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Monday
September 13, 1982

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Civil Aeronautics Board

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 54

Standards for Grades of Lamb, Yearling Mutton, and Mutton Carcasses

AGENCY: Agricultural Marketing Service (AMS), USDA.

ACTION: Final rule.

SUMMARY: This rule revises the official U.S. standards for grades of lamb, yearling mutton, and mutton carcasses. The major changes are (1) that carcasses with only one break joint will be classed as lamb if their other maturity characteristics are typical of lamb, and (2) that feathering is dropped as a quality factor and that the quality grade will be based on flank fat streakings in relation to maturity with a minimum firmness specified for each grade. In addition, the quality and conformation compensations are standardized and descriptions of muscling associated with each grade are added to the conformation descriptions. The changes will simplify the teaching and application of the quality grade standards without significantly affecting the number of lamb carcasses in any grade. They will also allow some carcasses previously classed as yearling mutton to be classed as lamb.

EFFECTIVE DATE: October 17, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Fuller; Deputy Director; Livestock, Meat, Grain, and Seed Division; Agricultural Marketing Service; U.S. Department of Agriculture; Washington, D.C. 20250, (202) 447-4727.

SUPPLEMENTARY INFORMATION:

Regulatory Impact Analysis

This action was reviewed under USDA procedures established to implement Executive Order 12291 and was classified as a nonmajor rule pursuant to sections 1(b)(1), (2), and (3) of that order because: (1) It will not have an annual effect on the economy of $100 million or more; (2) it will not result in a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; and (3) it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets. The requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 et seq.) which deals with the impact of regulations on small entities have also been satisfied, in that the Administrator determined that this rule will not have a significant impact on a substantial number of small entities, since the changes will merely simplify the teaching and application of the quality grade standards without significantly affecting the number of lamb carcasses in any grade.

Background

The grading of ovine carcasses (lamb, yearling mutton, and mutton) is a voluntary service, provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 et seq.), which is designed to facilitate the marketing of livestock and meat. Quality grades for lamb were officially adopted in 1931 and revisions were made in 1940, 1951, 1957, and 1960. Yield grades were adopted in 1969, and limitations on the form and location of grading were instituted in 1980. There have been no changes in the quality grade requirements since 1960.

The proposal to revise the official standards was published in the **Federal Register** on June 1, 1982 (Vol. 47, No. 105, pages 23725-23733), and comments were invited for 45 days ending on July 15, 1982. A total of 15 comments were received in response to the proposal.

The 15 comments received were from meatpackers (7), meatpacker associations (1), state producer associations (2), producers (1), and university personnel (4). All of the comments expressed general support for the intent of the proposal and specific support for allowing carcasses with one break joint to be classed as lamb. The majority also supported the changes in quality grade requirements although there was some opposition to these changes. Other issues raised included the number of degrees of firmness which should be recognized and the extent that ram carcasses could be discounted.

Class Requirements

During the slaughter of mature sheep, the foot and pastern are removed at the ankle (between the proximal sesmoids and the metacarpal bone) leaving a "round" or "spool joint" on the lower end of the cannon bone (metacarpal). Located immediately above the "spool joint" at the zone of bone growth—the junction of the epiphysis and the diaphysis—is the "break joint". Growth in this zone ceases when the cartilage ceases to regenerate and is ultimately replaced by bone. In young ovine animals it is usually possible to remove the foot at the "break joint". Thus, these two types of joints have been used as a major factor in classification of ovine carcasses as lamb, yearling mutton, or mutton. The grade standards previously required a carcass to have two break joints present in order to be classified as lamb. Missing cannon bones ("trotters") were assumed to have had spool joints. This requirement has been specifically written into the standards since 1951 and was an understood requirement under less specific written standards between 1931 and 1951.

Although, under the grade standards, a carcass was required to have two break joints to be classed as lamb, the standards provided for carcasses with two break joints to be classed as yearling mutton if the lean color and rib bones indicated more advanced maturity. Research conducted for USDA at Texas A&M University in 1966 and 1967 showed that some ewe carcasses had spool joints as early as 9 months of age while a significant number of wether (castrated male sheep) carcasses still had break joints at 21 months of age. There are also indications that ram lambs may display spool joints earlier than expected. These data would support the classification of some carcasses with both break joints present as yearling mutton. However, since the presence of break joints is a completely objective determination which is strongly associated with the lamb class, carcasses with two break joints have almost never been classed as yearling mutton. By contrast, these data would

also support the classification of some carcasses with spool joints or missing trotters as lamb, which was not permitted under the standards. Some young animals will, for reasons apparently related to sexual maturity as pointed out above, ossify and display a spool joint earlier than expected. Also, during the normal slaughter operation a trotter may be inadvertently damaged and removed, or a trotter may be removed for meat inspection purposes (e.g., a broken leg, indications of arthritis, or fecal contamination will cause the damaged part to be removed). Such circumstances would justify changes in the classification requirements for lamb.

Based on the available research, it was clear that some changes were justified in the break joint requirements for classification as lamb. There were three options available: (1) Continue requiring that carcasses have two break joints present to be classed as lamb; (2) Drop the break joint requirement completely; and (3) Require only one break joint for classification as lamb. In each option the rib bones and lean color and texture would be used in classification, but the importance of these factors relative to the break joints would vary considerably. After considering all factors the Department decided to officially propose the third option.

None of the comments opposed the change to allow some carcasses with only one break joint to be classed as lamb. One comment from a state producer association did state that they would not be in favor of the change if it allowed significantly older sheep to be classed as lamb. Three comments (2 from meatpackers and 1 from a meatpacker association) suggested that the changes should go further and allow some carcasses with both break joints missing, or with two spool joints present, to be classed as lamb. Although there is some merit to such suggestions, this option was considered prior to publishing the proposal; but after all factors were considered it was not selected. The comments suggesting this option contained no new information which would justify changing from the proposed requirements.

Quality Grade Requirements

The quality grade standards for lamb, yearling mutton, and mutton carcasses were last revised in 1960. That change and previous changes in 1957 were based primarily on recommendations from an industrywide committee and the results of meetings with industry representatives around the country. The resultant standards based the quality grades on a combination of conformation and quality. There were limits on the amount of emphasis placed on conformation in each grade and on quality in some grades. The rate of compensation of conformation for quality and of quality for conformation was different for different grades. Quality was based on a combination of feathering between the ribs, flank fat streakings, and flank fullness and firmness; each in relation to maturity. Maturity was based on break joints, width and color of rib bones, and color and texture of the lean flesh. This system was difficult to teach, learn, and apply.

In 1966 USDA contracted with Texas A&M University to conduct a comprehensive study of lamb quality and palatability. That study, reported to USDA in 1968, indicated that the quality grades could be greatly simplified and, at the same time, be improved as predictors of palatability. In that study the overall quality grade accounted for only 6.8 percent of the variation in the palatability of lamb primal cuts. However, a combination of flank streakings and flank color accounted for 19.9 percent of the variation.

In 1976 USDA conducted studies to determine the effects of a simplification of the standards on grading. The results showed that, of the factors used in grading, flank streakings was the factor on which graders were the most uniform and repeatable. When the grade based on a single factor was compared to the grade based on all three grade factors, the grade based on flank streakings resulted in the fewest carcasses changing grades. Thus, on the basis of palatability research, grader repeatability, and minimum grade change, it was proposed that the quality grades for lamb be based on flank fat streakings in relation to maturity.

Nine of the 15 comments supported the simplification of the quality grades to base the grade primarily on flank fat streakings in relation to maturity. A tenth comment simply stated that feathering should be retained as a factor and another comment did not address this part of the proposal. Four comments specifically opposed this change on the grounds that it would increase the number of lambs graded Prime. They stated that there was no market for Prime lambs and that retailers would refuse to accept them or take them only at a discount because Prime lambs were perceived as being overfat. Data previously collected by the Department indicates that there would be a slight increase in the number of Prime carcasses. However, a significant number of these would be carcasses which are presently graded Choice yearling mutton, but would grade higher as lamb under the proposal. Most of these would grade Prime under the present standards if classed as lamb. The meatpackers return on these carcasses would probably be greater as Prime lamb than as Choice yearling mutton.

In addition to the above considerations of Prime versus Choice lamb, the reasons that retailers discriminate against Prime lambs should also be considered. It is true that, on the average, Prime grade lambs are somewhat fatter than Choice grade lambs. However, there are a number of Prime grade lambs which are not overfat and which would be very acceptable to retailers if they were properly identified. The method for such identification—yield grading—is available, but it has not been used by the lamb industry. Yield grades could conceivably reduce unjustified discrimination which exists against Prime grade lambs and heavyweight lambs. Then discounts would be applied to the correct segment of the population and for the correct reasons. To adjust the quality grades to alleviate this situation would be a step in the wrong direction.

Other Considerations

No changes were proposed in the conformation grade requirements, except that descriptions of various degrees of muscling associated with each grade would be added. However, it was proposed that the rate of compensation of quality for conformation and conformation for quality be modified in some grades. In some grades compensation was on an equal basis and in other grades a half of a grade of superior conformation or quality was needed to compensate for a third of a grade of inferior quality or conformation. Since the rate of compensation for both quality and conformation was different in different grades, the situation was often confusing. Teaching these compensations to new graders and students was especially difficult. The changes proposed would put all compensations of conformation for quality and quality for conformation on an equal basis. The limits and extent of compensations were not changed. Because of the limited number of young carcasses which failed to qualify for Good and because of the limited variation among such carcasses, it was determined that four quality grades would be sufficient for young carcasses. Therefore, it was proposed that the Cull

grade be dropped for the lamb and yearling mutton classes and all carcasses which fail to qualify for Good be graded Utility. The Cull grade would be kept for the mutton class.

No substantive changes were proposed in the determination or application of the yield grade standards.

A section would be added to the standards to outline the scope of the standards, clarifying the fact that the standards apply to sides as well as carcasses.

These proposed changes were generally not addressed in the comments received. Three of the comments expresssed disapproval of the large number of degrees of firmness listed in the proposed standards. Only four of the degrees of firmness are referenced as requirements for different grades, but under current standards all of them may be used to determine the final grade when different levels of firmness can alter the grade up or down. Under the proposed standards all the degrees of firmness were listed to signify that the degrees referenced as grade requirements were the same as those referenced in the current standards. Two comments made reference to discounts in grade for ram carcasses. One indicated that discounts should be greater and the other recommended that the maximum discount should be reduced. In addition, one comment disagreed with the different colors of lean specified for different quality levels for the same maturity, and one comment recommended that all compensations of conformation for quality be eliminated in order to encourage use of yield grading.

References to texture of lean in the grade specifications for lamb, yearling mutton, and mutton were eliminated from the proposal since lean texture cannot be accurately evaluated in unribbed carcasses. In addition, minor changes were made for clarity. With these changes, and based on previous considerations and analysis of the comments, the proposed revisions are adopted.

In summary, the significant changes involved in this revision of the standards for grades of lamb, yearling mutton, and mutton carcasses provide for the following:

(1) Feathering and flank fullness and firmness are eliminated as factors in determining the quality grade.

(2) Quality grade will be based on the development of flank fat streakings—in relation to maturity. Flank streaking requirements for each grade will be the same as previously specified.

(3) A minimum level of lean flesh and external fat firmness is specified for each grade.

(4) Procedures to differentiate between ovine classes are changed to allow carcasses with a missing break joint or with one spool joint to be classed as lamb under certain conditions which relate to their other evidences of maturity.

(5) The rate of compensation of conformation for quality and quality for conformation is changed to be on an equal basis in all grades.

(6) The Cull grade is dropped for the lamb and yearling mutton classes.

Minor changes are also made throughout the standards to improve clarity and facilitate uniform interpretation.

The changes in the standards for lamb, yearling mutton, and mutton carcasses do not necessitate immediate or major corresponding changes in the standards for grades of slaughter lambs, yearlings, and sheep.

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING CERTIFICATION, AND STANDARDS)

For the reasons set out in the preamble, the official U.S. standards for grades of lamb, yearling mutton, and mutton carcasses in 7 CFR Part 54, is amended by adding § 54.121 and by revising § 54.122, § 54.123, § 54.124, § 54.125, and § 54.126 to read as follows:

1. The authority citation for Part 54 reads as follows:

Authority: Sec. 203, 60 Stat. 1087, as amended; Sec. 205, 60 Stat. 1090, as amended (7 U.S.C. 1622 and 1624); 19 FR 74, as amended.

2. A new § 54.121 is added and §§ 54.122–54.126 are revised to read as follows:

Subpart B—Standards

Lamb, Yearling Mutton, and Mutton Carcasses

§ 54.121 Scope.

These standards for grades of lamb, yearling mutton, and mutton are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify the phrasing of the standards, the words "carcass" and "carcasses" are used also to mean "side" or "sides."

§ 54.122 Differentiation between lamb, yearling mutton, and mutton carcasses.

(a) Ovine carcasses are classified as lamb, yearling mutton, or mutton depending upon their evidences of maturity as indicated by the development of their muscular and skeletal systems. Typical lamb carcasses tend to have slightly wide and moderately flat rib bones and a light red color and fine texture of lean. By contrast, typical yearling mutton carcasses have moderately wide rib bones which tend to be flat and a slightly dark red color and slightly coarse texture of lean. Typical mutton carcasses have wide, flat, rib bones and a dark red color and coarse texture of lean.

