the provisions of the Convention. Some specimens, not imported properly, are seized and become the property of the Federal government. Resolution Conf. 3.9 states, in part, that importing Parties should "* * * not authorize under any circumstances or pretext, the re-export of specimens for which there is evidence that they were imported in violation of the Convention * * * " However, CITES article VIII.4 provides for return of confiscated living specimens to the country of export. Apparently, Conf. 3.9 did not intend to stop the return of such specimens. However, in light of the precondition of legal importation, it is unclear whether return is to be made with a re-export certificate.

Further, regulations implementing the Convention in the United States allow for the public sale of confiscated or abandoned Appendix II specimens. In light of the precondition and Conf. 3.9, can CITES re-export certificates for such specimens be issued to the purchasers of such specimens?

9. Time validity of export permits and re-export certificates—CITES Article VI.2 provides that export permits may only be used for *export* within a period of 6 months from the date of issuance. Many exports have been made without the date of export being marked on the permit. In such cases it may be difficult for an inspecting officer at the point of import to determine whether export was made with an unexpired permit. This issue was raised at the third regular meeting of the Conference of the Parties but was not resolved. The harmonized permit form adopted at that meeting provides a space (block 14, Export/Re-export Endorsement) for the signature and date of the official who inspects the shipment upon exportation or re-

exportation. Also, many shipments are accompanied by air waybills which indicate the date of export. Under such circumstances, it appears tha an inspecting officer would in many instances have reliable information to determine whether or not the export had been made within the allowable 6 month period.

A draft TEC resolution addresses a similar issue. Even assuming that export was made within the 6 month period, how long should a shipment be in transit before reaching its intended destination before the authorities in the destination country investigate the shipment to determine whether the items were the ones exported and to determine whether the document is valid? The 6 month limit on export permits help to prevent abuses such as forgery, duplication or reuse. Documents and items in transit for long periods of time may be subject to similar abuses. The draft TEC resolution proposes that the Parties select one of two suggested transit time tests to be used to determine when an investigation should be made: (a) Transit time exceeds 3 months, or (b) shipment arrives later than nine months from the issue date of the export permit or re-export certificate.

10. Exemptions under Article VII of the Convention—The third meeting of the Conference of the Parties referred the whole question of problems with the Article VII exemptions to TEC. The chairman of TEC has asked those Parties that have not responded to the Secretariat's questionnaire to do so by forwarding their responses to the chairman. A paper will then be drafted and circulated putting forward recommendations. As an example of the problems to be addressed, two issues relate to the pre-Convention exemption. First, what is the meaning of the word "acquired"? The exemption provides for the issuance of a pre-Convention exemption certificate if the specimen in question "* * * was *acquired* before the provisions of the present Convention applied to that specimen * * *" This is particularly important where the specimen is a plant standing in the wild. Does ownership or possession of the land on which it stands constitute acquisition of the standing plants?

Second, what rule should be used to determine when the provisions of the Convention applied to "that specimen"? Should it be the effective date of the CITES listing of the species to which it belongs, even if the specimen was located in a nonparty country on that date? What date is used if the species was listed on Appendix II and later transferred to Appendix I?

11. Specimens in transit—A draft TEC resolution proposes:

(a) that for purposes of Article VII, paragraph 1, of the Convention the phrase "transit or transhipment of specimens" refer only to those situations in which a specimen is in fact in the process of shipment to a named importer and where such shipment is only interrupted by the necessity implicit in those arrangements, that documentary evidence be available on arrival to the authorities in the country of transit which clearly shows the ultimate destination of the shipment, that a change of ultimate destination be investigated by the country of transit to verify that the transaction complies with the purposes of the Convention; and

(b) that each Party examine its procedures in relation to airport lounges, free ports and the like to ensure that they have made appropriate arrangements to comply with the provisions of the Convention, e.g. the issue of import and export permits for listed species, no sale of Appendix I specimens, and apply the definition of transit given above to such circumstances.

This is a version of a proposal made by the United Kingdom for the third meeting of the Conference of the Parties which was assigned to the TEC for further consideration. It was designed, in part, to prevent the country of transit from being used as a way station while commercial arrangements for the ultimate disposition of the transiting specimen are being made. It was believed that under such circumstances the country of transit has a strong enough interest in the specimen to apply the full controls of CITES.

12. Guidelines for transport—It has been noticed that the CITES "Guidelines for Transport and Preparation for Shipment of Live Wild Animals and Plants" may need further technical amendment. For example, Packer's Guidelines—Mm/1 for Terrestrial Mammals Except Elephants and Ungulates at the paragraph 3.5 addresses smaller animals such as porcupines, rodents and armadillos. Mm/1 appears to overlap with Packers Guidelines—Mm/6 which concerns Mice, Rats, Cavies and Other Small Mammals.

Parties may submit recommendations to amend the Guidelines to the TEC which must circulate them for comment to the Parties and to interested persons, organizations and conferences, and report its recommendations to the next regular meeting of the Conference of the Parties.

13. Animals stressed during transport—At the third meeting of the Conference of the Parties, a proposal was adopted which instructed the TEC to develop an international reporting system for stressed CITES specimens in international trade. It would inform the exporting or re-exporting country's Management Authority about living specimens which had been subject to undue stress during transport. Here follows a draft of a report in card format which would be affixed to the outside of every container carrying CITES controlled live animals. It is intended that any person noticing unusual stress could tear off, complete and mail the pre-addressed report to the Management Authority.

Anyone Finding the Animals in This Container in a State of Stress During Transit Resulting From Inadequate Transport Provision Is Asked To Complete and Post This Card to the Address Printed on the Reverse

(a) What were the specimens? (Species and Number) _____

(b) Was something wrong with the container? *Size/strength/ventilation/cleanliness/light/other

(c) Were the specimens lacking something? *Water/food/bedding

(d) Was anything else likely to have caused the stress or injury? _____

(e) Were any specimens dead upon arrival? *All/most/some/none

*Delete as applicable.

Position _____

Signature _____

Address _____

Shipment Identification (CITES Permit No., Invoice, etc.) _____

14. Control of captive breeding and artificially propagating operations in Appendix I species—It is believed that there will be a proposal to develop a comprehensive list of persons and organizations who have been issued export documents approved for captive bred and artificially propagated specimens of Appendix I species produced for commercial purposes. Such a list would be designed to assist enforcement officers in verifying if documents were valid.

XIV General Matters of Principle Relating to the Appendices

1. Ten year Review of Appendices—This agenda item, as distinguished from the item which treats with actual proposals to amend the species appendices, will probably be a discussion of how the Ten Year Review has worked and whether it needs revision. The review was the result of a resolution adopted at the third regular meeting of the Conference of the Parties. Its purposes were to keep the appendices current and help evaluate the effectiveness of the Convention.

2. Reverse listing concept for appendices—The Australian Management Authority was to submit to

TEC a study on the issue of "reverse listing" of the CITES lists of controlled species. The Service's views opposing this concept were sent to the Australian National Parks and Wildlife Service by letter dated September 28, 1981. As of late June of this year, the TEC chairman had not received the Australian study. In brief, reverse or "clean listing" means that all species of wild animals and plants would be controlled by CITES, unless it could be shown that adequate conservation measures existed to ensure that proposed trade would not threaten species survival. The Service's views were based, in part, on the beliefs that reverse listing would be disruptive and administratively burdensome, and that resources needed to implement it would be better used improving the current CITES system.

3. Establishment of a scientific committee—A draft resolution was circulated to Standing Committee members which would establish a permanent Scientific Committee consisting of regional science representatives from Party countries. Its function would be to advise the Secretariat on scientific matters, particularly with regard to proposals to amend the CITES Appendices of controlled species. The Standing Committee considered this proposal and recommended that it be redrafted to propose the creation of an "advisory group" that the Secretariat could consult for scientific advice. It was felt that there was no need for this issue to go to the Conference of the Parties.

XV Consideration of Proposals for Amendment of Appendices I and II

1. Proposals submitted pursuant to resolution on ranching—The Service has received an advance copy of an Australian proposal to transfer the Australian population of the saltwater crocodile (*Crocodylus porosus*) from Appendix I to Appendix II of the Convention in accordance with the terms of the resolution on ranching (Conf. 3.15) adopted by the third regular meeting of the Conference of the Parties. The Service understands that there is a likelihood that other ranching proposals will be submitted, namely:

Party	Population of
Reunion (France).	Green sea turtle (*Chelonia mydas*).
Suriname	Green sea turtle (*Chelonia mydas*).
Zimbabwe	Nile crocodile (*Crocodylus niloticus*).

As with proposals generated by the Ten Year Review and proposals for other amendments to the Appendices I and II, ranching proposals will be treated in a separate series of Service notices published in the **Federal Register**.

2. Proposals submitted under the Ten Year Review of Appendices—See XV.1, above. The most recent **Federal Register** notices dealing with the Ten Year Review were published on February 17, 1982 (47 FR 7190) dealing with animals and April 2, 1982 (47 FR 14472) dealing with plants.

3. Other proposals—See XV.1, above. The most recent **Federal Register** notice dealing with other proposals was published on February 16, 1982 (47 FR 6722). A further notice on this subject soon will be published.

XVI Conclusion of the Meeting

1. Determination of time and venue of the next (fifth) regular meeting of the Conference of the Parties—In the past, meetings have been held or scheduled on a regional rotation basis: The United States (where Convention was adopted in 1973); Berne, Switzerland (1976); San Jose, Costa Rica (1979); New Delhi, India (1981) and Gaborone, Botswana (1983). If the Parties were to agree to continue this scheme, the Oceania Region (current parties are Australia and Papua New Guinea) would be the region from which a host country would be first sought.

2. Closing remarks (no explanation necessary).

Request for Information and Comments: The Service invites information and comments on the draft provisional agenda items and suggestions for additional agenda items. Suggestions for additional items should contain sufficient detail to enable the Service to evaluate their relevance to CITES matters and their appropriateness for inclusion in the agenda of the fourth regular meeting of the Conference of the Parties.

Announcement of Public Meeting Concerning Provisional Agenda Including Species Proposals: The Service announces that it will conduct a public meeting on August 13, 1982 from 9:30 a.m. to 12:00 noon in room 7000 of the main building of the Department of the Interior, 18th & C Streets, N.W., Washington, D.C. for the following purposes:

1. To receive information and comments on the provisional agenda items for the fourth regular meeting of the Conference of the Parties,

2. To receive suggestions for additional agenda items for the fourth regular meeting of the Conference of the Parties, and

3. To receive information on animal and plant species for the purpose of determining if the United States should propose any amendments to the lists of species in CITES Appendices I and II.

Written statements may be submitted to the Service before or at the meeting. Appointments to speak may be made with the Federal Wildlife Permit Office.

Observers: Article XI, paragraph 7 of the Convention provides:

Any body or agency technically qualified in protection, conservation or management of wild fauna and flora, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least one-third of the Parties object:

(a) International agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and

(b) National non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located. Once admitted, these observers shall have the right to participate but not to vote.

Those bodies or agencies wishing to send observers to the fourth regular meeting of the Conference of the Parties are responsible for so informing the Secretariat. In the past, the Secretariat has required such information to be received at least one month prior to the meeting. The Secretariat may be contacted at the following addresses:

Postal address: CITES Secretariat,
Avenue du Mont-Blanc, CH 1196
Gland, Switzerland
Telex: 22618 iucn ch
Cable: IUCNATURE GLAND

Persons wishing to be observers representing U.S. national non-governmental agencies must also receive prior approval of the Fish and Wildlife Service. Requests for such approval should include evidence of technical qualification in protection, conservation or management of wild fauna and flora and should be sent to the Federal Wildlife Permit Office (see "Addresses" above).

Other Meetings and Notices: The Service plans to publish a notice of proposed negotiating positions during the latter part of November 1982, to hold a public meeting on such positions around the middle of February 1983 and to publish a notice of negotiating positions around the beginning of April 1983.

This notice was prepared by Arthur Lazarowitz, Federal Wildlife Permit Office.

Dated: July 30, 1982.

Robert A. Jantzen,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 82-21047 Filed 8-4-82; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

Idaho Falls District, Cancellation of Notice of Realty Action, Modified Competitive Sale I-17736; Public Lands In Bear Lake County, Idaho

SUMMARY: The Notice of Realty Action for Modified Competitive Sale I-17736 published July 23, 1982 (47 FR 31966) is hereby cancelled. A revised Notice of Realty Action will be published at a later date.

Dated: July 29, 1982.

O'Dell A. Frandsen,

District Manager..

[FR Doc. 82-21139 Filed 8-4-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. A-17378]

Arizona; Conveyance of Public Land

July 29, 1982.

Notice is hereby given that pursuant to section 203 of the Act of October 21, 1976, 90 Stat. 2750; 43 U.S.C. 1713, Rural Housing Development Association, Inc., has purchased by noncompetitive sale public land in Greenlee County, Arizona, described as:

Gila and Salt River Meridian, Arizona

T. 8 S., R. 32 E.,
Sec. 30, E½NW¼SE¼, containing 20.00 acres.

The purpose of this notice is to inform the public and interested State and local government officials of the issuance of the patent to the above-named persons.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-21143 Filed 8-4-82; 8:45 am]

BILLING CODE 4310-84-M

[Exchange CA 12985]

Public Lands in Humboldt County, California; Realty Action

July 22, 1982.

The following described public land has been determined to be suitable for disposal under the provisions of Pub. L. 91-476, and Act to provide for the establishment of the King Range National Conservation Area (84 Stat. 1067), and Sec. 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756).

Humboldt Meridian

T. 3 N., R. 5 E.,
Sec. 18, Lots 3 and 4, E½SE¼;
T. 2 N., R. 4 E.,
Sec. 1, Lots 5 and 6;
Sec. 2, Lots 5, 6, 7 and 8;
Sec. 18, E½SW¼, SW¼, SE¼;
Sec. 25, W½NE¼, SE¼NE¼, W½NW¼, SE¼;
Sec. 26, SE¼SE¼;
T. 2 N., R. 5 E.,
Sec. 5, NE¼SE¼;
Sec. 7, Lot 2.

Containing 1,046.75 acres.

James A. Hunt, 55931 Highway 101, Fortuna, California 95540, has applied to acquire the above described lands in exchange for the following described privately owned lands.

Humboldt Meridian

Parcel One

All those portions of Section 31, Township 2 South, Range 2 West, Humboldt Base and Meridian, described as follows:

Lot 1 and the South half of Lot 2, The Northeast Quarter, The West Half of the Southeast Quarter, the Northeast Quarter of the Southeast Quarter, the East Half of the Southeast Quarter and the fractional Southwest Quarter of the Southwest Quarter.

Excepting from the fractional Southwest Quarter of the Southwest Quarter that portion thereof conveyed to the United States of America on March 25, 1909, by Deed recorded in Book 110 of Deeds, Page 34, Humboldt County Records.

Parcel Two

All those portions of Section 32, Township 2 South, Range 2 West, Humboldt Base and Meridian, described as follows:

The Southwest Quarter of the Northeast Quarter, the Southeast Quarter of the Northwest Quarter, the West Half of the Northwest Quarter, the North Half of the Southwest Quarter and those portions of the Southeast Quarter lying North of Sea Lion Bulch; subject to a Boundary Agreement between John A. Mackey and Mary J. Rackliff recorded September 13, 1980, in Book 35 of Deeds, Page 534, Humboldt County Records.

Parcel Three

All those portions of Section 6, Township 3 South, Range 2 West, Humboldt Base and Meridian, described as follows:

Lots 1, 2, 3, 4 and 5; subject to a Boundary Agreement between John A. Mackey and Mary J. Rackliff recorded September 13, 1890, in Book 35 of Deeds, Page 534, Humboldt County Records.

A mineral evaluation has been requested on the public land. If any minerals are identified, a reservation of identified minerals will be made to the United States. If no minerals are identified, the mineral estate of the public lands will be conveyed with the surface. The mineral estate of the privately owned lands will be conveyed with the surface, unless previously reserved.

The publication of this notice in the **Federal Register** shall segregate the applied for public lands from all other forms of appropriation under the public land laws, including the mining laws, for a period of two years. The exchange is expected to be consummated before the end of that period.

The value of the lands to be exchanged is approximately equal and money will be used to equalize the values upon completion of the final appraisal of the lands. If necessary, tracts of land will be omitted from the exchange to remain within the equalization range established by the King Range Act (84 Stat. 1067).

There will be reserved to the United States in the applied for lands, a right-of-way thereon for ditches and canals constructed by the authority of the United States (43 U.S.C. 945).

The purpose of the exchange is to acquire non-Federal lands within the King Range National Conservation Area, in conformance with Bureau planning, and in the public interest.

Detailed information concerning the exchange, including the environmental analysis and the record of non-Federal participation, is available for review at the Eureka Area Office, BLM, 1585 J Street, P.O. Box II, Arcata, California 95521.

For a period of 45 days from the first publication of this notice interested parties may submit comments to the California State Director, Bureau of Land Management, E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. Any adverse comments will be evaluated by the California State Director, who may vacate or modify this realty action and issue a final determination. In the absence of a vacation or modification, this realty action will become the final determination of the Bureau.

Harold R. Dietz,

Acting Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 82-21098 Filed 8-4-82; 8:45 am]

BILLING CODE 4310-84-M

[Exchange CA 12957]

California, Humboldt County; Realty Action; Correction

July 29, 1982.

In FR Doc. 82-19770, appearing on pages 31755 and 31756 of the Thursday, July 22, 1982 issue, the lands applied for are corrected to add, "T. 10 N., R. 3 E., Sec. 31, NE¼NE¼." Line 20 on page 31755 reading "Sec. 35, Lots 2, 3 and 4" is corrected to read "Sec. 35, Lots 1, 3 and 4." Line 23 reading "Containing

865.44 acres" is corrected to read "Containing 866.61 acres." Line 4 on page 31756 reading "Sec. 11E½, NW¼NE¼, SW¼SE¼" is corrected to read "Sec. 11, E½E½, NW¼NE¼, SW¼SE¼."

Harold R. Dietz,

Acting Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 82-21096 Filed 8-4-82; 8:45 am]

BILLING CODE 4310-84-M

District Grazing Advisory Board; Meeting

AGENCY: Land Management Bureau, Interior.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94-579, that a meeting of the Ely District Grazing Advisory Board will be held Wednesday, September 15, 1982.

The meeting will convene at 8:00 a.m. (PDST) at the BLM Ely District Office in Ely, Neveda. The office is located south of Ely, Nevada on the Pioche Highway.

The meeting will consist of a field tour of portions of several grazing allotments in Northern Spring and Antelope Valleys of the Schell Resource Area.

The purpose of the tour is to review with the board members, the field application of monitoring studies and how data collected might be used to resolve competitive uses of forage resources.

The tour will be open to the public. Public participants will be responsible for their transportation and lunch.

A public comment period will be held at 1:30 p.m. (PDST).

A summary of the proceedings of the meeting will be on file at the Ely District Office and will be available for public inspection and reproduction during regular office hours for 30 days following the meeting.

DATE: September 15, 1982.

ADDRESS: Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301.

FOR FURTHER INFORMATION CONTACT: Mr. John Barnes, 702-289-4865.

Dated: July 29, 1982.

George W. Cropper,

Acting District Manager.

[FR Doc. 82-21095 Filed 8-4-82; 8:45 am]

BILLING CODE 4310-84-M

District Grazing Advisory Board, Susanville, California; Meeting

Notice is hereby given in accordance with Pub. L. 94-579 (FLPMA) that a meeting of the Susanville District Grazing Advisory Board will be held on September 9, 1982.

The meeting will begin at 10:00 a.m. at the Susanville District Office of the Bureau of Land Management, Susanville, California.

The agenda for the meeting will include:

1. Report from Resource Area Manager's on FY 82 Accomplishments and Plans for FY 82.
2. Set Up a Meeting or Tour of the Cal-Neva Planning Unit.
3. Discuss Grazing Fee Study.
4. Other Items as Appropriate.
5. Public Comments.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:30 p.m. and 4:30 p.m., or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1090, Susanville, California 96130-1090, by July 30, 1982. Depending upon the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the Board Meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: July 28, 1982.

Ben F. Collins,

Acting District Manager.

[FR Doc. 82-21187 Filed 8-4-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-18817]

Idaho; Conveyance of Public Lands, Onyhee County

July 29, 1982.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), the following-described public lands have been sold by direct sale to Richard D. and Barbara A. Jayo, P.O. Box 66, Murphy, Idaho 83650.

Boise Meridian, Idaho

T. 5 S., R. 3 W.
Sec. 6, lot 88.
Comprising 0.35 acre.

The lands were conveyed to resolve a very complicated and long standing occupancy problem in the Old Historic Mining Area in Silver City. The public interest was well served through the completion of the sale. The fair market value of the land was appraised at $540.00 and payment of this amount was received by the United States.

Vincent S. Strobel,

Acting Chief, Division of Operations.

[FR Doc. 82-21100 Filed 8-4-82; 8:45 am]

BILLING CODE 4310-84-M

[ES 30516, Survey Group 78]

Michigan; Filing of Plat of Survey

1. On November 19, 1981, the plat representing the survey of two islands in Munuscong Lake, which were omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. (90 days from date of publication).

The island tracts shown below describe the land omitted from the original survey.

Michigan Meridian, Michigan

T. 44 N., R. 2 E.,
Tract Nos. 37 and 38.

2. The islands described above are separate and distinct yet similar in all respects to that of the adjacent surveyed lands.

The island Tract No. 37 rises 4 feet above the ordinary high water mark of Munuscong Lake and is composed of various sized boulders with a thin layer of humus. Timber consists of alder, aspen, elm, and ash. Borings show trees up to 65 years old.

Island Tract No. 38 rises 2 feet above the ordinary high water mark of Munuscong Lake and is composed of various sized boulders and a layer of soil designated as stony loam, approximately 2 feet deep. Vegetation consists of grass, wild rhubarb, alder, aspen, ash, birch, and cedar.

3. The islands described above were found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

4. Except for valid existing rights, the islands will not be subject to application, petition, location, or selection under any public law until a further order is issued.

5. All inquiries relating to these islands should be sent to the Chief, Division of Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street,

Alexandria, Virginia 22304 on or before (90 days from date of publication).

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-21123 Filed 8-4-82; 8:45 am]

BILLING CODE 4310-84-M

Eastern States; Transfer of Lands To Be Held by the United States in Trust for Certain Communities of the Mdewakanton Sioux in Minnesota

1. Pursuant to Pub. L. 96-557 (94 Stat. 3262) and Sec. 2 thereof, the lands described in paragraphs 3, 4, and 5 of this notice, are declared to be a part of the reservations of the respective Indian communities for which they are held in trust by the United States. These lands were acquired and held by the United States for the use or benefit of certain Mdewakanton Sioux Indians under the Act of June 29, 1888 (25 Stat. 217); the Act of March 2, 1889 (25 Stat. 980); and the Act of August 19, 1890 (26 Stat. 336). This notice is issued under the authority delegated to me by Bureau Order No. 701, dated July 23, 1946, as amended.

2. Pursuant to Pub. L. 96-557 (94 Stat. 3262) and Sec. 3 thereof, nothing in said Act shall: (1) Alter, or require the alteration, of any rights under any contract, lease, or assignment entered into or issued prior to enactment of said Act; or (2) restrict the authorities of the Secretary of the Interior under or with respect to any such contract, lease, or assignment.

3. Lands transferred and declared to be a part of the reservation of the Prairie Island Indian Community;

T. 114 N., R. 15 W., Fifth Principal Meridian, Minnesota,
Sec. 31, SE¼NE¼, E½SE¼.

4. Lands transferred and declared to be a part of the reservation of the Shakopee Mdewakanton Sioux Community;

T. 115 N., R. 22 W., Fifth Principal Meridian, Minnesota,
Sec. 22, S½NW¼, N½SW¼; except 1.75 acres in the Southwest corner of the N½SW¼, conveyed by Elizabeth Kinghorn and George Kinghorn, wife and husband, of Scott Co., Minnesota, to the Chicago, Milwaukee, and St. Paul Railway Co., for a right-of-way; the said Railway was formerly known as the Hastings and Dakota Railway;
Sec. 28, NE¼SW¼;
Sec. 33, North 50 acres of the E½NE¼; and
Sec. 34, Commencing at a point on the east line of Section 34 being 60 rods south of the Northeast corner of said Section 34; thence West and parallel with the north line of said section, 60 rods; thence North and parallel with the east line of said section, 26 and ⅝ rods; thence East and parallel with the north line of said section, 60 rods; thence South on the east line of said section, 26 and ⅝ rods to the place of beginning.

5. Lands transferred and declared to be a part of the reservation of the Lower Sioux Indian Community;

T. 112 N., R. 35 W., Fifth Principal Meridian, Minnesota,
Sec. 1, North fractional half of the NE¼, SE¼NE¼, E½SE¼, and Commencing at a point 71 rods East of the Southwest corner of the SE¼SW¼ of Section 1; thence North 160 rods; thence East 9 rods; thence South 160 rods; thence West 9 rods to the place of beginning, being part of the E½SW¼ of Section 1.
Also commencing at a point 34 rods East of the Southwest corner of the NW¼SW¼ of Section 1; thence North 160 rods; thence East 44 rods, more or less, to the Northeast corner of the SW¼NW¼ of said Section 1; thence South 160 rods to the Southeast corner of the NW¼SW¼ of said Section 1; thence West 44 rods, more or less, to the place of beginning, being part of the NW¼SW¼ and the SW¼NW¼ of Section 1;
Sec. 2, N½NE¼, SE¼NE¼, SW¼NE¼, NE¼SE¼, E½SE¼ excepting therefrom 15 acres off the west end of said N½NE¼ taken off by running a north and south line far enough from the West end thereof to make 15 acres, also except a tract described as follows, viz., Commencing at a point 20.01 chains North of the Southeast corner of said Section 2; thence North, 30.71 chains; thence North 74 degrees West, 2.62 chains thence South, 22.5 chains; thence South 74 degrees East, 8.94 chains to the place of beginning. Also except the right-of-way of the Wisconsin, Minnesota and Pacific Railway located across the N½NE¼ of said Section 2, Also, the North 9 acres of Lot 50 or Assignment No. 50; Commencing at the Northwest corner of Lot 50 in Section 2, and running thence South along the west line of said Lot 50, 1292 feet; thence East 303.6 feet, to the east line of said land; thence North along the east line 1292 feet, to the Northeast corner of said lot; thence West along the north line 303.6 feet to the place of beginning; and
Sec. 12. NE¼, E½E½NW¼.
T. 113 N., R. 35 W., Fifth Principal Meridian, Minnesota,
Sec. 35, Beginning at the Southeast corner of Section 35, and thence running West 8.9 chains; thence running North to the South Bank of the Minnesota River at the waters edge; thence running in an Easterly direction along the South bank of the Minnesota River at the waters edge to a point where the East line of said Section 35 intersects the Minnesota River; thence running South on the east line of said Section 35 to the place of beginning. Except the right-of-way of the Wisconsin, Minnesota, and Pacific Railway over and across the said tract, described as follows to wit: A strip of land 125 feet in width, being 75 feet in width on the southerly side and 50 feet in width on the northerly side of the center line of the main track of said Railway located over and across said tract.

The areas described above aggregate 950.75 acres, more or less.

6. All inquiries relating to these lands should be sent to the Director (226), Office of Trust Responsibilities, Bureau of Indian Affairs, Washington, D.C. 20245, on or before (90 days from date of publication).

G. Curtis Jones, Jr.,

Eastern States Director.

[FR Doc. 82-21122 Filed 8-4-82; 8:45 am]

BILLING CODE 4310-84-M

[N-36545, N-36546, N-36572]

Nevada; Order Providing for Opening of Public Lands

July 29, 1982.

In two exchanges of lands under the provisions of section 8 of the Act of June 28, 1934, as amended, and one state reconveyance the following described lands were reconveyed to the United States:

Mount Diablo Meridian, Nevada

T. 43 N., R 52 E.,
Sec. 30. E½SW¼;
Sec. 31, E½NW¼, S½NE¼.
T. 39 N., R 54 E.,
Sec. 16, E½NW¼, NE¼SW¼, NW¼SE¼;
Sec. 22, N½NW¼.
T. 28 N. R. 64 E.,
Sec. 14, S½SW¼.

The area described comprises 560 acres in Elko County Nevada.

All minerals are under the jurisdiction of the United States.

At 9:00 a.m., on September 7, 1982, subject to valid existing rights and any existing classification, the land described above is hereby restored generally to the operation of the public land laws.

All valid applications received from the date of this publication until and including 9:00 a.m. on September 7, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 9:00 a.m., on September 7, 1982, the land shall be open to location and entry under the United States mining and mineral leasing laws.

Inquiries concerning this land should be addressed to District Manager, Bureau of Land Management, 2002 Idaho St., Elko, Nevada 89801.

Richard G. Morrison,

Acting Chief, Division of Operations.

[FR Doc. 82-21183 Filed 8-4-82; 8:45 am]

BILLING CODE 4310-84-M

[N-36654]

Nevada; Land Reconveyed to the United States

July 29, 1982.

By grant deed executed December 23, 1980, the following described land was reconveyed to the United States:

Mount Diablo Meridian, Nevada

T. 13 N., R. 19 E.,
Sec. 30, W½NW¼ (within), more particularly described as:

Beginning at the West one-quarter corner of said Section 30; thence along the West line of said Section 30, North 00°01'18" East 1180.00 feet; thence East 738.31 feet; thence South 00°01'18" West 1182.00 feet to a point on the East-West centerline of said Section 30; thence along said centerline North 89°50'40" West 738.31 feet to the Point of Beginning.

The area described comprises 20.02 acres in Douglas County, Nevada within the boundaries of the Toiyabe National Forest.

The purpose of this notice is to inform the public that the U.S. Forest Service has accepted title to the above-described land on behalf of the United States. The land is now subject to the laws and regulations of the Forest.

Richard G. Morrison,

Acting Chief, Division of Operations.

[FR Doc. 82-21184 Filed 8-4-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 1898]

Oregon; Termination of Classification for Multiple Use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on April 9, 1968 (33 FR 5547), 4,135,000.00 acres of public lands under the jurisdiction of the Bureau of Land Management were classified for multiple use management pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR 2460. The lands are located in Harney County, Oregon.

2. Pursuant to 43 CFR 2461.3(c)(2), the classification is terminated in its entirety upon publication of this notice in the **Federal Register.**

3. At 9:30 a.m., on September 13, 1982, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands involved will be open to operation of the public land laws. All valid applications received at or prior to 9:30 a.m., on September 13, 1982, shall be considered as simultaneously filed at that time. Subject to the provisions of existing withdrawals, the lands have been and continue to be open to operation of the mining laws and minerals leasing laws.

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

Dated: July 29, 1982.

Paul M. Vetterick,

State Director.

[FR Doc. 82-21189 Filed 8-4-82; 8:45 am]

BILLING CODE 4310-84-M

[U-31540]

Utah; Order Providing for Opening of Lands

1. In an exchange of lands made under the provisions of Section 8 of the Act of June 28, 1934, the following described lands have been reconveyed to the United States:

Salt Lake Meridian, Utah

T. 38 S., R. 10 W.,
Sec. 33, E½ of the South 4.99 acres of the NE¼SE¼, and NE¼SE¼SE¼;
Sec. 34, N½SW¼SW¼, SE¼SW¼SW¼, SE¼SW¼;
Sec. 36, W½.
T. 39 S., R. 10 W.,
Sec. 1, M&B Beginning at a point on the West bank of Deep Creek, approximately 5 rods West of the North Quarter Corner of Section 1, T. 39 S., R. 10 W., SLBM, and running thence Southwesterly along said West bank, 250 rods, more or less, to the South line of the Northwest Quarter of the Southwest Quarter of said Section 1; thence West 70 rods, more or less, to the Southwest Corner of said NW¼SW¼; thence North 240 rods, more or less, to the Northwest Corner of said Section 1; thence East 155 rods, more or less, to the point of beginning.
Sec. 2, all;
Sec. 3, lots 2, 3, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 10, N½NE¼, SE¼NW¼;
Sec. 11, N½NE¼, SW¼NE¼;
Sec. 12, N&B Beginning at the Northwest Corner of Section 12, T. 39 S., R. 10 W., SLBM, and running thence East 40 rods, more or less, to the West bank of Deep Creek; thence Southwesterly along the West bank of Deep Creek to a point 80 rods South, more or less, from the place of beginning; thence North 80 rods, more or less, to the point of beginning.
Sec. 14, M&B Beginning at the Northwest Corner of the Northwest Quarter of the Northeat Quarter of Section 14, T. 39 S., R. 10 W., SLBM, and running thence East 40 rods, more or less, to the West bank of Deep Creek; thence Southwesterly along the West bank of Deep Creek to a point 80 rods South, more or less, to the SW¼ corner of the NW¼NE¼, thence North 80 rods, more or less, to the point of beginning.

Aggregating 1,878.79 acres.

2. The minerals in the following lands were also reconveyed to the United States:

Salt Lake Meridian, Utah

T. 38 S., R. 10W.,
Sec. 33, E½ of the South 4.99 acres of the NE¼SE¼, and NE¼SE¼SE¼;
Sec. 34, N½SW¼SW¼, SE¼SW¼SW¼, SE¼SW¼.
T. 39 S., R. 10 W.,
Sec. 2, all;
Sec. 3, lots 2, 3, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 10, N½NE¼, NE¼NW¼;
Sec. 11, W½NE¼.

Aggregating 1,345.63 acres.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1, will at 10:00 a.m., on August 30, 1982, be open to operation of the public land laws generally. All valid applications received at or prior to 10:00 a.m., on August 30, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10:00 a.m., on August 30, 1982, the lands described in paragraph 2, will be open to the operation of the mineral leasing laws. All valid applications received at or prior to 10:00 a.m., on August 30, 1982, will be considered as simultaneously filed. Those received thereafter will be considered in the order of filing.

5. At 10:00 a.m., on August 30, 1982, the lands described in paragraph 2 will be open to location under the mining laws (Chapter 2, Title 30 United States Code).

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Darrell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-21094 Filed 8-4-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 5431 (WASH)]

Washington; Termination of Classification for Multiple Use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on June 11, 1970 (35 FR 9037), 4,698.00 acres of public lands under the jurisdiction of the Bureau of Land Management were classified for multiple

use management pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR 2460. The lands are located in Benton County, Washington.

2. Pursuant to 43 CFR 2461.3(c)(2), the classification is terminated in its entirety upon publication of this notice in the **Federal Register.**

3. At 9:30 a.m., on September 13, 1982, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands involved will be open to operation of the public land laws. All valid applications received at or prior to 9:30 a.m., on September 13, 1982, shall be considered as simultaneously filed at that time. Subject to the provisions of existing withdrawals, the lands have been and continue to be open to operation of the mining laws and minerals leasing laws.

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

Dated: July 29, 1982.

Paul M. Vetterick,

Associate State Director.

[FR Doc. 82-21188 Filed 8-4-82; 8:45 am]

BILLING CODE 4310-84-M

Winnemucca District, Nevada; Wilderness Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Intent to prepare a Wilderness Environmental Impact Statement for the Winnemucca District, scoping of wilderness alternatives.

SUMMARY: This notice advises the public that the Winnemucca District of the Bureau of Land Management will be preparing a district wide Wilderness Environmental Impact Statement (EIS) on eighteen Wilderness Study Areas (WSAs) within the Winnemucca District of Nevada. This notice also advises that a scoping period will be held to solicit comments from the public concerning the alternatives for the Winnemucca Wilderness EIS.

The wilderness EIS will be conducted to determine which of the eighteen WSAs or portions of these WSAs, if any, are suitable for designation as wilderness. The eighteen WSAs encompass 1,118,961 acres. Analysis will be conducted in accordance with the National Environmental Policy Act, the regulations of the Council of Environmental Quality and the BLM's *Wilderness Study Policy.*

Scoping for the EIS alternatives will be conducted beginning with the publication of this notice and lasting through October 1, 1982. The purpose of the scoping period is to solicit written comments about the alternatives formulated, in particular, the composition of the individual alternatives and the representativeness of the array presented by the four alternatives. For the Winnemucca EIS, the four alternatives are the All-Wilderness Alternative, No-Wilderness Alternative, the Management Framework Plan (MFP–2) Alternative and a Wilderness Emphasis Alternative. The eighteen WSAs are listed below.

Wilderness study areas	Acreage
NV-020-007—High Rock Lake	62,396
NV-020-012—Poodle Mountain	142,050
NV-020-014—Fox Range	75,404
NV-020-014A—Fox Range	12,969
NV-020-019—Calico Mountains	67,647
NV-030-108—Augustas	89,372
NV-020-200—Selenites	32,041
NV-020-201—Mt. Limbo	23,702
NV-020-406P—Tobins	10,358
NV-020-406Q—Tobins	13,107
NV-020-600—Blue Lake	20,508
NV-020-600D—Blue Lake	5,142
NV-020-603—S. Jackson Mt.	60,211
NV-020-606—N. Jackson Mt.	26,457
NV-020-620—Black Rock Desert	319,594
NV-020-621—Pahute Peak	57,529
NV-020-622—Black Rock Range	30,791
NV-020-287—N. Fork Little Humboldt	69,683
Total acreage	1,118,961

DATES: Three scoping open house sessions will be conducted at the following locations:

Reno, Nevada, El Dorado Hotel, August 26, 1982, 3:00 to 4:30 p.m. and 7:00 to 9:00 p.m.

Winnemucca, Nevada, Humboldt County Fair Grounds Meeting Room, August 30, 1982, 7:00 to 9:30 p.m.

Gerlach, Nevada, Bruno's Country Club, September 2, 1982, 3:00 to 6:00 p.m.

Briefings will be offered to Humboldt, Pershing, Washoe, Churchill, and Lander County Commissioners at their convenience during one of their scheduled September meetings.

ADDRESS: Comments should be addressed to Frank Shields, District Manager, Bureau of Land Management, 705 East 4th Street, Winnemucca, Nevada 89445.

FOR FURTHER INFORMATION CONTACT: Gerald Moritz, Wilderness EIS Team Leader, Winnemucca District Office (702–623–3676).

Edward F. Spang,

State Director, Nevada.

[FR Doc. 82-21136 Filed 8-4-82; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Modification of Coal Land Use Planning Decisions in the Big Sandy and Salt Wells Management Framework Plans

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: The following planning decision modifications are the result of BLM's recent consideration of previously unstudied Federal lands in potential coal development areas. Since the original coal planning decisions were completed in December of 1981 for the Big Sandy and Salt Wells Resource Areas, Minerals Management Services (MMS) has obtained new coal resource data that now shows that some of these lands have coal development potential. In the process of delineating potential coal lease tracts, it was necessary for the MMS to include some small isolated parcels of these lands to avoid possible bypassing and loss of the coal resource in the future. The BLM has conducted the necessary coal unsuitability review and multiple use conflicts evaluation (43 CFR 3420.2–3 and 3461) on the isolated areas involved, i.e., a total of 120 acres in the Big Sandy Resource Area and 1,120 acres in the Salt Wells Resource Area. All of the areas involved were determined to be acceptable for coal development using surface mining methods. These modifications do not result in expanding the scope of any resource use or the scope of considerations covered by the Management Framework Plans (MFPs). Therefore, this action is determined to be a refinement of the existing MFP decisions (43 CFR 1601.6–3(a)) and not subject to the requirements for plan amendments (43 CFR 1601.6–3(b)).

Decision No. 1, part a on page 5 of the public brochure, Coal—Wyoming Land Use Decisions, Big Sandy Area, Rock Springs District, published on November 13, 1981, modified on May 27, 1982, is modified as follows:

a. About 32,254 (vice 32,134) acres containing approximately 159.6 (vice 159) million tons of coal are acceptable for coal development by surface mining methods.

Decision No. 1, part a on page 5 of the public brochure, Coal—Wyoming Land Use Decisions, Salt Wells Area, Rock Springs District, published on November 13, 1981, is modified as follows:

a. About 19,980 (vice 18,860) acres containing approximately 90.0 (vice 85.0) million tons of coal are acceptable for coal development by surface mining methods.

DATE: The subject planning decision modifications are effective upon publication of this notice.

ADDRESSES: Inquiries on this notice should be placed with: Donald Sweep, District Manager, BLM, Rock Springs District, P.O. Box 1869, Rock Springs, Wyoming 82901, (307) 382–5350.

FOR FURTHER INFORMATION CONTACT: Clinton Hanson, Big Sandy Area Manager, or Robert Bierer, Salt Wells Area Manager, at BLM, Rock Springs District, P.O. Box 1869, Rock Springs, Wyoming 82901. (307) 382–5350.

SUPPLEMENTARY INFORMATION:

Legal Descriptions

Big Sandy Resource Area

T. 21 N., R. 101 W. 6th P.M.
Sec. 10: E½SW¼, SW¼SE¼.

Salt Wells Resource Area

T. 14 N., R. 102 W. 6th P.M.
Sec. 4: NW¼, N½SW¼, SE¼SW¼;
Sec. 5: SE¼NE¼, N½SE¼.
T. 14 N., R. 103 W. 6th P.M.
Sec. 1: W½W½;
Sec. 12: N½N½.
T. 15 N., R. 102 W. 6th P.M.
Sec. 31: N½S½;
Sec. 32: S½NE¼, N½SW¼.
T. 15 N., R. 103 W. 6th P.M.
Sec. 36: S½SW¼.

Donald H. Sweep,

District Manager.

[FR Doc. 82–21097 Filed 8–4–82; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

Indiana Dunes National Lakeshore Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Indiana Dunes National Lakeshore Advisory Commission will be held at 9 a.m., c.d.t., on Friday, August 27, 1982, at the Indiana Dunes National Lakeshore Visitor Center at U.S. Highway 12 and Kemil Road, Chesterton, Indiana.

The Commission was established by the Act of November 5, 1966, 80 Stat. 1309, 16 U.S.C. 460u–7, as amended by the Act of October 18, 1976, 90 Stat. 2530, 2533, to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Indiana Dunes National Lakeshore.

The members of the Commission are as follows:

Mr. John R. Schnurlein (Chairperson), Mr. Ronald Benz, Ms. Anna R. Carlson, Mr. R. M. Gacki, Mr. James Holland, Ms. Lynne Kaser, Mr. James H. Lahey, Mr. William L. Lieber, Ms. Celia Nealon, Ms. Gail H. Pugh, Dr. John A. Rackauskas, Mr. John Tucker, Mr. Norman E. Tufford.

Matters to be discussed at this meeting include:

1. Chairman's Quarterly Report.
2. Status of land acquisition.
3. Quarterly Status Report of planning and development for Indiana Dunes National Lakeshore.
4. Quarterly Status Report of 1982 operations.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact James R. Whitehouse, Superintendent, Indiana Dunes National Lakeshore, 1100 North Mineral Springs Road, Porter, Indiana 46304, telephone 219–926–7561.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the office of the Indiana Dunes National Lakeshore located at 1100 North Mineral Springs Road, Porter, Indiana.

Dated: July 28, 1982.

J. L. Dunning,

Regional Director, Midwest Region.

[FR Doc. 82–21214 Filed 8–4–82; 8:45 am]

BILLING CODE 4310–70–M

Missouri National Recreational River Advisory Group; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Missouri National Recreational River Advisory Group will be held August 26, 1982, beginning at 9:00 AM at the Lewis and Clark Lake Visitors Center at Gavins Point Dam near Yankton, South Dakota.

The group was established on October 26, 1981, pursuant to Section 707 of the Act of November 10, 1978, 92 Stat. 3529, 16 U.S.C., Section 1247 (22), amended section 16 of the Act of September 8, 1980, 94 Stat. 1137, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Missouri National Recreational River.

The members of the group are as follows:

Mr. Robert Martin (Chairperson), Mr. Earl Rowland, Mr. Darrel Curry, Mr. Allen Heine, Mr. James M. Peterson, Mr. Thomas R. Lamberson, Mr. Gerald Chaffin, Mr. John Varvel, Mr. Ronald W. Hoffman, Ms. Linda Yocum, Mr. Doug Hofer, Mr. Robert Roper, Mr. Merton Turner, Mr. Walter T. Doolittle, Mr. Doyle Hanson.

In addition, The U.S. Army Corps of Engineers, the National Park Service, and the U.S. Fish and Wildlife Service will be represented.

Matters to be discussed at the meeting will include issues related to the development and management of the Missouri National Recreational River and the role of the advisory group in administration of the river.

The meeting will be open to the public. Interested persons may submit written statements to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Robert P. Martin, Chief, Division of Recreation Resources, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, telephone (402) 221–3371 (FTS 864–3371). Minutes of the meeting will be available for public inspection at the Midwest Regional Office 4 weeks after the meeting.

Dated: August 2, 1982.

Jean Henderer,

Chief, Cooperative Activities Division, National Park Service.

[FR Doc. 82–21212 Filed 8–4–82; 8:45 am]

BILLING CODE 4310–70–M

National Park System Advisory Board; History Areas Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, as amended, that a meeting of the History Areas Committee of the National Park System Advisory Board will be held on August 30, 1982, commencing at 9 a.m. in Hearing Room No. 2, 1100 L Street NW., Washington, D.C.

The purpose of the Advisory Board is to advise the Secretary of the Interior on matters relating to the National Park System and the administration of the Historic Sites Act of 1935. At this meeting the History Areas Committee of the National Park System Advisory Board will meet to consider potential National Historic Landmarks as follows:

1. Louisiana State Capitol, Baton Rouge, Louisiana.
2. Shreveport Waterworks Pump Station, Shreveport, Louisiana.
3. Fort Hancock and Sandy Hook Proving Ground Historic District, Sandy Hook, New Jersey.
4. Pietro Botto House, Haledon, New Jersey.
5. Potomac Canal (Great Falls Park), Virginia.
6. Mary McLeod Bethune House (Council House), Washington, D.C.

The committee will also receive status reports on National Historic Landmarks Program, National Historic Landmarks approved at previous meetings; pending National Historic Landmark studies; World Heritage Convention; Presidential Sites Study; and a briefing on the Historic American Engineering Record.

The formal recommendations of the Committee will be made to the National Park System Advisory Board at its meeting on October 3–7, 1982, in Mesa Verde National Park, Colorado. No formal action of the Secretary of the Interior will be sought until after the Advisory Board has considered the recommendations of its History Areas Committee and acted thereon.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact, Mr. Benjamin Levy, History Division, National Park Service, Washington, D.C., at (202) 523–0089.

Minutes of the meeting will be available for public inspection 4 to 6 weeks after the meeting in room 4141, 1100 L Street NW., Washington, D.C.

Dated: August 2, 1982.

Jean Henderer,

Chief, Cooperative Activities Division, National Park Service.

[FR Doc. 82–21213 Filed 8–4–82; 8:45 am]

BILLING CODE 4310–70–M

Office of Surface Mining and Reclamation and Enforcement

[Federal Lease No. M–073109]

Proposed Rosebud Area C Mine, Rosebud County, Montana; Availability of Final Environmental Impact Statement

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

ACTION: Notice of availability of final environmental impact statement (OSM–EIS–8).

SUMMARY: Pursuant to 506.6 of Title 40, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining (OSM), Western Technical Center, has prepared a final environmental impact statement (EIS) on the proposed Rosebud Area C Mine, in cooperation with the Montana Department of State Lands. The EIS has been written to assist the Department in making a decision on Western Energy Company's application to surface mine about 24 million tons of coal over a period of 5 years. The proposed site is 5 miles west of the Town of Colstrip, and 30 miles south of Forsyth, Montana. The mine would encompass 3,104 acres of State, private and Federal land, of which 1,877 acres would be disturbed for mining, roads, and facilities. The coal produced from Area C would be used exclusively in Colstrip Generating Units 3 and 4, and would be transported by conveyor belt approximately 4½ miles from the mine site to the generating units.

Copies of the final EIS may be obtained from OSM or the Montana Department of State Lands (DSL) at the locations listed under **"ADDRESSES."** Copies are also available for public review at the locations given below. Because of the differences in the State and Federal time period before a decision can be made, OSM has requested that the Federal time period be reduced to 15 days from August 2, 1982, which was the date this EIS was mailed to the public, to coincide with the State time period.

ADDRESSES: Copies of the final EIS may be obtained from Walter Swain, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202; or Kit Walther, Department of State Lands EIS Team, Capitol Station, Helena, Montana 59620. Copies of the final EIS are available for public review at the following locations: OSM Area Office, 935 Pendell Blvd., Mills, Wyoming; The Rosebud County Library, Forsyth, Montana; and the Montana Department of State Lands, 1625 11th Avenue, Helena, Montana.

FOR FURTHER INFORMATION CONTACT: Walter Swain, Office of Surface Mining, Western Technical Center, 1020 15th Street, Denver, Colorado 80202 (telephone: 303/837–5656).

SUPPLEMENTARY INFORMATION: The EIS evaluates three alternative actions the Department could take on the mining and reclamation plan which has been submitted to OSM and the State of Montana. Those alternatives are approval, disapproval, and no action. OSM has identified as the preferred alternative the approval of the mine plan when found to be in compliance with the Federal Lands Program requirements of the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

OSM and the State of Montana have analyzed the impacts of the alternatives. The proposed Rosebud Area C Mine has been previously discussed in two EIS's: Colstrip Project, Units 3 and 4, Rosebud County, Montana EIS (July 1979) and the Powder River Regional Coal Leasing EIS (December 1980).

Dated: August 2, 1982.

J. Steven Griles,

Director.

[FR Doc. 82–21217 Filed 8–4–82; 8:45 am]

BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29976]

Burlington Northern Railroad Co., Trackage Rights, Chicago, Milwaukee, St. Paul, & Pacific Railroad Co.; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11343 the trackage rights agreement for Burlington Northern Railroad Company to operate over a 25.1-mile segment of the Chicago, Milwaukee, St. Paul, and Pacific Railroad Company track between Appleton and Ortonville, MN.

DATES: This exemption will be effective on September 7, 1982. Petitions to stay the effectiveness of this decision must be filed by August 16, 1982, and petitions for reconsideration must be filed by August 25, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representatives: Douglas J. Babb, 176 East Fifth Street, St. Paul, MN 55101.

Pleadings should refer to Finance Docket No. 29976.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Avenue, NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll-free for outside the DC area.

Decided: July 29, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Commissioner Simmons was absent and did not particiapte.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-21110 Filed 8-4-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-189)]

Norfolk & Western Railway Co. Exemption for Contract Tariff; ICC-NW-C-0018

AGENCY: Interstate Commerce Commission

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e) and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The petition requests exemption for a limited transportation movement over a limited period of time which will further the transportation policy of 49 U.S.C. 10101a and (1) is of limited scope, and (2) will not subject shippers to an abuse of market power. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following condition:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(g) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Decided: July 29, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison. Commissioner Simmons was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-21113 Filed 8-4-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 202)]

Seaboard Coast Line Railroad Co. Exemption for Contract Tariff ICC-SCL-C-0015

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e) and the above-noted contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Decided: July 29, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. 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. 82-21118 Filed 8-4-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388]

State Intrastate Rail Rate Authority

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Decision.

SUMMARY: The Commission has tentatively concluded that the Illinois Commerce Commission (Illinois) has met the requirements for certification under 49 U.S.C. 11501(b). The Commission will certify Illinois unless an interested person submits comments which show that Illinois should not be certified.

DATES: Comments shall be submitted by September 7, 1982. The deadlines for submissions from other States and for comments thereon is extended indefinitely.

ADDRESS: Send an original and, if possible, 15 copies of all documents to: Room 5340, Interstate Commerce Commission, Washington, DC 20423.

Copies of the complete decision, which includes the submission by the Illinois Commerce Commission as an appendix, are available by writing to Interstate Commerce Commission, Office of the Secretary, Room 2215, Washington, DC 20423 or by calling 202-275-7428.

CONTACT: William D. Galloway, (202) 275-7277; Martin Zell, (202) 275-7138.

SUPPLEMENTARY INFORMATION: Section 214 of the Staggers Rail Act of 1980, Pub. L. 96-448, requires the States to obtain certification of their standards and procedures for rate regulation in order to retain jurisdiction over intrastate railroad transportation.

Earlier this year [47 FR 5786, February 8, 1982], we extended provisional certification for 36 States to allow those States to submit revised standards and procedures. The original deadline of April 9, 1982, was subsequently extended to August 8, 1982 [47 FR 15423, April 9, 1982].

Several States have filed revised standards and procedures. In our decision, 365 I.C.C. 855 we tentatively found that the Illinois Commerce Commission (Illinois) has met the requirements for certification under 49 U.S.C. 11501(b); but, before certifying Illinois, we will provide interested persons an opportunity to show why we should not certify. We will continue provisional certification for Illinois until our final decision is reached after consideration of any comments. Also, the deadline for submission of revised standards and procedures by 35 other States seeking certification is extended indefinitely. We intend to require these submissions within 45 days after a final decision on the Illinois standards and procedures, with comments on other States submissions due 30 days later. Actual due dates will be set either in conjunction with a final decision on the Illinois plan or in such further notice as may be appropriate.

The States besides Illinois which submitted revised standards and procedures may supplement their filings at that time. Provisional certification will continue for those 35 States until a final decision on certification is reached for each State, unless a State fails to meet the filing deadline or notifies the Commission that it will not seek certification. A final determination on whether to certify each State will be made as soon after the close of the record as possible.

(49 U.S.C. 10321 and 11501)

Decided: July 28, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-21109 Filed 8-4-82; 8:45 am]

BILLING CODE 7035-01-M

Released Rate Application; Transconex, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice, Released Rate Application No. FF-455

SUMMARY: Transconex, Inc., a freight forwarder, seeks authority to publish rates on general commodities released to a value not exceeding $50.00 per shipment, unless a greater value is declared at time of shipment, subject to an additional charge of one percent of such declared value. This is to apply between Transconex's terminals located at inland points in Jacksonville and Miami, FL and points and places in Puerto Rico and the U.S. Virgin Islands.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. Allan F. Wohlstetter, Denning & Wohlstetter, Attorneys for Transconex, Inc., 1700 K Street, NW., Washington, D.C. 20006, Tel. (202) 833-8884.

FOR FURTHER INFORMATION CONTACT: Mr. Max Pieper, Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20523, Tel. (202) 275-0781.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 USC 10730.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-21108 Filed 8-4-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 11]

Motor Carriers; Applications, Alternate Route Deviations, and Intrastate Applications

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

New York Docket No. T-4315, filed July 6, 1982. Applicant: TUFFLEY & SON, INC., 365 Sixth North Street, Syracuse, NY 13208. Representative: Murray J. S. Kirshstein, Esq., 118 Bleecker Street, Utica, NY 13501. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General Commodities:* Between the Counties of Oswego, Tompkins, Chemung and Tioga. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T-4926, filed July 20, 1982. Applicant: SCHULTZ TRANSPORTATION LINES, INC., 102 Heath Street, Lockport, NY 14094. Representative: William J. Hirsch, Esq., 64 Niagara Street, Buffalo, NY 14202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Merchandise dealt in by grocery and food business houses, and materials, supplies and equipment used in the manufacture and distribution of said commodities, commodities in bulk; and general commodities between all points in Erie, Monroe, Niagara and Orleans Counties on the one hand, and, on the other, all points in the state, except the City of New York and the Counties of Columbia, Dutchess, Nassau, Putnam, Rensselaer, Rockland, Suffolk, Ulster, Washington and Westchester. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T-564, filed July 20, 1982. Applicant: BUFFALO VAN & STORAGE INC., 300 Woodward Ave., Buffalo, NY 14217. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows; Transportation of: *Household Goods:* Between all points in the State. Intrastate, interstate and foreign commerce authority sought, Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T-6846, filed July 23, 1982. Applicant: BOSSONG'S COMMERCIAL DELIVERY, INC., 6717 Pickard Drive, Syracuse, NY 13211. Representative: Herbert M. Canter, Esq. and Benjamin D. Levine, Esq., 305 Montgomery St., Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General Commodities, as defined in Section 800.1 of Title 17 of the Official Compilation of Codes, Rules and Regulations of the State of New York: Between Syracuse, NY, on the one hand, and on the other, all points in Cayuga, Cortland, Madison, Oneida, Onodaga, Oswego and Tompkins Counties, NY. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, Ny 122232, and should not be directed to the Interstate Commerce Commission.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-21106 Filed 8-4-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-79905. By decision of July 15, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Air Carrier Service Corporation of Norfolk, VA, of Certificate No. MC-153422 issued November 30, 1981, and MC-153422 (Sub-1) issued August 21, 1981, to CFE Air Cargo, Inc. of Norfolk, VA, authorizing: *General commodities* (except household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the US; and *hazardous materials* (except classes A and B explosives), between points in the U.S. Applicant's representative: P. R. Grant, 7460 Tidewater Drive, Norfolk, VA 23505; Phone (804) 480-2660.

Note.—TA lease is not sought. Transferee is not a carrier.

MC-FC-79926. By decision of July 21, 1982 issued under 49 U.S.C. 10924 and the transfer rules at 49 CFR 1133, Review Board Number 3 approved the transfer to Holiday Tour & Travel, Inc., of Atlanta, GA, of License No. MC-12821 (Sub-2) issued August 30, 1978, to Dan Dipert's Travel Service, Inc., of Arlington, TX, authorizing a broker service at Atlanta, GA, as follows: passengers and their baggage, in the same vehicle with passengers, in special or charter operations, between points in the United States. Applicant's representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, Phone: (709) 893-3050.

Note.—TA lease is not sought. Transferee is not a carrier.

MC-FC-79927. By decision of July 22, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Howard Bell, Jr., d/b/a Bell Ready Mix of Certificate No. MC-5227 (Sub-Nos. 5 and 51 and a portion of 87) issued to Eckley Trucking, Inc. authorizing the transportation of (1) *metal buildings, metal grain bins,* and *accessories and parts* for such commodities, from Galesburg, IL, and Kansas City, MO, to point in NE, (2) *iron and steel articles,* from St. Louis, MO to Muscatine, IA, and (3) *building materials, contractor's equipment, materials and supplies, metal products, and machinery,* between points in Saunders, Dakota, and Kimball Counties, NE, Cass, Hardin, Washington, Polk, Dallas, and Warren Counties, IA, Caddo and Bossier Parishes, LA, Otero, Morgan and Pueblo Counties, CO, Pima and Maricopa Counties, AZ, Tulsa, Osage, Creek, Oklahoma, Logan, Cleveland, Canadian, and Pottawatomie Counties, OK, Los Angeles, Orange, and Ventura Counties, CA, Cass, Jackson and Clay Counties, MO, Grant and Dickinson Counties, KS, Curry County, NM, and points in TX and IL, on the one hand, and, on the other, those points in the United States in and west of WI, IL, MO, AR, and LA (except AK and HI). Representatives: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309 and A. J. Swanson, Suite 210, The Van Brunt Building, 226 North Phillips Avenue, Sioux Falls, SD 57101-1103.

Note.—Transferee is a non-carrier.

MC-FC-79933. By decision of July 22, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to ACTIVE TRANSPORT CORPORATION of License No. MC-130906 issued to P. J. TRUCKING, INC. to engage in operations, in interstate or foreign commerce, as a *broker,* arranging for the transportation of general commodities (except household goods) between all points in the United States. Representative: Richard Knusta, P.O. Box 376, Summit, IL 60501.

Note.—Transferee is a non-carrier.

MC-FC-79934. By decision of July 22, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to SID AND TINA ROLLINGS, a partnership, d/b/a ROLLINGS TRUCKING of Certificate No. MC-5227 (Sub-No. 75) issued to ECKLEY TRUCKING, INC. authorizing the transportation of *conveyors, pumps, scaffolding, iron and steel articles, aluminum articles, rubber articles, hydraulic compounds, engines and containers, and materials, equipment and supplies* used in the manufacture of such commodities, between points in Yankton County, SD, on the one hand, and, on the other, points in the United States. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101-1103.

Note.—Transferee is a non-carrier.

MC-FC-79939. By decision of July 26, 82, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Risberg Truck Service, Inc., of Portland, OR, Permit No. MC-124621 (Sub-No. 5)X issued on May 13, 1981, to Clement Risberg, an individual, d/b/a Risberg Truck Service, of Portland, OR, authorizing the transportation of *general commodities* (with exeptions) over *irregular routes,* between points in the United States, under continuing contracts with (1) Fred Meyer, Inc., and

its subsidiaries and (2) Montgomery Ward and Company. Applicants' Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-21114 Filed 8-4-82; 8:45 am]

BILLING CODE 7035-01-M

Decision-Notice; Finance Applications

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. §§ 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: July 27, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

Agatha L. Mergencovich,

Secretary.