(b) In the dressing of ovine carcasses, both front cannon bones (trotters) normally are left attached to the carcass although in some instances, one or both trotters may be removed. If present, trotters will terminate in perfect break joints (all ridges forming the break joints are intact and well defined), imperfect break joints, or spool joints. For determining the maturity of ovine carcasses, an imperfect break joint is considered the same as a spool joint and it is assumed that there was a spool joint on any missing trotter. These variations, as indicated by the following guidelines, are important considerations in determining whether a carcass is classed as lamb, yearling mutton, or mutton.

(c) A carcass with perfect break joints on both trotters will be classed lamb or yearling mutton based on its other evidences of maturity.

(d) A carcass with spool joints on both trotters will be classed as yearling mutton or mutton based on its other evidences of maturity. Mutton carcasses always have spool joints on both front trotters.

(e) A carcass which has a perfect break joint on one trotter and has either (1) a spool joint on the other trotter, or (2) has had the other trotter removed, will be classed as a lamb if its other maturity characteristics are not more advanced than described in the grade specifications as typical of the more mature lamb group. Otherwise, such carcasses will be classed as yearling mutton. Maturity within the lamb class shall be based on the combination of lean and all skeletal characteristics.

(f) Except for the above referenced considerations given to break joints and spool joints, in making other maturity evaluations more consideration is given to the characteristics of the flesh than is given to the characteristics of the skeleton.

§ 54.123 Application of standards.

(a) *Grade Factors.* (1) The grade of an ovine carcass is based on separate evaluations of two general considerations: Palatability-indicating characteristics of the lean and

conformation, herein referred to as "quality;" and the estimated percent of closely trimmed, boneless, major retail cuts to be derived from the carcass, herein referred to as "yield". However, the grade of an ovine carcass when applied by Federal meat graders may consist of an identification for the quality grade, the yield grade, or a combination of both the quality and yield grades. In previous grade standards for ovine carcasses, the Department used the term "quality" to refer only to the palatability-indicating characteristics of the lean without reference to conformation. Its use herein to include consideration of conformation is not intended to imply that variations in conformation are either directly or indirectly related to differences in palatability.

(2) The grade standards are written so that the quality and yield grade standards are contained in separate sections. The quality grade section is divided further into three separate sections applicable to lamb, yearling mutton, and mutton carcasses. There are four quality grades within each class—Prime, Choice, Good, and Utility for lamb and yearling mutton, and Choice, Good, Utility, and Cull for mutton. There are five yield grades applicable to all classes of ovine carcasses, denoted by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability.

(3) Carcasses qualifying for any particular grade may vary with respect to the relative development of their individual grade factors, and there will be carcasses which qualify for a particular grade in which the development of some of these individual grade factors will be more typical of other grades. Because it is impractical to describe the nearly limitless number of such recognizable combinations of characteristics, the standards for each quality and yield grade describe only carcasses which have a relatively similar development of individual factors and which are also representative of the lower limits of each grade. In the quality grade standards, examples of the extent to which superiority in quality may compensate for deficiencies in conformation, and vice versa, are indicated for each grade. In the Prime and Choice grades certain minimum requirements for external fat covering also are indicated.

(b) *Quality grades.* (1) The quality grade of an ovine carcass is based on separate evaluations of two general considerations—the quality or the palatability-indicating characteristics of the lean and the conformation of the carcass.

(2) Conformation is the manner of formation of the carcass with particular reference to the relative development of the muscular and skeletal systems although it also is influenced, to some extent, by the quantity and distribution of external finish. However, external fat in excess of that normally left on retail cuts is not considered in evaluating conformation. The conformation descriptions included in each of the grade specifications refer to the thickness of muscling and to an overall degree of thickness and fullness of the carcass. However, carcasses which meet the requirements for thickness of muscling specified for a grade will be considered to have conformation adequate for that grade despite the fact that, because of a lack of fatness, they may not have the overall degree of thickness and fullness described. The conformation of a carcass is evaluated by averaging the conformation of its various component parts, giving consideration not only to the proportion that each cut is of the carcass weight but also to the general desirability of each cut as compared with other cuts. Superior conformation implies a high proportion of edible meat to bone and a high proportion of the weight of the carcass in the more demaded cuts and is reflected in carcasses which are very thickly muscled, very wide and thick in relation to their length, and which have a very plump, full, and well-rounded appearance. Inferior conformation implies a low proportion of edible meat to bone and a low proportion of the weight of the carcass in the more demanded cuts and is reflected in carcasses which are very thinly muscled, very narrow in relation to their length, and which have a very angular, thin, and sunken appearance.

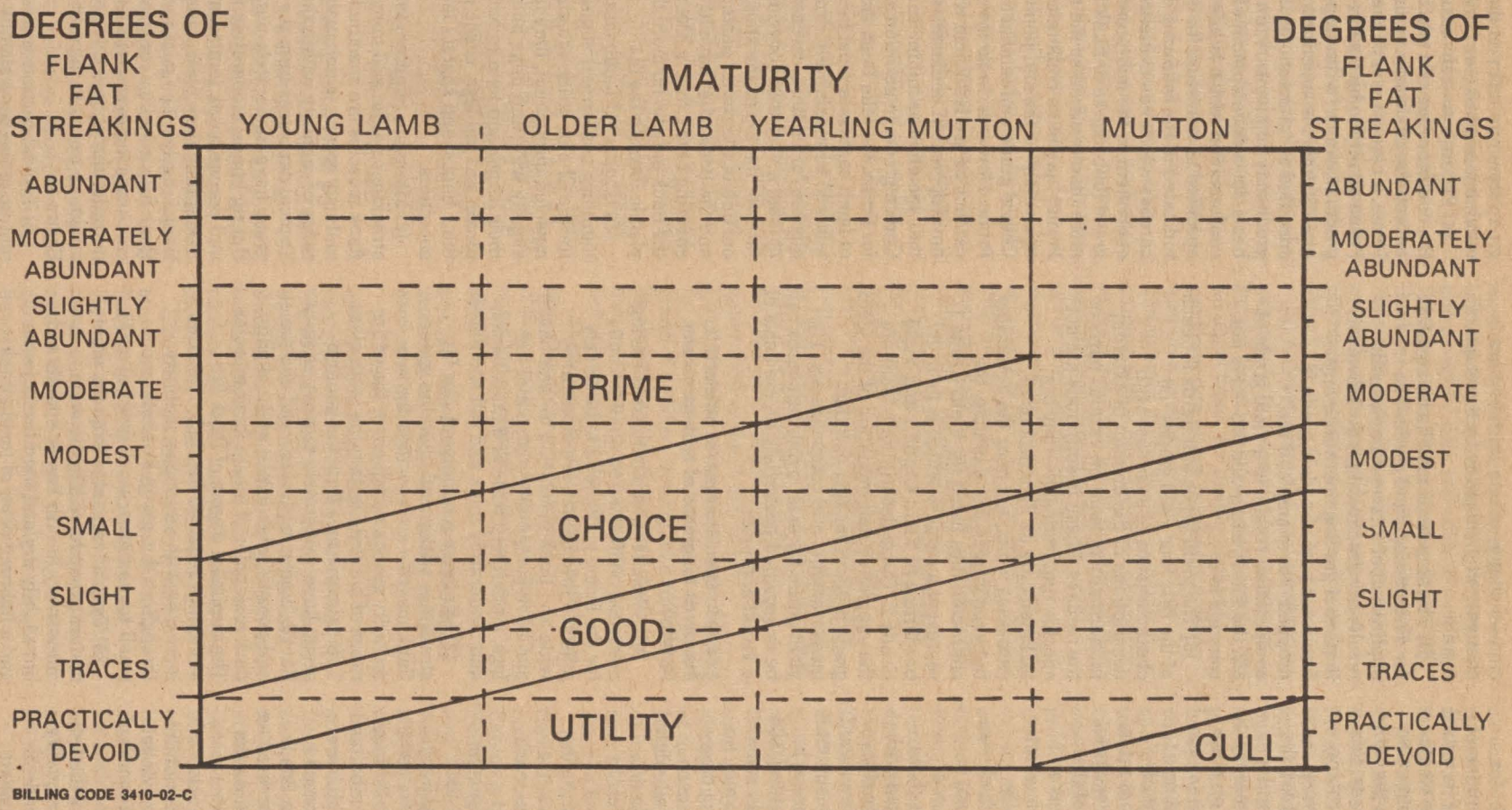
(3) The quality of the lean flesh is best evaluated by consideration of its texture, firmness, and marbling, as observed in a cut surface, in relation to the apparent maturity of the animal from which the carcass was produced. However, in grading ovine carcasses direct observation of these characteristics usually is not possible. Therefore, the quality of the lean is evaluated indirectly by giving consideration to the quantity of fat streakings within and upon the inside flank muscles in relation to the apparent evidences of maturity. Within each grade, the requirements for flank fat streakings increase progressively with evidences of advancing maturity. To facilitate the application of this principle, the relationship between flank fat streakings, maturity, and quality is shown in Figure 1. Flank fat streakings are categorized in descending order of quantity as follows: abundant, moderately abundant, slightly abundant, moderate, modest, small, slight, traces, practically devoid, and devoid. In addition, the standards specify a minimum degree of firmness of lean flesh and external fat for each grade and a minimum degree of external fatness for carcasses in the Prime and Choice grades. The different degrees of firmness in descending order of firmness are: extremely firm, tends to be extremely firm, firm, tends to be firm, moderately firm, tends to be moderately firm, slightly firm, tends to be slightly firm, tends to be slightly soft, slightly soft, tends to be moderately soft, moderately soft, soft, and very soft.

(4)The quality standards are intended to apply to all ovine carcasses without regard to the apparent sex condition of the animal at time of slaughter. However, carcasses from males which have thick, heavy necks and shoulders typical of uncastrated males are discounted in quality grade in accord with the extent to which these characteristics are developed. Such discounts may vary from less than one-half grade in carcasses from young lambs in which such characteristics are barely noticeable to as much as two full grades in carcasses from mature rams in which such characteristics are very pronounced.

(c) *Yield grades.* (1) The yield grade of an ovine carcass is determined by considering three characteristics: The amount of external fat, the amount of kidney and pelvic fat, and the conformation grade of the legs.

BILLING CODE 3410-02-M

RELATIONSHIP BETWEEN FLANK FAT STREAKINGS, MATURITY AND QUALITY



BILLING CODE 3410-02-C

Figure 1

(2) The amount of external fat for carcasses with a normal distribution of this fat is evaluated in terms of its actual thickness over the center of the ribeye muscle and is measured perpendicular to the outside surface between the 12th and 13th ribs. On intact carcasses, this fat thickness is measured by probing. On carcasses which do not have a normal distribution of external fat, the fat thickness measurement over the ribeye may be adjusted, as necessary, to reflect unusual amounts of fat on other parts of the carcass. In determining the amount of this adjustment, particular attention is given to the amount of external fat on those parts where fat is deposited at a faster-than-average rate, particularly the rump, outside of the shoulders, breast, flank, and cod or udder. Thus, in a carcass which is fatter over these parts than is normally associated with the actual fat thickness over the ribeye, the measurement is adjusted upward. Conversely, in a carcass which has less fat over these parts than is normally associated with the actual fat thickness over the ribeye, the measurement is adjusted downward. In many carcasses no such adjustment is necessary; however, an adjustment in the thickness of fat measurement of 0.05 or 0.10 inch is not uncommon. In some carcasses a greater adjustment may be necessary. As a guide in making these adjustments, the standards for each yield grade include an additional related measurement—body wall thickness, which is measured 5 inches laterally from the middle of the backbone between the 12th and 13th ribs. As the amount of external fat increases, the percent of retail cuts decreases—each 0.05 inch change in adjusted fat thickness over the ribeye changes the yield grade by one-third of a grade.

(3) The amount of kidney and pelvic fat considered in determining the yield grade includes the kidney knob (kidney and surrounding fat) and the lumbar and pelvic fat in the loin and leg which are removed in making closely trimmed retail cuts. The amount of these fats is evaluated subjectively and expressed as a percent of the carcass weight. As the amount of kidney and pelvic fat increases, the percent of retail cuts decreases—a change of 1 percent of the carcass weight in kidney and pelvic fat changes the yield grade by one-fourth of a grade.

(4) The conformation grade of the legs is evaluated as described in the quality standards. The evaluation is made in terms of thirds of a grade and coded using 15 for high Prime and 1 for low Cull. An increase in conformation grade of the legs increases the percent of retail cuts—a change of one-third of a grade changes the yield grade by 5 percent of a grade.

(5) The standards include an equation for determining yield grade. The application of this equation usually results in a fractional grade. However, in normal grading operations any fractional part of a yield grade is dropped. For example, if the computation results in a yield grade of 3.9, the final yield grade is 3—it is not rounded to 4.

(6) The yield grade standards for each of the first four yield grades list characteristics of a carcass with descriptions of the amount of external fat normally present on various parts of the carcass. These descriptions are not specific requirements—they are included only as illustrations of carcasses which are near the borderline between grades. For example, the characteristics listed for Yield Grade 1 represent a carcass which is near the borderline of Yield Grade 1 and Yield Grade 2. These descriptions facilitate the subjective determination of the yield grade without making detailed measurements and computations. The yield grade for most ovine carcasses can be determined accurately on the basis of a visual appraisal.

§ 54.124 Specifications for official U.S. standards for grades of lamb carcasses (quality).

(a) *Prime.* (1) Lamb carcasses having minimum conformation qualifications for the Prime grade tend to be thickly muscled throughout, are moderately wide and thick in relation to their length and have moderately plump and full legs, moderately wide and thick backs, and moderately thick and full shoulders.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for two maturity groups which cover the entire range of maturity within the lamb class. Typical carcasses from the younger group have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; and a slightly dark pink color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum small to maximum small (see Figure 1).

(3) Typical carcasses from the more mature group have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; and a light red color of inside flank muscles. The minimum degree of flank fat streakings required increases with advancing maturity throughout this group from minimum modest to maximum modest (see Figure 1).

(4) Regardless of the extent to which the conformation of a carcass may exceed the minimum requirements for Prime, a carcass must have minimum Prime quality to be eligible for the Prime grade. However, a development of quality which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Prime as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Prime grade (one degree of flank fat streakings more than required as the minimum for Prime) may have conformation equivalent to the mid-point of the Choice grade and remain eligible for Prime. However, in no instance may a carcass be graded Prime which has a development of conformation inferior to that specified as minimum for the Choice grade. In addition, to be eligible for Prime, the lean flesh and external fat of lamb carcasses must be not less than tends to be moderately firm. Also, to be eligible for Prime, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outside of the center parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.

(b) *Choice.* (1) Lamb carcasses having minimum conformation qualifications for the Choice grade are slightly thick muscled throughout, they tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs, slightly wide and thick backs, and slightly thick and full shoulders.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for two maturity groups which cover the entire range of maturity within the lamb class. Typical carcasses from the younger group have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; and a moderately dark pink color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum traces to maximum traces (see Figure 1).

(3) Typical carcasses from the more mature group have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; and a moderately light red color of

inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum slight to maximum slight (see Figure 1).

(4) A development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Choice, the lean flesh and external fat of lamb carcasses must be not less than tends to be slightly firm. Also, to be eligible for Choice, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outside of the center parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.

(c) *Good.* (1) Lamb carcasses having minimum conformation qualifications for the Good grade are slightly thin muscled throughout, are moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for two maturity groups which cover the entire range of maturity within the lamb class. Typical carcasses from the younger group have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; and a dark pink color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1).

(3) Typical carcasses from the more mature group have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; and a slightly dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum traces to maximum traces (see Figure 1).

(4) A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A carcass which has evidences of quality at least one-third grade superior to that specified as minimum for the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to the minimum for the upper one-third of the Utility grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Utility grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Good, the lean flesh and external fat of lamb carcasses must be not less than slightly soft.

(d) *Utility.* The Utility grade includes those lamb carcasses whose characteristics are inferior to those specified as minimum for the Good grade.

§ 54.125 Specifications for official U.S. standards for grades of yearling mutton carcasses (quality).

(a) *Prime.* (1) Yearling mutton carcasses having minimum conformation qualifications for the Prime grade tend to be thickly muscled throughout, are moderately wide and thick in relation to their length and have moderately plump and full legs, moderately wide and thick backs, and moderately thick and full shoulders.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the yearling mutton class. Typical yearling mutton carcasses have moderately wide rib bones which tend to be flat; and a slightly dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum moderate to maximum moderate (see Figure 1).

(3) Regardless of the extent to which the conformation of a carcass may exceed the minimum requirements for Prime, a carcass must have minimum Prime quality to be eligible for the Prime grade. However, a development of quality which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Prime as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Prime grade (one degree of flank fat streakings more than required as the minimum for Prime) may have conformation equivalent to the mid-point of the Choice grade and remain eligible for Prime. However, in no instance may a carcass be graded Prime which has a development of conformation inferior to that specified as minimum for the Choice grade. In addition, to be eligible for Prime, the lean flesh and external fat must be not less than tends to be moderately firm. Also, to be eligible for Prime, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outside of the center parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.

(b) *Choice.* (1) Yearling mutton carcasses having minimum conformation qualifications for the Choice grade are slightly thick muscled throughout, they tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs, slightly wide and thick backs, and slightly thick and full shoulders.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the yearling mutton class. Typical yearling mutton carcasses have moderately wide rib bones which tend to be flat; and a color of inside flank muscles which tends to be moderately dark red. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum small to maximum small (see Figure 1).

(3) A development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of

conformation which is inferior to the specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. Also, a carcass which has a development of conformation at least one-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Choice, the lean flesh and external fat must be not less than tends to be slightly firm. Also, to be eligible for Choice, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outside of the center parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.

(c) *Good.* (1) Yearling mutton carcasses having minimum conformation qualifications for the Good grade are slightly thin muscled throughout, are moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the yearling mutton class. Typical yearling mutton carcasses have moderately wide rib bones which tend to be flat; and a moderately dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum slight to maximum slight (see Figure 1).

(3) A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A carcass which has evidence of quality at least one-third grade superior to that specified as minimum for the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to the minimum for the upper one-third of the Utility grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Utility grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Good, the lean flesh and external fat must be not less than slightly soft.

(d) *Utility.* The Utility grade includes those yearling mutton carcasses whose characteristics are inferior to those specified as minimum for the Good grade.

§ 54.126 Specifications for official U.S. standards for grades of mutton carcasses (quality).

(a) *Choice.* (1) Mutton carcasses having minimum conformation qualifications for the Choice grade are slightly thick muscled throughout, they tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs, slightly wide and thick backs, and slightly thick and full shoulders.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the mutton class. Typical mutton carcasses have wide, flat rib bones; and a dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum modest to maximum modest. (see Figure 1).

(3) A development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade (one degree of flank fat streakings more than required as the minimum of Choice) may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade. Also, a carcass which has conformation at least ond-third grade superior to that specified as minimum for the Choice grade may qualify for Choice with a development of quality equivalent to the lower limit of the upper third of the Good grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality. In addition, to be eligible for Choice, the lean flesh and external fat must be not less than tends to be slightly firm. Also, to be eligible for Choice, a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outside of the center parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be more than plainly visible through the fat.

(b) *Good.* (1) Mutton carcasses having minimum conformation for the Good grade are slightly thin muscled throughout, moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the mutton class. Typical mutton carcasses have wide, flat rib bones; and a dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from a minimum small amount to a maximum small amount (see Figure 1).

(3) A development of quality which is superior to that specified as minimum for the Good grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Good as indicated in the following example: A carcass which has evidence of quality at least one-third grade superior to that specified as minimum for the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to that specified as minimum for the Utility grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Utility grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient

quality. In addition, to be eligible for Good, the lean flesh and external fat must be not less than slightly soft.

(c) *Utility.* (1) Mutton carcasses having minimum conformation qualifications for the Utility grade are thinly muscled throughout, are very angular and very narrow in relation to their length and have thin, slightly concave legs, very narrow and sunken backs, and narrow, sharp shoulders. Hips and shoulder joints are slightly visible.

(2) Minimum requirements for fat streakings within and upon the inside flank muscles are specified for one maturity group which covers the entire range of maturity within the mutton class. Typical mutton carcasses have wide, flat rib bones; and a very dark red color of inside flank muscles. The minimum degree of flank fat streakings required for such carcasses increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1).

(3) A development of quality which is superior to that specified as minimum for the Utility grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Utility as indicated in the following example: A carcass which has evidence of quality at least one-third grade superior to that specified as minimum for the Utility grade may have conformation equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility. However, in no instance may a carcass be graded Utility which has a development of conformation inferior to the minimum for the upper one-third of the Cull grade. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Utility grade may qualify for Utility with a development of quality equivalent to the lower limit of the upper third of the Cull grade. Compensation of superior conformation for inferior quality is also limited to one-third grade of deficient quality. In addition, to be eligible for Utility, the lean flesh and external fat must be not less than soft.

(d) *Cull.* The Cull grade includes those mutton carcasses whose characteristics are inferior to those specified as minimum for the Utility grade.

List of Subjects in 7 CFR Part 54

Meat and meat products, Grading and certification, Lamb.

Done at Washington, D.C., on September 8, 1982.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 82-25098 Filed 9-10-82; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

Institutional Radiation Safety Committee

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations regarding hospitals licensed to use radioactive byproduct material for human applications. Currently, such a license requires that the hospital have a Medical Isotopes Committee to review clinical aspects of the use of radioactive materials within the hospital. The amendment requires instead a Radiation Safety Committee with a simplified membership that will focus on the radiation safety of workers and the general public. The rule change acknowledges the Food and Drug Administration's role in regulating the safety and effectiveness of radioactive drugs with respect to the patient. The membership of the new Radiation Safety Committee will include the hospital management and the nursing staff in decisions affecting radiation safety at the hospital and will be easier for smaller hospitals to recruit.

EFFECTIVE DATE: October 12, 1982.

FOR FURTHER INFORMATION CONTACT: Elizabeth G. Rodenbeck, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 427-4580.

SUPPLEMENTARY INFORMATION: A proposed amendment (44 FR 21023) was published in the **Federal Register** on April 9, 1979 that would change the Medical Isotopes Committee in § 35.11(b) to a Radiation Safety Committee, change the function to coordinating and supervising the institution's radiation safety program, and change the membership to include a specialist from each department using radioactive material, a representative of the nursing staff, a representative of the institution's management, and a person trained in radiation safety.

A change in the Medical Isotopes Committee concept is needed for several reasons. (1) The use of radiopharmaceuticals is now governed by the FDA through the package insert that describes routine uses. Institutional group medical licensees use FDA-approved radiopharmaceuticals for the routine procedures listed in § 35.100 groups. The NRC reviews and approves the qualifications of physician-users before granting institutional licenses. With these controls to ensure patient radiation safety, a Medical Isotopes Committee is no longer needed to approve uses of radiopharmaceuticals for group licensees. (2) A representative of the institution's management is included on the committee as the member with the authority to commit resources in the name of the institution for resolving safety problems, and to provide management concurrence in enforcement of radiation safety rules. (3) Including a representative of the nursing staff on the committee provides nurses an opportunity to identify and help resolve problems in the care of ward patients who have received radioactive drugs and keeps the nursing staff fully informed on all aspects of the radiation safety program.

Comments on the Proposed Rule

The Commission received 60 letters commenting on the proposed rule. Copies of these letters, a summary and analysis of the comments, and the value/impact analysis supporting the final rule are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW, Washington, D.C. The majority of the comments addressed the following two issues:

1. The change will compromise the medical supervision of research activities using radioactive drugs that are performed by broad scope programs.

Response: The large medical research centers with broad scope medical licenses in the Type A category are already required by § 33.13(c)(1) to appoint a Radiation Safety Committee. In addition, human research uses radionuclide tracers by all medical licensees are monitored by the Radioactive Drug Research Committee mandated by the Food and Drug Administration (FDA) in 21 CFR 361.1(b)(1). The Commission believes that the broad scope medical program is adequately monitored by the combined oversight of the NRC's Radiation Safety Committee and the FDA's Radioactive Drug Research Committee.

2. Requiring a specialist from each department using byproduct material would make the committee very large and unwieldy for medical licensees with

many user departments throughout an institution.

Response: The wording of the amendment has been revised to require an authorized user for each type of use permitted by the license. This change will (1) assure physician representation since users authorized for human use of byproduct material are physicians and (2) limit the representation to each type of byproduct use to keep the committee to a manageable size.

The Final Rule

The final rule differs slightly from the proposed rule. The simple term "oversee" has been substituted for the phrase "maintain surveillance over." Appendix B of Regulatory Guide 10.8, "Guide for the Preparation of Applications for Medical Programs," provides specific guidance on the responsibilities and duties of the Medical Isotopes Committee which will be assumed by the Radiation Safety Committee. Additional guidance on specific radiation safety procedures is available in Regulatory Guide 8.18, "Information Relevant to Ensuring That Occupational Radiation Exposures at Medical Institutions Will Be As Low As Reasonably Achievable," and NUREG–0267, "Principles and Practices for Keeping Occupational Radiation Exposures at Medical Institutions As Low As Reasonably Achievable." To keep the committee to a manageable size the wording of the rule has been changed to require "an authorized user for each type of use permitted by the license." The institution's "Radiation Safety Officer" has been specified as the primary person trained in radiation safety. For very small programs, an authorized user may also serve as the Radiation Safety Officer.

As mentioned in the preamble to the proposed rule and consistent with current licensing practice, the NRC will not require submission of a license amendment each time there is a change in committee membership. Instead, institutional licensees will document the names and qualifications of the committee members for their own files, will update the information as necessary, and will keep the records available for Commission inspection.

The wording "at least the following" in the rule is intended to encourage licensees to add members depending on the unique needs of the institution.

Although it seems unlikely that a medical institution performing radioisotope procedures on patients would not have nurses, any licensee who cannot meet the requirement for a nurse representative may request a specific exemption from this requirement under the provision of 10 CFR 30.11(a). A request for an exemption should be addressed to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

For broad scope medical licensees only one Radiation Safety Committee is required if the membership reflects the requirements in both §§ 33.13(c)(1) and 35.11(b).

Licensees may use the Radiation Safety Committee to oversee the safety of all sources of radiation throughout the medical institution; however, NRC authority is limited to byproduct material.

Paperwork Reduction Act Statement

Note that this final rule contains no new or amended requirements for recordkeeping, reporting, plans or procedures, applications, or any other type of information collection.

List of Subjects in 10 CFR Part 35

Byproduct material, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Penalty, Radiation protection, Reporting and recordkeeping requirements.

Under 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, the following amendment to Title 10, Chapter 1, Code of Federal Regulations, Part 35, is published as a document subject to codification.