MC-F-14911, filed July 16, 1982. TRUCK ONE, INC. (Truck One) (P.O. Box 433, 12986 National Road SW, Reynoldsburg, OH 43068)—PURCHASE (PORTION)—LAKE SHORE MOTOR FREIGHT COMPANY (Lake Shore) (Richard Davis, Interim Trustee in Bankruptcy (Youngstown, OH) Representatives: John P. McMahon, 100 East Broad Street, Columbus, OH 43215; and A. David Millner, P.O. Box Y, Roseland, NJ 07068. Truck One seeks authority to acquire control of a portion of the interstate operating rights of Lake Shore. United Carriers Corporation, the sole stockholder of Truck One, also seeks authority to acquire control of said rights through the transaction. Truck One holds authority in MC-156327 and is affiliated with B & L Motor Freight, a common carrier under MC-123255. The authority to be purchased by Truck One is that portion of MC-13569 which authorizes the transportation of *general commodities* (with exceptions), over regular routes between Jefferson, OH, and Conneaut Lake PA: from Jefferson over OH Hwy 167 to Pierpont, OH, then over OH Hwy 7 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Conneaut Lake, and return over the same route, serving all intermediate points. Conditions: (1) H. E. LeFevre, the majority stockholder of United Carriers Corporation, must join in this application as a party in control of Transferee prior to issuance of the Effective Notice. (2) Applicants must submit copies of the court orders approving the sale prior to issuance of the Effective Notice.

Notes.—(1) TA has been filed. (2) Transferee states that it will tack the acquired regular-route authority with its existing irregular-route authority.

MC-F-14890. Filed July 1, 1982. Edward H. Brockhouse and Janis K. Brockhouse, doing business as Brockhouse Trucking (Brockhouse), a Partnership, (RR 2, P.O. Box 179, Lake Benton, MN 56149)—Purchase (Portion)—Eckley Trucking, Inc. (Eckley), (P.O. Box 156, Mead, NE 68041). Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. Brockhouse seeks authority to purchase a portion of the interstate operating rights of Eckley as contained in Certificate No. MC-5227 Subs 64F and 84, and Permit No. MC-5227 Sub 80F, authorizing the transportation of under the certificates: *lumber and wood products,* (1) from the facilities of Potlatch Corporation in Minnesota to points in AR, IL, IN, IA, KS, KY, LA, MI, MO, NE, NY, OH, OK, PA, TN, TX, WV, and WI, subject to a restriction, and (2) between points in WA, OR, WY, ID, CA, MT, and SD, on the one hand, and, on the other, points in NE, IA, and MN, and under the permit of: *general commodities,* except classes A and B explosives, between points in the U.S. under continuing contract with Edward Hines Lumber Co. of Chicago, IL. Brockhouse is authorized to operate as a motor common carrier under MC-157395. An application for temporary authority has been filed.

[FR Doc. 82-21115 Filed 8-4-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 284]

Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: July 29, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restrictiona removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 1293 (Sub-7)X, filed July 23, 1982. Applicant: EBEL TRANSFER, INC., P.O. Box A, Scribner, NE 68507. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114. Lead certificate: (1) broaden general commodities (with the usual exceptions) to "general commodities (except classes A and B explosives and household goods)" and packinghouse cracklings, unground, in bulk to "food and related products"; (2) change one-way regular routes to two-way authority and one-way irregular routes to radial authority; (3) allow service at all intermediate points (regular routes); (4) broaden off-route points (regular routes) to countrywide authority: Scribner, NE (Dodge County), Beemer and West Point, NE (Cuming County), and Council Bluffs, IA (Pottawattamie and Mills Counties, IA and Douglas and Sarpy Counties, NE; and (5) broaden named cities (irregular routes) to county-wide authority West point, NE (Cuming County) and Sioux City, IA (Plymouth and Woodbury Counties, IA, Dakota County, NE, and Union County, SD).

MC 60852 (Sub-5)X, filed July 22, 1982. Applicant: WARCO SERVICE, INC., P.O. Box 293, Dunellen, NJ 08812. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Lead and Sub 3 certificates: broaden (1) to "pulp, paper and related products, and printed matter" from magazines, periodicals, newspapers, newspaper supplements, circulars, leaflets, catalogs, advertising matter, printed matter, printed forms, and calendars, in the lead certificate, and from magazines, periodicals, paperback books and related advertisting matter, in Sub 3; (2) to countrywide authority: in the lead certificate, Montgomery, Philadelphia, Bucks, Chester and Delaware Counties, PA; Salem, Gloucester, Burlington, Camden, Mercer, Hunterdon and Monmounth Counties, NJ; and New Castle County, DE (from Trenton and Camden, NJ and Philadelphia, PA) and Sub 3, Somerset and Middlesex Counties, NJ (Dunellen) and Nassau, Suffolk, Rockland and Westchester Counties, NY (from Carle Place, Hauppauge, Spring Valley, and White Plains).

MC 123420 (Sub-6)X, filed July 26, 1982. Applicant: ALBERT L. DERBY, P.O. Box 56, Whitewood, SD 57793. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. Subs 2 and 5 permits: broaden (A) Sub 2, from pressure treated posts, poles and piling and other pressure treated wood products when transported in the same vehicle at the same time with the described posts, poles and piling to "lumber and wood products"; and (B) Subs 2 and 5, to "between all points in the U.S. (except AK and HI)", under continuing contract(s) with a named shipper.

MC 136844 (Sub-9)X, filed July 27, 1982. Applicant: HENRY BRISTOL, d.b.a. B & B TRANSPORT & LEASE, P.O. Box 877, Palatine, IL 60067. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Subs 1 and 2: (1) broaden materials, equipment and supplies used in the manufacturing of electrical devices and products (except commodities in bulk) to "electrical devices and products", Sub 2; and (2) remove the facilities limitation and broaden the territorial description to between points in the U.S. (except AK and HI), under continuing contract(s) with named shippers, Subs 1 and 2.

MC 138702 (Sub-1)X, filed July 23, 1982. Applicant: ECONOMY CARRIERS, LTD., 4086 Ogden Road SE., Calgary, Alberton, Canada, T2G 4P7. Representative: John T. Wirth, 717–17th St., Denver, CO 80202–3357. Lead: broaden (1) liquified petroleum gas, in bulk, in tank vehicles, to "petroleum, natural gas, and their products"; (2) to radial authority; (3) delete "originating in Alberta, Canada" restriction.

MC 141751 (Sub-6)X, filed July 19, 1982. applicant: M.P.C. TRUCKING, INC., Cold Stream Rd., Kimberton, PA 19442. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Lead and subs 1F, 2F and 3F permits (1) broaden the commodity description from roofing and coating materials and paint and materials, equipment and supplies used in the manufacture & distribution thereof, in all permits to "ores and minerals, coal and products, petroleum, natural gas and their products, chemicals and related products and clay, concrete, glass or stone products and materials, equipment, & supplies used in the manufacture & distribution thereof"; (2) broaden its territorial description in all permits to between points in the United States under continuing contracts with named shippers; and, (3) remove from its lead and sub 1 restrictions against commodities in bulk in tank vehicles and liquid commodities in bulk.

MC 149311 (Sub-2)X, filed July 23, 1982. Applicant: RADFORD TRANS, INC., Ocean Way, Norwood, MA 02062. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181. Lead permit, broaden to between points in the U.S. (except AK and HI) under continuing contract(s) with named shipper.

[FR Doc. 82–21117 Filed 8–4–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from

applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Fisher and Williams. Williams not participating.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP4-288

Decided: July 28, 1982.

MC 76266 (Sub-153), filed July 21, 1982. Applicant: ADMIRAL MERCHANTS MOTOR FREIGHT, INC., 215 S 11th St., Minneapolis, MN 55403. Representative: Robert P. Sack, P.O. Box 21-307, Eagan, MN 55121, (612) 452-8770. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 145676 (Sub-8), filed July 23, 1982. Applicant: JOHN BREITWEISER TRUCKING, INC., P.O. Box 217, Jerseyville, IL 62022. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544-5468. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Mid-Continent Bottlers, a division of Universal Food Corporation, of Des Moines, IA.

MC 163057, filed July 21, 1982. Applicant: CONSIGNMENTS UNLIMITED, INC., 5719 South Cedar Ave., Fresno, CA 93725. Representative: Sandra Shepherd (same address as applicant), (209) 237-5334. Transporting *chemicals and related products*, and *commodities in bulk*, between points in CA, OR, WA, NV, UT, and AZ.

MC 163066, filed July 21, 1982. Applicant: DURHAM STAGE LINES, INC., 9080 Telstar, Suite 327, Del Monte, CA 91731. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., NE., Suite 520, Atlanta, GA 30326, (404) 262-7855. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, beginning and ending at points in CA, and extending to points in the U.S. (except HI).

MC 163086, filed July 23, 1982. Applicant: CONTRACT CARGO, INC., P.O. Box 430, Stephens City, VA 22655. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785-0024. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Certified Brokerage Services, Inc., of Hagerstown, MD.

MC 161326, filed July 22, 1982. Applicant: KELLEY'S TRANSPORTATION, INC., 8801 S.E. 29th St., Oklahoma City, OK 73110. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424-3301. Transportinging *mobile homes and modular housing*, between points in Harvey, Reno and Russell Counties, KS, on the one hand, and, on the other, points in OK.

MC 161366, filed July 16, 1982. Applicant: CAROL LINES, INC., 5011 Miriam Rd., Philadelphia, PA 19124. Representative: Robert J. Brooks, 1828 L St., NW, Suite 1111, Washington, DC 20036, (202) 466-3892.Transportinging *passengers and their baggage*, in special and charter operation, between points in the U.S.

MC 162776 (Sub-1), filed July 22, 1982. Applicant: DMi TRUCKING, INC., State Rd. 64, P.O. Box 129, Huntingburg, IN 47542. Representative: Edward G. Bazelon, 29 South La Salle St., Chicago, IL 60603, (312) 236-9375. Transportinging *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Fitts Industries, Inc., of Tuscaloosa, AL, Winona Industries, Inc., of Winona, MN, Harmeson Manufacturing Co., Inc., and its subsidiary, Joseph's Inc., both of Frankfort, IN, and Jiffy Packaging Corporation, and its subsidiaries, Valley Paper Mills and Exton Paper Mills, all of Murray Hill, NJ.

Volume No. OP4-289

Decided: July 28, 1982.

MC 39507 (Sub-7), filed July 23, 1982. Applicant: PAWTUXET VALLEY MOTOR EXPRESS, INC., 303 Jefferson Blvd., Warwick, RI 28888. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washignton, DC 20036, (202) 296-2900. Transportinging *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). Conditions: (a) The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team Four, Room 2410, and (b) issuance of a certificate in this proceeding is subject to prior or coincidental

cancellation, at applicant's written request, of Certificate of Registration No. MC 39507.

MC 112107 (Sub-19), filed July 20, 1982. Applicant: NEW ENGLAND MOTOR FREIGHT, INC., 454 Main Ave., Wallington, NJ 07057. Representative: Gerald K. Gimmel, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Baltimore, MD, and Pittsburgh, PA, on the one hand, and, on the other, points in VA and WV.

MC 120737 (Sub-102), filed July 23, 1982. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602 (312) 236–5944. Transporting *metal products*, between points in the U.S. (except AK and HI).

MC 128577 (Sub-7), filed July 23, 1982. Applicant: CLYDE'S CHARTER BUS SERVICE, INC., 301 Furnace Branch Rd., E, Glen Burnie, MD 21061. Representative: Jeremy Kahn, 1511 K St., NW, Suite 733, Washington, DC 20005, (202) 783–3525. Transporting *passengers and their baggage, in the same vehicle with passengers*, in round trip charter and special operations, beginning and ending in Washington, DC, points in Prince Georges and Montgomery Counties, MD, points in Anne Arundel County, MD, south of US Hwy 50, and points in Howard County, MD (except those in the Baltimore, MD commercial zone), and extending to points in the U.S. (except HI).

MC 161247, filed July 23, 1982. Applicant: BATBAL D. ZARKOFF, d.b.a. BDZ AUTO TRANSPORT, 225 Santa Monica Blvd., Santa Monica, CA 90401. Representative: Floyd L. Farano, 2555 E Chapman Ave., Suite 415, Fullerton, CA 92631, (714) 773–4111. Transporting *automobiles*, between points in CA, AZ, and NV, on the one hand, and, on the other, points in OH, MO, TX, IL, IN, MI, PA, MD, VA, NJ, NY, and DC.

MC 163087, filed July 23, 1982. Applicant: ATLAS TOURS, 2614 W 2nd Lane, Russellville, AR 72801. Representative: Helen Harber (same address as applicant) (501) 968–2711. As a *broker*, at Russellville, AR, arranging for the transportation of *passengers and their baggage*, between points in AR, on the one hand, and on the other, points in the U.S. (except AK and HI).

[FR Doc. 82-21116 Filed 8-4-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

National Institute of Justice

Solicitation; Graduate Research Fellowship Program

The National Institute of Justice announces a competitive Graduate Research Fellowship Program to provide a limited number of Fellowships which will be awarded to doctoral candidates, through sponsoring institutions, to support students engaged in the research and writing of a doctoral dissertation in the area of criminal justice. Applicants must have completed all degree requirements except for research, writing and defense of the dissertation prior to awarding of the grant.

There will be two cycles of the Graduate Research Fellowship program during Fiscal Year 1983. Submissions postmarked on or before November 1, 1982 will be considered submissions to the first cycle, and those postmarked after November 1, 1982 and before March 2, 1983 will be considered submissions to the second cycle. A number of grants will be awarded. The maximum award for each grant is $11,000, which provides a stipend for the student, allowance for dependents, major project costs and certain university fees.

Additional information and copies of the announcement may be obtained by sending a self-addressed mailing label to: Solicitation—Graduate Research Fellowship Program, National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Dated: July 28, 1982.

W. Robert Burkhart,

Acting Director, National Institute of Justice.

[FR Doc. 82-21185 Filed 8-4-82; 8:45 am]

BILLING CODE 4410-18-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence; Pressure Transients During Shutdown at a Nuclear Power Plant

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incidents were determined to be an abnormal occurrence using the criteria published in the **Federal Register** on February 24, 1977 (42 FR 10950).

Example I.D.4 ("For All Licensees") in Appendix A notes that recurring incidents which create a major safety concern can be considered an abnormal occurrence. The following description of the incidents also contains the remedial actions taken.

Date and Place—The licensee, Florida Power and Light Company, reported that on November 28 and 29, 1981, two reactor coolant system pressure transients occurred while the Turkey Point Unit 4 was shutdown. Unit 4 is a Westinghouse designed pressurized water reactor facility located in Dade County, Florida.

Nature and Probable Consequences—In 1976, the NRC noted an increasing number of incidents called "pressure transients" that were occurring in pressurized water reactors.[1] The term "pressure transients," as used here, refers to incidents where the temperature-pressure limits of the reactor vessel, (included in the facilities' Technical Specifications) were exceeded. The majority of the incidents occurred during startup or shutdown operation when the reactor coolant system was at low temperature. About 30 incidents had occurred; eight occurred in 1976. Concern existed for the possibility of a reactor vessel failing by the brittle fracture mechanism as a consequence of a pressure transient at near ambient temperature (near 100° F.), once the reactor vessel material has experienced a reduction in fracture toughness (an upward shift in the nil-ductility transition temperature) due to irradiation effects which gradually accumulate over an extended period of time. In order for a reactor vessel to fail, in addition to the low temperature, high pressure and loss of fracture toughness conditions, it must also have a critical-sized flaw at a high stress location in the embrittled area, i.e., that part of the cylindrical shell of the reactor vessel directly opposite the core (the belt line area). In 1976 many reactor vessels had not yet experienced a significant reduction in fracture toughness and conservatism existed in reactor vessel design and fabrication control to preclude sizeable flaws. However, because of the potential safety significance of such incidents occurring when the reactor vessels became more embrittled, the NRC requested the licensees to upgrade administrative controls in the near term to reduce the likelihood of future pressure transients

[1] NUREG–0138. Staff discussion of Fifteen Technical Issues Listed in Attachment to November 3, 1976 Memorandum from Director, NRR to NRR Staff. Office of Nuclear Reactor Regulation (Program Support). Dec. 1976.

and to install design modifications by the end of 1977 [2] to further reduce their likelihood of occurrence and mitigate their consequences.

The pressure transients, described below, that occurred at Turkey Point Unit 4 exceeded by a factor of two the temperature-pressure limits stated in the Technical Specifications which are based on Appendix G of 10 CFR Part 50 (which relates to Section III of the ASME Boiler and Pressure Vessel Code). Fracture mechanics analysis indicated, however, that there was no significant impairment of the reactor vessel integrity. Concerns existed because Turkey Point Unit 4 has a reactor vessel with sufficient radiation exposure to reduce the fracture toughness of the reactor vessel at low temperatures, and the pressure transients had the potential for brittle fracture of the reactor vessel if significant flaws were present and the transients had not been promptly terminated by operator action. These transients highlight the importance of properly operating overpressure mitigation systems to reduce the potential for brittle fracture of the reactor vessel. Though the frequency of pressure transients has decreased, the possibility of affecting a reactor vessel's integrity remains as a safety concern. Any event which impacts on the integrity of the reactor vessel is a significant safety matter and would likely require significant actions such as an in-service-inspection prior to further operation with additional surveillance, repair, and annealing of the vessel, as necessary.

[2] NUREG–0090–5, "Report to Congress on Abnormal Occurrences: July–September 1976," published March 1977.

Conditions Prior to the Pressure Transients

The reactor was shut down and preparations were underway to restart from a refueling outage. The plant operators were performing OP 0202.1—Reactor Startup—Cold Condition to Hot Shutdown Conditions. The Reactor Coolant System (RCS) had been filled solid with water. The letdown path was via the Residual Heat Removal (RHR) system suction valves MOV–4–750 and 751, which close at 465 psig to prevent overpressurizing the RHR system. The RHR system was cross-connected to the letdown portion of the Chemical and Volume Control System (CVCS) downstream of the RHR heat exchangers at valve HCV–4–142. Letdown flow control to the Volume Control Tank and consequently, RCS pressure, was controlled by pressure control valve PCV–4–145 in the letdown portion of the CVCS. One of three positive displacement charging pumps was in operation providing both makeup into the RCS and Reactor Coolant Pump seal injection flow. RCS temperature was about 110° F. and pressure was about 340 psig.

With the plant alignment described above, any flow blockage in the letdown path would cause an immediate increase in RCS pressure because the charging pump would be charging into a water solid system. Overpressure mitigating devices installed include an alarm at 400 psig warning of impending overpressure mitigating system (OMS) protective action and two independent OMS channels designed to both alarm and operate power operated relief valves (PORVs) on the pressurizer at 415 psig (at low temperature) and prevent an unacceptable pressure excursion. Figure 1 shows a schematic of the Turkey Point Unit 4 pressure control system, together with a schematic of the overpressure mitigating system.

BILLING CODE 7590–01–M

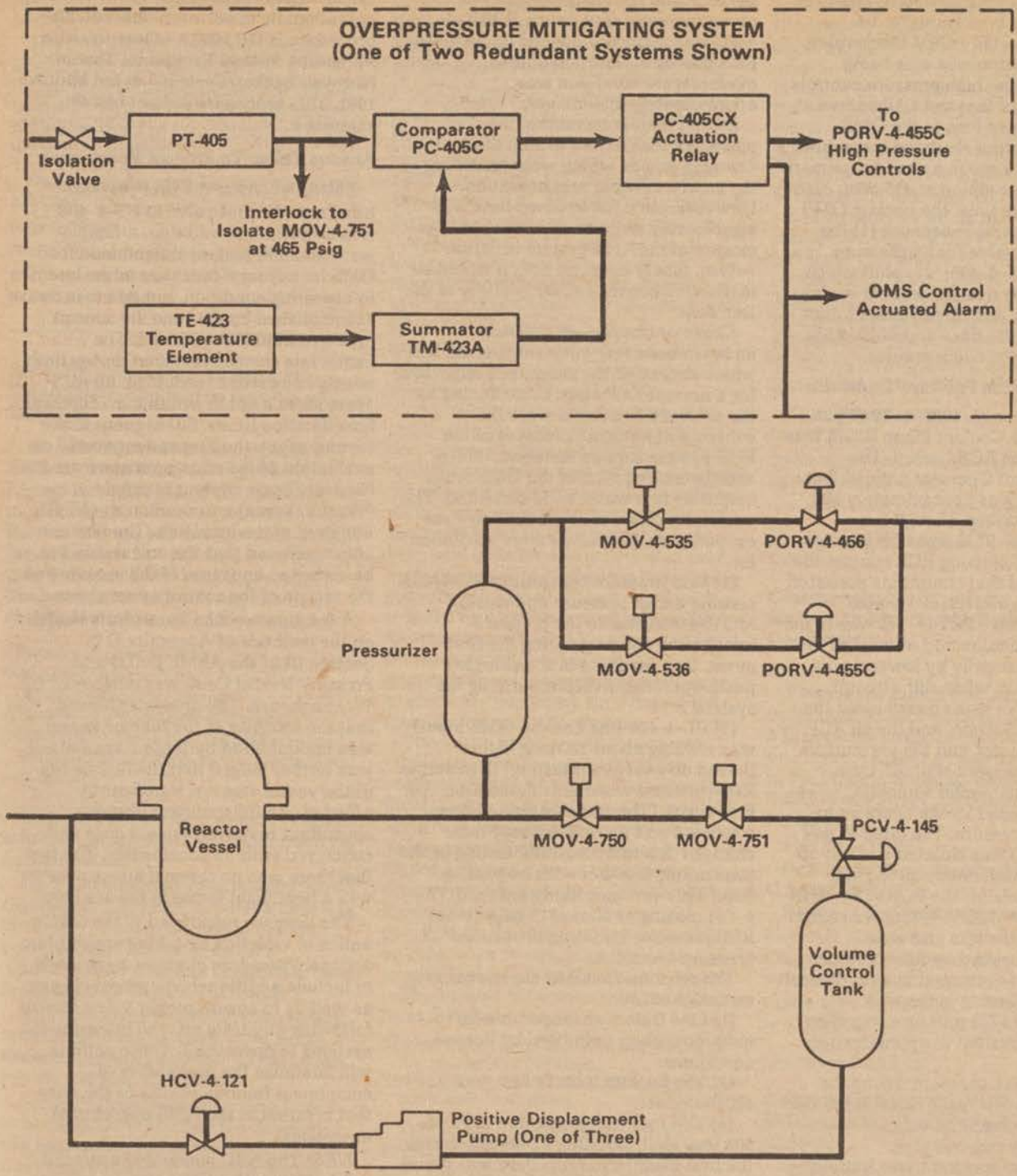

Figure 1. Turkey Point Unit 4 - Schematic of Pressure Control System

BILLING CODE 7590-01-C

At the time of the incidents, however, one OMS train was known to be inoperable, i.e., the PORV block valve was shut. Maintenance was being conducted on the high pressure controls for the PORV of that train. Unknown at the time, a blown fuse in the OMS comparator output rendered inoperable the alarm that signals a need for primary OMS protective action at 415 psig. Also unknown at the time, the backup OMS train was inoperable because (1) the root isolation valve for its pressure transmitter, PT–4–405, was shut which rendered the system inoperable during the first event, and (2) the temperature summator for the train had failed high rendering the train inoperable.

Description of the Pressure Transients

On November 28, 1981, at 10:55 p.m., the 4B Reactor Coolant Pump (RCP) was started to begin RCS heatup. The Reactor Control Operator noticed that RCS pressure was approximately 500 psig and increasing. Though it is common for the RCS pressure to surge momentarily following RCP startup, the operator noted that conditions persisted and were thus abnormal. He also noticed that valve PCV–4–145 was in the fully closed position and attempted to open it automatically by lowering the control setpoint. when this attempt failed, the valve was opened using the manual control mode, and the 4B RCP, 4A charging pump, and the pressurizer control heaters were shut off. One Power Operated Relief Valve (PORV–4–455C) was opened by the operator to reduce RCS pressure. The other PORV (PORV–4–456) was isolated and out-of-service for maintenance on the high pressure contols for the PORV. An RHR isolation valve (MOV–4–750) was found in the closed position and was immediately opened by the operator. PCV–4–145 was returned to auto-control and the 4A charging pump was restarted. The RCS pressure was then maintained constant at approximately 335 psig.

The RCS peak pressure during the transient was 1100 psig. Duration of the overpressure condition was approximately two minutes.

The pressure transient was initially diagnosed as initiating from misoperation of valve PCV–4–145. The root isolation valve for PT–4–405 was also found closed which made the backup OMS train inoperable. The root isolation valve was opened; valve PCV–4–145 was returned to auto-control and RCS pressure was maintained constant.

On November 29, 1981, at 12:55 a.m. the 4B RCP was restarted. An overpressure condition recurred with peak pressure reaching 750 psig. Again the RCP and the charging pump in operation were shut down. PORV–4–455C was manually opened to decrease RCS pressure. Duration of the overpressure condition was approximately one minute.

During both occurrences, the operators took action to stop the charging pumps which were providing the source of rapid pressurization. However, once the letdown flow was significantly reduced or terminated by closure of the RHR system isolation valves, timely operator action would be ineffective because of the rapidity of the transient.

Cause or Causes—A pressure increase occurred when starting the RCP which exceeded the magnitude expected for a normal RCP start. Contributing to the pressure transients were the subsequent automatic closure of the RHR system suction isolation valves and the malfunction of the OMS while operating in a water solid condition. The automatic closures of the RHR system suction isolation valves were attributed to:

(1) RCS pressure transmitter PT–4–403 sensing a high pressure and closing MOV–4–750, due to the pressure interlock at 465 psig during the first event, thus resulting in the charging pump operation overpressurizing the system.

(2) PT–4–405 (the backup OMS input) was reading about 130 psig higher (based on post event testing) than actual RCS pressure when unisolated after the first event. (The transmitter had been relocated and its setpoint may have changed due to hydrostatic testing of the transmitter together with its sensing line.) This variance likely led to MOV–4–751 closing at about 375 psig actual RCS pressure, initiating the second pressure transient.

The reasons the OMS did not operate as designed are:

(1) One train was inoperable for maintenance as permitted by license conditions.

(2) The backup train failure was attributed to:

(a) The root isolation valve to PT–4–405 was shut, isolating PT–4–405, during the first event. (No procedure was found that aligns RCS instrumentation root valves prior to RCS fill.)

(b) In addition, during both events, the backup OMS temperature summator, which generates the "pressure set point" to which loop pressure is compared to generate the OMS actuation signal, had failed high—about 2335 psig—also rendering the backup OMS inoperable. This condition was unknown because of an inadequate surveillance procedure used to satisfy the technical specification requirement to operationally check each channel. The procedure is OP 1004.4—Overpressure Mitigating System Functional Test of Nitrogen Backup System—dated May 7, 1981. This procedure did not test the summator.

Actions Taken To Prevent Recurrence

Licensee—After the first pressure transient, the root valve to PT–4–405 was reopened. In addition, attempts were made to release the redundant OMS loop from clearance and restore it to operating condition, but this was not accomplished by the time the second pressure transient occurred. The immediate corrective action during both events consisted of reducing the RCS pressure to a value within the Technical Specification limits. Subsequent to the second event, the licensee requested an evaluation of the consequences from the Nuclear Steam System Supplier (Westinghouse) and notified the NRC's Region II of the incidents. The licensee also confirmed that the unit would not be restarted until the NRC has reviewed the results of the requested analyses.

A fracture mechanics analysis based on the methods of Appendix G to Section III of the ASME Boiler and Pressure Vessel Code was performed by Westinghouse. The analysis showed that the integrity of the reactor vessel was not impaired by these transients. It was further judged that the fatigue life of the vessel was not significantly affected. An independent licensee consultant reviewed the analysis and concurred with its conclusions. The fact that there was no thermal stress present was a beneficial factor in the analysis.

The licensee responded to the NRC's notice of violation by taking appropriate actions. Procedure changes were made to include additional equipment checks as well as to ensure proper valve line up following any tests prior to releasing the systems to operations. These actions will minimize the probability of component failures similar to the ones that resulted in the OMS operational anomalies.

NRC: The NRC conducted a special safety inspection of the circumstances related to these events. The NRC's Region II reviewed the analysis of the consequences of the events prior to the unit returning to operation. The licensee was cited with a notice of violation for (1) having an inadequate functional testing procedure for the OMS in that the summator circuitry was not tested and (2) not including an alignment check of the instrumentation root valves in station procedures for reactor coolant

system fill after refueling or plant startup.

NRC Inspection and Enforcement Information Notice No. 82–17 ("Overpressurization of Reactor Coolant System") was issued to other licensees informing them of these events and their potential significance.

Dated at Washington, D.C. this 30th day of July 1982.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 82–21199 Filed 8–4–82; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Addition to Agenda of Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), a meeting of the Advisory Committee on Reactor Safeguards has been scheduled for August 12–14, 1982, in Room 1046, 1717 H Street, NW., Washington, D.C. The agenda for this meeting has been changed by adding the following item:

Thursday, August 12, 1982

6:30 p.m.–7:00 p.m.: Foreign Light-Water Reactor Licensing Practices (Closed)—The Committee will discuss information concerning the practices used in regulation of foreign light-water nuclear reactors.

This session will be closed to discuss information provided in confidence by a foreign source.

I have determined, in accordance with Subsection 10(d) Pub. L. 92–463, that it is necessary to close the portion of the meeting noted above to discuss information provided in confidence by a foreign source (5 U.S.C. 552b(c)(4)).

All other items regarding this meeting remain the same as announced in the **Federal Register** published Wednesday, July 28, 1982 (47 FR 32668).

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 can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 a.m. and 5:00 p.m., EDT.

Dated: July 30, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–21200 Filed 8–4–82; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Clinch River Breeder Reactor, Working Group on Structures and Materials; Meeting

The ACRS Subcommittee on Clinch River Breeder Reactor (CRBR) working Group on Structures and Materials will hold a meeting on August 18 and 19, 1982. Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will discuss elevated temperature design, "leak before break" criteria, overall leakages, leak detection, inservice inspection, steam generator design, testing and analysis, overall structural integrity of transition joints, containment buckling analysis, and compartment analysis. Notice of this meeting was published July 20.

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 embers of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the cognizant 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 except for those sessions during which the Subcommittee finds it necessary to discuss proprietary, industrial security and/or Unclassified Safeguards information. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemptions 3 and 4.) To the extent practicable, these closed sessions will be held as as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, August 18, 1982—8:30 a.m. until the conclusion of business

Thursday, August 19, 1982—9:30 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, may exchange prelimnary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and told discussion will representatives of the Department of Energy, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed , whether the meeting has 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 prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber or the Staff Engineer, Mr. Anthony Cappucci (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary, industrial security and/or Unclassified Safeguards information. The authority for such closure is Exemption (3) and (4) to the Sunshine Act, 5 U.S.C. 552b(c)(3),(4)./

Dated: July 30, 1982.

John C. Hoyle,

[FR Doc. 82–21021 Filed 8–4–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. STN 50–454 OL and STN 50–455 OL]

Commonwealth Edison Co. (Byron Station, Units 1 and 2); Prehearing Conference

August 2, 1982.

Please take notice that pursuant to the order in this proceeding on July 26, 1982, a prehearing conference will commence on August 18, 1982 at 9:00 a.m. local time in the Federal Building, Room 260, 211 South Court Street, Rockford, Illinois 61101.

It is so Ordered.

Dated at Bethesda, Maryland this 2nd day of August 1982.

For the Atomic Safety and Licensing Board.

Morton B. Margulies,

Chairman, Administrative Judge.

[FR Doc. 82–21202 Filed 8–4–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–295]

Commonwealth Edison Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 75 to Facility Operating License No. DPR–39, issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of Zion Station, Unit 1 (the facility) located in Zion, Illinois. The Amendment was was effective on June 26, 1982.

The amendment provides a one-time change to the Technical Specifications to allow one safety injection pump to be

inoperable while the power level will not exceed 5% of rated power level. The amendment was authorized on an expedited basis to maintain the plant at steady-state condition and avoid a shutdown transient shown by our evaluation to be unnecessary but required by the Technical Specifications unless amended.

The request 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 this 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) an environmental impact statement or negatiave 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 request for amendment dated June 25, 1982 as supplemented by letter of the same date, (2) the Commission's letter dated June 28, 1982, (3) Amendment No. 75 to License No. DPR–39, 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, N.W., Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of items (2), (3) and (4) 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 30th of July 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82–21193 Filed 8–4–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–329 and 50–330]

Consumers Power Co.; Availability of Final Environmental Statement for the Midland Plant, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement (NUREG–0537) prepared by the Commission's Office of Nuclear Reactor Regulation, related to the proposed operation of the Midland Plant, Units 1 and 2, to be located in Midland County, Michigan, is available for inspection by the public in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and in the Grace Dow Memorial Library, 1710 W. St. Andrews Road, Midland, Michigan. The Final Environmental Statement is also being made available at the Office of Intergovernmental Relations, Department of Management and Budget, Lewis Cass Building, Lansing, Michigan 48909 and at the East Central Michigan Planning and Development Region, 500 Federal Avenue, P.O. Box 930, Saginaw, Michigan 48606.

The notice of availability of the Draft Environmental Statement for the Midland Plant, Units 1 and 2, and request for comments from interested persons was published in the Federal Register on February 18, 1982 (47 FR 7351). The comments received from Federal, State, and local agencies, and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies may be purchased for $10. directly from NRC by sending check or money order, payable to Superintendent of Documents, to Director, Division of Technical Information and Document Control, U.S. NRC, Washington D.C. 20555. GPO Deposit Account Holders may charge their orders by calling (301) 492–9530. Copies are also available for purchase through the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 30th day of July 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82–21192 Filed 8–4–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–335]

Florida Power and Light Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 51 to Facility Operating License No. DPR–67, issue to Florida Power and Light Company, which revised Technical Specifications for operation of the St. Lucie Plant, Unit No. 1 (the facility), located in St. Lucie County, Florida. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to increase the minimum shift crew composition in response to NUREG–0737 Item I.A.1.3.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 28, 1982, (2) Amendment No. 51 to License No. DPR–67, and (3) the Commission's letter dated July 29, 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 Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. 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 29th day of July, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82–21194 Filed 8–4–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–278]

Philadelphia Electric Co., et al.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 85 to Facility Operating License No. DPR–56, issued to Philadelphia Electric Company, Public

Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications (TSs) for operation of the Peach Bottom Atomic Power Station, Unit No. 3 (the facility) located in York County, Pennsylvania. The amendment is effective as of its date of issuance.

The changes to the TSs amend the minimum critical power ratios during mid-Cycle 5 operation of Peach Bottom Unit No. 3. These changes are needed to correct a recently discovered input error to the ODYN transient computer code.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) that an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 6, 1982, as supplemented July 22, 1982, (2) Amendment No. 85 to License No. DPR-56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and the at Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. 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 29th day of July 1982.

For the Nuclear Regulatory Commission.

Sydney Miner,

Acting Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-21195 Filed 8-4-82; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postualted accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 5.63, "Physical Protection for Transient Shipments," describes measures acceptable to the NRC staff that can be taken by the licensee to provide the physical protection required by 10 CFR Part 70 for scheduled and unscheduled transient shipments of strategic special nuclear material.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Md. this 30th day of July 1982.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 82-21198 Filed 8-4-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-361]

Southern California Edison Co., et al.; Issuance of Amendment Facility, Operating License No. NPF-10

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. NPF-10, issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (licensees) for the San Onofre Nuclear Generating Station, Unit 2 (the facility) located in San Diego County, California. This amendment is effective as of the date of issuance.

Amendment No. 5 changes the date for completion of modifications to the control room ventilation system from August 1, 1982 to November 1, 1982, and also changes the associated Technical Specifications.

Issuance of this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Southern California Edison Company's letter dated July 9, 1982, (2) Amendment No. 5 to Facility Operating License No. NPF-10, and (3) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 02672. 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 30th day of July, 1982.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 82-21196 Filed 8-4-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

The Toledo Edison Co. and Cleveland Electric Illuminating Co; Issuance of Amendment to Facility Operating License No.

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 45 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised Technical Specifications (TSs) for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment modifies the TSs to permit operation for a third cycle. This cycle has a design length of 230 Effective Full Power Days (EFPD), however, the TSs provide flexibility to permit an extension of cycle length to 268 ± 10 EFPD. The modified TSs also incorporate revised Reactor Protection System instrumentation trip setpoints, allowable values, and Reactor Protection System instrument response times.

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 Commissions's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 5, 1982, as revised and supplemented March 23, 1982, June 1, 1982, and June 21, 1982, (2) Amendment No. 45 to License No. NPF-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC, and at the William Carlson Library, University of Toledo, 2801 Bancroft Avenue, Toledo, Ohio. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of July 1982.

For the Nuclear Regulatory Commission.

Sydney Miner,

Acting Branch Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-21197 Filed 8-4-82; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Scientific and Statistical Advisory Committee, Forecasting Subcommittee; Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Forecasting Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Thursday, August 26, 1982. 9:00 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTRACT: Ms. Annette Frahm, (503) 222-5161.

SUPPLEMENTARY INFORMATION:

—CSI presentation
—Economic/demographic assumptions
—Double-counting

Edward Sheets,

Executive Director.

[FR Doc. 82-21133 Filed 8-4-82; 8:45 am]

BILLING CODE 0000-00-M

PEACE CORPS

Notification of Proposed Extension of Form

AGENCY: Peace Corps.

ACTION: Notification of proposed extension of form.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), the Peace Corps has submitted to the Office of Management and Budget a request to extend the Peace Corps form "HOTLINE Employer Follow-up Questionnaire" (O.M.B. #0420-0003) until September, 1985. The O.M.B. approval and identification number for the HOTLINE Employer Follow-up Questionnaire expires 09/82.

The HOTLINE Employer Follow-up Questionnaire is sent to employers who have placed announcements in HOTLINE, a job opportunities bulletin sent to returned Peace Corps Volunteers. It is used to collect data on numbers of returned Volunteers who applied, were interviewed and/or hired. A copy of the form may be obtained from Mr. Edward Carey, Management Analyst, Peace Corps, Office of Planning, Assessment, and Management Information.

Information about the proposed collection:

Agency Address: Peace Corps, 806 Connecticut Avenue NW., Washington, DC 20526.

Title of Form: HOTLINE Employer Follow-up Questionnaire.

Type of Request: Extension.

Frequency of Collection: Every 10 days.

General Description of Respondents: Empoyers who have advertised in HOTLINE.

Estimated Number of Responses: 1,080.

Estimated Hours for Respondents to Complete Form: 216. (It takes 12 minutes to complete each form.)

Respondents Obligation to Comply: Voluntary.

Comments: Comments on this proposal should be directed to Mr. Edward Carey, Management Analyst, Peace Corps, Office of Planning, Assessment, and Management Information, at (202) 254-7528. Comments should be received on or before August 12, 1982, 1982. This is not a proposal to which 44 USC-3504(h) applies.

This notice is issued in Washington, DC, on July 30, 1982.

Robert T. Spencer, Jr,

Acting Associate Director for Management.

[FR Doc. 82-21101 Filed 8-4-82; 8:45 am]

BILLING CODE 6051-01-M

SMALL BUSINESS ADMINISTRATION

Region VI Advisory Council; Public Meeting

The Small Business Administration, Region VI Oklahoma Advisory Council, located in the geographical area of Oklahoma City, Oklahoma, will hold a public meeting on Monday, August 9, 1982, at 1:00 p.m. in the Alfred P. Murrah Federal Building, Room 911, 200 N.W. 5th Street, Oklahoma City, Oklahoma to

discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write, or call Robert K. Ball, District Director, U.S. Small Business Administration, 200 N.W. 5th Street, Oklahoma City, Oklahoma 73102 FTS 736–5237.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

July 30, 1982.

[FR Doc. 82–21048 Filed 8–4–82; 8:45 am]

BILLING CODE 8025–01–M

Region V Advisory Council; Public Meeting

The Small Business Administration, Region V Cleveland District Advisory Council, located in the geographical area of Cleveland, Ohio, will hold a public meeting on August 30, 1982, at 9 a.m. in the AJC Federal Building, Room 317, 1240 East Ninth Street, Cleveland, Ohio, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write, or call S. Charles Hemming, District Director, U.S. Small Business Administration, 1240 East Ninth Street, Cleveland, Ohio 44199, 216–293–4182.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

July 30, 1982.

[FR Doc. 82–21049 Filed 8–4–82; 8:45 am]

BILLING CODE 8025–01–M

Region II Advisory Council; Public Meeting

The Small Business Administration, Region II Newark Advisory Council, located in the geographical area of Newark, New Jersey, will hold a public meeting at 9:30 a.m. on Thursday, August 26, 1982, at the Ramada Inn, 36 Valley Road, Clark, New Jersey 07066, to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending. For further information, write or call Andrew P. Lynch, District Director, U.S. Small Business Administration, 970 Broad Street, Newark, New Jersey 07102, 201–645–3580.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

July 29, 1982.

[FR Doc. 82–21050 Filed 8–4–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD82–078]

Study of Short Range Aids To Navigation Program of United States Coast Guard

Summary: The House Committee on Appropriations in Report No. 96–1193 in the Department of Transportation and Related Agencies Appropriation Bill, 1981, directed that a Roles and Missions Study for the U.S. Coast Guard be conducted. The results of that study were reported back to the House Committee in March 1982. As part of the study, the Short Range Aids to Navigation (SRA) program was examined as to the Federal role, performance alternatives, and future program trends. The principal recommendation was that the Coast Guard retain responsibility for the SRA system to include standards setting, regulation, enforcement, international liaison, research and development and performance evaluation. It also recommended that the Coast Guard assess the capability of the private sector to provide maintain, and service short range aids to determine if areas exist in which contracted services are more advantageous to the government.

Study Outline and Purposes: The objectives of the study will be to: (a) Identify relevant factors and performance measures for defining SRA system effectiveness; (b) identify alternative techniques for determining the number of buoy tenders required to service the SRA system; (c) assess the overall number, type and mix of short range aids considering overall program trends, user demands, and technological advancements which will ensure that the present level of SRA effectiveness will be retained; (d) determine the feasibility and the costs and benefits of contracting or civilianizing all or part of the aids to navigation program; (e) identify and evaluate means for increasing buoy tender and personnel utilization.

Comments: Anyone wishing to make substantive comments on the nature, scope and appropriateness of the Coast Guard's SRA study should forward them to: Navigation Liaison and Coordination Staff, U.S. Coast Guard Headquarters (G–NP), Room 1422, 2100 2nd St., SW., Washington, D.C. 20593.

For Further Information Contact: Commander H. L. Bonnet, USCG, at the above address or (202) 426–1965.

Dated: July 30, 1982.

R. A. Bauman,

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

[FR Doc. 82–21137 Filed 8–4–82; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Air Carrier District Office, Aurora, Colo.; Relocation

Notice is hereby given that the Air Carrier District Office at 2525 Geneva Street, Aurora, Colorado 80010, has moved. Services to the aviation public provided by this office will be provided from its new location at 10455 East 25th Avenue, Suite 202, Aurora, Colorado 80010.

(Sec. 313(a) 72 Stat. 752; 49 U.S.C. 1354)

Issued in Seattle, Washington on July 23, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82–21027 Filed 8–4–82; 8:45 am]

BILLING CODE 4910–13–M

Advisory Circular for Marking Aircraft Fuel Filler Openings With Color Coded Decals

AGENCY: Federal Aviation Administration, DOT.

ACTION: Draft advisory circular and request for comments.

SUMMARY: The draft Advisory Circular (AC) discusses the conditions under which color coded decals may be used to comply with the requirements in FAR §§ 23.1557(c), 25.1557(b), 27.1557(c), and 29.1557(c) for marking fuel filler openings. This kind of fuel filler marking on aircraft is part of an overall scheme to match color-coded aircraft fuel fuller opening with color-coded fuel filler nozzles in an effort to minimize misfueling.

DATE: Commenters must identify file number AC 20–XX and comments must be received on or before Aug. 30, 1982.

ADDRESS: Send all comments on the draft advisory circular to: Federal Aviation Administration, Attention: Certification Procedures and Standards Branch (AWS–130), 800 Independence Avenue, S.W., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Edward R. Lambert, Certification Procedures and Standards Branch, AWS–130, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Indepedence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 426–8395.

SUPPLEMENTAL INFORMATION: Any person may obtain a copy of this proposed AC by writing to: Federal Aviation Administration, Aircraft Engineering Division, Certification and Procedures Branch, (AWS–130), 800 Independence Avenue, S.W., Washington, D.C. 20591.

Comments Invited

Interested parties are invited to submit comments on the proposed AC. Comments may be inspected in Room 335D between 8:30 a.m. and 5:00 p.m.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 82–21028 Filed 8–4–82; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Fulton-De Kalb Counties, Georgia

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Fulton and De Kalb Counties, Georgia.

FOR FURTHER INFORMATION CONTACT: David H. Densmore, Development Engineer, Federal Highway Administration, Suite 700, 1422 West Peachtree Street, N.E., Atlanta, Georgia 30309, telephone (404) 881–4750, or Peter Malphurs, State Environmental Analysis, 65 Aviation Circle, Atlanta, Georgia 30336, telephone (404) 696–4634.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Georgia Department of Transportation (Georgia DOT) will prepare an environmental impact statement (EIS) on a proposal to construct a Presidential Parkway in cooperation with the City of Atlanta's proposed Presidential Park. The Parkway as proposed would consist of a pair of two-lane roads, one traveling east and one traveling west around the proposed Park, separated by a variable width median. The proposed Parkway would begin at the end of the Downtown Connector stub, which is located just south of North Highland Avenue in the Old Fourth Ward Neighborhood.

From this point, the Parkway would extend easterly along existing rights of way owned by Georgia DOT, intersecting with North Highland Avenue at-grade and having a grade-separated, full diamond interchange with Moreland Avenue. The eastern terminus would be at an intersection with Ponce de Leon Avenue just east of Lullwater Road. Total length of the proposed Parkway is 2.2 miles. Bicycle paths and jogging trails are included in the proposal. The paths and trails would be constructed approximately eight feet in width and would be located on the upper levels of earth berms and slopes where they parallel the Parkway. Also, easy pedestrian access will be provided from neighborhood streets to bicycle paths, jogging trails, and other park facilities which are provided in the proposal.

Alternatives under consideration include: (1) taking no action; and (2) constructing a pair of two-lane roads, one traveling east and one traveling west. Incorporated into and studied with the build alternative will be bicycle paths, jogging trails, and pedestrian access to park facilities from neighborhood streets.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. Scoping meetings on the proposed Parkway have been held by the City of Atlanta for input on the local level from neighborhoods and affected groups.

Continued scoping through written correspondence and coordination will take place to receive input from interested State and Federal agencies. A public hearing will be held after preparation of a draft EIS. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

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

Issued on: July 28, 1982.

David H. Densmore,

Development Engineer, Atlanta, Georgia.

[FR Doc. 82–20566 Filed 8–4–82; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Placer County, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed Route 65 from Route I–80 to existing Route 65 near Blue Oaks Boulevard (Scow Road) and on Route I–80 from 0.4-mile east of Douglas Boulevard Overcrossing to 1.1 miles east of Taylor Road Overcrossing.

FOR FURTHER INFORMATION CONTACT: D. L. Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone: (916) 440–3541.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to construct approximately 3.6 miles of new highway from near Taylor Road at I–80 to near Blue Oaks Boulevard north of Roseville at existing Route 65. Also, modify I–80 from 0.4-mile east of Douglas Boulevard Overcrossing to 0.5-mile east of Taylor Road Overcrossing and modify these two overcrossings.

Route 65 initial construction is proposed as a two-lane expressway with at-grade intersections with an extension of Harding Boulevard, an unnamed road at Post Mile 7.08± and at Blue Oaks Boulevard. Four lanes and possibly signals will be needed at the intersections. The Route I–80/65 separation will be constructed. The East Roseville Overcrossing (Atlantic Street) and the Taylor Road Overcrossing would be reconstructed.

Also studied is a potential, future four-lane freeway on Route 65 with interchanges at Harding Boulevard, the unnamed Interchange at Post Mile 7.08± and at Blue Oaks Boulevard.

Alternatives to be considered will be variations to the geometrics for the interchanges and overcrossings for both the initial construction and the potential freeway construction.

A formal inter-disciplinary team approach is planned for this study to insure the interaction of different disciplines in the development and evaluation of alternatives.

Due to the limited scope of the project no formal scoping meetings will be held.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: July 29, 1982.

J. H. Lamb,

Acting District Engineer, Sacramento, California.

[FR Doc. 82-21142 Filed 8-4-82; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. EX82-1; Notice 2]

Anden Holdings Ltd.; Grant of Petition for Temporary Exemption From Federal Motor Vehicle Safety Standards

This notice grants the petition by Classic Cars of London, Ontario, Canada, a division of Anden Holdings Limited ("Anden" herein), for temporary exemption of its Auburn Speedster replica from two Federal motor vehicle safety standards. The basis of the petition was that compliance would cause substantial economic hardship.

Notice of the petition was published on January 14, 1982, and an opportunity afforded for comment (47 FR 2229).

Anden intends to produce a replica of the 1935 Auburn boat tail speedster, and had manufactured only eight such vehicles as of the end of August 1981 shortly before filing its petition. The basis of the vehicle is a full size passenger car manufactured by General Motors from which the body has been removed and the Auburn body installed. Petitioner therefore argued that the vehicle would comply with all applicable Federal motor vehicle safety standards with two exceptions, the requirement in Standard No. 201 that sun visors be provided, and the minimum areas specified in Standard No. 104 for windshield wiping. The two exemptions were requested for 3 years.

With respect to Standard No. 201, the configuration of the open vehicle is such that there is no header above the windshield and therefore it is physically impossible to install sun visors. As for Standard No. 104, the replication of the narrow two-piece windshield of the 1935 Auburn meant that current standards cannot be met. Federal requirements establish three areas of visibility which must be cleared by wipers. The most critical of them, Area C, must be 99% at the time that it filed its petition cleared, Area B, 94%, and Area A, 80%. The Auburn's system cleared only 48.6%, 53.7%, and 48%, respectively. However, overall, it was said to wipe a 15% greater area than the system provided on the original 1935 Auburn. The company concluded that it was undesirable to mount a wiper motor above the windshield because of the potential safety hazard. To redesign the vehicle to incorporate a complying wiper system would require a windshield 7 inches greater in depth, and a new top design, both of which would destroy the replica appearance. Retooling costs were estimated at $46,500 with additional costs of $31,000 attributable to delays. In the latest fiscal year before the filing of its petition, the one ending November 30, 1980, Anden had a net income of $57,000 though it claimed that the Classic Cars of London Division had a net loss of $91,000.

Anden argued that an exemption would be in the public interest because several components of the finished car are imported from the United States, and because a dealer network would be established throughout the country. As for the effect on motor vehicle safety, Anden projected that it will sell only 175 cars in the U.S. during the intended 30-month production run, and that the vehicle will be used only occasionally.

No comments were received on the petition.

Traditionally, the agency has viewed with concern noncompliances affecting the ability of vehicles or their operators to avoid accidents. It considers the wiped area requirements of Standard No. 104 as especially critical because of the hazards associated with inclement weather. The agency has denied a specific petition for exemption from the wiped area requirements (Auto Sport Importers, 1973, 38 FR 27106) but granted one in which 95% of Area C would be cleared, 79% of Area B, and 70% of Area A (Model A and Model T Motor Car Reproduction Corp., 1979, 44 FR 55687). A total exemption from Standard No. 104 was once provided (Vintage Reproductions Inc., 1975, 40 FR 3798, renewed 1978, 43 FR 26814) because the vehicle concerned was a replica of a 1900 style machine, deemed unsuitable as general transportation; it was exempted from many additional standards as well, on the basis that contemporary standards were not reasonable, practicable, or appropriate for turn-of-the-century-type vehicles.

Standard No. 104, like each safety standard, specifies a minimum level of performance. The deviations in the original Auburn system were of such a nature that the Administrator could not, in good conscience, have found that an exemption would be consistent with the objectives of traffic safety, even assuming that only a limited number of vehicles would be produced with this system. However, during the comment period, petitioner learned from the Canadian authorities that it had misread Standard No. 104 and had improperly calculated the three wiped areas, and it presented the revised calculations to the agency. These indicated improvements, approximately 73% of each of the three areas was now wiped. However, NHTSA expressed its continuing concern and petitioner made a new effort to more closely approach compliance. Sight lines were reestablished, using those of Table 1 and not Table 4, the seating reference point was raised one inch vertically, and the location of the wiper area spindles were both moved inboard 2 inches. As a result, over 91% of Area C is now cleared, over 86% of Area B, while Area A approaches 81%. In summary, petitioner has made a good faith effort to comply and, overall, the margin of noncompliance is now somewhat lesser than that of a vehicle the agency has previously exempted from the wiped area requirements.

With respect to Standard No. 201, although sun visors serve a secondary safety purpose of keeping the sun from interfering with the vision of the operator, their function as an occupant protection device is to provide impact absorbing material in the windshield header area in the event of a collision. The Auburn replica, as is true of many open body vehicles, has no header and the windshield frame is too narrow to support a sun visor mounting. Thus, an exemption from this portion of Standard No. 201 would not compromise safety.

While the petition was pending NHTSA heard of reservations by the Canadian Ministry of Transport over other areas of compliance of the Auburn replica. These, however, appeared limited to the original prototypes and now the Ministry appears satisfied that its criticisms have been met, and that the car should meet all standards except 104 and 201.

Since the Regulatory Flexibility Act may apply to a proceeding to exempt a single manufacturer, the agency has examined this action under that Act. The agency certifies that the exemption does not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis has not been prepared.

NHTSA's survey of other Auburn replicas indicates that they are being build on used chassis or in kit form and that their manufacturers consider them outside the ambit of the Federal safety standards. Thus there is a unique reason why an exemption would be in the

public interest; those who wish to purchase a replica Auburn will have the choice of one that will be certified by the manufacturer as meeting virtually all Federal safety requirements.

Accordingly, the Administrator finds tht immediate compliance with the wiped area requirements of Standard No. 104 and the sun visor requirements of Standard No. 201 would cause substantial economic hardship and that a temporary exemption would be in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act. Anden Holdings Limited is hereby granted NHTSA Exemption No. 82–1, expiring June 1, 1985, from paragraph S4.1.2, Wiped Areas, of 49 CFR 571.104, Motor Vehicle Safety Standard No. 104, *Windshield Wiping and Washing Systems,* provided that the wiped areas are not less than 80% (A), 86% (B), and 91% (C), and from paragraph S3.4, *Sun Visors,* of 49 CFR 571.201, Motor Vehicle Safety Standard No. 201, *Occupant Protection in Interior Impact.*

(Sec. 3, Pub. L. 92–548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50)

Issued: July 30, 1982.

Diane K. Steed,

Acting Administrator.

[FR Doc. 82–21061 Filed 8–4–82; 8:45 am]

BILLING CODE 4910–59–M

National Highway Safety Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. I), notice is hereby given of meetings of the National Highway Safety Advisory Committee, to be held September 13–15, 1982.

The agenda for the meetings is as follows: September 13, from 3PM–5PM will be devoted to an introduction and swearing-in of new members.

On September 14 and 15 from 9AM to 5PM there will be briefings on the Department's major emphasis areas: (1) National Driver Register, (2) National Accident Sampling Systems, (3) Biomechanics Programs, (4) Safety Belt Programs; (5) Alcohol Programs; (6) NHTSA and Federal Highway Safety Administration (FHWA) 402 Highway Safety Grant Program. In addition briefings will be given on FHWA Organizational Structure and Safety Programs and NHSAC Societal Cost Study.

All meetings will be held at the Sheraton Scottsdale Hotel, 7200 N. Scottsdale Road, Scottsdale, Arizona. Attendance is open to the interested public but limited to the space available. Members of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretariat, Room 5221, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone 202–426–2870.

Issued in Washington, D.C., on August 2, 1982.

Robert E. Doherty,

Executive Secretary.

[FR Doc. 82–21121 Filed 8–4–82; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

List of 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 Regulation (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulations 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.

DATE: Comment period closes September 7, 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 CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, D.C.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8877–N	PCR, Incorporated, Gainesville, FL	49 CFR 173.119(m)(3), 175.3	To authorize shipment of certain materials meeting the hazard classes of flammable liquid/corrosive material in up to 4 one-gallon glass containers overpacked in DOT Specification 12B fiberboard boxes; or in DOT Specification 17E drums. (modes 1, 2, 3, 4, 5).
8878–N	Corning Glass Works, Corning, NY	49 CFR 173.245	To authorize shipment of germanium tetrachloride, corrosive liquid, n.o.s., in glass containers of less than 3 gallon capacity, surrounded by vermiculite placed in a cylindrical steel overpack, packed six to a compartmented wooden box. (mode 1).
8879–N	Temco Engineering, Tulsa, OK	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(b)(1), 175.3.	To manufacture, mark, and sell non-DOT specification cylinders comparable to DOT Specification 3E for shipment of nitrogen and helium classed as nonflammable gas; liquefied petroleum gas classed as flammable gas. (modes 1, 4).
8880–N	Industrial Molding Corporation, Torrance, CA	49 CFR Part 173, Subpart F	To manufacture, mark, and sell five gallon, removable head non-DOT specification polyethylene drums for shipment of corrosive liquids presently authorized in DOT Specification 34. (modes 1, 2, 3).
8881–N	Bandini Fertilizer Company, Los Angeles, CA	49 CFR 172.300, 172.400	To authorize ammonium nitrate-phosphate, classed as an oxidizer, in paper bags of 20 and 40 pound capacities which are not marked or labeled in accordance with 49 CFT. (mode 1).
8882–N	F & A Maintenance d.b.a. TRAVELAIRE, Houston, TX.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30, 175.75.	To authorize shipment of various Class A, B and C explosives not permitted for air shipmemt or in quantities greater than those prescribed for air shipment. (mode 4).
8883–N	Hewlett-Packard Company, Boise, ID	49 CFR 173.245	To authorize shipment of an oxidizer, corrosive liquid, n.o.s., classed as an oxidizer in DOT Specification 57 portable tanks. (mode 1).
8884–N	Chemical Applicators of Lafayette, Inc., Lafayette, LA.	49 CFR 173.245	To authorize shipment of corrosive liquids, in DOT Specification 57 portable tanks without frangible devices. (modes 1, 3).

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8885-N	Copps Industries, Inc., Menomonee Falls, WI	49 CFR 173.245, 173.249	To authorize shipment of certain alkaline corrosive liquids packed in one gallon or less unlined tin cans, overpacked in non-DOT specification removable head polyethylene pails of 5 or 6 gallon capacity also containing a non-hazardous resin mix all of which is surrounded by a mineral filler. (modes 1, 2, 3, 4).
8886-N	Amerex Corporation, Trussville, AL	49 CFR 173.306(c)(7), 173.34(e)(9)	To include DOT Specification 4B and 4B240 cylinders under the compressed gas limited quantity provisions and to be excepted from labeling and packaging and to qualify for 12 year retesting for fire extinguishers in place of the 5 year retest requirement. (modes 1, 2, 4).
8887-N	The Bendix Corporation, Largo, FL	49 CFR 173.328, 175.3	To authorize shipment of nitrogen gas containing small amounts of hydrogen cyanide, classed as poison B, in glass ampules, packed in individual heat sealed pockets placed in a fiberboard box overpacked in an additional fiberboard box. (modes 1, 4, 5).
8889-N	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 172.101, 173.315(a)	To authorize shipment of liquefied hydrogen and helium in insulated cargo tanks with a water capacity of 14,018 gallons and a design pressure of 61 psig. (mode 1).
8890-N	Sunbelt Airlines, Camden, AR	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.30(b), Part 107 Appendix B.	To authorize carriage of rocket ammunition with explosive projectile, Class A explosive, by cargo only aircraft. (mode 4).
8891-N	BIC Corporation, Milford, CT	49 CFR 173.21(e), 173.308(a)(4)	To authorize shipment of cigarette lighters containing flammable gas fuel and equipped with an ignition device packed to meet the test criteria for UN Specification 4GX. (modes 1, 2).

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, D.C., on July 30, 1982.

Joseph T. Horning,

Chief, Exemptions and Approvals Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-21206 Filed 8-4-82; 8:45 am]

BILLING CODE 4910-60-M

List of 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.

DATE: Comment period closes August 20, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, D.C.