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

1. The authority citation for Part 35 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended by Pub. L. 94–79, 89 Stat. 413 (42 U.S.C. 5841).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 35.2, 35.14(b), (e) and (f), 35.21(a), 35.22(a), 35.24, and 35.31(b) and (c) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and Sections 35.14(b)(5)(ii), (iii) and (v) and (f)(2), 35.25 and 35.31(d) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 35.11, paragraph (b) is revised to read as follows:

§ 35.11 Specific licenses for human use of byproduct material in institutions.

* * * * *

(b) The applicant has appointed a radiation safety committee to oversee the use of licensed material throughout the institution and to review the institution's radiation safety program. Membership of the committee must incude at least the following: an authorized user for each type of use permitted by the license, a representative of the nursing staff, a representative of the institution's management, and the Radiation Safety Officer;

* * * * *

Dated at Bethesda, Maryland, this 25th day of August 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82–25086 Filed 9–10–82; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 82–ASW–48; Amdt. 39–4460]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Model SA330J Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspections and rework of each main rotor spindle on Aerospatiale Model SA330J series helicopters. The AD is needed to detect and prevent fatigue cracks which could result in failure of the main rotor spindle. Failure of the main rotor spindle may cause separation of a main rotor blade from the helicopter and subsequent loss of control of the helicopter.

DATES: Effective September 27, 1982. Compliance required as prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas, 75051 Attention: Customer Support.

These documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas, 76106 or at the Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American

Embassy, Brussels, Belgium, or Samuel E. Brodie, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624–4911, extension 502.

SUPPLEMENTARY INFORMATION: The FAA has determined that complete separation of the trailing yoke or lug of the main rotor head spindle occurred at 2,624 hours' total time in service on an Aerospatiale Model SA330J helicopter. Separation of the yoke resulted from a fatigue crack possibly initiated by fretting corrosion on the lug bore. Two additional cracked spindle lugs have been reported. Separation of a spindle lug may cause severe vibration and possible separation of a main rotor blade from the helicopter. Loss of a main rotor blade in flight may cause loss of control of the helicopter. Since cracks in the main rotor spindle may exist or occur on other helicopters of the same type and series, an AD is being issued for Aerospatiale Model SA330J series helicopters to require an initial and repetitive inspection of the spindle. The inspection is required until a modification incorporating bushings in the spindle lugs is accomplished. The modification is required at the next main rotor head overhaul or before attaining 1,500 hours' time in service of the main rotor spindle from the effective date of the AD, whichever occurs first. The FAA has received confirmation from the sole known U.S. operator of Model SA330J helicopters that all main rotor spindles presently in service were Magnaflux inspected for cracks between June 26, 1982, and July 1, 1982, and the lug bore corrosion protection coating specified in Aerospatiale Service Bulletin 01.35 was applied to the spindle lugs prior to return to service. Nevertheless, an initial inspection and repetitive inspections at 750-hour intervals are required until bushings are installed. Installation of bushings within 1,500 hours' time in service will preclude further fretting corrosion and possible cracks in the spindle lugs.

The sole known U.S. owner-operator of the affected aircraft has been verbally contacted on the contents of this AD. No objections were made. Further notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days.

All of the U.S. fleet of 14 model SA330J series helicopters will be affected by the modification specified in the AD for an estimated impact of approximately $291,200.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

Societe Nationale Industrielle Aerospatiale (SNIAS)

Applies to Model SA330J series helicopters certificated in all categories that are equipped with main rotor spindles P/N 330A31.1122.03, 330A31.1122.06 to 330A31.1122.08.

Compliance required as indicated.

To detect possible cracks and to prevent fretting corrosion and possible cracking of the main rotor head outboard spindle lugs accomplish the following:

(a) Within the next 10 hours' spindle time in service after the effective date of this AD, unless already accomplished, remove the spindles from the helicopter and inspect each main rotor spindle lug bore for cracks using a magnetic particle inspection method.

(b) Within 750 hours' spindle time in service after inspection per paragraph (a) of this AD, inspect each lug bore for cracks using a dye penetrant or equivalent inspection method.

(c) Within 750 hours' spindle time in service after inspection per paragraph (b) of this AD, remove the spindle from the helicopter and inspect each lug bore for cracks using a magnetic particle inspection method.

(d) Within 1,500 hours' spindle time in service after the effective date of this AD or at next overhaul of the main rotor head, whichever comes first, install spindles that have bushings installed in accordance with Aerospatiale Modification Instructions, AMS 07.43.078, or FAA approved equivalent. The inspections, paragraphs (b) and (c) of this AD, are not required after these bushings are installed.

(e) Replace spindles having a cracked bore prior to further flight. Install serviceable spindles.

(f) Alternative modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium.

(Aerospatiale Service Bulletin No. 01.35 pertains to visual inspections and protective finish of the spindle lug bore)

This amendment becomes effective September 27, 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 that is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review 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 August 31, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-24932 Filed 9-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-41]

Alteration of Transition Area, Lumberton, North Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Lumberton, North Carolina, Transition Area, by correcting the description of an arrival area extension and the name of a navigational aid. No significant change in airspace is intended.

DATES: Effective Date: 0901 G.m.t., October 28, 1982. Comments must be received on or before September 28, 1982.

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

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

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

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves correcting the

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

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Lumberton, North Carolina, transition area by realigning the arrival area extension of an instrument approach procedure which serves the Lumberton Municipal Airport. The final approach course of the approach procedure has been changed from 302° to 295° and the name of the navigational aid upon which the course is predicated is incorrectly listed in the transition area description as Lumberton RBN rather than Robeson RBN. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated Janaury 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to alter the transition area description so that the arrival area extension is properly aligned with the RBN final approach course and to list the correct name of the RBN upon which the extension is predicated. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 60 days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 g.m.t., October 28, 1982, as follows:

Lumberton, NC [Revised]

By deleting the words "* * * 302° bearing from the Lumberton RBN * * *" and substituting for them the words "* * * 295° bearing from the Robeson RBN * * *".

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

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

Issued in East Point, Georgia, on September 2, 1982.

Geroge R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-24928 Filed 9-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-42]

Alteration of Transition Area, Memphis, Tennessee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Memphis, Tennessee, transition area by correcting the description of an arrival extension to coincide with a change to an instrument approach procedure which serves the West Memphis Municipal Airport. No significant change in airspace is intended by this action.

DATES: Effective date: 0901 G.m.t., October 28, 1982. Comments must be received on or before September 28, 1982.

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

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

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

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves correcting the description of an arrival area extension due to realignment of the NDB final approach course from 187° to 198° true, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Memphis, Tennessee, transition area by realigning the arrival area extension for an instrument approach procedure which serves West Memphis Municipal Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to alter the transition area so that the arrival area extension is aligned properly with the NDB final approach course. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 60 days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 GMT, October 28, 1982, as follows:

Memphis, TN [Amended]

By deleting "* * * 187° * * *" and substituting "* * * 198° * * *" therefor.

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

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

Issued in East Point, Georgia, on September 2, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-24927 Filed 9-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-43]

Alteration of Transition Area, Pensacola, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the description of the Pensacola, Florida, transition area by deleting reference to an air navigational facility which is to be decommissioned. No significant change in airspace is intended by this action.

EFFECTIVE DATE: 0901 Gmt, October 28, 1982.

Comments must be received on or before September 28, 1982.

ADDRESSES: Send comments on the rule in triplicate to:

Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

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

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

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

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

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Pensacola, Florida, transition area by deleting reference to the Brent LOM, which is to be decommissioned. The arrival area transition area extension presently predicated on the Brent LOM is required for containment of instrument flight operations and, therefore, will be redescribed by reference to the Navy Whiting VORTAC facility. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to redescribe the arrival extension of the transition area by reference to the Navy Whiting VORTAC facility. This action will not increase the size of the transition area. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and

that good cause exists for making this amendment effective in less than 60 days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 g.m.t., October 28, 1982, as follows:

Pensacola, FL—[Amended]

By deleting the words "* * * 8.5 miles north of Brent LOM; * * *" and substituting for them the words "* * * the Navy Whiting VORTAC 255° radial; * * *"

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

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

Issued in East Point, Georgia, on September 2, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-24926 Filed 9-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 82-AWA-8]

Temporary Restricted Area; Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments establish temporary Restricted Area R-2214 BRIM FROST 83 in the vicinity of Clear Creek, AK, to contain a major joint military readiness exercise. Federal Airways B-26 and V-444 are excluded within the proposed restricted area during the hours of operation by the military. These actions prohibit unauthorized flight operations by nonparticipating aircraft within the proposed restricted area during the time the area is being utilized by the military.

EFFECTIVE DATE: October 28, 1982.

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

SUPPLEMENTARY INFORMATION:

History

On August 2, 1982, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate temporary Restricted Area R-2214 BRIM FROST 83 located in the vicinity of Clear Creek, AK, to contain a major joint military exercise (47 FR 33280). There will be approximately 100 fixed-wing and 80 helicopter sorties each day. Also, approximately 17,000 troops will be involved in intensive combat training maneuvers. Communications equipment will be installed and maintained between the appropriate military and FAA facilities to coordinate movement of nonparticipating aircraft through the exercise area when military activity permits. In addition, a reverse charge telephone number and UHF/VHF frequencies will be designated and published for pilots of nonparticipating aircraft to coordinate directly with the military if desired. Temporary Restricted Area R-2214 BRIM FROST 83 is designated as joint use to allow nonparticipating aircraft to transit when the area is now being utilized by the military. The military would provide aerial access to private or public use land in the temporary restricted area. Federal Airway segments of B-26 and V-444 are excluded within that area during the period military aircraft are performing maneuvers which are not compatible with these airways. Interested parties were invited to

participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.109, 71.125, 71.151, and 73.22 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations establish temporary Restricted Area R-2214 BRIM FROST 83 in the vicinity of Clear Creek, AK, to contain a major joint military readiness exercise. These actions prohibit unauthorized flight operations by nonparticipating aircraft within the restricted area during the time the area is being utilized by the military.

List of Subjects in 14 CFR Parts 71 and 73

Federal airways; Continental control area; Restricted area.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me §§ 71.109, 71.125, 71.151, and 73.22 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73), are amended, effective 0901 G.m.t., October 28, 1982, as follows:

§ 71.109 [Amended]

B-26 [Amended]

By adding after "Barter Island, AK, NDB." the words "The airspace within temporary Restricted Area R-2214 BRIM FROST 83 is excluded from 0001 local time January 28, 1983, through 2359 local time February 3, 1983."

§ 71.125 [Amended]

V-444 [Amended]

By deleting all after "Burwash, Yukon Territory, Canada." and substituting the words "The airspace within temporary Restricted Area R-2214 BRIM FROST 83 is excluded from 0001 local time January 28, 1983, through 2359 local time February 3, 1983."

§ 71.151 [Amended]

R-2214 BRIM FROST 83 [New]

From 0001 local time January 28, 1983, through 2359 local time February 3, 1983."

§ 73.22 [Amended]

R-2214 BRIM FROST 83 [New]

Boundaries. Beginning at lat. 64°41'00"N., long. 147°55'00"W.; to lat. 64°40'00"N., long. 147°20'00"W.; to lat. 64°20'00"N., long. 147°00'00"W.; to lat. 64°14'45"N., long. 146°43'15"W.; thence along the east bank of East Fork and Little Delta Rivers to lat. 63°50'50"N., long. 146°47'30"W.; to lat. 63°56'00"N., long. 147°02'00"W.; to lat. 63°58'00"N., long. 148°00'00"W.; to lat. 64°23'00"N., long. 148°05'00"W.; to point of beginning.

Designated altitudes. Surface to FL 200.

Time of designation. Continuous, from 0001 January 28, 1983, through February 3, 1983, local time.

Controlling agency. Federal Aviation Administration, Anchorage ARTC Center.

Using agency. Alaskan Air Command, Elmendorf AFB, AK.

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

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

Issued in Washington, D.C., on September 3, 1982.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-24931 Filed 9-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 82-AEA-9]

Alteration of Restricted Area; Harrisburg, Pennsylvania

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters Restricted Area R–5802B located at Fort Indiantown Gap, PA. When R–5802B is activated, Harrisburg Approach Control will not authorize instrument approaches to Muir Army Airfield, Indiantown Gap, because the NDB–A instrument approach procedure penetrates R–5802B. This action reduces the size of R–5802B to permit unrestricted use of the NDB–A approach procedure to Muir Army Airfield.

DATES: Effective date—October 28, 1982.

Comments must be received on or before October 11, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Eastern Region, Attention: Manager, Air Traffic Division, Docket No. 82–AEA–9, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430.

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

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

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Observations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves reducing the size of Restricted Area R–5802B, located at Fort Indiantown Gap, PA, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the rule that might suggest the need to modify the rule. Send comments on environmental and land use aspects to: Director, FAA Eastern Region, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430.

The Rule

The purpose of this amendment to § 73.58 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to reduce the size of Restricted Area R–5802B in the vicinity of Muir Army Airfield, Indiantown Gap, PA, to permit the NDB–A approach to Muir during periods when R–5802B is activated. This action reduces air traffic control delays and aids flight planning. Section 73.58 of Part 73 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982.

Since this amendment reduces the size of R–5802B, thus, returning airspace for public use, and allowing Harrisburg, PA, approach control to conduct instrument flight operations at Muir Army Airfield during the time R–5802B is activated, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest.

List of Subjects in 14 CFR Part 73:

Restricted area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.58 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, effective 0901 GMT, October 28, 1982, as follows:

§ 73.58 [Amended]

R–5802B Fort Indiantown Gap, PA, by deleting all under "Boundaries" and substituting the following:

"Boundaries. Beginning at lat. 40°25'06"N., long. 76°44'48"W; to lat. 40°28'31"N., long. 76°36'22"W; to lat. 40°27'13"N., long. 76°35'14"W; to lat. 40°26'18"N., long. 76°36'41"W; to lat. 40°23'24"N., long. 76°43'35"W; to point of beginning."

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

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

Issued in Washington, D.C., on September 1, 1982.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82–24930 Filed 9–10–82; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 460

Trade Regulation Rule; Labeling and Advertising of Home Insulation

AGENCY: Federal Trade Commission.

ACTION: Denial of petition for partial exemption, recission of tentatively granted partial exemption, and lifting of conditional stay.

SUMMARY: The Federal Trade Commission has decided to deny a petition for partial exemption, to rescind its tentative decision to exempt manufacturers of certain types of cellulose insulation from the settled density test required by Section 460.5(a)(2) of its trade regulation rule on labeling and advertising of home insulation [16 CFR Part 460], and to lift the conditional stay it issued in accordance with the proposed exemption.

DATE: Effective date: October 13, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis Rose, 202–376–2469, or Kent C. Howerton, 202–376–2891, Attorneys, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

I. Introduction

In response to a petition filed by two manufacturers of cellulose insulation, the Commission tentatively granted a partial exemption to manufacturers of certain types of loose-fill cellulose insulation [1] from the requirement in § 460.5(a)(2) of its trade regulation rule concerning the labeling and advertising of home insulation (16 CFR 460) (the "Rule"). Section 460.5(a)(2) requires that tests to determine the R-value of loose-fill cellulose insulation be conducted at "settled density," *i.e.*, the density to which the product can be expected to settle over time. The Rule requires that settled density must be determined according to the settled density test

[1] Specifically, the exemption would have applied only to manufacturers of newsprint-based cellulose treated with borax and boric acid, or with boric acid, or with borax, boric acid and aluminum sulphate based chemical compositions. *See* 46 FR 18307, 18308 nn. 12 & 13 (March 24, 1981).

procedure required by General Services Administration ("GSA") Federal Specification HH–I–515D (June 15, 1978), hereinafter referred to as the Canadian drop box test method.

The Canadian drop box test was developed by the National Research Council of Canada ("NRCC"), an organization roughly comparable to the National Bureau of Standards, based on research NRCC conducted. The test consists of blowing cellulose at a prescribed application rate and angle into standardized containers to determine a "blown density." The containers next are dropped six times from a specified height, and then exposed to controlled temperature and humidity cycling for at least 28 days. The "settled density" of the product is then determined by measurement.

In an advisory opinion issued on September 25, 1980, the Commission stated that it would accept the alternative use of results of the settled density test procedure required by the revised version of GSA Federal Specification HH–I–515D, Amendment–1 (October 11, 1979), hereinafter referred to as the cyclone shaker test method, for compliance with § 460.5(a)(2) of the Rule.[2]

In response to a petition by two cellulose insulation manufacturers,[3] Mono-Therm Industries, Inc., and Con-Serv, a division of Bay State Gas Company, the Commission tentatively granted a partial exemption from § 460.5(a)(2), issued a conditional stay, and invited comments on the proposed exemption.[4] As requested by the petitioners and tentatively granted by the Commission, the partial exemption would be conditioned on the use of an alternative procedure to determine settled density which is incorporated as Method B, Specification 51–GP–60M (April 1, 1979) of the Canadian Government Specifications Board ("CGSB"), hereinafter referred to as Method B. Method B permits the calculation of settled density by adjusting a blown density result by a factor of 1.27. No special humidity-temperature chambers are needed and no lengthy cycling period is required.

In connection with its tentative decision, the Commission also issued a conditional stay of the requirement that cellulose manufacturers use either the Canadian drop box method or cyclone shaker method to measure settled density, pending a final Commission decision on the proposed exemption. The stay was conditioned on the use of Method B to measure settled density.

II. Analysis of the Comments

Fourteen interested parties submitted comments. Several of the commenters addressed issues that are not directly relevant or are peripheral to the question of the acceptability of Method B as an accurate alternative test procedure and of the uniform replicability of its results. These issues include types of cellulose insulation not included in the partial exemption,[5] alternative testing procedures not raised in the Commission's tentative decision[6] and other issues relevant to the Rule but not to the appropriateness of Method B as an alternative to the settled density test procedures already accepted by the Commission.[7]

Five commenters asserted that the Commission should make the partial exemption and conditional stay permanent.[8] They argued that: (1) Cellulose manufacturers are unable to comply with the presently mandated procedures because no adequate laboratory facilities are equipped with the humidity cycling chambers needed for the required testing;[9] (2) the drop box and cyclone shaker procedures present undue hardships to cellulose manufacturers which the partial exemption would remove;[10] (3) the Canadian authorities have developed an alternative simple, inexpensive, and efficient procedure for determining settled density, which provides test results substantially comparable to the full Canadian drop box test;[11] (4) the cyclone shaker test is not an acceptable alternative to the Canadian drop box test because the cyclone shaker test overstates cellulose settled density;[12] and (5) the Commission must recognize that flexibility in testing cellulose insulation is needed and that testing methods must be evaluated for their rational application to specific products.[13]

Several commenters argued against the partial exemption and conditional stay.[14] The primary argument advanced against the partial exemption and conditional stay was that the testing procedures to determine the initial reading of a blown density mandated by Method B are not precisely defined.[15] As a result of this lack of specificity, one commentor noted that use of Method B permits variations of the settled density

[2] In its opinion, the Commission noted that it would permit, but not require, the alternative use of the cyclone shaker test procedure. The Commission took this action in view of the fact that the GSA specification referenced by the Rule was amended shortly after the Rule was promulgated to require that R-values be determined at the settled density determined by the cyclone shaker test, rather than by the Canadian drop box test. Consequently, there was significant confusion in the industry as to which test procedure was required under the Rule. In addition, the Commission recognized that both the Consumer Product Safety Commission ("CPSC") and GSA required cellulose manufacturers to conduct the cyclone shaker test for purposes of conducting flammability and corrosiveness tests. To avoid unnecessary compliance costs imposed by a different test, and taking into account its required use by the two federal agencies, the Commission decided to permit its use.

[3] Copies of the petitioners' cover letter dated December 18, 1980, and the petition are labeled documents X–13 and X–14, respectively, in F.T.C. File No. 215–59. Copies of petitioners' cover letter and exhibit supplementing the petition are labeled documents X–15 and X–16, respectively in F.T.C. File No. 215–59.

[4] 46 FR 18307 (March 24, 1981). The Commission later extended the comment period until June 22, 1981 in response to a request by the Chairman of an American Society of Testing and Materials ("ASTM") task group. 46 FR 29256 (June 1, 1981).

Citations in this notice to specific comments include the document number of the comment on the public record in FTC No. 215–59.

[5] Mono-Therm Industries and Con-Serv, Y–3 (Method B should not be limited to products manufactured utilizing a chemical composition of borax and boric acid, or with boric acid, or with borax, boric acid, and aluminum sulphate); Lula Cotton Industries, Y–4 (Method B would misrepresent cotton insulation and seriously affect the ability of cotton to function in the marketplace); International United Chemical Company, Y–14 (the proposed exemption should also include gypsum, phosphates and aluminum tri-hydrate based cellulose insulation).

[6] Mono-Therm Industries and Con-Serv, Y–3, Y–8, Y–18; Therma-Coustics, Y–15, Y–35; Thermoguard Insulation Co., Y–39; and the Cellulose Manufacturers' Association, Y–9, all suggested that an additional alternative procedure be implemented. This additional alternative procedure would require that the settled density result determined by the cyclone shaker test be multiplied by a factor of .91 to determine settled density under the Rule.

[7] Robinson Insulation Company, Y–12 (the fact sheets given to purchasers should cite the tests conducted by the manufacturer to determine R-value).

[8] Mono-Therm Industries and Con-Serv, Y–3, Y–8, Y–18; Cellulose Manufacturers' Association, Y–9; Weyerhaeuser, Y–10; and Shelter-Shields Products, Y–16, Y–17.

[9] Mono-Therm Industries and Con-Serv, Y–3, Y–8, Y–18, X–13, X–14, X–15, X–16; and Cellulose Manufacturers' Association, Y–9.

[10] *Id.*

[11] *Id.*

[12] Mono-Therm Industries and Con-Serv, X–13, X–14, X–15, X–16.

[13] Weyerhaeuser Company, Y–10.

[14] Robert W. Anderson and Associates, Y–16; National Fiber Inc., Y–7; Thermtron, Y–11; Therma-Coustics, Y–13, Y–35; and Thermoguard Technical Services, Y–39.

[15] Therma-Coustics, Y–13, Y–15 (Method B lacks sufficient definition of "blowing machines"); Robert W. Anderson & Associates, Y–6 (Method B lacks sufficient definition of "blowing machines" and "machine condition"); Thermoguard, Y–39 (the lack of a well-defined equipment specification and blowing procedure allows abuse of the Rule); and National Fiber Inc., Y–7 (a blowing machine can be made to do whatever the operator desires).

In addition, two commenters who argued in support of making the partial exemption and conditional stay permanent noted that the lack of specificity allows for abuse of the Rule: Cellulose Manufacturers' Association, Y–9; and Shelter Shields Products, Y–16, Y–17.

results to be ± 13% if all tests are performed within a single, controlled laboratory, or even greater if the test series included multiple testing laboratories, different blowing machines, and various conditions of blowing machines.[16]

Several commenters argued against the use of Method B to determine settled density for the following reasons: (1) the use of a constant factor to determine settled density from blown density is only relevant when blown densities are constant, while data indicates that blown densities vary greatly;[17] (2) variations in chemical formulas, fiber processing, and field application all affect settled density but the constant factor used in Method B does not take this into account; [18] (3) Method B has not been evaluated in the United States as to its ability to produce substantially equivalent results with other test procedures, given the different environmental conditions between the United States and Canada;[19] (4) Method B has not been performed or evaluated by the vast majority of United States manufacturers and qualified testing facilities;[20] (5) Method B is inconsistent with already established procedures required by standards of GSA, the Department of Energy ("DOE"), and the Consumer Product Safety Commission ("CPSC");[21] (6) Method B has not been subjected to the review process of ASTM;[22] (7) products that are not properly manufactured or that contain high concentrations of chemicals will settle more than others due to the product's density gradient effect;[23] (8) since the R-values must be determined at the products' *in situ* density (*i.e.*, the density in an actual attic following any settling), the use of an arbitrary factor to determine settled density destroys the validity of any subsequent R-value determination based on the resulting density;[24] (9) Method B understates settled density, thereby overstating R-value;[25] (10) the cyclone shaker procedure is accurate and has none of the aforementioned problems associated with Method B;[26] and (11) changing the procedure for determining settled density will result in misunderstandings, misrepresentations, and wild coverage claims.[27]

The Commission has given serious consideration to each of the comments received, and has decided to rescind the tentatively granted partial exemption and lift the conditional stay for the following reasons.

First, petitioners argue that Method B is a simple, inexpensive, and efficient procedure for determining settled density which provides test results substantially comparable to the full Canadian drop box test. However, according to several commenters, Method B is subject to widespread abuse. The method, while using the term "lowest blown density," does not have specific criteria for testing, as do the drop box and cyclone shaker test procedures. Moreover, a number of members of the cellulose industry have indicated that by making slight adjustments to some of the test parameters, they can obtain a blown density of any value they desire.[28] The Commission believes that it has been clearly demonstrated that there is reason to believe that Method B can be abused, and very low distorted blown density results obtained. Hence, low and unrealistic settled densities could be derived by manufacturers, resulting in the disclosure of overstated R-values which would undercut the major thrust of the Rule.[29]

Second, the Commission agrees that in appropriate circumstances, it must recognize that flexibility in testing of cellulose insulation is needed so that testing methods can be evaluated for their rational application to technical products. However, increased flexibility in testing should not be allowed at the expense of accurate and comparable R-value information. To ensure that consumers are provided with this essential pre-purchase information, the Rule requires that R-values be determined scientifically, in accordance with standard test methods published by ASTM. As several commenters noted. ASTM has not yet determined that Method B has the ability to produce substantially equivalent results with the drop box or cyclone shaker procedures. Individual members of the ASTM C–739 Task Group have serious doubts about the validity of Method B.

Third, in regard to the argument that cellulose manufacturers are unable to comply with the presently mandated test procedures because no adequate laboratory facilities are equipped with the humidity cycling chambers, the Commission believes this argument is irrelevant to the question of the acceptability of Method B as an accurate alternative test procedure and of the uniform replicability of its results. Further, while the Canadian drop box test requires a humidity cycling chamber, the alternative cyclone shaker test does not. According to the United States Department of Commerce, at least fifteen (15) laboratories have been certified as being capable of performing the cyclone shaker test.[30]

Fourth, the Commission believes that the argument that the current procedures (drop box and cyclone shaker tests) present undue hardships to cellulose manufacturers, is irrelevant to the question of the acceptability of Method B as an accurate alternative test procedure and of the uniform replicability of its results. Further, the Commission believes that the argument is not persuasive. While it is undisputed that the conditioning period to determine settled density under the Canadian drop box test requires at least 28 days, the Rule requires that this testing be done only once for each product or product formulation.[31] Although the FTC's staff had originally recommended that R-value tests be repeated at least every 60 days to insure quality control, in the final Rule the Commission established tolerance provisions rather than requiring retesting to allow manufacturers to design their own quality control systems. Because the current testing procedures have been specified since the Rule became effective on September 29, 1980, the Commission finds that the argument that the 28 day period is an undue burden is no longer persuasive. Additionally, to eliminate the burden that the Canadian drop box test may impose on some manufacturers, the Commission has, by previous action, allowed settled density tests to be determined by the cyclone shaker test method. The cyclone shaker test can be conducted in a very short period of time,

[16] Robert W. Anderson & Associates, Y–6.