Application No.	Applicant	Renewal of exemption
970-X	Callery Chemical Co., Callery, Pa.	970
2462-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE	2462
4453-X	Margraf Explosives, Inc., Rancho Cordova, CA	4453
4717-X	Northern Petrochemical Co., Morris, IL	4717
4734-X	General Electric Co., Waterford, NY	4734
5232-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE	5232
5792-X	Publicker Industries, Inc., Greenwich, CT	5792
6071-X	Walter Kidde & Co., Inc., Belleville, NJ	6071
6113-X	Trans Gas, Inc., Lowell, MA	6113
6121-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE	6121
6154-X	Uniroyal Chemical, Naugatuck, CT	6154
6231-X	Richmond Lox Equipment Co., Livermore, CA	6231
6349-X	Airco Industrial Gases, Murray Hill, NJ	6349
6518-X	Stauffer Chemical Co., Westport, CT	6518
6518-X	Union Carbide Corp., Danbury, CT	6518
6538-X	Aladdin Industries Inc., Nashville, TN	6538
6538-X	Wonder Corp. of America, Norwalk, CT	6538
6611-X	Cities Service Co., Tulsa, OK	6611
6651-X	Park Chemical Co., Detroit, MI	6651
6651-X	Heatbath Corp., Chicago, IL	6651
6694-X	Favuet-Girel, Paris, France	6694
6694-X	Compagnie des Containers Reservoirs, Paris, France	6694
6695-X	Fauvet-Girel, Paris, France	6695
6772-X	Monsanto Co., St. Louis, MO[1]	6772
6922-X	PCR Inc., Gainesville, FL	6922
6927-X	Great Lakes Chemical Corp., El Dorado, AR	6927
6927-X	Dow Chemical Co., Midland, MI	6927
6932-X	Fauvet-Girel, Paris, France	6932
6932-X	Compagnie des Containers Reservoirs, Paris, France	6932
6960-X	Pepsi-Cola Co., Purchase, NY	6960
7025-X	Liquid Air Corp., San Francisco, CA[2]	7025
7285-X	Compagnie des Containers Reservoirs, Paris, France	7285
7285-X	Fauvet-Girel, Paris, France	7285
7458-X	Ekohwerks Co., Eastlake, OH	7458
7600-X	Evans Tanks Co., Lubbock, TX	7600
7654-X	J.T. Baker Chemical Co., Phillipsburg, NJ	7654
7719-X	Turner Co., Sycamore, IL	7719
7767-X	Hydraulic Research Textron, Pacoima, CA	7767
7919-X	Alaska Hydro-Train, Seattle, WA	7919
8009-X	FIBA Leasing Co., Inc., Westboro, MA	8009
8051-X	Mauser Packaging, Ltd., New York, NY	8051
8060-X	Fauvet-Girel, Paris, France	8060
8101-X	U.S. Department of Defense, Washington, DC	8101
8156-X	Scott Environmental Technology, Inc., Plumsteadville, PA	8156
8156-X	Cryogenic Rare Gas Labs., Inc., Newark, NJ	8156
8162-X	Structural Composites Industries, Inc., Pomona, CA[3]	8162
8188-X	Owens-Illinois (Plastic Products Division), Toledo, OH[4]	8188
8381-X	Mobay Chemical Corp., Kansas City, MO	8381

Application No.	Applicant	Renewal of exemption
8396-X	Aztec Chemicals, Elyria, OH[5]	8396
8407-X	Hooker Industrial & Specialist Chemicals, Niagara Falls, NY	8407
8450-X	Vought Corp., Dallas, TX	8450
8465-X	CIL Inc., Montreal, Canada[6]	8465
8465-X	Chase Bag Co., Oak Brook, IL	8465
8478-X	West-Mark, Ceres, CA	8478
8490-X	Houghton Chemical Corp., Allston, MA	8490
8714-X	Lubrizol Corp., Wickliffe, OH	8714
8786-X	Gas Spring Corp., Colmar, PA[7]	8786

[1] To renew and to amend exemption to allow the mixing of compatible waste hazard classes within one outer container.
[2] To modify the safety control measures pertaining to testing, filling, travel time etc.
[3] Request modification to the test method described as the gunfire test.
[4] To authorize methyl alcohol, ethyl alcohol, isopropanol and alcohol, n.o.s. as additional commodities.
[5] To authorize additional organic peroxide, classed as organic peroxide.
[6] To authorize an additional plastic bag of 100 pounds capacity for shipment of ammonium nitrate fertilizer.
[7] To amend exemption pertaining to description of device and testing requirements.

Application No.	Applicant	Parties to exemption
2805-P	Union Carbide Corp., Danbury, CT	2805
3992-P	Kay-Fries, Inc., Rockleigh, NJ	3992
4459-P	Liquid Air Corp., Cambridge, MA	4459
6197-P	Transgas Inc., Lowell, MA	6197
6464-P	....do	6464
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8441-P	Hazeltine Corp., Braintree, MA	8441
8445-P	Resource Technology Services, Inc., Devon, PA	8445
8511-P	Montgomery Tank Lines, Inc., Summit, IL	8511
8554-P	Buckley Powder Co., Denver, CO	8554
8792-P	The Texwipe Co., Upper Saddle River, NJ	8792

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, DC, on July 30, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-21207 Filed 8-4-82; 8:45 am]

BILLING CODE 4910-60-M

[Inconsistency Ruling, IR-4]

State of Washington House Bill No. 1970 Requirements for Red or Red Bordered Shipping Papers for Hazardous Materials

Correction

In FR Doc. 82-20702 appearing at page 33357 in the issue of Monday, August 2, 1982, the Research and Special Programs Administration published a notice regarding the State of Washington House Bill No. 1970 requirements for red or red bordered shipping papers for hazardous materials. The letter containing the opinion of the MTB was inadvertently omitted from the published text.

Therefore, FR Doc. 82-20702 is corrected by inserting the following letter immediately after the signature at the end of the document on page 33357:

July 22, 1982.

Mr. Donald T. Trotter,

Assistant Attorney General, Office of the Attorney General, Temple of Justice, Olympia, Washington 98504.

Dear Mr. Trotter: This responds to your request of April 16, 1981, seeking withdrawal of IR-4 and dismissal of the application for an Inconsistency Ruling by National Tank Truck Carriers, Inc. (NTTC), both on the grounds of mootness. Comments on this request have been received from NTTC and were considered in reaching a decision on your request. After due consideration, we deny the request to withdraw IR-4 and to dismiss the application. We treat the request as one to withdraw the appeal and grant it.

In July 1980, the NTTC filed an application for a determination by the Department of Transportation, Research and Special Programs Administration, Materials Transportation Bureau (MTB), whether the State of Washington law (House Bill No. 1870) which required either a red-colored bill of lading or red border on all bills of lading, receipts, or manifests on all intrastate shipments of hazardous materials was inconsistent with Federal law and regulation. That application was filed pursuant to 49 CFR 107.203. Following publication in the Federal Register and receipt of comments from interested parties, a decision was rendered on January 11, 1982 (49 FR 1231). That decision, in evaluating the Washington State law discussed in great detail the two-pronged test to determine whether the requirement was inconsistent with the Hazardous Materials Transportation Act (HMTA) (49 U.S.C. 1801) and the regulations promulgated thereunder. The first test, whether compliance with both the state law and the Federal requirements was possible, was answered in the affirmative; however, the Washington requirement fell far short of passing the second phase of the test, whether the state requirement was an obstacle to the accomplishment and execution of the HMTA and regulations. That decision, IR-4 found the Washington requirement to be inconsistent with the Federal requirements.

On January 28, 1982, the State of Washington appealed the decision of IR-4, alleging both procedural and substantive grounds for reversal of the decision. On March 7, 1982, prior to a decision on the appeal, the State of Washington repealed the state legislation upon which the inconsistency determination was based. Because the subject matter of the detemination was rendered moot, the state filed a request on April 16 for withdrawal of the IR-4 decision and dismissal of the original application by the NTTC. NTTC has written MTB opposing the request.

On March 27, the Governor of Washington signed into law House Bill No. 457. That bill repealed the "red border" requirement (RCW 81.29.020). Because an emergency clause was contained in the proposed law, the repeal became effective upon signature. As the controversial section of the law has been repealed, the inconsistency issue has become moot. We, therefore, will treat the request of the State of Washington as an application to withdraw its appeal.

The second request, that of dismissing the application for inconsistency determination, cannot be dispensed with in so simple a manner. Washington has requested the dismissal as "* * * no substantive purpose would be served in further proceedings in this case, and since the rights of the State of Washington would be impaired should IR-4 be allowed to stand, * * *" We disagree. Washington has only alleged that their rights would be impaired if the application were not dismissed; they have offered nothing in substantiation of this allegation. While we agree that no substantive purposes would be served by futher proceedings, we do not believe that allowing the decision to stand in IR-4 would constitute a further proceeding. Even though the decision which was issued in IR-4 was based on a state law that no longer is valid, there can be no denying that the decision has clear precedential value in assisting State and local governments in framing their laws in a manner consistent with Federal law and regulation.

Washington has relied upon *U.S.* v. *Alaska Steamship Co.*, 253 U.S. 113, 40 S. Ct. 448, 64 L.Ed. 808 (1920) as authority for its position. This case is easily distinguished from the facts here at hand and does not provide precedent for withdrawal of the application. In the *Alaska* case, the ICC had issued orders requiring certain bills of lading. Plaintiffs filed for a temporary injunction. A three-judge panel ruled that the ICC lacked authority to issue the bill of lading requirement, issued a preliminary injunction *pendente lite* but did not dismiss the petition. Following an appeal to the Supreme Court, new legislation was passed that rendered moot the original cause of action. The Court dismissed the action for mootness since "* * * it is a settled principle in this court that it will determine only actual matters in controversy * * *." At the time of appeal, the case had not been decided on its merits. The situation herein involved is quite distinct from the *Alaska Steamship* case. A decision on the merits has been issued and published by the MTB. The MTB is not bound by the procedural restraints of the Court's decision but can render advisory opinions. Even though the subject matter of the IR-4 is rendered moot by subsequent legislation, the decision provides a statement of Federal agency policy and future guidance to all states and localities which may consider enacting similar requirements. For the MTB to withdraw that continuingly valid statement of policy and guidance, perhaps thus encouraging the enactment of similarly offending state and local requirements, would be deceptive and irresponsible.

Both the request to dismiss the proceeding of IR-4 and to withdraw the ruling are

denied. That portion of the request which asks to withdraw this appeal is granted.

Sincerely,

L. D. Santman,

Director, Materials Transportation Bureau.

BILLING CODE 4910-60-M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB, June 26–July 20, 1982

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, between June 26 and July 20, 1982, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT:

John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 7th Street SW., Washington, D.C. 20590, (202) 426–1887; or

Donald Arbuckle or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB between June 26 and July 20, 1982:

DOT No: 1950
OMB No: 2115–0050
By: U.S. Coast Guard (USCG)
Title: Application for Individual Bridge Permit
Forms: None
Frequency: 240 annually
Respondents: State or Local Highway Depts., Railroad Companies, Individuals and Federal Agencies.
Need/Use: Congress requires the approval of the Secretary of Transportation for the location and plans of bridges across navigable waters of the U.S. The prospective bridge builder must make a written request to the Coast Guard for such approval. The data collected in this request is primarily used to evaluate the effect the structure will have on the reasonable needs of navigation and the human environment.

DOT No: 1952
OMB No: 2130–0008
By: Federal Railroad Administration (FRA)
Title: Railroad Power Brakes and Drawbars
Forms: No Forms Supplied
Frequency: Each train assembled
Respondents: Railroads
Need/Use: This is notification to the engineer that the initial terminal rail train air brake test has been properly performed.

DOT No: 1953
OMB No: 2127–0037
By: National Highway Traffic Safety Administration (NHTSA)
Title: On-the-Road Fuel Economy Survey
Forms: HS–435
Frequency: Annually
Respondents: Individuals and households
Need/Use: 15 USC 2001–2012. The purpose of this Act: (1) to amend certain Federal automobile fuel economy requirements to improve fuel efficiency, and thereby facilitate conservation of petroleum and reduce petroleum imports, and (2) to encourage fuel employment in the domestic automobile manufacturing sector. This agency surveys late model passenger cars and light trucks to monitor on-road improvements in fuel economy.

DOT No: 1954
OMB No: 2133–0010
By: Maritime Administration
Title: U.S. Merchant Marine Academy Application for Admission and Pre-Candidate Questionnaire
Forms: KP2–65 and KP3–4
Frequency: Each year, applicants to the U.S. Merchant Marine Academy must complete one (1) Pre-Candidate form and one (1) application for admission.
Respondents: Applicants to the U.S. Merchant Marine Academy
Need/Use: The Pre-Candidate Questionnaire is used to pre-screen candidates to determine basic eligibility and to enter the candidate into the DOD medical system. The application is used to select the best qualified candidates to the Academy.

DOT No: 1955
OMB No: 2115–0071
By: U.S. Coast Guard
Title: Official Logbook
Forms: CG–706B
Frequency: On Occasion
Respondents: U.S. merchant shipping companies through their shipboard agent (Master).
Need/Use: Needed to keep official record of all foreign and inter-coastal voyages and all incidents inherent thereto. Required to keep load line record as well as a statement of the crew's conduct. 46 USC 86g(c) and 201.

Issued in Washington, D.C. on July 30, 1982.

Karen S. Lee,

Deputy Assistant Secretary for Administration.

[FR Doc. 82–21190 Filed 8–4–82; 8:45 am]

BILLING CODE 4910–62–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 151
Thursday, August 5, 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).

CONTENTS

1

FEDERAL ELECTION COMMISSION

DATE AND TIME: August 10, 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.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-1126-82 Filed 8-3-82; 10:10 am]

BILLING CODE 6715-01-M

2

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., August 11, 1982.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Parts of the meeting will to open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public:

1. Agreement No. 5660 DR-3: Modification of the Marseilles/North Atlantic U.S.A. Freight Conference's Merchant's (Dual Rate) Contract regarding legal right of the shipper to select the carrier.

Portions closed to the public:

1. Docket No. 81-57: Tractors & Farm Equipment Ltd. v. Waterman Steamship Corp. and Cosmos Shipping Company, Ltd.—Consideration of the record.
2. Docket No. 80-52: Agreement Nos. 10186, 10332, 10371, 10377, 10364 and 10329—Space Chartering Agreement in the Korean Trades—Consideration of the record.

CONTRACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-1131-82 Filed 8-3-82; 3:00 pm]

BILLING CODE 6730-01-M

3

LEGAL SERVICES CORPORATION

(Provision of Legal Services Committee)

TIME AND DATE: 2:30 p.m., Monday, August 16, 1982.

PLACE: Eighth Floor Conference Room, Legal Services Corporation, 733 Fifteenth Street, N.W., Washington, D.C. 20005.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of July 17, 1982 Meeting.
3. Delivery Perspecitves/Private Bar, Howard Eisenberg, National Legal Aid and Defenders Association.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272-4040.

Dated August 2, 1982.

Gerald M. Caplan,

Acting President.

[S-1128-82 Filed 8-4-82; 2:00 pm]

BILLING CODE 6820-35-M

4

LEGAL SERVICES CORPORATION

(Presidential Search Committee)

TIME AND DATE: 11 a.m., Monday, August 16, 1982.

PLACE: Eighth Floor Conference Room, Legal Services Corporation, 733 Fifteenth Street, N.W., Washington, D.C. 20005.

STATUS OF MEETING: Open (Portion of the meeting will be closed to discuss a personnel matter under 45 CFR 1622.5(a) and 1622.5(e)).

MATTERS TO BE CONSIDERED:

1. Procedures for Presidential Search.
2. Executive Session.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272-4040.

DATED: August 2, 1982.

Gerald M. Caplan,

Acting President.

[S-1129-82 Filed 8-3-82; 2:57 pm]

BILLING CODE 6820-35-M

5

LEGAL SERVICES CORPORATION

(Board of Directors Meeting)

TIME AND DATE: 9 a.m.-5 p.m., Tuesday, August 17, 1982.

PLACE: Eighth Floor Conference Room, Legal Services Corporation, 733 Fifteenth Street, N.W., Washington, D.C. 20005.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of July 17-18, 1982 Meeting.
3. President's Report.
4. Report from Office of Government Relations.
5. Committee Reports:
   A. Special Committee on Presidential Search (Howard H. Dana, Chairman)
   B. Provision of Legal Services Committee (William F. Harvey, Acting Chairman)
   C. Operations and Regulations Committee (Robert S. Stubbs, Chairman):
   (1) Moorhead Amendment Regulation.
   (2) H.R. 3480.
   (3) S. 2393.
6. H.R. 3480
7. S. 2393.
8. Other Business.
9. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272-4040.

DATED: August 2, 1982.

Gerald M. Caplan,

Acting President.

[S-1130-82 Filed 8-3-82, 2:57 pm]

BILLING CODE 6820-35-M

6

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

TIME: 10 a.m. to 5 p.m.; 9 a.m. to 5 p.m., respectively.

DATE: August 24 and 25, 1982.

PLACE: Sheraton Centre, Montreal, Quebec.

STATUS: Open.

MATTERS TO BE DISCUSSED:

Executive Director's Report
Follow-up, Public/Private Sector Task Force
Legislative/Public Awareness Committee Report
Task Force Reports
Ad Hoc International Committee Report
U.S. National Committee, UNESCO, PGI
Future/Planning Committee Report
Review of Current Program; Consideration of New Areas

1983/84 Programs and Priorities;
Consideration of Guidelines for
Commissioner's Travel; Future Planning
1983–84 Budgets

CONTACT PERSON FOR MORE INFORMATION: Toni Carbo Bearman, Executive Director.

August 2, 1982.

Toni Carbo Bearman,

Executive Director.

[S–1127–82 Filed 8–3–82; 12:01 pm]

BILLING CODE 7527-01-M

federal register

Thursday
August 5, 1982

Part II

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Ambulatory Surgical Services and List of Covered Surgical Procedures

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 416

Medicare Program; Ambulatory Surgical Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These regulations implement in part, section 934 of Pub. L. 96–499, the Omnibus Reconciliation Act of 1980, which adds to the benefits available under Part B of Medicare, facility services associated with certain surgical procedures provided in an ambulatory surgical center. That section also provides, under certain conditions, for 100 percent Medicare reimbursement to physicians (rather than the usual 80 percent) for services provided in connection with certain surgical procedures performed on an ambulatory basis. These regulations establish: (1) The standards an ambulatory surgical center must meet to be approved for participation in the Medicare program; (2) criteria for determining which surgical procedures will be included for purposes of reimbursing facilities and physicians under this provision; (3) the payment methodology and reimbursement procedures with respect to facility services; and (4) the requirements relating to agreements by the facility to furnish services under the program and by physicians with respect to accepting payments for procedures (agreements to accept "assignments").

The purpose of the legislation and these regulations is to encourage the performance in an ambulatory setting of certain surgical procedures that are now frequently furnished on an inpatient hospital basis. The regulations assure that these procedures are only those that are appropriately and safely performed in an ambulatory setting, and that the cost to the Medicare program of services provided in that setting is lower than would have been incurred for services provided on an inpatient basis.

EFFECTIVE DATE: These regulations are effective September 7, 1982.

Section 416.30(d) of these regulations contains reporting requirements and §§ 416.43 and 416.47(b) contain recordkeeping requirements which have not yet been approved by the Executive Office of Management and Budget (EOMB) but are subject to the Paperwork Reduction Act (Pub. L. 96–511). Since the information required to be reported under § 416.30(d) will be used to evaluate the payment methodology and update payment rates, this information will not be gathered until centers have obtained some experience with the program.

The reporting and recordkeeping requirements in these sections are not required until EOMB approval has been obtained. HCFA will publish a notice in the **Federal Register** when approval has been obtained, indicating the effective dates of these requirements.

FOR FURTHER INFORMATION CONTACT:

Sheila Ryan (Covered Procedures), 301–594–8561

Bernard Truffer (Reimbursement), 301–597–1369

Margaret Van Amringe (Health Safety and Other Facility Standards), 301–594–9712

Harold Fishman (Assignment Agreements), 301–594–9077

SUPPLEMENTARY INFORMATION:

I. Background

Generally, there are two elements in the total charge for a surgical procedure—a charge for the facility services (such as use of an operating room) and a charge for the physicians' professional services for performing the procedure.

A. *Facility Services.*—Currently, facility services for surgical procedures performed on a hospital inpatient basis are reimbursed under Medicare Part A at 100 percent of the facility's reasonable costs. For facility services associated with ambulatory surgery, coverage and reimbursement are available only in a hospital-related ambulatory surgical setting; that is, on an outpatient basis in a hospital or in a hospital-affiliated ambulatory surgical center (HAASC). These ambulatory surgical facility services are reimbursed under Part B of Medicare at 80 percent of the reasonable cost. The Medicare beneficiary is responsible for any unmet portion of the Part B deductible and for the coinsurance for the procedure.

Medicare law has not previously permitted coverage or payment for overhead expenses of surgery performed in a physician's office, nor for facility services in an independent ambulatory surgical center (ASC); that is, an ASC not related to a hospital. Thus, costs, such as for nurses and operating room technicians, have not been reimbursable in an ASC or physician's office settings.

B. *Physician's Professional Services.* Currently, Medicare reimbursement for the physician's charge for performing a surgical procedure is made at 80 percent of the reasonable charge for the service, without regard to the setting (inpatient hospital, hospital-related ambulatory surgical setting, ASC or physician's office). The beneficiary is responsible for the Part B deductible and coinsurance amounts for physician's services in all settings.

II. Legislation

Section 934 of Pub. L. 96–499, the Omnibus Reconciliation Act of 1980, amended sections 1832(a)(2), 1833, 1863 and 1864 of the Social Security Act (Act) to permit broader coverage of ambulatory surgery under Medicare. In summary, the legislation—

- Extends Medicare coverage to facility costs or overhead amounts for certain surgical procedures furnished in an ASC or a physician's office and directs the Secretary to establish the payment for those services.
- Eliminates deductible and coinsurance amounts for ASC facility services costs for certain surgical procedures performed on an ambulatory basis. It also eliminates these amounts for physicians' professional fees in connection with surgery performed in an ambulatory surgical setting when the physician agrees to accept assignment.
- Directs the Secretary, in consultation with the National Professional Standards Review Council and appropriate national medical organizations, to specify the surgical procedures that would be covered under this provision.
- Specifies that the Secretary develop standards which an ASC must meet to participate in the Medicare program.
- Requires the Secretary to use services of the State health agency or other appropriate State or local agencies to determine an ASC's compliance with the standards established.

III. Proposed Rules

On March 23, 1982, we issued a notice of proposed rulemaking (47 FR 12574) and a proposed notice containing the first proposed list of procedures (47 FR 12591) that would implement in part the changes made by section 934. (The portion of the law concerning physicians' offices was not addressed.) The provisions discussed in the preamble to the proposed rule dealt with four major areas: ASC health, safety, and other standards; coverage of procedures; reimbursement; and acceptance of assignment.

A. ASC Standards

Section 1832(a)(2)(F)(i) of the Act requires the Secretary to establish health, safety, and other standards that ASCs must meet to enter into an agreement for participation in Medicare. The proposed rule set forth standards

that would be contained in a new Part 416 established in Title 42 of the Code of Federal Regulations (CFR) as follows:

Section 416.25, Basic requirements and procedures: This section set forth general criteria concerning which facilities may participate as ASCs, and the procedures HCFA and ASCs would follow when a facility wishes to participate under Medicare. Also, if HCFA does not enter into or renew an agreement, the facility appeal rights are referenced.

Sections 416.30 and 416.35, Agreements: These sections detailed the contents and terms of the agreement between an ASC and HCFA and the procedures for termination of the agreement.

Section 416.40, Compliance with State licensure law: This section recognized State licensure laws that apply to ambulatory surgical centers. If the State does not have licensing laws for ASCs, this section of the regulations would not apply.

Section 416.41, Governing body and management, set forth the degree of centralization of authority and responsibility necessary to the provision of quality care and for meeting the facility's fiscal and other reponsibilities under the Medicare program. The standard on hospitalization assured beneficiary access to a hospital in the event of an emergency requiring treatment beyond the capabilities of the ASC.

Section 416.42, Surgical services, dealt with the actual provision of surgical services. Two standards were included to assure that the patient is property examined for anesthetic risk prior to surgery, and that appropriately qualified individuals administer the anesthesia.

Section 416.43, Evaluation of quality, required an ASC to evaluate, on an ongoing basis, the quality of care it provides. The proposed regulations required that a facility must, to comply with the condition, take appropriate remedial action if findings warrant.

Section 416.44, Environment, focused on the physical aspects of the ASC including provision for infection control. With respect to fire safety standards developed by the National Fire Protection Association, HCFA proposed to retain the authority to waive certain provisions on a case-by-case basis.

Section 416.45, Medical staff, contained general standards for surgeons and other practitioners providing services in the ASC. Standard (b), Other practitioners, required oversight of the clinical activities of practitioners other than physicians.

Section 416.46, Nursing services, contained general provisions for delineation of nursing responsibilities and the requirement for availability of a registered nurse in case of emergencies.

Section 416.47, Medical records, contained medical record service requirements for an ASC. There were two standards: Organization and Form and content of record.

Section 416.48, Pharmaceutical services, contained basic requirements for the provision of drugs and biologicals.

Section 416.49, Laboratory and radiological services, provided general requirements for availability of these services. If either service was provided directly by the ASC, the conditions of participation for hospital laboratory or radiologic services, respectively, would be applied (42 CFR 405.1028 and 405.1029).

We also proposed that an ASC would be deemed to meet our standards for coverage if accredited by an approved national accrediting organization and licensed by the State when State law provides for that licensure. We proposed to recognize the Accrediting Association for Ambulatory Health Care, Inc. (AAAHC) as such an organization. (We requested that other organizations interested in similar recognition submit a request and a copy of their accrediting standards as part of their comments on the proposal. We also requested comments concerning granting deemed status on the basis of State licensure only.) As a condition of our granting deemed status, we proposed to require that each facility release to HCFA the findings of its accreditation survey. In connection with this deemed status, we would perform validation surveys on a sample basis as part of HCFA's validation process.

B. Coverage

1. *List of Covered Surgical Procedures.* Section 1833(i)(1) requires the Secretary to develop in consultation with the National Professional Standards Review Council and appropriate medical organizations, a list of surgical procedures that, while appropriately performed in an inpatient hospital setting may also be performed in certain ambulatory settings. The proposed rule set forth general and specific criteria in the regulations at § 416.65 to describe and determine those kinds of procedures that should be covered and a preliminary proposed list of covered procedures was published as a separate notice. (This was in lieu of incorporating a list of covered procedures directly into the body of regulations.) As proposed, covered surgical procedures would be those procedures that meet the general and specific criteria and that are included in the list.

a. *General Requirements.* Procedures to be listed were those procedures not otherwise excluded under the Medicare statute and would be of the type that require accommodations found in an ASC—a dedicated operating room (or rooms) and a post-operative recovery room or short-term (not overnight) convalescent room. Procedures that require the facilities of an inpatient hospital, and are not generally considered safe when performed on an ambulatory basis, whether in an ASC or on an outpatient basis in a hospital, would be excluded. Procedures that may safely be done in a physician's office and do not generally require the more sophisticated facilities of an ASC would also be excluded.

b. *Specific Requirements.* Generally, procedures covered would not be expected to exceed 90 minutes total operating time. The period following the procedure in which the patient must be kept in the recovery or convalesent room before being released should not generally require more than 4 hours. We proposed that if anesthesia is required, it must be local or regional or, if general, its duration cannot exceed 90 minutes. In addition, procedures would not be covered that are generally emergency or life-threatening in nature. Also, covered procedures would not generally be of a type that could be anticipated to result in extensive loss of blood, require major or prolonged invasion of body cavities, or directly involve major blood vessels.

Inclusion of a procedure on the list of those suitable for performance in an ambulatory surgical setting would not mean the procedure must be performed in that setting. In each case, the physician would determine when the patient's condition or characteristics required hospitalization for surgery.

2. *Definition of Covered Facility Services.* The only statutory requirement regarding coverage for facility services is that they be services furnished by the ASC in connection with a covered procedure (sections 1832(a)(2)(F) and 1833(i)(2)(A) of the Act).

As proposed, facility services would be defined, generally, as those items and services furnished in connection with listed covered procedures that would be covered under Medicare if furnished on an inpatient or outpatient basis in a hospital. Excluded from the term would be physician services and medical and other health services for which payment can be made under other Medicare provisions.

Examples of ASC facility services we proposed to cover included:

(1) The use by the patient of the ASC's facilities;

(2) Nursing services, technician services, and other related services;

(3) Drugs, biologicals, surgical dressings, supplies, splints, casts, appliances and equipment directly related to the provision of surgical procedures;

(4) Diagnostic or therapeutic items and services directly related to the surgical procedure;

(5) Administrative, recordkeeping and housekeeping items and services;

(6) Materials for anesthesia.

Examples of services not included in the term "facility services" would be:

(1) Physicians' services;

(2) The sale, lease or rental of durable medical equipment to ASC patients for use in their homes;

(3) Prosthetic devices;

(4) Ambulance services;

(5) Leg, arm, back and neck braces; and

(6) Artifical legs, arms and eyes.

C. Reimbursement

1. By statute, the payment rate must result in substantially less Medicare expenditures than would have been paid under the program had the procedure been performed on an inpatient basis in a hospital. We proposed that participating ASCs would be paid 100 percent of a prospectively determined standard overhead amount for facility services which is based on an estimate of the costs incurred by ASCs generally in providing services furnished in connection with that procedure. This rate would cover the cost of services such as supplies, nursing services, equipment, etc. The Medicare beneficiary would not have any deductible or coinsurance to pay.

Basically, the proposed reimbursement methodology would use a four group classification system. All procedures within each group would be reimbursed at a single rate, adjusted for geographic variations. The four group rates resulting from the above methodology would be $231—Group 4, $275—Group 3, $296—Group 2, and $336—Group 1. (A more detailed explanation of the reimbursement methodology can be found in the March 23, 1982 issue of the Federal Register (47 FR 12579).) If, based on our experience and more extensive data, we believe that changes in the methodology of the ratesetting process or recalculations of the group payment rates are indicated, we would publish proposed changes for public comment.

2. Under the proposal, a physician's reasonable charge for furnishing his or her professional services in connection with a covered surgical procedure performed in a hospital-related ambulatory surgical setting or an ASC would be billed separately and reimbursed at 100 percent of the reasonable charge for that service if the physician accepts assignment of the claim (including all pre- and post-operative services). If assignment is not accepted, the usual rules governing Medicare payments would prevail.

3. Other medical services (as defined in section 1861(s) of the Act) furnished in connection with but not directly related to the performance of the covered procedures performed in hospital-related ambulatory surgical settings or ASCs would be billed separately under the usual payment procedures.

4. A beneficiary (or an ASC as his or here assignee) dissatisfied with reimbursement for services would be entitled to an administrative appeal under the existing Medicare procedures established in 42 CFR Part 405, Subpart H. These appeal procedures provide for a review of disputed claims. Additionally, the beneficiary or ASC would be able to request a hearing on the review determination.

5. We proposed to monitor the impact of the payment method closely by conducting sample surveys of ASC cost and charges. Such a survey would be conducted no more frequently than annually. We would make participation in the sample survey of cost and charge information a mandatory requirement in order to participate in the program. We would develop a simplified form of annual cost and charge reporting to be completed by a random selection of ASCs each time we begin a re-evaluation of the reimbursement system or update payment rates.

D. Assignment

1. *Physicians' Professional Services.* We proposed that Medicare would pay a physician as described in section III.C.2, above. To receive 100 percent of the reasonable charges, a physician would not be required to agree to accept assignment for all listed surgical procedures to all beneficiaries, but if the physician accepts assignment for services in connection with a covered surgical procedure in an individual case, the physician would also be required to accept assignment with respect to any pre-operative and post-operative services he or she furnishes in connection with the procedure in the particular case.

If a beneficiary dies before he or she assigns the right of payment for an unpaid Part B service, payment may be made to the physician if he or she agrees to accept the reasonable charge as payment in full. We proposed that this procedure be treated as an assignment for purposes of section 934.

The Medicare program could pay an entity such as an employer, facility, or health care delivery system described in 42 CFR 405.1680(d) (1), (2), or (3), 100 percent of the reasonable charges for physicians' services (including all pre-operative and post operative services) in connection with a covered surgical procedure performed in a hospital-related ambulatory surgical setting or an ASC. If the entity has entered into an employment or other contractual agreement with the physician authorizing the entity to accept assignment on the physician's behalf, the entity may agree on the physician's behalf to accept assignment for those services in the individual case.

2. *ASC Facilities.* We also proposed that the Medicare Part B program pay an ASC a prospectively determined standard overhead amount for the center's facility services furnished in connection with covered surgical procedures performed in the facility if it has in effect an agreement with HCFA to accept assignment for all those services. Again, no deductible or coinsurance would be applicable to those services. This assignment provision is incorporated into the ASCs agreement with the Secretary required under section 1832(a)(2)(F) of the Act. Under the law, facilities may not accept assignment on a case-by-case basis as is the situation with the physician assignment provision described earlier.

With respect to ASC assignment agreements, when a beneficiary dies before he or she assigns the right of payment for an unpaid Part B service, we would treat as assignment for purposes of section 934, payment to the facility after the death of the beneficiary, on the basis of its agreement to accept the reasonable charge as the full charge.

IV. Public Comments

We received a little over one hundred comments on the proposed rule and list of covered procedures representing the views of hospitals, ASCs, State agencies, professional organizations, physicians and other interested parties. Given the comprehensive nature of our proposals, the overall tone of the comments was very favorable. The comments addressed three main areas: ASC health, safety, and other standards; coverage of procedures; and reimbursement. The main comments and our responses to those comments are as follows:

A. ASC Standards

Only 38 respondents commented on issues related to health and safety. There were two major concerns. The first regards how an eligible ASC should be defined. The second is whether ASCs accredited by national accrediting bodies or licensed by State agencies should be deemed to meet the conditions for coverage (§§ 416.40 through 416.49).

1. *Definition of an ASC.* The issue raised by commentors concerning the definition of an ASC had two aspects. The first is whether an HAASC should have the option to participate in the ASC program. Our proposed rule excluded HAASCs from participation for two reasons.

- HAASCs are already eligible to participate in the Medicare program as part of a hospital.
- We believed that HAASCs would prefer to continue to be reimbursed on the basis of reasonable costs for all surgical procedures performed.

The comments received, however, lead us to believe that some HAASCs would prefer to participate in Medicare in the same manner as independent ASCs. In response to these comments, and because section 934 does not explicitly exclude HAASCs from participating, we are revising the definition of an ASC contained in our regulations § 416.2 to allow HAASCs the option of participating in this program. For purposes of clarification we will refer (in this preamble and § 416.30) to those HAASCs that elect this option as "ASCs operated by a hospital". For purposes of the remainder of these regulations, the term "ASC" includes ASCs operated by a hospital. The following restrictions, however, must be observed.

- Once the ASC operated by a hospital elects to participate in this program as an ASC, it will not have the option to change to participation as a component of the hospital. In other words, it must participate and be reimbursed as an ASC unless HCFA determines there is good cause to do otherwise.
- The ASC operated by a hospital must be a separately identifiable entity, physicially, administratively, and financially independent and distinct from other operations of the hospital. Under this restriction, hospital outpatient departments providing ambulatory surgery (among other services) would not be eligible. (§ 416.2)
- The ASC operated by a hospital must meet all requirements (i.e., health and safety, coverage, reimbursement, and assignment) applicable to independent ASCs.

The second aspect of the ASC definition that generated comments is the degree to which an ASC is distinguished from a private physician's office. Section 934 of Pub. L. 96–499 distinguished between ambulatory surgical centers and private office practices, both in terms of health and safety standards that must be met, and in terms of surgical procedures that are appropriate in each setting.

Because it is not feasible to describe in any reasonable detail what constitutes an ASC, as opposed to other entities providing health services, we have decided to adopt the general definition as stated in § 416.2. This, we believe, will not result in problems for the following reasons:

- The requirement that an ASC must operate "exclusively" for the purpose of providing ambulatory surgical services, will exclude private office practices that provide other health services.
- While State licensure and Certificate-of-Need (CON) requirements vary a great deal from State-to-State, we believe that they will exclude many private office practices from eligibility as ASCs.

These regulations do not address physicians' offices. As we indicated in our March 23, 1982 proposed rule, there were several considerations in this regard. The most compelling that precludes immediate implementation, is that coverage under the Medicare statute of overhead costs associated with surgical procedures performed in the physician's office setting is contingent upon, among other things, review of the performance of those procedures by a Professional Standards Review Organization (PSRO). PSROs are not now engaged in this type of review. We are continuing to evaluate this area with a view towards implementing this provision as soon as is feasible.

2. *Deemed Status.* Of the comments received on our deemed status proposal, most commentors favored some type of deemed status, but were divided on what basis deemed status should be granted. The industry tended to support recognizing, as a basis for granting deemed status, accreditation by a national accrediting organization as opposed to State licensure. In contrast, most States that responded had the opposite viewpoint. Few respondents were for deemed status unconditionally. Further, some commentors suggested that we acquire more experience with ASC certification, ASC accreditation, and State licensure programs before we grant deemed status.

We have already received three formal requests from organizations concerning deemed status. These were from the AAAHC, the Joint Commission on Accreditation of Hospitals, and the American Osteopathic Association. In addition, at least twenty-two States have licensure programs and may potentially apply for ASC deemed status with regard to their programs.

We believe that granting deemed status on the basis of accrediting or licensure programs which are equivalent to Medicare requirements is in the best interest of the Medicare program, the provider community, and the health care system. However, the divided nature of the comments and the number of entities already requesting, and expected to request, recognition with regard to deemed status dictate that we move judiciously in this area. While we support deemed status as important to reducing duplication in terms of program enforcement activities, our paramount responsibility is the protection of beneficiary health and safety.

We are still in the process of assessing existing ASC accrediting and State licensure processes. At the time we published the proposed rule, we had only reviewed the health and safety standards of the AAAHC, and the written requirements of a number of State licensure programs (many of which have been recently updated). Since publication of the proposed rule, we have not received all, nor fully examined, materials on the actual survey processes, surveyor qualifications, accreditation and licensure decision-making processes, or monitoring procedures of the various deemed status candidates to come to a decision now on specifying which organization's or State's program would be acceptable for purposes of deemed status. As we complete a comprehensive review of each candidate's program, we will publish in the **Federal Register** the names of those organizations or State programs approved for deemed status purposes.

We feel that the need to make the ASC program available as quickly as possible takes precedence over waiting for completion of our individual deemed status examinations. This additional time to finish our reviews will provide us with valuable information from the first round of certifications.

Therefore we are not granting deemed status to ASCs on the basis of accreditation by any specific organizations or licensure by a State until the above concerns are resolved. We are revising § 416.39 to establish, in regulations, the authority to grant

deemed status and the conditions under which it may be granted.

3. *Other Health and Safety Items.* a. *Section 416.40—Compliance With State Law.* Four comments were received regarding the necessity that an ASC must be licensed. Some commentors stated that some States either do not require any licensure at all, or exempt an ASC from State licensure as an ASC if all members of the ASC are individually licensed to practice by the State.

It is not HCFA's intent to obviate States' rights to regulate health facilities; therefore, we are retaining the concept that ASCs must comply with State licensure requirements. However, we are restating this section to replace the language requiring a "license" with language requiring compliance with State licensure requirements. We believe that this is sufficiently broad language to suit all State situations and still support our intent. Thus, where States are silent regarding licensure, or do not require an ASC license, ASCs may be eligible for Medicare reimbursement if the ASCs meet the conditions of coverage as an ASC.

b. *Section 416.41—Governing Body and Management.* Three comments were received regarding the appropriateness and clarity of the proposed requirement for a procedure for transfer of patients to a hospital. Respondents requested strengthening or clarifying the requirement. We have modified the standard to require an "effective" procedure for transfer to a Medicare participating hospital or a nonparticipating hospital that meets the requirements for payment for emergency services under § 405.1011 of the regulations. Additionally, we have clarified that the ASC must either have a written transfer agreement with such a hospital, or each physician with surgical privileges at the ASC must have admitting privileges at such a hospital.

This will ensure that patients have immediate access to needed emergency or medical treatment in a hospital. This requirement is also consistent with our goal of assuring that beneficiaries receive quality care. A hospital not meeting the above requirements (which are minimum prerequisites for Medicare reimbursement) is, by Medicare standards, inadequate to assure patient health and safety.

c. *Section 416.42—Surgical Services.* Two comments were received regarding proposed Standard (a) suggesting that due to the serious nature of administration of anesthesia, HCFA should broaden the standard to address evaluation of the patient for proper anesthesia recovery.

We accepted these comments and have expanded the standard to include assessment of anesthesia recovery.

Four comments were received regarding the appropriateness of including anesthesia assistants within proposed Standard (b). We have rejected the commentors' position that all anesthesia assistants do not receive adequate training to administer anesthesia safely. However, we have clarified under what conditions an anesthesia assistant is qualified. The issue of qualified anesthesia assistants is not new to the ASC area. Questions regarding the appropriate credentials for them have been recently researched and carefully considered by us. We believe that program requirements stated in Standard (b)(2) are supportable based on this examination.

Two comments were received regarding the importance of a requirement for discharge of patients in the company of responsible adults. We concur with these comments and had expected to describe in guidelines the necessity for an adult to pick-up patients who had undergone general or substantial anesthesia administration. Rather, we agree that this requirement is best in regulations to ensure that patients still affected by anesthesia are not discharged alone.

d. *Section 416.43—Evaluation of Quality.* We accepted the comment that the ongoing assessment of the ASC should be specifically clarified to include medical necessity of procedures and appropriateness of care. We believe that an important component to the ASC's functioning is the review of the necessity of procedures by such factors as pathology and other surgical findings. Further, we feel that it is important that the ASC periodically assess its functioning in the continuum of health care services by reviewing such indicators as subsequent hospitalization, appropriate admissions, and meeting of patient needs.

e. *Section 416.44—Environment.* Seven respondents submitted comments regarding various aspects of the proposed condition. We rejected the majority because the specific additions requested were either covered under other federal regulatory programs or by the National Fire Protection Association (NFPA) or because they were unnecessarily prescriptive. However, in response to some comments, we have added Standard (d). This standard requires that appropriately trained personnel be available to operate emergency equipment whenever there is a patient in the ASC. Quite obviously, maintenance of emergency equipment and other considerations of safety are meaningless without properly trained personnel.

One commentor suggested that we cite in the regulations those NFPA standards that are applicable to ASCs. We do not believe that it is necessary to include in regulations the citations of the numerous applicable sections of the Life Safety Code of the NFPA. It may, however, be useful to note here the primary sections of interest. Section 12–6 (New Ambulatory Health Care Centers) and Section 13–6 (Existing Ambulatory Health Care Centers) spelled out in NFPA–101, Life Safety Code (1981-edition), provide the basic requirements for ambulatory surgical centers. These sections also cross-refer to several other sections of the Life Safety Code.

f. *Section 416.45—Medical Staff.* Two comments were received regarding the nature of medical staff appointments and the lack of periodic appraisal of privileges granted to ASC physicians. We accepted these comments and have made two changes to the condition. First, Standard (a) was modified to require that privileges be granted in accordance with recommendations from qualified medical personnel. And second, a new standard was added to require that the ASC periodically conduct reappraisals of medical staff privileges and revise those privileges as appropriate.

g. *Section 416.46—Nursing Services.* Two comments were received questioning whether "available" meant that a registered nurse must be on-site. We have used the term "available" in a broader sense than simply presence in the ASC. In response to the commentors, we will interpret "available" to mean on-the-premises and sufficiently free from other duties to appropriately respond to emergency situations.

h. *Section 416.47—Medical Records.* Three comments were received regarding the content of the medical record. We accepted them and have added requirements that the medical record include pathologists' reports on tissues removed in sugery, notes regarding administration of anesthesia, and documentation of properly executed informed consent. These changes, we feel, are consistent with good medical practice and are important elements of a complete medical record.

i. *Section 416.48—Pharmaceutical Services.* One commentor suggested that this section be revised to permit LPNs to administer parenteral solutions. Because the States vary in regard to who is permitted to administer parenterals, we have modified this section by withdrawing all reference to parenteral

solutions. It is our position that by removing this reference, each State's Practice Act will govern those persons allowed to administer parenterals. Additionally, we have removed reference to anesthetist under Standard (a)(2), because anesthetists include categories of personnel (i.e., physician assistants) which HCFA considers not qualified to administer blood and blood products.

B. Coverage of Procedures

Sixty-seven individuals and organizations made comments on the coverage provisions of the NPRM. These include 33 medical centers, 21 individual physicians, 8 medical speciality organizations, and other interested parties.

The concerns of these commentors fell into four broad groupings: (1) Comments on the proposed list of covered procedures; (2) comments on the definition of ASC facility services; (3) comments on the operating room and recovery room time standards; (4) comments on the definition of pre- and post-operative services; and (5) comments on the definition of a physician.

1. *List of Covered Procedures.* Thirty-eight respondents commented on the proposed list of covered procedures; 31 called for additional procedures to be added, and seven respondents wanted to delete procedures from the list or otherwise limit the coverage of specific procedures in the ambulatory surgical setting. The final notice contained the list of covered procedures, and a discussion of the comments recommending deletions to our proposed list of covered procedures may be found elsewhere in this edition of the **Federal Register.** We removed from the proposed list one procedure that was recommended for deletion by a commentor.

We intend to publish additional lists in the future, if appropriate, once we have had an opportunity to study the 31 comments recommending additions to the list.

2. *Definition of ASC Facility Services—Other Covered Part B Services.* Some commentors questioned whether certain items and services such as prosthetic devices and diagnostic tests, were to be included in the term "facility services" and thus, included in the facility fee reimbursement amount. As stated in our proposed section 416.61(b), items which are otherwise covered under Part B of Medicare are not ASC facility services; thus, prosthetic devices, such as intra-ocular lenses, are not included in the facility's fee. Instead, these items are to be reimbursed separately under Part B by the carriers. We have taken the same position regarding other items and services, such as durable medical equipment, leg, arm, back and neck braces, artificial limbs and ambulance services.

3. *Operating Room and Recovery Room Time Standards.* Several commentors expressed serious reservations about the operating room and recovery room time standards set out in § 416.65, expressing misunderstanding that the times standards are limits which cannot be exceeded. The standards were intended for use as basic guidelines for the screening of procedures that would serve as appropriate candidates for the list of covered procedures. Consequently, procedures placed on the list are covered, regardless of whether the time guidelines are exceeded in any individual case. It is not our intention to exclude automatically any procedure that may fall outside these time guidelines as long as it remains on the list of covered procedures.

4. *Definition of Pre- and Post-Operative Services.* Several commentors expressed concern over the lack of clear definition of what constitutes pre- and post-operative services for which the physician would be accepting assignment. We did not address this issue in the proposed rule because we believed it to be essentially a question of local physician practice patterns. In the absence of specific statutory language, we have assumed that the Congress intended that the usual practices employed by contractors in paying for physician services would be used in connection with the listed procedures referred to in these regulations. Since the Part B carriers have, for many years, maintained charge profiles which reflect, among other things, the use of so-called "global fees" for certain surgical procedures, we believe the best practice would be to recognize those existing procedures in connection with the ambulatory surgical services provision. Thus, where it is customary for a given number or range of services such as consultations, diagnostic work-ups and follow-up visits to be included in a "global fee" for a given procedure, we expect the practice to continue. Where those practices are not followed, they would not be required. We believe that this will not only make the provision more easily understood, but will permit carriers to make payments in a timely and administratively responsible manner.

5. *Definition of Physician.* A few questions were raised regarding the term "physician" and whether it included or excluded one or another group of practitioners. The term "physician" is defined in the statute in section 1861(r), and further delineated in current Medicare regulations at 42 CFR 405.232a. The definition includes doctors of medicine or osteopathy, and, under certain circumstances, doctors of dentistry or dental or oral surgery; podiatry or surgical chiropody; optometry, and chiropractic. Since the statutory definition was not changed by the ambulatory surgical provision, it applies to the term "physician" as used in these regulations.

Therefore, when these practitioners are performing a procedure that is on the list of approved ambulatory surgical procedures, their services are covered, subject to State licensure laws and these regulations.

C. Reimbursement

1. *General Comments on Payment Method.* Three comments were received on the general payment method for facility services. One health insurance organization suggested that we replace the separate payment systems for facility services and physicians' services with an "all-inclusive rate" including payment for both components in one rate, to simplify bill processing and to avoid fragmentation. We have not accepted the suggestion. We have not implemented the all-inclusive rate option because we believe it would unnecessarily complicate the payment system and would not result in any administrative cost savings.

An ASC suggested that the covered procedures be classified into payment groups using the average cost of supplies and equipment, rather than the charges for each procedure, as is used in our classification system. We disagree for two reasons. First, we believe it is more accurate to use charges as a proxy for all the components of cost associated with providing facility services in an ASC. Second, there are no data available on the cost of supplies and equipment used in a particular surgical procedure. Also using charge data minimizes the need for facilities to report, and for HCFA to audit, the facility's cost data.

Another ASC suggested that the payment method make special provisions for those occasions in which the time required to furnish a particular procedure exceeds the average for that procedure. We rejected this comment because the statute requires that a standard amount be paid for each procedure. Moreover, based on the data available to us, there seems to be considerable variation in the average

facility use time (operating and recovery room) which would unduly complicate any mechanism which would attempt to pay a different rate for a longer than usual session.

2. *Adequacy of Data Used to Establish Rates.* Six comments were received which concerned the data base used to calculate the payment rates for ASC facility services. These comments were made by a hospital, a local hospital association, several ASCs, and a law firm, and suggested that the rates are flawed because the data base was compiled from an inadequate and nonrandomized sample, and the cost and charge data were unusable because the data facilities submitted were not in a standard format. It was also suggested that the data were flawed because it did not represent new facilities or facilities in a start-up phase.

We do not agree with these comments and have left the rates unchanged. We believe the data used to establish the rates are adequate for that purpose and represent the best data available on ASC costs and charges.

In a Federal Register notice (46 FR 28013) published May 22, 1981, information and suggestions were invited from interested persons and groups, and professional organizations, speciality societies and surgical facilities to assist in formulating appropriate policy that would be both consistent with the intent of Congress and responsive to the concerns of the public and the health care facilities and practitioners involved. In that notice, we requested information to give us a sense of policies that would be acceptable for all parties involved. With respect to reimbursement, we requested information about those services usually included in the ASC charges, those services billed separately and the most feasible mechanism to relate costs incurred to a particular procedure. We strongly encouraged facilities to submit copies of charge schedules and cost information to aid us in developing appropriate reimbursement rates.

We received 53 comments, representing the views of 10 professional organizations, 20 hospitals, 11 ASCs and 12 other interested parties. While the comments were substantial, responses to specific reimbursement questions were somewhat inadequate. However, we considered the comments received in the development of our policy implementing this provision and made every effort to accommodate suggestions received. Also both before and after publication of our May 22, 1981 Federal Register notice, we contacted or met with persons, professional organizations and speciality societies in order to share our policy direction and obtain additional information to aid us in policy development. We believe the policies set forth in our proposed rule represent the general consensus of the parties who responded or were contacted.

Moreover, in order to obtain more current data on ASC facility costs and charges, we asked the Freestanding Ambulatory Surgical Association (FASA) to assist us in conducting a survey of its members. This survey produced a significant sample (35 charge schedules, 40 completed questionnaires on billing practices and frequency data, and 19 financial reports) of 1979 and 1980 cost and charge information, as well as data on procedure time and frequency.

We believe the information and data collected to be the best available at this time. We plan to collect cost and charge data from ASCs on an ongoing sample basis and will make revisions in the rates as necessary to maintain the general relationship between our payment rates and facility costs that the statute requires.

3. *Group Numbering.* Four ASCs suggested that the numbers of the payment groups in the proposed regulations be reversed, so that group one represents the least complex procedures. The commentors felt that this would not only be more logical, but would also accommodate potential expansion in the number of groups more easily. We agree and have made this change in the final list (pulbished elsewhere in this Federal Register) and payment rates. The rates for the payment groups are as follows:

Group 1—$231
Group 2—$275
Group 3—$296
Group 4—$336

4. *Reimbursement of Multiple Procedures.* Two ASCs and an ambulatory surgical association pointed out that the proposed regulations did not address the situation in which two or more covered surgical procedures are furnished to a beneficiary in the same occasion of service. The commentors suggested that the regulations should provide for payment of the procedure with the highest group rate at 100 percent of the applicable rate, and for payment of a lower rate for each of the other covered procedures. Commentors suggested that 50 percent or 80 percent of the rate be used. We agree with the comment and have modified the final regulations to provide for payment of 100 percent of the group rate for the most complex procedure, and for payments of 50 percent of the applicable group rate for each of the other procedures furnished in the same operative session. We used the 50 percent rate because our analysis of facility charge schedules indicates that this is the predominant industry practice. We are concerned, however, that if more than two covered procedures are furnished in the same session, as is often the case, for example, with podiatric surgery, payment of 50 percent of the rate might overcompensate facilities. Therefore, we plan to monitor the frequency at which more than two covered procedures are furnished in the same session, and will make modifications in the payment provisions, if necessary.

5. *Local and Regional Variations in Payment Rates.* The reimbursement method set out in the proposed regulations calculated national payment rates and then provided for adjustment of these rates by a wage index to make the rates applicable to a particular area, such as a standard metropolitan statistical area, or a rural area within a particular State. Comments were received from an ASC, a hospital, and two national organizations on this provision. The commentors suggested that other factors in addition to wage differentials (for example, supply and energy costs) be used in making local or regional adjustments to the rates.

We have not accepted this comment. We believe we have accounted for any variations in facilities charges which were due solely to area differences in labor costs by use of the area wage index that appears in the schedule of Medicare limits on inpatient general routine operating costs that is authorized by 42 CFR 405.460. (The index we used was published on June 30, 1981, in the Federal Register (46 FR 33641).) This index reflects the different wage levels in areas where the ASCs are located. Since wages represent roughly one-third of ASC costs generally, we believe the proposed group rates adjusted for wage differentials, adequately reflect regional and local differences. Moreover, no data on other factors which might cause such differences are available at present.

We expect that the first years of this reimbursement method would provide us with experience in prospective rate setting. We will monitor the impact of the payment method closely by reviewing claims data and conducting sample surveys of ASC costs and charges. If, based on our experience and more extensive data, we find that changes in the methodology of the rate setting process or recalculation of the group payment rates are indicated, we

will publish proposed changes for public comment.

6. *Return on Equity Capital.* Two ASCs and an ambulatory surgery association suggested that the payments made to ASCs be adjusted to permit a specific return on equity capital. We have not accepted the comment.

The methodology for payment of facility services in ASCs is a prospective rate system, in which a standard rate is paid for a surgical procedure without regard to the costs of a particular facility. If a facility's cost of providing a particular service is less than the rate for that procedure, the excess is retained by the facility. While the rates for ASC reimbursement were based on the costs and charges of ASCs, an allowance for equity capital return was not included in these costs because it would diminish the incentive for efficient operation in the prospective system. An explicit recognition of return on equity capital is appropriate only for cost-based payment systems which do not otherwise recognize an opportunity for profit or loss with respect to covered services furnished to Medicare beneficiaries.

7. *Adequacy of Group Rates.* A number of comments were received which addressed the level of rates in general, or the rates for particular procedures. Eight ASCs and an ambulatory surgery association suggested that all the rates should be increased, in that the rates were felt to be unrealistically low and would discourage treatment of Medicare patients. One of these commentors suggested that the rates be increased by 10 percent, while others did not specify the level by which rates should be increased.

We disagree with the suggestion that the rates are inadequate. For ASC facility services, the statute requires payment of a standard overhead amount based on the Secretary's estimate of a fair fee that is relative to the cost of furnishing the service generally and is substantially less than the fee that would be paid if the procedure were performed on an inpatient hospital basis.

Again, in order to obtain current data on ASC facility costs and charges, we asked FASA to assist us in conducting a survey of its members. The group rates specified in the proposed rule are based on actual cost and charge information as reported by the facilities, updated for inflation. Based on the data, the average ASC will be reimbursed 90 percent of its charges for covered procedures furnished to Medicare patients. We have estimated, using the facility cost data, that this level of payment will result in ASCs recovering their cost, which comports with the intent of the statute.

Nine comments, from ASCs, hospitals and physicians addressed the adequacy of the rates for specific procedures, particularly for cataract extraction and arthroscopy. One commentor suggested that the rate for an iridectomy was excessive.

Our data indicate that the average cost-adjusted charges for extraction of cataracts and for iridectomy are somewhat below the group 4 rate of $336, while the average cost-adjusted charge for arthroscopy is somewhat above that rate. The payment system for ASC facility services is designed to reimburse all procedures in a group at a standard rate. Implicit in such a system is the expectation that some particular procedures in the group may be reimbursed at less than cost, while other procedures may be paid for at a rate higher than cost. There is no intent that a particular facility will be paid at a rate exactly equal to its costs for each procedure that it provides. Rather, the intent is that, in the aggregate, the average ASC will be paid the costs that it incurs in providing facility services.

As we obtain more data on ASC costs and charges, and after we have more experience with the payment method, we intend to work to refine the payment groups and levels to make the rates more procedure-specific.

8. *Exception to the Rate Structure.* Several comments were received which requested various types of exceptions to the rate structure. One commentor suggested that the rates should be adjusted for new facilities to reflect the high cost of initial capital outlays for new ASCs, to encourage new facilities to develop. We disagree with this comment. We believe our rate structure should be neutral to the question of entry of new facilities into the market, and that the rates should neither encourage nor discourage new entrants. To provide a special allowance for new facilities would be to provide, in effect, a subsidy which might encourage the development of excess surgical capacity.

Another commentor stated that the rates do not account for rural and other ASCs with low-volume, and suggested that an exception be provided for these facilities. While few rural facilities were included in our data base, we see no evidence that these facilities will be disadvantaged by the rate structure. With respect to an exception for low-volume facilities, although section 1833(i)(2)(A)(i) of the Act and the report of the Senate Committee on Finance (Senate Rep. No. 96–471, 96th Congress, 1st session 35 (1980)) accompanying the ambulatory surgery legislation permits the Secretary to consider volume in establishing payment rates for ASCs, we have not implemented such an adjustment. At present our data do not permit us to make such an adjustment. However, we intend to monitor closely the impact of our payment structure on ASCs, by examining claims and cost data from sample facilities. We will consider the future reviews of the payment rates, the effect of our payment system on ASCs providing either low or high volumes of services to determine whether adjustments are warranted.

Another commentor suggested that ASCs be permitted to bill patients for supplies, operating room time and staff costs associated with a particular procedure which takes more than the standard time allotted for the procedure. This comment is rejected because it is not permitted by the statute, which requires that the ASC, in order to participate, must accept the rate determined by the Secretary as payment in full for the procedure. Billing to the Medicare beneficiary for any facility service is not permitted.

9. *Physician Reimbursement.* The proposed regulations provided that a physician performing a covered surgical procedure in a hospital outpatient department, hospital-affiliated ambulatory surgical center or an ASC would be reimbursed at 100 percent of the reasonable charge for the service if assignment was accepted. One comment was received from a prepayment plan that the proposed regulations did not address situations in which physicians' services are reimbursed on a reasonable cost basis, rather than on a reasonable charge basis. The commentor suggested that, in these situations, physicians' services be paid for at 100 percent of the reasonable cost, to coincide with the provisions for reasonable charge payments. We agree, and have modified §§ 405.240(k) and 416.110 of the regulations to permit health maintenance organizations reimbursed under section 1876 of the Act to be reimbursed at 100 percent of the reasonable cost for the services of physicians related to the performance of certain surgical procedures in appropriate ambulatory surgical settings. We will modify the cost reporting system and instructions for these plans to make the necessary adjustments.

We considered extending a similar provision to group practice prepayment plans (GPPPs) which, under section 1833(a)(1)(A) of the Act, may elect to be reimbursed on a reasonable cost basis, for covered medical and other health

services (including physicians' services) furnished to beneficiaries, rather than on a reasonable charge basis. However, the statute would prohibit such a procedure. GPPPs which elect reasonable cost reimbursement are paid under the terms of the statute, for 80 percent of the reasonable cost of covered services. There is no provision in the law which authorizes payment of a different amount.

10. *Reimbursement for ASCs Operated by a Hospital.* Where an ASC operated by a hospital elects to be reimbursed under these regulations as an ASC, special provision must be made to assure that payment to the hospital and payment to the ASC operated by the hospital are coordinated. We intend that those ASCs operated by hospitals which are currently treated as an outpatient cost center on the hospital's Medicare cost report, be treated instead as a non-reimbursable cost center on the hospital's report. This procedure will assure that the hospital's overhead costs are properly allocated. We have modified our regulations at § 416.30 (on terms of agreement with HCFA) to require that an ASC operated by a hospital agree to be reimbursed only as an ASC rather than as part of the hospital, consistent with the hospital's cost reporting period. This agreement will minimize the adjustments that would have to be made by the intermediary and the hospital to the hospital's cost report. Medicare payment to the ASC operated by a hospital, as is the case with all Medicare ASCs, will be made only for those procedures included in the list of covered procedures, and will be made at the prospective rate established by the Secretary for that procedure. Surgical procedures other than those contained in the list will not be reimbursed under Medicare.