[17] Thermtron, Y–11.

[18] *Id.*

[19] Robert W. Anderson & Associates, Y–6. One commenter noted that tentative test data it had generated suggested that because of the difference between United States and Canadian climatic conditions, a different multiplier might be more appropriate for products generally distributed in United States markets rather than Canadian markets, or for each of the different climatic regions which exist in the United States' markets. Cellulose Manufacturers' Association, Y–9.

[20] *Id.*

[21] *Id.*

[22] Robert W. Anderson & Associates, Y–6.

[23] Thermtron, Y–11.

[24] *Id.*

[25] *Id.*

[26] Thermtron, Y–11; and National Fiber, Inc., Y–7.

[27] National Fiber Inc., Y–7.

[28] National Fiber Inc., Y–7; Cellulose Manufacturers' Association, Y–9; Therma-Coustics, Y–13, Y–15; and Thermoguard, Y–39.

[29] A low "blown density" would generate a low "settled density," which would inaccurately increase the coverage area per bag of cellulose insulation and thereby result in an overstated R-value.

[30] "Fourth Annual Report: Directory of Accredited Laboratories", National Voluntary Laboratory Accreditation Program, U.S. Department of Commerce.

[31] 44 FR 50218, 50229 (August 27, 1979).

and therefore presents no time burden at all. In fact, the cyclone shaker method was designed to eliminate the burden caused by the length of time necessary to conduct the drop box test.

Fifth, the argument that the cyclone shaker test overstates settled density is irrelevant to the question of the acceptability of Method B as an accurate alternative test procedure and of the uniform replicability of its results. Further, it is not supported by the evidence. Rather, the facts indicate that the cyclone shaker method is a quick and representative test which provides reproducible results for the settled density of blown cellulose insulation. Further, other Federal agencies have recognized the validity of the cyclone shaker test. CPSC requires cellulose insulation manufacturers to use this test to determine the settled density of cellulose insulation in conjunction with its tests for flammability and corrosiveness.[32] GSA has incorporated the cyclone shaker test into Federal Specification HH–I–515D, Amendment I (October 11, 1979).

In conclusion, throughout the proceedings concerning the Rule, the Commission has always attempted to ensure that all test procedures required by the Rule are consistent with test procedures required by other Federal agencies, to the extent that test procedures required by other agencies would provide accurate R-value information for consumers. Method B is not consistent with the Federal standards and testing procedures required by GSA and CPSC. The comments demonstrate that Method B may produce inaccurate results. By prescribing Method B as an alternative test procedure for measuring the settled density of cellulose insulation, the Commission would decrease the likelihood that consumers would receive accurate R-value information.

The Commission will give further consideration to additional test procedures or the use of correction factors as alternative methods of determining the settled density of loose-fill cellulose insulation products, based on the submission of adequate supporting data. However, the Commission is not persuaded that the data which has been submitted to it at this time supports the accuracy, uniformity or repeatability of any specific correction factor.

III. Decision of the Commission

Based on the analysis in Part II, the Commission has decided to deny the petition and rescind the partial exemption it tentatively granted to allow the alternative use of Method B to determine the settled density of loose-fill cellulose insulation under § 460.5(a)(2) of the Rule. Consequently, the Commission also has decided to lift the conditional stay of that Section which it issued pending its final decision.

The Commission has decided to permit the distribution of existing inventory as of the date the exemption is rescinded (and the stay lifted) which has been accumulated under normal production levels and which has been labeled according to Method B test procedures. This action is consistent with the Commission's proposed treatment of inventory in its recent decision regarding representative thickness testing. The Commission's decision to deny the petition, to rescind its prior tentative decision to grant the partial exemption, and to lift the conditional stay will be effective October 13, 1982.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–25087 Filed 9–10–82; 8:45 am]

BILLING CODE 6750–01–M

[32] Interim Safety Standards for Cellulose Insulation, 16 CFR Part 1209.

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16 CFR Part 803

Premerger Notification Rules; Waiting Period Termination

AGENCY: Federal Trade Commission.

ACTION: Formal Interpretation of Rule.

SUMMARY: Issuance of a new Commission formal interpretation of a premerger notification rule eliminates the need for parties requesting early termination of the premerger waiting period to justify such requests by special business reasons.

EFFECTIVE DATE: Date Commission approves interpretation with the concurrence of the Assistant Attorney General for Antitrust. (August 20, 1982.)

FOR FURTHER INFORMATION CONTACT: Roberta S. Baruch, Deputy Assistant Director, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a (Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976), requires that certain persons contemplating certain mergers or acquisitions file Notification and Report Forms with the Commission and Assistant Attorney General and wait designated periods before consummating such transactions. Section 803.30 of the rules implementing the Act authorizes the Commission, with the concurrence of the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, to issue formal interpretations and to publish a summary of each Commission formal interpretation in the **Federal Register.**

Copies of the formal interpretation are also available in the Public Reference Room of the Federal Trade Commission, 6th and Pennsylvania Avenue NW., Room 130, Washington, D.C. 20580.

Background

Section 7A of the Clayton Act, 15 U.S.C. 18a ("the Act"), requires companies to file a Premerger Notification and Report Form and wait 30 days (or in the case of a cash tender offer, 15 days) before consummating a substantial acquisition of voting securities or assets. The Act also gives the Commission and the Antitrust Division authority to terminate this waiting period before its normal expiration in individual cases. The enforcement agencies have issued two statements—a rule and a staff interpretation of the rule—articulating the circumstances in which they would exercise their discretion to terminate the waiting period.

The premerger rules set out the circumstances under which the agencies will consider terminating the waiting period "early", that is, prior to its normal expiration date. 16 CFR § 803.11. In general, the agencies must have received complete filings from the acquiring and acquired parties and have decided not to take further enforcement action. This provision assures that no transaction will be consummated during the waiting period until the antitrust enforcement agencies have assured themselves that the transaction is not likely to violate the antitrust laws. In addition, one of the parties to the transaction must request early termination of the waiting period. This procedure is normally required to avoid revealing confidential information about the pendency of a transaction against the desires of the parties. This possibility arises because the Act requires the enforcement agencies to publish a notice in the **Federal Register** when early termination is granted. The rules also permit the enforcement agencies to terminate the waiting period early *sua sponte*, i.e., on their own motion. 16 CFR 803.11(c).

The Federal Trade Commission issued a formal interpretation on April 10, 1979, clarifying what criteria beyond those

discussed in the rules would be used by the agencies in considering requests for early termination. That announced standard requires a party requesting early termination to demonstrate a "special business reason" which makes it necessary to complete the transaction before the expiration of the normal waiting period, and to explain why the parties did not file earlier to obtain the desired earlier expiration date.

The new formal interpretation eliminates the requirement that a party present an adequate "special business reason" but leaves the remainder of the current policy in place. Thus, any party filing a premerger notification may request early termination, and such requests will normally be granted after the filings of both the acquiring and acquired persons are submitted and both agencies complete their antitrust review and determine not to take any enforcement action within the waiting period.

Formal Interpretation Pursuant to § 803.30 of the Premerger Notification Rules, 16 CFR 803.30, Concerning Early Termination of the Waiting Period Under the Hart-Scott-Rodino Antitrust Improvements Act of 1976

This formal interpretation of the Premerger Notification Rules concerning "early termination" of the waiting period provided by the Hart-Scott-Rodino Act is issued by the Federal Trade Commission pursuant to 16 CFR 803.30. It supersedes a formal interpretation issued by the staff of the Federal Trade Commission on April 10, 1979. That interpretation announced criteria that would be used by the Federal Trade Commission and the Department of Justice in determining whether a request under 16 CFR 803.11 for early termination would be granted. One of those criteria was a requirement that the parties demonstrate some "special business reason" that warranted early termination of the waiting period.

After experience with the standard for early termination announced on April 10, 1979, the agencies have determined that early termination requests may be appropriately granted in a wider range of circumstances without diminishing the effectiveness of the enforcement process. In the future, the agencies will normally grant a request for termination of the waiting period under the following circumstances:

1. At least one party to the proposed transaction has requested early termination in writing;

2. All parties to the proposed transaction have submitted notification and report forms and any other information required; and,

request a statement of reasons why the requesting party wishes to consummate the transaction before the end of the waiting period. The amount of time it will take to act upon such request cannot be predicted because it will vary according to the workload of the agencies, the complexity of transactions and the seriousness of antitrust concerns raised by proposed transactions.

The granting of early termination will be published in the **Federal Register** as required by section 7(b)(2) of the Hart-Scott-Rodino Act 18 U.S.C. 18a(b). It is the practice of the Federal Trade Commission to also notify by telephone all parties who have filed in connection with an acquisition if any party's request for early termination has been granted.

The Assistant Attorney General in charge of the Antitrust Division of the Department of Justice has concurred in this interpretation.

List of Subjects in 16 CFR Part 803

Antitrust.

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 82-25116 Filed 9-10-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 82-165]

Generalized System of Preferences; Evidence of the Country of Origin

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: For all shipments of imported merchandise valued in excess of $250, a claim for an exemption from duty under the Generalized System of Preferences ("GSP"), must be supported by the production of a GSP Certificate of Origin Form A.

This document amends the Customs Regulations by giving the district directors of Customs discretion to waive production of the Form A as evidence of the country of origin in all cases when the district director is satisfied that the articles qualify for duty-free entry under GSP. This amendment removes the burden from importers of acquiring a Form A from foreign governments when, through no fault of the importer, one cannot be obtained and the merchandise qualifies for duty-free treatment in all other aspects.

EFFECTIVE DATE: October 13, 1982, for entries made, or withdrawals from warehouse for consumption, on or after that date.

FOR FURTHER INFORMATION CONTACT:

Legal Aspects: Benjamin Mahoney, Entry Procedures and Penalties Division (202-566-5765)

Operational aspects: Fred McGreevy, Duty Assessment Division (202-566-2957)

SUPPLEMENTARY INFORMATION:

Background

Title V of the Trade Act of 1972 (19 U.S.C. 2461-2465) (the "Trade Act"), authorizes the President to establish a Generalized System of Preferences (GSP) to provide duty-free entry for eligible articles arriving directly from designated "beneficiary developing countries." Section 503(b) of the Trade Act (19 U.S.C. 2463(b)), relating to the requirements which must be met for eligible articles to receive duty-free treatment, authorizes the Secretary of the Treasury to prescribe such regulations as may be necessary to carry out the provisions of that subsection. Sections 10.171 through 10.178, Customs Regulations (19 CFR 10.171-10.178), set forth the requirements and procedures for the entry of eligible merchandise from "beneficiary developing countries" under GSP.

On January 14, 1982, Customs published in the **Federal Register** (47 FR 2124) a document proposing to amend section 10.173(A), Customs Regulations (19 CFR 10.178(a)), to give the district director the discretion to waive production of the Form A for entries of imported merchandise, when he is satisfied that the merchandise qualifies for duty-free entry under GSP. The purpose of the proposed change was to remove the regulatory burden from importers of acquiring a Form A from foreign governments when, through no fault of their own, one cannot be obtained, and the merchandise qualified for duty-free treatment in all other aspects. This would be of benefit to the importing public in that a significant amount of money spent in communicating back and forth between the United States and foreign countries would be saved. The proposal also would benefit Customs by eliminating the need for withholding appraisement on relatively insignificant shipments; the considerable time spent in the process of filing GSP entries; the charging of bonds for missing documents (namely

the Form A); and the follow-up process relating to the production of the missing documents.

It also was proposed to remove § 10.173(a)(5)(ii), which is obsolete.

Analysis of Comments

A total of 48 comments were received in response to the notice of proposed rulemaking, 44 of which favored the proposal. In addition to the reasons advanced by Customs for adopting the proposal, those commenters suggested others, such as laws in a beneficiary developing country ("BDC") regarding country of origin, which are arbitrary and prevent a BDC from issuing a Form A when the article involved is qualified under U.S. law. For example, Customs was informed that a number of BDC countries will not issue another Form A, even though the original one was clearly lost. These situations would be relieved by the adoption of the proposal. Many of the commenters who favored the proposal generally, also made other recommendations as noted below.

Four commenters suggested that Customs eliminate the Form A requirement entirely. In addition, at least five other commenters seemed to interpret the proposal as providing authority for the district director to waive the Form A requirement totally. Although the proposed regulation was not intended to have been so interpreted, it is pointed out again in the preamble of this regulatory amendment that the proposed change would remove the regulatory burden from importers of acquiring a Form A from foreign governments when, through no fault of their own, one cannot obtain the Form A and the article is GSP-qualified. The Form A is essential because it is an official certification by the BDC as to the product's country of origin and sets forth certain other valuable information, such as the value percentage, which is helpful in determining if the product qualifies for GSP treatment. For that reason, Customs does not believe the elimination of such requirement would be beneficial. However, at the same time, when Customs at the port of entry recognizes, due to the nature of the product, previous history of importation, or for a variety of other reasons, that the product involved does qualify, we believe that it would be contrary to the spirit of the GSP program to deny the duty-free entry of such merchandise where the importer has demonstrated to Customs that he has attempted unsuccessfully to obtain the Form A. Of course, if there is any question as to whether such product would qualify, a Form A would be required.