As discussed earlier in this preamble, the ASC operated by a hospital may not convert to participation or reimbursement as a component of the hospital unless HCFA determines that there is good cause to do otherwise. This provision is intended to prohibit such an entity from switching from one payment method to another to maximize its revenues. It also offers a degree of certainty about the extent of the hospital's outpatient department (which is distinct from the hospital's ASC).

V. Changes to the Regulations

Based on the comments received and other considerations explained below, we are making the following changes to the proposed rule:

A. ASC Standards

- We are revising the definition of an ASC to allow additional entities to participate as ASCs (§ 416.2).
- We are adding to the section concerning terms of agreement with HCFA, additional requirements specific to ASCs operated by a hospital (§ 416.30).
- We are revising the section on deemed status to delete references to any specific organization. Under this section, HCFA may now grant deemed status to ASCs on the basis of accreditation by a national accrediting body or licensure by a State health department (§ 416.39).
- Per § 416.2 (definition of an ASC), an ASC must be exclusively for the purpose of providing ambulatory surgical services. Therefore, an inhouse laboratory or radiologic service would be inappropriate, unless it were physically and organizationally distinct from the ASC. Section 416.49 has been modified to reflect this change.
- We have amended proposed regulations §§ 416.40–416.49 to strengthen, clarify, simplify, and add additional flexibility. (See discussion of specific sections in Section IV, Public Comments.)

B. Reimbursement

- We are amending the sections regarding physician reimbursement to clarify that pre-and post-operative services need not be provided in the facility where the surgical procedure is performed in order for the physician to be reimbursed (§§ 416.3 and 416.110).
- We are amending the section on facility services reimbursement to further distinguish between an HAASC and an ASC operated by a hospital for purposes of payment (416.120(b)). We are further amending this section to specify the payment for multiple procedures performed in a single operative session (416.120(c)). A conforming amendment is being made in § 405.240(*l*).
- We are amending the sections on reimbursement for physicians' services at 405.240(k) and 416.110 to state that payment will be made at 100 percent of reasonable costs, rather than reasonable charges, for health maintenance organizations.
- We have reversed the numbers of the payment groups so that group one represents the least complex and least costly procedure. The groups are as follows:

Group 1—$231; Group 2—$275; Group 3—$296; Group 4—$336.

C. Technical Changes

We are making minor technical changes to correct typographical errors in the proposed rules and to simplify language for clarity. In Subpart O, we have deleted the word "independent" preceding ambulatory surgical centers. Other sections affected are:

Sections: 405.1501, 405.1502, 405.1532, 405.1563, 416.25, 416.30, 416.35,[1] 416.39, 416.44, 416.45, 416.48, 416.110, 416.120, 416.130, 416.140.

VI. Impact Analyses

A. Executive Order 12291

We have determined that these proposed rules do not meet the criteria for a "major rule" as defined by section 1(b) of Executive Order 12291 because they will not result in an economic impact of $100 million or meet other threshold criteria of the Executive Order.

Our actuaries have estimated a $2 million savings in FY 1983 attributable to the ambulatory surgical benefit. We anticipate the amount of savings to substantially increase in subsequent years as the number of participating ASCs and the volume of services delivered to Medicare beneficiaries in ASCs continues to grow.

In making cost comparisons, we predicted that extending Medicare coverage to ASCs will not significantly affect the number of surgical procedures performed on Medicare beneficiaries, although we have allowed for a small increase in elective procedures performed because of the convenience afforded by coverage being extended to this setting, as well as the elimination of Part B deductible and coinsurance. What we do expect is a transfer of appropriate surgical procedures from the inpatient setting to the less costly ambulatory surgical setting. In comparing costs of inpatient surgery to ASC facility reimbursement expected under these regulations, we considered national average routine inpatient costs and costs of ancillary services, as well as average ASC facility reimbursement and increased physician payments on assigned claims.

As our estimate of $2 million is significantly less than the $100 million threshold and as significant adverse effects on competition are not likely to develop, a regulatory impact analysis is not required.

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[1] Based on discussions, Section (a) (1) and (2) were considered misleading. These two sections have been revised to be consistent with similar requirements for termination of agreements applicable to other providers and suppliers, and to reflect the intended meaning more clearly.

B. Regulatory Flexibility Act

The Secretary certifies, under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these regulations will not result in a significant impact on a substantial number of small entities.

We estimate that there are approximately 125 potentially participating independent ASCs throughout the country. These regulations implement a statutory provision (which adds to benefits available under Part B of Medicare certain services provided in certain ambulatory settings) by spelling out (1) standards for ASCs, (2) criteria for determining which covered procedures will be included for purpose of reimbursement and, (3) reimbursement methods and assignment requirements. Participation of ASCs in Medicare, while arguably significant, is an effect of the statute and does not "result" from these regulations. Further, we do not believe that other effects of these regulations result in a significant impact on these ASCs. Based on a study by a professional research firm, which evaluated the effects of alternative surgical settings, we estimate that Medicare beneficiaries will comprise only 10 percent of an average ASC's total patient load. In view of this, we do not believe the effect of the provisions of these regulations regarding standards, criteria for coverage, and reimbursement methods is significant.

By expanding our definition for an ASC, we anticipate that an additional 175 to 275 ASCs operated by a hospital will participate in the program. The impact should not be significant for these entities, as we believe that they already provide ambulatory surgical services. They will seek certification as an ASC simply to remain competitive with independnt ASCs. However, these provisions will change their Medicare reimbursement and associated claims procedures, though we believe this will not result in significant changes in their operations.

Several commentors suggested that this change would lower utilization in hospital outpatient department settings, yielding a higher cost per procedure for procedures continuing to be performed in this setting. However, we have modified our proposed regulations to permit ASCs operated by hospitals to be reimbursed in the same manner as independent ASCs. Thus, a hospital may avoid significant effects from decreases in outpatient department utilization due to competition from independent ASCs by establishing its own ASC. If it does, the hospital would in effect alter its allocation of overhead costs to outpatient services to reflect the allocation of appropriate overhead costs to the ASC, leaving costs per outpatient procedure relatively unchanged. Further, since the prospective payment to the ASC operated by the hospital will include an amount intended to reflect ASC overhead costs, the total hospital reimbursement should also remain relatively unchanged.

Similarly, commentors expressed concern that these regulations would decrease inpatient surgery and result in an increase in unused beds and unused operating room time. This is of particular concern among hospitals already experiencing low occupancy rates. However, because of the anticipated relatively low utilization of ASCs by Medicare beneficiaries due to their age and general health conditions and because the decrease in utilization will be spread among the hospitals serving the ASC's service area, we do not expect any significant adverse effects on a hosptial's total Medicare reimbursement.

One comment addressed the potential for additional demands being placed on Part B carrier operations as a result of these regulations. We expect relatively few ASCs to be assigned to any one carrier, and we are also proposing a simplified payment method. Therefore, the impact on affected carriers, in terms of processing and other administrative costs, is also projected to be minimal.

We have also sought to minimize costs of compliance with these regulations by permitting as much flexibility as possible in certification standards, developing a simplified payment system, and reducing cost reporting requirements by using only sample surveys.

For these reasons, we do not anticipate that these regulations will significantly affect a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

C. Discussion

Although we have not classified these regulations as a "major rule" or established that a substantial number of small entities will be significantly affected, these regulations will realize several benefits, especially to our beneficiaries.

These regulations will promote competition, and benefit Medicare beneficiaries, the ASC industry and the Medicare program trust fund.

The legislation extending Medicare coverage for surgery in ASCs provides for 100 percent reimbursement of the payment rate for facility services, as well as for the physician's professional services for performing the surgical procedures in appropriate cases. The Medicare beneficiary will not have to pay the Part B deductible and 20 percent coinsurance for these services. Also, the cost for the Part A deductible may not have to be incurred by the beneficiary if he or she can take advantage of undergoing sugery in an ambulatory setting rather than inpatient setting. The extension of coverage and reimbursement to ASCs will give beneficiaries and their physicians important additional options in their selection of sites for surgery. Those options in turn will enhance the competition between ASCs and hospitals. Consequently, the Medicare beneficiary population will also experience savings through these regulations.

VII. List of Subjects

42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

42 CFR Part 416

Ambulatory surgical centers, Assignment, Contracts (Agreements), Medicare, Physicians, Reporting Requirements, Surgical procedures.

42 CFR Chapter IV is amended as set forth below.

A. The Table of Contents is amended by adding a new Part 416 to Subchapter B to read as follows:

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

* * * * *

SUBCHAPTER B—MEDICARE PROGRAMS

* * * * *

PART 416—AMBULATORY SURGICAL SERVICES

* * * * *

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Supplementary Medical Insurance Benefits; Enrollment, Coverage, Exclusions and Payment

B. Subpart B of Part 405 is amended as follows:

1. The authority citation for Subpart B is amended to read as follows:

Authority: Secs. 1102, 1831–1843, 1861, 1862, 1866, 1871; 49 Stat. 647, as amended, 79 Stat. 301–312, 313, 325, 327, 331; 42 U.S.C. 1302, 1395j–1395v, 1395x, 1395y, 1395cc, and 1395hh.

2. In § 405.230 the introductory language for paragraph (a) is reprinted, a new paragraph (a)(6) is added and paragraph (b) is revised as follows:

§ 405.230 Supplementary medical insurance benefits.

(a) *Benefits provided.* Any individual who is enrolled under the supplementary medical insurance plan established by Part B of title XVIII of the Act is, subject to the conditions, limitations, and exclusions described in this Part 405, entitled to have:

* * * * *

(6) Payment made on his or her behalf for covered ambulatory surgical center facility services, as described in § 416.61 of this chapter, that are furnished in connection with surgical procedures described in § 416.65 of this chapter, and performed in a participating ambulatory surgical center.

(b) *Reimbursable expenses.* In order to be considered incurred expenses, expenses for physicians' services, home health services, ambulatory surgical center facility services, and for other medical and health services covered under the supplementary medical insurance plan must be for services furnished to an individual during his or her coverage period. (See as described in §§ 405.221 through 405.223.)

3. In § 405.240 the introductory paragraph is revised, paragraphs (i) and (j) are added and reserved and new paragraphs (k) and (l) are added to read as follows:

§ 405.240 Payment of supplementary medical insurance benefits; amounts payable.

In the case of an individual who incurs expenses during his or her coverage period under the supplementary medical insurance plan, payment with respect to the total amount of such expenses incurred during a calendar year shall, subject to the provisions of §§ 405.243–405.246, be made as follows:

* * * * *

(i) [Reserved]

(j) [Reserved]

(k) One hundred percent of the reasonable charges (or 100 percent of the reasonable cost, in the case of a health maintenance organization reimbursed under section 1876 of the Act) for physicians' services (including all pre- and post-operative services) furnished in connection with surgical procedures as specified in § 416.65 of this chapter, if the following conditions are met:

(1) The procedures are performed in a participating ambulatory surgical center, on an outpatient basis in a hospital, or in a hospital-affiliated ambulatory surgical center.

(2) The physician accepts assignment with respect to payment for those services furnished in connection with the procedures. For purposes of this section:

(i) Assignment means an assignment under § 405.1675 of the right to receive payment under the Medicare Part B program and payment under § 405.1684 (when an individual dies before assigning payment).

(ii) A physician may authorize an entity specified in § 405.1680(d) (1), (2), or (3) to accept assignment on his or her behalf.

(l) A standard overhead amount as specified in § 416.120(c) of this chapter, for ambulatory surgical center facility services, as described in § 416.61 of this chapter, that are furnished in connection with surgical procedures described in § 416.65 of this chapter and performed in a participating ambulatory surgical center.

4. Section 405.244–1 is amended by revising the section title, designating a portion of the section as paragraph (a), and adding new paragraphs (b) and (c). As amended, § 405.244–1 reads as follows:

§ 405.244–1 Payment of supplementary medical insurance benefits; kidney donor services and ambulatory surgical services.

Notwithstanding any other provisions in this title, there are no deductible or coinsurance requirements with respect to—(a) Services furnished to an individual in connection with the donation of a kidney for transplant surgery;

(b) Physicians' services (including all pre- and post-operative services) when the physician accepts assignment, as described in § 405.240(k)(2), and provides services in connection with a covered surgical procedure, as specified in § 416.65 of this chapter, performed in a participating ambulatory surgical center, on an outpatient basis in a hospital or in a hospital-affiliated ambulatory surgical facility; or

(c) Facility services, as described in § 416.65 of this chapter, furnished in connection with surgical procedures as specified in § 416.65 of this chapter, when those procedures are performed in a participating ambulatory surgical center.

5. Section 405.250–2 is amended by revising the section title, redesignating the undesignated introductory paragraph as paragraph (a), redesignating current paragraphs (a) and (b) as (a)(1) and (a)(2), and adding a new paragraph (b) to read as follows:

§ 405.250–2 Procedures for payment; rural health clinic and ambulatory surgical center facility services furnished by a rural health clinic or an ambulatory surgical center.

(a) Payment for covered rural health clinic services shall be made if:

(1) The services are furnished by a rural health clinic in accordance with the requirements of Subpart X of this part and Subpart A of 481 of this chapter; and

(2) A written request for payment is filed by the clinic on the form and in the manner prescribed by HCFA.

(b) Payment for facility surgical services furnished by an ambulatory surgical center shall be made if—

(1) The services are furnished in accordance with the requirements of Part 416 of this chapter; and

(2) A written request for payment is filed by the ambulatory surgical center on the form and in the manner prescribed by HCFA.

Subpart O—Providers of Services, Emergency Service Hospitals, Independent Laboratories, Suppliers of Portable X-Ray Services, End-Stage Renal Disease Treatment Facilities, and Persons; Determinations and Appeals Procedures

The authority citation for Subpart O reads as follows:

Authority: Secs. 1102, 1866, 1869, 1871, 1872, 49 Stat. 647, as amended; 79 Stat. 327; 79 Stat. 330–332; 42 U.S.C. 1302, 1395 et seq., unless otherwise noted.

C. Subpart O of Part 405 is amended as follows:

1. The Table of Contents is amended by revising the subpart title and the title of § 405.1501 to read as follows:

Subpart O—Providers of Services, Emergency Service Hospitals, Independent Laboratories, Suppliers of Portable X-Ray Services, Ambulatory Surgical Centers, End-Stage Renal Disease Treatment Facilities, and Persons; Determinations and Appeals Procedures

* * * * *

2. In § 405.1501 the section title is revised, the introductory language for paragraph (a) is reprinted without change, and paragraphs (a)(5) and (c) are revised as follows:

§ 405.1501 Providers of services, emergency service hospitals, independent laboratories, suppliers of portable X-ray services, ambulatory surgical centers, end-stage renal disease treatment facilities and persons; determinations and appeals procedures.

(a) The provisions contained in this Subpart O shall govern the procedure for making and reviewing determinations with respect to:

* * * * *

(5) Whether an independent laboratory, supplier of portable X-ray services, ambulatory surgical center, or end-stage renal disease treatment facility meets the appropriate conditions for coverage of its services (see Subparts M and N of this Part 405, Subpart B of this Part 416 of this Chapter, and Appendix to Subpart B of this Part 405); and

* * * * *

(c) Any independent laboratory, supplier of portable X-ray services, ambulatory surgical center, or any end-stage renal disease treatment facility which is dissatisfied with an initial determination (see § 405.1502) that the services subject to the determination do not meet the conditions for coverage (see Subparts M and N of this Part 405, Subpart B of Part 416 of this chapter, and Appendix to Subpart B of this Part 405) may request a reconsideration of that determination (§ 405.1510). If dissatisfied with the reconsidered determination or where a determination had been made that an independent laboratory's, portable X-ray supplier's, ambulatory surgical center's, or end-stage renal disease treatment facility's services met the respective conditions for coverage, with an initial determination thereafter that the services subject to the determination no longer meet the respective conditions for coverage, a laboratory, portable X-ray supplier, ambulatory surgical center, or end-stage renal disease treatment facility may request a hearing thereon (see § 405.1530), and if dissatisfied with the decision of the Administrative Law Judge may request Appeals Council review. The statute does not offer a laboratory, portable X-ray supplier, ambulatory surgical center, or end-stage renal disease treatment facility a judicial review of the Secretary's final decision after such hearing and review.

3. In § 405.1502, the introductory paragraph is reprinted without change and paragraphs (b)(1) and (b)(2) are revised to read as follows:

§ 405.1502 Initial determinations.

The Secretary will make findings, setting forth the pertinent facts and conclusions, and an initial determination with respect to:

* * * * *

(b)(1) Whether an independent laboratory, supplier of portable X-ray services, ambulatory surgical center, or end-stage renal disease treatment facility meets the respective conditions for coverage (see Subparts M and N of this Part 405, Subpart B of Part 416 of this chapter, and Appendix to Subpart B of this Part 405). If the laboratory, portable X-ray supplier, ambulatory surgical center, or end-stage renal disease treatment facility has filed a written request for such a determination; or

(2) Whether the services of an independent laboratory, supplier of portable X-ray services, ambulatory surgical center, or an end-stage renal disease treatment facility continue to meet their respective conditions for coverage of the services subject to the determination; and

* * * * *

§ 405.1503 [Amended]

4. Section 405.1503 is amended by inserting the words "ambulatory surgical center," following "portable X-ray supplier." each time it appears.

§ 405.1505 [Amended]

5. Section 405.1505(a)(2) is amended by inserting the words "ambulatory surgical center," following "supplier of portable X-ray services,".

§ 405.1510 [Amended]

6. Section 405.1510 is amended by inserting the words "ambulatory surgical center," after "supplier of portable X-ray services," or "portable X-ray supplier," each time they appear and by removing the words "M, N," where they appear and inserting in their place, "M and N of this Part 405, Subpart B of Part 416 of this chapter,".

§§ 405.1511–405.1513, 405.1515, 405.1516 and 405.1519 [Amended]

7. Sections 405.1511(a), 405.1512, 405.1513, 405.1515, 405.1516, and 405.1519 are amended by inserting the words "ambulatory surgical center," following "portable X-ray supplier," each time it appears.

§ 405.1520 [Amended]

8. Section 405.1520 is amended by inserting the words "ambulatory surgical center," after "portable X-ray supplier," or "supplier of portable X-ray services," each time they appear and by removing the words "M, N," where they appear and inserting, in their place, "M and N of this Part 405, Subpart B of Part 416 of this chapter,".

§§ 405.1530 and 405.1531 [Amended]

9. Sections 405.1530 and 405.1531 are amended by inserting the words "ambulatory surgical center," following "portable X-ray supplier," each time it appears.

10. Section 405.1532 is revised to read as follows:

§ 405.1532 Parties to the hearing.

The parties to the hearing shall be the institution, agency, clinic, laboratory, portable X-ray supplier, ambulatory surgical center, end-stage renal disease treatment facility, or person which was a party to the prior determination (see §§ 405.1502(b)(2), (c), (d)(2), and (e), 405.1514, and 405.1519) and HCFA as representing the Secretary. HCFA shall be represented at the hearing (see § 405.1543).

§ § 405.1534, 405.1536, 405.1537 and 405.1542 [Amended]

11. Sections 405.1534, 405.1536, 405.1537, and 405.1542 are amended by inserting the words "ambulatory surgical center," after "portable X-ray supplier," where it appears.

12. Section 405.1543 is revised to read as follows:

§ 405.1543 Joint hearings.

When two or more institutions, agencies, clinics, laboratories, portable X-ray suppliers, ambulatory surgical centers, end-stage renal disease treatment facilities, or persons have requested hearings and the same or substantially similar matters are in issue, the Administrative Law Judge may, if all parties agree, fix the same times and places for each prehearing conference or hearing and conduct all such proceedings jointly. Where joint hearings are held, a single record of the proceedings shall be made and a separate decision issued with respect to each institution, agency, clinic,

laboratory, portable X-ray supplier, ambulatory surgical center, end-stage renal disease treatment facility, or person.

§ 405.1545 [Amended]

13. Section 405.1545 is amended by inserting the words "ambulatory surgical center," after "portable X-ray supplier," where it appears.

§ 405.1550 [Amended]

14. Section 405.1550 is amended by inserting the words "ambulatory surgical center," after "portable X-ray supplier," each time it appears and by removing the words "the Medicare Bureau (as well as the Health Standards and Quality Bureau in the case of a determination regarding an end-stage renal disease treatment facility)" where they appear and inserting, in their place, "HCFA".

§§ 405.1551-405.1554 [Amended]

15. Sections 405.1551, 405.1552, 405.1553, and 405.1554 are amended by inserting the words "ambulatory surgical center," after "portable X-ray supplier," each time it appears.

16. Section 405.1563 is revised to read as follows:

§ 405.1563 Action by the Appeals Council on request for review.

The review or denial of the Administrative Law Judge's decision shall be conducted by a panel of at least two members of the Appeals Council designated by the Chairman or Deputy Chairman and one person from the U.S. Public Health Service designated by the Secretary. Except as provided in § 405.1568, the Appeals Council shall review the Administrative Law Judge's decision or dismissal where an institution, agency, clinic, laboratory, portable X-ray supplier, ambulatory surgical center, end-stage renal disease treatment facility, or person, files a request for review. The Appeals Council may dismiss, deny, or grant a request for review filed by HCFA as representing the Secretary. If the review is granted, the Appeals Council may either modify, affirm, or reverse the Administrative Law Judge's decision. Notice of the action by the Appeals Council shall be mailed to the institution, agency, clinic, laboratory, portable X-ray supplier, ambulatory surgical center, end-stage renal disease treatment facility, or person and HCFA.

17. Section 405.1567 is revised to read as follows:

§ 405.1567 Effect of the Appeals Council decision.

The decision of the Appeals Council shall be final and binding unless a civil action (see § 405.1501 (b), (e) and (f)) is filed by the institution, agency, clinic, or person in a district court of the United States as authorized by section 1862(d)(3) or 1869(c) of the Act, as appropriate, or unless the decision is revised in accordance with § 405.1570. (Section 1869(c) of the Act does not grant judicial review of the Secretary's decision with respect to whether an independent laboratory, supplier of portable X-ray services, ambulatory surgical center, or end-stage renal disease treatment facility meets the conditions for coverage, as required by Subparts M and N of this Part 405, Subpart B of Part 416 of this chapter, or Appendix to Subpart B of this Part 405.)

§ 405.1569 [Amended]

18. Section 405.1569 is amended by inserting the words "ambulatory surgical center," after "portable X-ray supplier," or "supplier of portable X-ray services," where they appear.

§ 405.1590 [Amended]

19. Section 405.1590 is amended by inserting the words "ambulatory surgical center," after "portable X-ray supplier," where it appears.

20. Section 405.1592 is revised to read as follows:

§ 405.1592 Fees for services.

Fees for any services provided by a representative appointed and qualified as in §§ 405.1590 and 405.1591 on behalf of any institution, facility, agency, clinic, laboratory, portable X-ray supplier, or ambulatory surgical center shall not be subject to the provisions of section 206 of title II of the Social Security Act.

D. A new Part 416 is added as set forth below.

PART 416—AMBULATORY SURGICAL SERVICES

Subpart A—General Provisions and Definitions

Subpart B—Ambulatory Surgical Centers: Coverage and Benefits.

Conditions for Coverage

Scope of Benefits

Subpart C—Payment for Ambulatory Surgical Services

Authority: Secs. 1102, 1832(a)(2), 1833, 1863 and 1864 of the Social Security Act (42 U.S.C. 1302, 1395k(a)(2), 1395l, 1395z and 1395aa)

Subpart A—General Provisions and Definitions

§ 416.1 Scope.

This part establishes the requirements for coverage and reimbursement of certain ambulatory surgical services under the Medicare program, authorized under sections 1832(a)(2) and 1833 of the Act.

§ 416.2 Definitions.

As used in this part:

"Ambulatory surgical center" or "ASC" means any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization, has an agreement with HCFA under Medicare to participate as an ASC, and meets the conditions set forth in Subpart B of this part.

"Covered surgical procedures" means those surgical and other medical procedures which meet the criteria specified in this part and are published by HCFA in the **Federal Register**.

§ 416.3 Expenses not subject to deductible or coinsurance.

Notwithstanding any other provisions in this chapter, expenses for services covered under this part are not subject to the supplementary medical insurance benefits deductible or coinsurance requirements for—

(a) Physicians' services (including pre- and post-operative services), when the physician accepts assignment as described in § 405.240(k)(2) of this chapter and provides services in connection with a covered surgical procedure, as specified in § 416.65, that is performed in a participating ASC, on an outpatient basis in a hospital or in a hospital-affiliated ambulatory surgical center; or

(b) Facility services as described in § 416.61 furnished in connection with surgical procedures as specified in § 416.65 when those procedures are performed in a participating ASC.

Subpart B—Ambulatory Surgical Centers: Coverage and Benefits

§ 416.20 Basis and purpose.

This subpart implements sections 1832(a)(2) and 1833 of the Act, with respect to—

(a) The conditions that an ASC must meet to participate in the Medicare program (conditions for coverage); and

(b) The scope of benefits covered in an ASC.

Conditions for Coverage

§ 416.25 Basic requirements and procedures.

(a) *Eligible facilities.* Participation as an ASC is limited to those facilities that meet the definition in § 416.2.

(b) *Survey of ASCs.* (1) Unless the ASC is deemed to be in compliance with the conditions for coverage (see § 416.39(b) for deemed compliance), the ASC must be surveyed to ascertain compliance with the requirements in §§ 416.40–416.49.

(2) HCFA will survey deemed ASCs on a sample basis as part of HCFA's validation process.

(c) *Acceptance of the ASC as qualified to furnish ambulatory surgical services.* If HCFA determines, after reviewing the survey agency recommendation and other evidence relating to the qualification of the ASC, that the facility meets the requirements of this subpart, it will send to the ASC—

(1) Written notice of the determination; and

(2) Two copies of the ASC agreement.

(d) *Filing of agreement by the ASC.* If the ASC wishes to participate in the program, it must—

(1) Have both copies of the ASC agreement signed by its authorized representative; and

(2) File them with HCFA.

(e) *Acceptance by HCFA.* If HCFA accepts the agreement filed by the ASC, it will return to the ASC one copy of the agreement, with a notice of acceptance specifying the effective date.

(f) *Appeal rights.* If HCFA refuses to enter into an agreement or if HCFA terminates an agreement, the ASC is entitled to a hearing in accordance with Part 405, Subpart O of this chapter.

§ 416.30 Terms of agreement with HCFA.

As part of the agreement under § 416.25(d), the ASC must agree to the following:

(a) *Compliance with coverage conditions.* The ASC agrees to meet the requirements regarding conditions for coverage as specified in § 416.39 and to report promptly to HCFA any failure to do so.

(b) *Charges to beneficiaries.* The ASC agrees not to charge the beneficiary or any other person for items or services for which the beneficiary is entitled to have payment made under the provisions of this subpart (or for which the beneficiary would have been entitled if the ASC had filed a request for payment in accordance with § 405.250–2 of this chapter).

(c) *Refunds to beneficiaries.* (1) The ASC agrees to refund as promptly as possible any money incorrectly collected from beneficiaries or from someone on their behalf.

(2) As used in this section, "money incorrectly collected" means sums collected in excess of those specified in paragraph (b) of this section. It includes amounts collected for a period of time when the beneficiary was believed not to be entitled to Medicare benefits if—

(i) The beneficiary is later determined to have been entitled to Medicare benefits; and

(ii) The beneficiary's entitlement period falls within the time the ASC's agreement with HCFA is in effect.

(d) *Furnishing information.* The ASC agrees to furnish to HCFA, if requested, information necessary to establish payment rates specified in §§ 416.120–416.130 in the form and manner that HCFA requires.

(e) *Acceptance of assignment.* The ASC agrees to accept assignment for all facility services furnished in connection with covered surgical procedures as specified in 416.85. For purposes of this section, assignment means an assignment under § 405.1675 of the right to receive payment under Medicare Part B and payment under § 405.1684 (when an individual dies before assigning payment).

(f) *ASCs operated by a hospital.* In ASCs operated by a hospital—

(1) The agreement is made effective prospectively on the first day of the Medicare cost reporting period of the hospital with which the ASC is affiliated; and

(2) The ASC participates and is reimbursed only as an ASC, without the option of converting to or being reimbursed as a hospital outpatient department or hospital-affiliated ambulatory surgical center, unless HCFA determines there is good cause to do otherwse.

(3) Costs for the ASC are treated as a non-reimbursable cost center on the hospital's cost report.

(g) *Additional provisions.* The agreement may contain any additional provisions that HCFA finds necessary or desirable for the efficient and effective administration of the Medicare program.

§ 416.35 Termination of agreement.

(a) *Termination by the ASC—*

(1) *Notice to HCFA.* An ASC that wishes to terminate its agreement must send HCFA written notice of its intent.

(2) *Date of termination.* The notice may state the intended date of termination which must be the first day of a calendar month.

(i) If the notice does not specify a date, or the date is not acceptable to HCFA, HCFA may set a date that will not be more than 6 months from the date on the ASC's notice of intent.

(ii) HCFA may accept a termination date that is less than 6 months after the date on the ASC's notice if it determines that to do so would not unduly disrupt services to the community or otherwise interfere with the effective and efficient administration of the Medicare program.

(3) *Voluntary termination.* If an ASC ceases to furnish services to the community, that shall be deemed to be a voluntary termination of the agreement by the ASC, effective on the last day of business with Medicare beneficiaries.

(b) *Termination by HCFA*—(1) *Cause for termination.* HCFA may terminate an agreement if it determines that the ASC—

(i) No longer meets the conditions for coverage as specified under § 416.39; or

(ii) Is not in substantial compliance with the provisions of the agreement, the requirements of this subpart, and other applicable regulations of Subchapter B of this chapter, or any applicable provisions of title XVIII of the Act.

(2) *Notice of termination.* HCFA will send notice of termination to the ASC at

least 15 days before the effective date stated in the notice.

(3) *Appeal by the ASC.* An ASC may appeal the termination of its agreement in accordance with the provisions set forth in Part 405, Subpart O of this chapter.

(c) *Effect of termination.* Payment will not be available for ASC services furnished on or after the effective date of termination.

(d) *Notice to the public.* Prompt notice of the date and effect of termination shall be given to the public, through publication in local newspapers by—

(1) The ASC, after HCFA has approved or set a termination date; or

(2) HCFA, when it has terminated the agreement.

(e) *Conditions for reinstatement after termination of agreement by HCFA.* When an agreement with an ASC is terminated by HCFA, the ASC may not file another agreement to participate in the Medicare program unless HCFA—

(1) Finds that the reason for the termination of the prior agreement has been removed; and

(2) Is assured that the reason for the termination will not recur.