Three commenters suggested that the district director be permitted to waive the Form A based on such considerations as the nature of the product, the importer's past history, *etc.*, without requiring that the importer in these circumstances attempt to obtain the Form A. Customs agrees, and will consider this comment further when guidelines are issued, as discussed below.

Two commenters believe that in those situations where the waiver applies, the district director should be *required* to waive the Form A. They suggest that the word "may" in the proposed regulation be changed to "shall". Customs believes that there may be certain considerations, such as the percentage of value, regarding a certain product whereby the district director would not wish to waive the Form A on that product. Thus, Customs believes that the waiver should remain discretionary, rather than mandatory.

Ten commenters believe that the proposal should be applied retroactively. One suggested that the proposal be applied to all entries which are unliquidated, under protest, or before a court. Two others suggested that the proposal be applied to all entries which are unliquidated. Seven commenters request that the proposal, if adopted, be retroactive to January 1, 1982, and another suggested December 15, 1981. It is Customs policy that amendments to the Customs Regulations should be made prospective in nature, rather than retroactive. Accordingly, those suggestions have not been adopted, and this rule has been made applicable only to those entries of merchandise made, or merchandise withdrawn from warehouse for consumption, on or after the effective date of this amendment.

Four commenters contend that the proposal should contain guidelines as to when the district director may waive a Form A. Although Customs recognizes that this suggestion has merit, we prefer to issue guidelines to Customs officers and the importing public through directives, rather than regulations. However, examples of when a district director may waive a Form A would be (1) if the BDC country refuses to issue a Form A because the product is not considered by its law to be from that country, yet under U.S. law, the country of origin would be the BDC country, or (2) if the BDC country refuses to issue another Form A and the district director is satisfied that the one originally issued is lost.

Two commenters noted that the proposed regulations do not indicate the acceptable documentary evidence necessary for the importer to submit to satisfy the district director so that he may waive the production of the Form A. The type of documentary evidence would vary according to the type of commodity. For certain agricultural products, such as fruit imported from a contiguous country, a commercial invoice and other supporting documentary evidence such as a bill of lading and letters of credit might be sufficient, whereas for a manufactured product, more detailed documentation regarding the manufacturing process might be needed.

Ten commenters, who are importers of produce from a particular BDC country, noted that for certain agricultural commodities, such as watermelons, the BDC country has delegated the issuing of the Form A to a private organization (the farmer's union). This private organization has been charging American importers 50% of what the U.S. duty charge would have been, to issue Form A's. Customs believes that the charge to issue the Form A is unjustified, and is tantamount to the situation where the importer is unable to obtain the Form A from the BDC government.

One commenter believes that the Form A requirement should be waived for first-time importers because of their inexperience in importing goods. However, Customs notes it may be difficult in some cases to determine if someone is a first-time importer. Furthermore, it is Customs position that one in the business of importing should be aware of Customs and other requirements.

Two commenters suggested that once an importer's duty-free entry of a product under GSP has been approved by Customs, that importer should be able to import the product under that Form A for a given period of time. Customs believes that since GSP is a privilege, an importer has the burden of establishing for each shipment that the merchandise qualifies for duty-free treatment under GSP.

One commenter suggested that the district director should not have discretion to waive production of the Form A when the merchandise in question is valued in excess of $1,000. Due to the number of commercial shipments valued over $1,000, Customs believes that such a restriction would obviate much of the benefit of the proposal in facilitating commerce, and thus is not justified in this instance.

One commenter suggested that the concept of "imported directly" as set forth in section 10.175(b), Customs

Regulations (19 CFR 10.175(b)), should be expanded to provide that as long as the goods are wholly-grown or produced in the BDC country and do not enter the commerce of an intermediary country, such article is eligible for GSP duty-free exemption. Customs considers this suggestion to be clearly beyond the scope of the proposal.

One of the four commenters in opposition to the proposal noted that to qualify for GSP, the merchandise involved must be the growth, manufacture, or product of the BDC country, and that at least 35% of the value of the product must be produced in that BDC country. This commenter noted that the Form A requirement is a certification from the BDC country that those two important conditions have been met and furthermore, this requirement is an important safeguard that the GSP criteria has been complied with. Customs notes that the waiver of the GSP requirement is essentially limited to situations in which the importer has satisfied the district director that he has attempted to obtain the required Form A. Even if the importer has unsuccessfully attempted to obtain the Form A, the district director would not waive the production of this document unless satisfied, based upon previous importations that the documentation submitted (*e.g.*, the commercial invoice or bill of lading), and other evidence establishes that the merchandise is from the claimed country. Furthermore, although convinced of the above, the district director would not waive the production of the Form A if there is any question regarding the value contribution of the BDC country. In conclusion, Customs believes that the waiver of the production of the Form A under such limited circumstances would not result in the entry of unqualified merchandise as GSP merchandise.

Another commenter contended that the proposed waiver of the Form A by the district director would enable transshipped merchandise (merchandise which arrived directly in the United States from a BDC country, but was originally a product of an unqualified country and was subsequently shipped to the BDC country) to receive the GSP benefit erroneously. The commenter asserted that the certificate of origin (Form A) is a safeguard regarding the country of origin. As noted above, the waiver of the Form A will be granted by the district director only under certain limited circumstances. Therefore, Customs does not envision unqualified merchandise being entered duty-free under GSP as a result.

The same commenter further suggested that a number of importers will ship their merchandise to ports of entry where the district directors will be more disposed to waive the Form A requirement. In this view, this commenter and another commenter contended that the waiver of the Form A requirement will result in non-uniformity. As noted above, guidelines will be issued to Customs field officers which will promote uniformity. Furthermore, Customs does not expect that it would be to any advantage for an importer to ship his merchandise through a port other than the normal port of entry. On the contrary, Customs believes that a district director who is unfamiliar with the importer and unfamiliar with the product involved would be less inclined to waive the Form A requirement, than a district director who was familiar with the product and the past history of the importer.

A third commenter opposed to the proposal noted that American businesses which export their merchandise abroad find that they are subject to "red tape" by the foreign country, including certain foreign customs requirements. This commenter suggested that before this more liberalized regulation is adopted, the United States should receive like treatment from the foreign countries involved and that this should be done on a reciprocal basis. Customs believes that after the importer has done all he can to obtain the Form A and the district director is satisfied that the merchandise qualifies, it would be contrary to the spirit or the purpose of the GSP to deny such a claim for free entry.

Another commenter noted that the waiver of the Form A requirement would hinder an exporting country's attempt to monitor its exports. While Customs recognizes that adoption of the proposal may adversely affect the statistical monitoring ability of a BDC country of its GSP exports, Customs believes the GSP privilege should not be denied an importer of merchandise that is otherwise eligible for that privilege but for the non-production of the Form A.

Accordingly, based upon the comments received in response to the notice of proposed rulemaking and Customs further consideration of the matter, it has been determined to adopt the proposal as it appeared in the January 14, 1982, notice document.

Inapplicability of Delayed Effective Date

Because the amendment to the Customs Regulations is a substantive rule which grants an exemption, Customs has dispensed with a delayed effective date pursuant to 5 U.S.C. 553(d)(1).

Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601, *et seq.*), it is hereby certified that the rule set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, this regulation is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 10

Customs duties and inspection, Generalized System of Preferences, Imports.

Amendment to the Regulations

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Section 10.173(a)(5), Customs Regulations (19 CFR 10.173(a)(5)), is revised to read as follows:

§ 10.173 Evidence of the country of origin.

(a) *Shipments valued in excess of $250.* * * *

(5) *Waiver of Certificate of Origin.* The district director may waive production of a Certificate of Origin when he is otherwise satisfied that the merchandise qualifies for duty-free entry under the Generalized System of Preferences.

* * * * *

(R.S. 251, as amended, section 624, 46 Stat. 759, section 503(b), 88 Stat. 2069, as amended (19 U.S.C. 66, 1624, 2463(b))

William von Raab,

Commissioner of Customs.

Approved: August 30, 1982.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 82-25095 Filed 9-10-82; 8:45 am]

BILLING CODE 4820-02-M

19 CFR Part 101

[T.D. 82-166]

Extension of Huntsville, Alabama, Port of Entry Designation

AGENCY: Customs Service, Treasury.

ACTION: Notice of Extension of Port of Entry Designation.

SUMMARY: This document extends, until July 30, 1983, the period of time for which the Huntsville, Alabama, Customs port of entry is established on an experimental basis. Huntsville was established as a port of entry in 1980 on a 2-year experimental basis. This 1-year extension is being granted in order to make a full and fair assessment as to whether Huntsville can meet the criteria for establishing and staffing a port of entry.

EFFECTIVE DATE: July 30, 1982.

FOR FURTHER INFORMATION CONTACT: Richard C. Coleman, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, by a document published in the Federal Register on July 1, 1980, as T.D. 80-176 (45 FR 44263), effective July 30, 1980, Huntsville, Alabama, was designated as a Customs port of entry in the Mobile, Alabama, Customs district, on a 2-year experimental basis. That document provided that at the conclusion of the 2-year period, Customs would evaluate the amount of international business, the continued need for Customs services in the area, and the adequacy of Customs facilities.

At present, the port of Huntsvile has not met the workload criteria for establishing and staffing a port of entry. However, Customs believes that in order to make a full and fair assessment of the viability of Huntsville as a port, a 1-year extension of its designation should be granted.

Evaluation at End of 1-Year Period

At the conclusion of the 1-year extension period, Customs will reevaluate the amount of international business, the continued need for Customs services, and the adequacy of Customs facilities at Huntsville. At that time, based upon these reevaluations, Customs will either establish Huntsville as a permanent port of entry or revoke its temporary designation.

Authority

Customs ports of entry are established under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR, 1949-1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101-5 (47 FR 2449).

Drafting Information

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: August 30, 1982.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 82-25089 Filed 9-10-82; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Part 113

[T.D. 82-164]

Customs Regulations Amendments Relating to the Immediate Delivery and Consumption Entry Bond (Term) Customs Form 7553

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: The Customs Regulations provide that the Immediate Delivery and Consumption Entry Bond (Term), Customs Form 7553, required to be filed by importers to protect the revenue of the United States or to ensure compliance with applicable laws and regulations, shall be in the amount of $10,000, or such larger amount as the district director may deem necessary. Based on this regulation, the bond is often fixed in an amount equal to the value of the imported merchandise plus estimated duties and taxes compiled from the entries of an importer during the previous year. The fixing of the amount of the term bond in such a rigid manner may result in a financial hardship on some importers because they are often required to file term bonds in amounts that are unnecessarily high. To ensure that Customs fixes the amount of the term bond sufficient to protect the revenue, while at the same time not imposing an unnecessary financial burden on the importer, this document amends the regulations to provide that the term bond shall be in the amount of $10,000, or such larger amount as the district director may deem necessary to accomplish the purpose for which the bond is given. Guidelines are set forth to assist district directors in setting the amount of the term bond.

EFFECTIVE DATE: October 13, 1982.

FOR FURTHER INFORMATION CONTACT:

Legal aspects: William Rosoff, Carriers, Drawback and Bonds Division (202-566-5856)

Operational aspects: Herb Geller; Duty Assessment Division (202-566-5307), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

To protect the revenue of the United States or to ensure compliance with any pertinent law, regulation, or instruction, Customs bonds or other security are required by law in many instances, and may be authorized by regulation or specific instructions in other instances (section 623, Tariff Act of 1930, as amended (19 U.S.C. 1623)). Part 113, Customs Regulations (19 CFR Part 113), sets forth the procedures and requirements relating to Customs bonds.

Section 113.2, Customs Regulations, provides that whenever a bond is required or authorized by law, regulations, or instructions, the Commissioner of Customs may:

1. Prescribe the conditions and form of such bond, and fix the amount of penalty, whether for the payment of liquidated damages, or of a penal sum, except as otherwise specifically provided for by law;

2. Provide for the approval of sureties on the bond, without regard to any general provisions of law;

3. Authorize the execution of a term bond the conditions of which extend to and cover similar cases of importations over a period of time, not to exceed one year or such longer period as he may fix; and

4. Authorize the taking of a consolidated bond (single entry or term) in place of separate bonds to assure compliance with two or more provisions of law, regulations, or instructions.

Customs bonds may be approved by the Commissioner of Customs or a district director of Customs. Bonds approved by the Commissioner are described in section 113.13, Customs Regulations, and bonds approved by a district director are described in section 113.14, Customs Regulations.

Section 113.14(g)(2), Customs Regulations, provides that the

Immediate Delivery and Consumption Entry Bond (Term), Customs Form 7553, shall be in the amount of $10,000, or such larger amount as the district director may deem necessary. This bond shall be taken to cover only entries to be made at a single port and shall not be modified to cover more than one port. The last sentence of this section provides that the rules under § 113.14(g)(1) for determining the amount of the single entry immediate delivery and consumption entry bond shall be applied in making charges against immediate delivery and consumption entry term bonds.