§ 416.39 Conditions for coverage—General provisions.

(a) An ASC must maintain compliance with the conditions set forth in §§ 416.40–416.49.

(b) HCFA may deem an ASC to be in compliance with any or all of the conditions set forth in §§ 416.40–416.49 if—

(1) The ASC is accredited by a national accrediting body, or licensed by a State Agency, that HCFA determines provides reasonable assurance that the conditions are met;

(2) In the case of deemed status through accreditation by a national accrediting body, where State law requires licensure, the ASC complies with State licensure requirements; and

(3) The ASC authorizes the release to HCFA, of the findings of the accreditation survey.

§ 416.40 Condition for coverage—Compliance with State licensure law.

The ASC must comply with State licensure requirements.

§ 416.41 Condition for coverage—Governing body and management.

The ASC must have a governing body, that assumes full legal responsibility for determining, implementing, and monitoring policies governing the ASC's total operation and for ensuring that these policies are administered so as to provide quality health care in a safe environment. When services are provided through a contract with an outside resource, the ASC must assure that these services are provided in a safe and effective manner. *Standard: Hospitalization.* The ASC must have an effective procedure for the immediate transfer to a hospital, of patients requiring emergency medical care beyond the capabilities of the ASC. This hospital must be a local, Medicare participating hospital or a local, nonparticipating hospital that meets the requirements for payment for emergency services under § 405.1011 of this chapter. The ASC must have a written transfer agreement with such a hospital, or all physicians performing surgery in the ASC must have admitting privileges at such a hospital.

§ 416.42 Condition for coverage—Surgical services.

Surgical procedures must be performed in a safe manner by qualified physicians who have been granted clinical privileges by the governing body of the ASC in accordance with approved policies and procedures of the ASC.

(a) *Standard: Anesthetic risk and evaluation.* A physician must examine the patient immediately before surgery to evaluate the risk of anesthesia and of the procedure to be performed. Before discharge from the ASC, each patient must be evaluated by a physician for proper anesthesia recovery.

(b) *Standard: Administration of anesthesia.* Anesthetics must be administered by only—

(1) A qualified anesthesiologist; or

(2) A physician qualified to administer anesthesia, a certified registered nurse anesthetist, a supervised trainee in an approved educational program, or an anesthesia assistant. In those cases where a non-physician administers the anesthesia, the anesthetist must be under the supervision of the operating physician. Anesthesia assistants must have successfully completed a four year educational program for physicians' assistants that includes two years of specialized academic and clinical training in anesthesia.

(c) *Standard: Discharge.* All patients are discharged in the company of a responsible adult, except those exempted by the attending physician.

§ 416.43 Condition for coverage—Evaluation of quality.

The ASC, with the active participation of the medical staff, must conduct an ongoing, comprehensive self-assessment of the quality of care provided, including medical necessity of procedures performed and appropriateness of care, and use findings, when appropriate, in the revision of center policies and consideration of clinical privileges.

§ 416.44 Condition for coverage—Environment.

The ASC must have a safe and sanitary environment, properly constructed, equipped, and maintained to protect the health and safety of patients.

(a) *Standard: Physical environment.* The ASC must provide a functional and sanitary environment for the provision of surgical services.

(1) Each operating room must be designed and equipped so that the types of surgery conducted can be performed in a manner that protects the lives and assures the physical safety of all individuals in the area.

(2) The ASC must have a separate recovery room and waiting area.

(3) The ASC must establish a program for identifying and preventing infections, maintaining a sanitary environment, and reporting the results to appropriate authorities.

(b) *Standard: Safety from fire.* The ASC must meet the provisions of the Life Safety Code of the National Fire Protection Association (NFPA–1981 edition) that are applicable to ambulatory surgical centers, with the following exception. In consideration of a recommendation by the State survey agency, HCFA may waive, for periods deemed appropriate, specific provisions of that code which, if rigidly applied, would result in unreasonable hardship upon an ASC, but only if the waiver will not adversely affect the health and safety of the patients.

(c) *Standard: Emergency equipment.* Emergency equipment available to the operating rooms must include at least the following:

(1) Emergency call system.

(2) Oxygen.

(3) Mechanical ventilatory assistance equipment including airways, manual breathing bag, and ventilator.

(4) Cardiac defibrillator.

(5) Cardiac monitoring equipment.

(6) Thoracotomy set.

(7) Tracheostomy set.

(8) Laryngoscopes and endotracheal tubes.

(9) Suction equipment.

(10) Emergency drugs and supplies specified by the medical staff.

(d) *Standard: Emergency personnel.* Personnel trained in the use of emergency equipment and in cardiopulmonary resuscitation must be available whenever there is a patient in the ASC.

§ 416.45 Condition for coverage—Medical staff.

The medical staff of the ASC must be accountable to the governing body.

(a) *Standard: Membership and clinical privileges.* Members of the medical staff must be legally and professionally qualified for the positions to which they are appointed and for the performance of privileges granted. The ASC grants privileges in accordance with recommendations from qualified medical personnel.

(b) *Standard: Reappraisals.* Medical staff privileges must be periodically reappraised by the ASC. The scope of procedures performed in the ASC must be periodically reviewed and amended as appropriate.

(c) *Standard: Other practitioners.* If the ASC assigns patient care responsibilities to practitioners other than physicians, it must have established policies and procedures, approved by the governing body, for overseeing and evaluating their clinical activities.

§ 416.46 Condition for coverage—Nursing services.

The nursing services of the ASC must be directed and staffed to assure that the nursing needs of all patients are met.

(a) *Standard: Organization and staffing.* Patient care responsibilities must be delineated for all nursing service personnel. Nursing services must be provided in accordance with recognized standards of practice. There must be a registered nurse available for emergency treatment whenever there is a patient in the ASC.

§ 416.47 Condition for coverage—Medical records.

The ASC must maintain complete, comprehensive, and accurate medical records to ensure adequate patient care.

(a) *Standard: Organization.* The ASC must develop and maintain a system for the proper collection, storage, and use of patient records.

(b) *Standard: Form and content of record.* The ASC must maintain a medical record for each patient. Every record must be accurate, legible, and promptly completed. Medical records must include at least the following:

(1) Patient identification.

(2) Significant medical history and results of physical examination.

(3) Pre-operative diagnostic studies (entered before surgery), if performed.

(4) Findings and techniques of the operation, including a pathologist's report on all tissues removed during surgery, except those exempted by the governing body.

(5) Any allergies and abnormal drug reactions.

(6) Entries related to anesthesia administration.

(7) Documentation of properly executed informed patient consent.

(8) Discharge diagnosis.

§ 416.48 Condition for coverage—Pharmaceutical services.

The ASC must provide drugs and biologicals in a safe and effective manner, in accordance with accepted professional practice, and under the direction of an individual designated responsible for pharmaceutical services.

(a) *Standard: Administration of drugs.* Drugs must be prepared and administered according to established policies and acceptable standards of practice.

(1) Adverse reactions must be reported to the physician responsible for the patient and must be documented in the record.

(2) Blood and blood products must be administered by only physicians or registered nurses.

(3) Orders given orally for drugs and biologicals must be followed by a written order, signed by the prescribing physician.

§ 416.49 Condition for coverage—Laboratory and radiologic services.

The ASC must have procedures for obtaining routine and emergency laboratory and radiologic services, from Medicare approved facilities, to meet the needs of patients.

Scope of Benefits

§ 416.60 Reimbursable services: General provision.

Ambulatory surgical center services reimbursable under this subpart are facility services, furnished in connection with covered surgical procedures, to Medicare beneficiaries by an ASC that has an agreement with HCFA.

§ 416.61 ASC facility services: Scope.

(a) ASC facility services are items and services furnished by an ASC in connection with a covered surgical procedure as specified under § 416.65, furnished to a Medicare beneficiary. These items and services are those which would otherwise be covered under Medicare if furnished on an inpatient or outpatient basis in a hospital in connection with the covered surgical procedure.

(b) ASC facility services do not include items and services for which payment may be made under other provisions of Part 405 of this chapter, such as physicians' services, laboratory, X-ray or diagnostic procedures (other than those directly related to performance of the surgical procedure), prosthetic devices, ambulance services, leg, arm, back and neck braces, artificial limbs, and durable medical equipment for use in the patient's home.

(c) ASC facility services include, but are not limited to—

(1) Nursing, technician, and related services;

(2) Use of ASC facilities;

(3) Drugs, biologicals, surgical dressings, supplies, splints, casts and appliances and equipment directly related to the provision of surgical procedures;

(4) Diagnostic or therapeutic services or items directly related to the provision of a surgical procedure;

(5) Administrative, recordkeeping and housekeeping items and services;

(6) Materials for anesthesia.

§ 416.65 Covered surgical procedures.

Covered surgical procedures are those procedures that meet the standards described in paragraphs (a) and (b) of this section and are included in the list published in accordance with paragraph (c) of this section.

(a) *General standards.* Covered surgical procedures are those surgical and other medical procedures that—

(1) Are commonly performed on an inpatient basis in hospitals, but may be safely performed in an ASC;

(2) Are not of a type that are commonly performed, or that may be safely performed, in physicians' offices;

(3) Are limited to those requiring a dedicated operating room (or suite), and generally requiring a post-operative recovery room or short-term (not overnight) convalescent room; and

(4) Are not otherwise excluded under § 405.310 of this chapter.

(b) *Specific standards.* (1) Covered surgical procedures are limited to those that do not generally exceed—

(i) A total of 90 minutes operating time; and

(ii) A total of 4 hours recovery or convalescent time.

(2) If the covered surgical procedures require anesthesia, the anesthesia must be—

(i) Local or regional anesthesia; or

(ii) General anesthesia of 90 minutes or less duration.

(3) Covered surgical procedures may not be of a type that—

(i) Generally result in extensive blood loss;

(ii) Require major or prolonged invasion of body cavities;

(iii) Directly involve major blood vessels; or

(iv) Are generally emergency or life-threatening in nature.

(c) *Publication of covered procedures.* HCFA will publish in the **Federal**

Register a list of covered surgical procedures and revisions as appropriate.

§ 416.75 Performance of listed surgical procedures on an inpatient hospital basis.

The inclusion of any procedure as a covered surgical procedure under § 416.65 does not preclude its coverage in an inpatient hospital setting under Medicare.

Subpart C—Payment for Ambulatory Surgical Services

§ 416.100 Basis and purpose.

This subpart implements sections 1832(a)(2) and 1833 of the Act with respect to Medicare payment for ambulatory surgical services furnished in connection with covered surgical procedures performed in a participating ASC, on an outpatient basis in a hospital or in a hospital-affiliated ambulatory surgical center.

§ 416.110 Payment for physicians' services furnished in connection with covered surgical procedures.

Payment for physicians' services (including all pre- and post-operative services) will be made at 100 percent of the reasonable charge (or 100 percent of the reasonable cost, in the case of a health maintenance organization reimbursed under section 1876 of the Act) for those services if—

(a) The services are furnished in connection with a covered surgical procedure as specified in § 416.65;

(b) The surgical procedures are performed in a participating ASC, on an outpatient basis in a hospital or in a hospital-affiliated ambulatory surgical center; and

(c) The physician accepts assignment for those services (see § 405.240(k)(2) of this chapter).

§ 416.120 Payment for facility services.

Payment for facility services furnished in connection with surgical procedures as specified in § 416.65 will be made as follows:

(a) *Hospital outpatient department.* Payment will be in accordance with Part 405, Subpart D of this chapter.

(b) *Hospital-affiliated ambulatory surgical center (HAASC).* Payment will be in accordance with Part 405, Subpart D of this chapter if—

(1) The HAASC is an integral and subordinate part of a hospital;

(2) The HAASC is operated with other departments of the hospital under common licensure, governance and professional supervision; and

(3) The HAASC is not a Medicare participating ASC.

(c) *ASC.* Payment will be based on a prospectively determined rate. This rate will cover the cost of services such as supplies, nursing services, equipment, etc., as specified in § 416.61. The rate will not cover physician's services, or other medical services covered under section 1861(s) of the Act (for example, X-ray services or laboratory services) which are not directly related to the performance of the surgical procedure. These services may be billed separately and paid on a reasonable charge basis.

(1) If one covered surgical procedure is furnished to a beneficiary in an operative session, payment will be 100 percent of the prospectively determined rate for the procedure.

(2) If more than one covered surgical procedure is furnished to a beneficiary in a single operative session, payment will be made at 100 percent of the prospectively determined rate for the procedure with the highest reimbursement rate. Other covered surgical procedures furnished in the same session will be reimbursed at 50 percent of the prospectively determined rate for each of those procedures.

§ 416.125 ASC facility services payment rate.

(a) The payment rate will be equal to a prospectively determined standard overhead amount per procedure which is based on an estimate of the costs incurred by ambulatory surgical centers generally in providing services furnished in connection with the performance of that procedure.

(b) The payment rate must result in substantially less Medicare expenditures than would have been paid under the program had the procedure been performed on an inpatient basis in a hospital.

§ 416.130 Publication of revised payment methodologies.

Whenever HCFA proposes to revise the payment rate for ASCs, HCFA will publish a notice in the **Federal Register** describing the revision. The notice will also explain the basis on which the rates were established. After reviewing public comments, HCFA will publish a notice establishing the rates authorized by this section. In setting these rates, HCFA may adopt reasonable classifications of facilities and may establish different rates for different types of surgical procedures.

§ 416.140 Reporting requirements.

(a) HCFA will periodically conduct a sample survey of ASCs participating in the program to collect data for analysis or re-evaluation of the payment rates. Such a survey will be conducted no more frequently than annually. HCFA will notify by mail the ASCs randomly selected to participate in each survey, of their selection and the appropriate form and content of the report.

(1) If the facility does not submit an adequate report in response to HCFA's survey request, HCFA may terminate the agreement to participate in the Medicare program as an ASC.

(2) HCFA may grant a 30-day postponement of the due date for the survey report if it determines that the facility has demonstrated good cause for the delay.

(b) ASCs must—

(1) Maintain adequate financial records, in the form and containing the data required by HCFA, to allow determination of the payment rates for covered surgical procedures furnished to Medicare beneficiaries under this subpart.

(2) Within 60 days of a request from HCFA submit, in the form and detail as may be required by HCFA, a report of—

(i) Their operations, including the allowable costs actually incurred for the period and the actual number and kinds of surgical procedures furnished during the period; and

(ii) Their customary charges for each surgical procedure furnished for the period.

§ 416.150 Beneficiary appeals.

A beneficiary (or ASC as his or her assignee) may request a hearing by a carrier (subject to the limitations and conditions set forth in Part 405, Subpart H of this chapter) if the beneficiary or the ASC—

(a) Is dissatisfied with a carrier's denial of a request for payment made on his or her behalf by an ASC;

(b) Is dissatisfied with the amount of payment; or

(c) Believes the request for payment is not being acted upon with reasonable promptness.

(Catalog of Federal Domestic Assistance Program, No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: July 2, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: July 14, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-21131 Filed 8-4-82: 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicare Program; List of Covered Surgical Procedures for Certain Ambulatory Surgical Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice.

SUMMARY: Under the final rules published elsewhere in this issue of the **Federal Register**, reimbursement will be available under Part B of Medicare for ambulatory surgical center (ASC) facility services in connection with certain surgical procedures. For those same procedures, physicians will receive 100 percent reimbursement for providing services in connection with the procedure performed on an ambulatory basis if certain requirements are met. This notice contains the initial list of the surgical procedures pertinent to these reimbursement provisions.

Additional procedures will be added and published in the **Federal Register**, when appropriate.

EFFECTIVE DATE: This notice is effective September 7, 1982.

SUPPLEMENTARY INFORMATION:

I. Background

Section 934 of Pub. L. 96–499, the Omnibus Reconciliation Act of 1980, amended title XVIII of the Social Security Act, to authorize Medicare Part B coverage for facility services furnished in connection with certain surgical procedures performed in an ambulatory surgical center (ASC). For the same procedures, 100 percent physician reimbursement is authorized if certain requirements are met. (Under the usual procedures, Medicare reimburses 80 percent for physicians' professional services; the beneficiary is responsible for the remainder.)

With respect to the surgical procedures covered under this provision, the statute requires the Secretary to develop, in consultation with the National Professional Standards Review Council and appropriate medical organizations, a list of surgical procedures that, although appropriately performed in an inpatient hospital setting, may also be performed safely in certain ambulatory settings. The report accompanying the legislation (Report of the Committee on the Budget to Accompany H.R. 7766, H.R. Report No. 96–1167, pg. 390) explained that Congress intended that procedures currently done on an ambulatory basis, especially in physicians' offices, that do not generally require the more elaborate facilities of an ASC, should not be included in the list of covered procedures.

II. Requests for Information

To develop the list of covered procedures we began by meeting with representatives of the Free-Standing Ambulatory Surgical Association (FASA), a group which represents a number of existing ASCs. We asked them for information they had concerning procedures currently being done by ASCs, and an indication of what procedures were being performed on Medicare beneficiaries. Our purpose was to focus attention on procedures likely to generate a substantial claims volume.

To obtain additional information from sources other than FASA and ASCs, particularly from interested members of the medical community who were not aware of the legislative provision or who knew of it, but were uncertain as to whom to contact to give input, we published a notice in the **Federal Register** (46 FR 28013) on May 22, 1981. This notice solicited information, not only on possible procedures for the list, but on some other questions as well. We specifically requested information concerning broad, general criteria that could help us decide whether a given procedure should be included in the list. The notice resulted in a number of helpful suggestions, both on criteria as well as specific procedures. We also directly contacted several specialty societies and insurance carriers with experience with ambulatory surgery for suggestions and approaches to the issues involved. By late summer 1981 we had developed our list and then referred it to the National Professional Standards Review Council for their review. (We met twice with the Council before developing the list.)

III. Proposed Rules

On March 23, 1982 we issued a notice of proposed rulemaking (47 FR 12574) for some of the changes made by section 934 and a proposed notice (47 FR 12591) that contained the first proposed list of covered procedures under the ASC program. We believed that the list of procedures met not only statutory requirements, but also our objective of producing a list which closely conformed to the procedures that are commonly being performed on the aged in ACSs. The list also consisted of procedures about which there was widespread agreement in the comments we had received.

As to the nature and applicability of the proposed list, we stated in the preamble to the proposed list that the inclusion of a surgical procedure on this list would not mean it may be performed only in an ambulatory surgical setting. The choice of operating site would remain a matter of the professional judgment of the patient's physician. Reimbursement would continue to be available without any special justification or review for these procedures performed on a hospital inpatient basis for Medicare beneficiaries.

In addition, we stated that this list of procedures would apply to facility services furnished by ASCs; that is, those not part of a hospital. Coverage of ambulatory surgical facility services furnished in hospital-related ambulatory surgical settings (that is, on an outpatient basis in a hospital or in a hospital-affiliated ambulatory surgical center (HAASC)) would not be affected. However, the list would apply to 100 percent reimbursement for a physician's professional services in connection with a listed procedure performed in a hospital-related ambulatory surgical setting or ASC.

Further, we proposed that the procedures would be arranged into four groups that refer to the facility payment amount that would be available under the Medicare program. The four group rates would be Group 1—$336, Group 2—$296, Group 3—$275, and Group 4—$231. (Thus, a given ASC would receive the same payment for all of the group three procedures performed on Medicare beneficiaries in the ASC.)

We also indicated that once the list was published in final, we would publish additions to the list of procedures as necessary.

IV. Public Comments

The comments on our May 23 publication of the proposed list and our responses to those comments are as follows:

A. List of Procedures

We received thirty-eight comments concerning the list of covered procedures. Thirty-one of the thirty-eight called for additional procedures to be added. The majority of those favoring additions to the list proposed additional ophthalmologic procedures. There were also numerous recommendations concerning the addition of procedures used to treat orthopedic, renal and gynecological disorders. Several commentors submitted general lists covering a variety of procedures. Seven commentors recommended deleting procedures from the list or otherwise limiting the coverage of specific services

in the ASC setting. Four physicians pointed out that the list included services which they believed could not appropriately be performed on children on an ambulatory surgical basis. One State health department recommended simply relying on a definition of ASC services rather than using a list of covered procedures. One carrier stated that several procedures included on the list should be deleted because they can be performed in physicians' offices. The American College of Obstetricians and Gynecologists (ACOG) objected to the inclusion of Bartholin cystectomy on the grounds that it is a difficult procedure and frequently involves excessive hemorrhage. They also objected to inclusion of hysterosalpingogram, on the grounds that this procedure can be safely performed in a physician's office.

We are removing Bartholin cystectomy from the list of covered procedures, as recommended by ACOG, because we concur with their opinion that it is not a procedure suitable for an ambulatory surgical setting. We have not deleted hysterosalpingogram or other procedures which are claimed can be safely performed in physicians' offices, nor have we modified coverage of procedures which were claimed to be unsuitable for children since the list of covered procedures contains no recommendation nor requirement that such procedures be done in an ambulatory surgical setting. As explained in the preamble to the proposed list, all the procedures listed are currently being done on an inpatient basis on Medicare beneficiaries. As the preamble to the proposed list stated:

> It is important to note that the inclusion of a surgical procedure on this list would not mean it may be performed only in an ambulatory surgical setting. The choice of operating site would remain a matter of the professional judgment of the patient's physician.

With respect to the requests to add additional procedures, the primary reason we are not adding procedures to the proposed list at this time is that to do so would further delay implementation of the ASC provision. There is an irreducible minimum of time required to make such modifications, since the law requires that we consult with the National Professional Standards Review Council and appropriate national medical organizations prior to placing procedures on the list. We have begun the process of assessing the commentors' suggestions, and after the appropriate consultation we will publish a revised list, if necessary. Furthermore, we wish to emphasize that we fully expect the list of covered procedures to be modified as often as necessary in order to reflect the movement of procedures from inpatient to outpatient settings.

B. Group Numbering

Four ASCs suggested that the numbers of the payment groups with respect to the list be reversed so that group one represents the least costly and least complex procedures. The commentors felt that this would not only be more logical, but would more easily accommodate potential expansion in the number of groups. We agree and are making this change.

C. ASCs Operated by Hospitals

An issue was raised by commentators to our proposed rule concerning whether an HAASC should have the option to participate the ASC program. (Our proposed rule excluded HAASCs from participation.) For reasons discussed in the Supplementary Information section of the final ambulatory surgicial regulations published elsewhere in this **Federal Register** issue, ASCs operated by a hospital may now participate in the ASC program if certain conditions are met.

This change in the final rule affects the applicability of the final list of covered procedures. The list of procedures will now apply to facility services and physical reimbursements as set forth in Section V, Final Notice, following.

V. Final Notice

Based on comments received we are making the following changes with respect to the propose list:

- We are deleting Bartholin cystectomy from the list of covered procedures.
- We are reversing the numbers of the groups of covered procedures so that group one represents the least complex and least costly procedure. The groups are now as follows:

Group 1—$231
Group 2—$275
Group 3—$296
Group 4—$336

- We are extending the applicability of the list of now apply to ASCs and ASCs operated by hospitals (that have an agreement with HCFA to participate as an ASC) for purposes of facility services reimbursement. The applicability of the list is also being extended to now apply to 100 percent reimbursement for physicians' professional services (where the physician accepts assignment for the listed procedure) in connection with a listed procedure performed in these same settings, as well as those settings in our proposal.

To the extent possible, we have used the most common name or term to describe a given procedure. Where there are major regional or other differences in the commonly recognized name of a given procedure, we have listed that procedure under each name used.

The procedures are grouped by body system to help reduce confusion in the case of procedure, such as tenotomy, that may be performed at a variety of body sites or on different body systems.

The procedures are also arranged into four groups that refer to the facility payment amount that would be available under the Medical program. The payment rates would first be calculated on a nationwide basis; then adjusted to account for regional factors, such as wage differentials, to arrive at the rate applicable to each ASC. A more detailed explanation of the reimbursement methodology is contained in the Supplementary Information section of the propose ambulatory surgical regulations published in the March 23, 1981 **Federal Register** (47 FR 12574).

VI. List of Covered Procedures

Following is the first list of covered surgical procedures in connection with ambulatory surgical services.

Integumentary System

Group 1

Benign lesion, excision (lipoma)
Fingernail, toenail removal
Malignant lesion, excision (Basal cell, Melanoma)

Group 3

Breast biopsy (incision, excision uni-or-bilateral)
Mandible cyst excision, simple
Pilonidal cyst excision, simple, extensive
Skin graft

Group 4

Gynecomastia excision, uni-and bilateral

Musculoskeletal System

Group 1

Closed Reduction of Nasal Fracture
Tenotomy, hands, fingers, ankle, feet and toes
Trigger Finger Release (tendon sheath incision for)

Group 2

Phalangectomy (amputation, fingers and toes)

Sequestrectomy
Tendon Sheath Release (De Quervains)
Zygoma (Zygomatic arch) Reduction

Group 3

Bursectomy
Capsulectomy/capsulotomy (metacarpophalangeal and interphalangeal)
Ganglionectomy (wrist)
Neuroma excision (Morton's and cutaneous and digital nerves)
Ostectomy metatarsal (metatarsal head excision)
Tendon repair without graft, implant or transfer

Group 4

Hammertoe Repair
Boutonniere repair
Bunionectomy
Ligament repair
Neurectomy
Osteotomy
Synovectomy
Arthroscopy
Fasciectomy/Fasciotomy
Arthrodesis
Arthroplasty
Tendon Repair with graft, implant or transfer

Respiratory System

Group 1

Bronchoscopy
Excision turbinate
Laryngoscopy

Group 2

Nasal Polypectomy
Antral Window (puncture) (Sinusotomy)

Group 3

Ethmoidectomy

Group 4

Septal Reconstruction
Submucous Resection (turbinate and nasal septum)

Cardivascular System

Group 1

Temporal Artery, Ligation or biopsy

Group 4

Varicose Vein Ligation

Hemic and Lymphatic System

Group 2

Cervical Node (lymph node) biopsy

Digestive System

Group 1

Esophagoscopy
Gastroscopy
Rectal Dilation
Tongue Biopsy

Group 2

Branchial Arch Appendage Excision
Liver Biopsy, percutaneous
Vermilionectomy (Lip peel)
Fistulectomy

Group 3

Colostomy Revision (simple)
Wedge Resection of Lip
Hemorrhoidectomy

Group 4

Peritoneoscopy (mini-laparatomy)
Herniorrhaphy

Urinary System

Group 1

Cystourethroscopy
Urethral Dilation

Group 3

Transurethral Resection of Bladder Tumor (Cystourethroscopy w/ operative procedure)

Male Genital System

Group 1

Prostate Biopsy

Group 2

Orchiectomy

Group 3

Hydrocele excision
Spermatocele excision

Group 4

Varicocele repair

Female Genital System

Group 1

Vulva (labia) biopsy
Examination under Anesthesia (pelvic)
Vaginal Stenosis Release (Dilation of Vagina under Anesthesia)
Culdoscopy (Culdocentesis)

Group 2

Hysterosalpingogram
Perineoplasty
Vaginal tumor (cyst) excision

Group 3

Colpotomy, with exploration
Dilation and curettage, diagnostic and/ or therapeutic (nonobstetric)

Group 4

Laparoscopy

Endocrine System

Group 3

Thyroglossal Duct Cyst Removal

Nervous System

Group 3

Neurolysis (including carpal tunnel decompression)

Group 4

Ulnar Nerve Repair
Ulnar Nerve Transfer

Eye and Ocular Adnexa System

Group 1

Chalazion excision
Discission lens (needling of lens)
Foreign Body Removal
Pterygium (excision or transposition)
Lacrimal duct probing or reconstruction

Group 2

Canthoplasty
Tarsorrhaphy

Group 3

Ectropion/Entropion repair

Group 4

Cataract extraction
Enucleation, with and without implant
Iridectomy
Eye Muscle Operation (extraocular muscles, strabismus procedure)

Auditory System

Group 1

Myringotomy (including aspiration and/ or eustachian tube inflation)

Group 4

Mastoidectomy, simple (transmastoid antrotomy)
Myringoplasty
Stapedectomy
Tympanoplasty (without mastoidectomy)

(Sec. 1833(i)(1) of the Social Security Act (42 U.S.C. 1395))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance Program)

Dated: July 2, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82-21132 Filed 8-4-82; 8:45 am]
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Thursday, August 5, 1982

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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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	

List of Public Laws

Last Listing August 2, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 6663/Pub. L. 97–227 To delay the effective date of proposed amendments to rule 4 of the Federal Rules of civil Procedure. (August 2, 1982; 96 Stat. 246) Price: $1.75.

H.J. Res. 526/Pub. L. 97–228 Authorizing and requesting the President to issue a proclamation designating the week of August 1, 1982, through August 7, 1982, as "National Purple Heart Week". (August 2, 1982; 96 Stat. 247) Price: $1.75.

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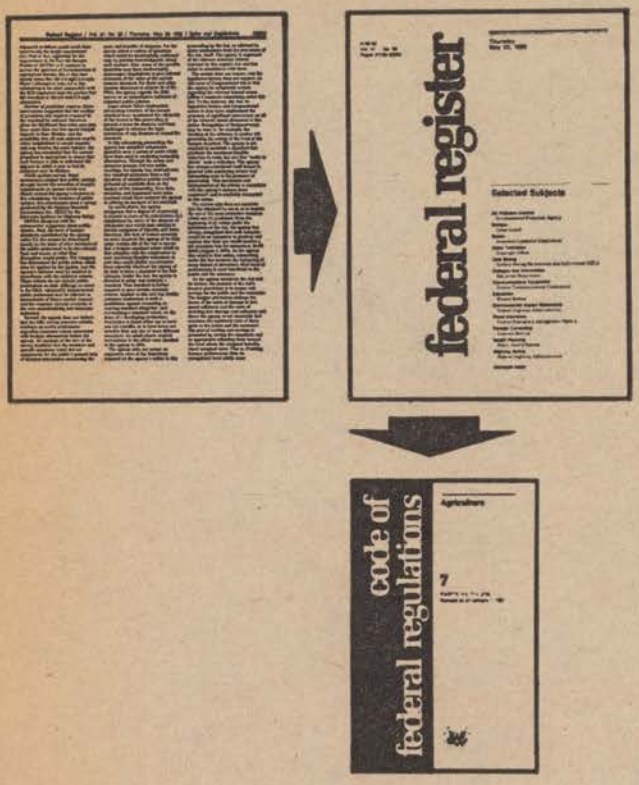

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