Customs believes that the reference in the last sentence of § 113.14(g)(2) to "paragraph (g)(1)" is in error. Paragraph (g)(1) refers to the entire section dealing with the single entry bond amount. Historically, § 113.14(g)(2) contained a cross reference to § 113.14(g)(1)(iii), which concerns a single entry bond covering unconditionally free merchandise. The inconsistency in the regulations may be a cause of some problems.

In determining the dollar amount of the term bond, Customs Form 7553, district directors often fix the amount of the bond equal to the value of the merchandise imported plus estimated duties and taxes compiled from the entries of each importer during the previous year.

The fixing of the amount of the bond in such a rigid manner may result in hardships on some importers. They are often required to file term bonds in amounts that are unnecessarily high when Customs is concerned primarily with guaranteeing payment *only* of supplemental duties (increased or additional duties ascertained upon liquidation.)

In the case of merchandise released under the entry documentation listed in § 142.3, Customs Regulations (19 CFR 142.3), before filing the entry summary, estimated duties generally are deposited when the entry summary is filed, *i.e.*, within 10 days after the time of entry. For merchandise released under a special permit for immediate delivery under § 142.21, Customs Regulations (19 CFR 142.21), estimated duties generally are deposited when the applicable documentation is filed *i.e.*, within 10 days after the merchandise is authorized for release.

Furthermore, in the case of quota class merchandise on which estimated duty is deposited before release, it does not appear necessary for the protection of the revenue to use the amount of any duty that is to be deposited before release of the merchandise in fixing the term bond amount.

Because (1) estimated duties generally are deposited within 10 days after release of the merchandise, and (2) entries often are liquidated during the course of a year unchanged, thereby reducing the liability for payment of supplemental duties which would have been charged against the term bond for those entries, Customs often is concerned primarily with securing payment only of any supplemental duties ascertained upon liquidation. Therefore, it is desirable for district directors to fix the amount of the term bond in a more meaningful manner.

By way of comparison, § 113.14(s), Customs Regulations, provides that a general term bond for entry of merchandise, Customs Form 7595, shall be in the amount of $100,000, or such larger amount as may be fixed by the district director. However, Customs guidelines provide that the district director, in approving a bond on Customs Form 7595, fix the amount in the multiple of $100,000 nearest to 10 percent of the duties and taxes paid during the calendar year preceding the date of importation. Customs believes that in fixing the amount of a term bond, the amount so determined should be sufficient to accomplish the primary purpose of that bond, *i.e.*, to guarantee payment of duty and taxes due.

In this regard, on February 19, 1982, Customs published a notice in the **Federal Register** (47 FR 7456), proposing guidelines to be used in fixing the amount of a term bond, Customs Form 7553, in a manner similar to that used for a general term bond, Customs Form 7595. To eliminate an unintended burden on the importing community, and to ensure that the district director fix a more meaningful amount for the term bond, it was proposed that § 113.14(g)(2) be amended by adding the words "to accomplish the purpose for which the bond is given" to the end of the first sentence. The purpose of the additional language is to ensure that Customs fix the dollar amount of the term bond sufficient to protect the revenue of the United States, while at the same time not imposing an unnecessary burden on the importer.

It was also proposed to delete the last sentence of § 113.14(g)(2), because it is misleading and is subject to improper interpretation.

Pursuant to the notice, interested parties were given until April 20, 1982, to submit comments on the proposal. After review of the seven comments received, Customs has determined to adopt the amendments and the guidelines for term bonds as proposed.

Discussion of Comments

Four commenters expressed support for the proposed rule. They indicated it would reduce hardships for importers who file bonds in extremely large amounts.

Two commenters also support the proposal, but suggest the use of the term bond on a district basis rather than on the current port basis. Another commenter makes several suggestions relating to standardizing forms, uniformity of information supplied on the forms, and applications for general term bonds. These suggestions go beyond the scope of the proposal and, therefore, cannot be adopted at this time. However, they are being considered as part of a project to modernize processing and procedures for bond related transactions.

E.O. 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is hereby certified that the rule will not have a significant economic impact on a substantial number of small entities.

Guidelines for Term Bond

A district director, in approving a term bond, Customs Form 7553, should fix the amount in the multiple of $10,000 nearest to 10 percent of the duties and taxes paid by an importer during the previous calendar year. If no imports were made during the preceding calendar year, the amount of the bond shall be in the multiple of $10,000 nearest to 10 percent of the duties and taxes which the applicant estimates will accrue on imports during the current year. In no event shall the amount of the bond be less than $10,000.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 113

Customs duties and inspection, Imports, Surety bonds.

Amendments to the Regulations

Part 113, Customs Regulations (19 CFR Part 113), is amended as set forth below.

William von Raab,
Commissioner of Customs.

Approved: August 30, 1982.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

PART 113—CUSTOMS BONDS

Section 113.14(g)(2), Customs Regulations (19 CFR 113.14(g)(2)), is revised to read as follows:

§ 113.14 Bonds approved by the district director.

* * * * *

(g) *Immediate Delivery and Consumption Entry Bond.*

* * * * *

(2) *Term bonds, Customs Form 7553.* Immediate Delivery and Consumption Entry Bond (Term), Customs Form 7553, in the amount of $10,000, or such larger amount as the district director may deem necessary to accomplish the purpose for which the bond is given. This bond shall be taken to cover only entries to be made at a single port and shall not be modified to cover more than one port.

(R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624)).

[FR Doc. 82-25104 Filed 9-10-82; 8:45 am]
BILLING CODE 4820-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-5-FRL 2197-5]

Designations of Areas for Air Quality Planning Process; Attainment Status Designations: Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This rulemaking revises Ohio's Total Suspended Particulates (TSP) air quality designation for Preble and Allen Counties from secondary nonattainment to attainment. This revision is based on a request from the Ohio EPA (OEPA) to redesignate these areas and on the supporting data the State submitted. Under the Clean Air Act (the Act), air quality designations can be changed if sufficient data are available to warrant such change.

EFFECTIVE DATE: This action will be effective November 12, 1982 unless notice is received within 30 days from the date of publication that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the redesignation requests, technical support documents and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20480

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Air Programs Branch, Region V, Environmental Protection Agency, Chicago, Illinois 60604, (312) 886-6037.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act the Administrator of EPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each area of every state. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrant a change in designation.

Preble County

On April 19, 1982, the OEPA requested the redesignation of a portion of southeastern Preble County (approximately 25 square miles) from secondary nonattainment for TSP to attainment. Preble is a rural county with no major industrial sources of particulate matter. The original secondary TSP nonattainment designation for a portion of Preble County was based on a regional air quality modeling analysis performed by the local air pollution control agency and relied upon by the State of Ohio in their original designation request. EPA approved the State's designation for Preble County on October 5, 1978 (43 FR 46011). However the original regional air quality modeling analysis employs techniques which are not consistent with present EPA reference modeling guidelines. Our current review of this analysis indicates that the regional modeling results are not representative of past or current air quality in this portion of Preble County. Consequently, EPA is today approving Ohio's recent request and correcting our previous error by redesignating all of Preble County to attainment of the TSP NAAQS.

The only available TSP monitor data in Preble County, collected at a now discontinued site in Eaton between 1971 and 1976, never recorded a violation of the TSP NAAQS. In addition, a recent emissions inventory for the county indicates that there are no major sources of traditional TSP emissions in the county. Recent monitoring data in the rural areas of Montgomery County, adjacent to the nonattainment area in Preble County also show attainment of the TSP NAAQS. Consequently, all available information supports a designation of attainment for Preble County.

Allen County

On May 17, 1982, OEPA requested the redesignation of Allen County from secondary nonattainment for TSP to attainment. The Allen County modeling/emissions inventory information prepared by OEPA for their Part D TSP submittal was reviewed to assess the representativeness of the monitor sites in Lima. The Lima monitors are located close to most of the major traditional TSP sources in Allen County and the modeling indicates that the sites are near the areas with maximum predicted impact. Eight quarters of TSP monitoring data from 1980 and 1981 submitted by OEPA for Allen County shows no violation of the TSP NAAQS.

EPA's review of the submitted TSP monitoring data and of the available modeling/emissions inventory information supports Ohio EPA's requests for redesignations to attainment for TSP in all of Preble and Allen Counties.

Because EPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on November 12, 1982. However, if we receive notice by October 13, 1982 that someone wishes to submit critical comments, then EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

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

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2)).

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407))

Dated: September 2, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES—OHIO

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 81.336 is amended by amending the table for "Ohio TSP" Allen and Preble Counties to read as follows:

§ 81.336 [Amended]

OHIO—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
*	*	*	*	*
Allen County.				X
*	*	*	*	*
Preble County.				X
*	*	*	*	*

[FR Doc. 82-24689 Filed 9-10-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 7E 1956/R463; PH-FRL 2179-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 1-Naphthaleneacetic Acid

Correction

In FR Doc. 82-20707 appearing on page 33692 in the issue for Wednesday, August 4, 1982, second column, seventh line from the top, "July" should read "June."

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket No. 78-348; FCC 82-336]

Radio Frequency Devices; Measurement Techniques of Television Receiver Noise Figures

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document implements an optional measurement procedure dealing with television receiver noise figures. It describes an acceptable means of measuring the noise figure of UHF television tuners. Manufacturers may still use any other procedure that is judged acceptable by the Commission. This action was necessary to properly document work done by the Government Industry Technical Advisory Committee and to terminate this proceeding.

DATES: Effective October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Hector Davis, FCC Laboratory, Post Office Box 429, Columbia, Maryland 21045-0429, Telephone: (301) 725-1585.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 15

Receiver standards and performance.

Report and Order

(Proceeding Terminated)

Adopted: July 22, 1982.

Released: August 31, 1982.

Introduction

1. The Notice of Inquiry in this docket was adopted because of questions about noise figure measurement procedures, accuracies, tolerances, and repeatability. In order to have access to the best technical information and to encourage broad support from the technical community, the Notice of Inquiry proposed a joint FCC/industry technical conference. The result was the establishment of a National Advisory Committee with two subcommittees. With the issuance of a final report from each subcommittee, the activities stimulated by the Notice have ceased. This document highlights the work of the subcommittees and implements an optional measurement procedure for television receiver noise figure.

Background

2. The final reports of the two subcommittees have been published as: "Final Report of Subcommittee A: UHF TV Receiver Noise Figure Measurements," August 6, 1979, and "Final Report of Subcommittee B: Accuracy and Tolerances in Measurements of Television Receiver Noise Figure," December 18, 1979. Effects of the Committee on the state of television receiver noise figure measurements and receiver certification have been extensive. Tangible contributions are evidenced in OST Measurement Procedure MP-2, "Measurement of UHF Noise Figures of TV Receivers."

Considerations

3. In addition to initial certification, § 15.66(c) of the Rules has required an annual filing to show performance as follows:

> Each year after certification has been granted for a specific model, the applicant shall file a report giving actual noise figure performance of the units of the model as actually measured during the year.

The subparagraph was originally adopted to gain experience on actual noise figure performance of receiver models. The information gathered has been analyzed and used to help formulate policy decisions. Because this information has been very useful, we intend to retain this annual reporting requirement to continue to monitor the noise figure levels.

Action

4. Appendix A shows the changes to the Rules resulting from this Order. Note that no change is made in Section 15.75(a), "Any measurement procedure acceptable to the Commission may be used to show compliance with the requirements of this subpart.——" This permissive language allows technical personnel to use any procedure that accomplishes the purpose of making the required measurements. The changes to the Rules in § 15.75(b)(3) provide a recommended method of measuring noise figure, as described in Appendix B.

5. The Commission welcomes this opportunity to acknowledge the efforts of organizations and individuals, named in Appendix C. Inevitably, some contributors have not been listed, but the efforts of all participants are appreciated. The work of this group has significantly advanced knowledge of television receiver parameters.

6. In light of the foregoing and pursuant to authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, it is ordered that the rule amendments set out in the Appendix are adopted, effective October 1, 1982. It is further ordered that this proceeding is terminated.

7. For further information concerning this proceeding, the contact person is Hector Davis, Office of Science and Technology, (301) 725-1585.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 15—RADIO FREQUENCY DEVICES

Part 15 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 15.75 of Part 15 is amended by revising paragraph (b)(3) to read as follows:

§ 15.75 Measurement procedure.

* * * * *

(b) * * *

(3) Institute of Electrical and Electronics Engineers Standard 190 (formerly 6Q IRE 17S1) for measurement of peak picture sensitivity and the Commission's Measurement Procedure MP-2 for measurement of noise figure of a television broadcast receiver.

* * * * *

Appendix B.—Federal Communications Commission, Office of Science and Technology, Washington, DC 20554

Measurement Procedure MP-2 (July 1982) (Replaces OST 50)

Measurement of UHF Noise Figures of TV Receivers

1. Introduction

1.1 Recommended procedures for the measurement of television receiver noise figures at UHF are described. Reference to this document may be made in connection with applications to the FCC for TV receiver authorization, since data obtained by these procedures will be acceptable. This document is not intended to be a complete engineering standard.

2. Measurement Procedure

2.1 The receiver to be tested and the equipment associated with the measurements of noise figures are to be placed in a shielded room or other environment with levels of radio frequency energy low enough to minimize effects on the measurements.

2.2 Before testing, the television receiver and noise figure test equipment are to be subjected to a warm-up period of sufficient time for stabilization of factors which could affect the measurements. The supply for line-operated receivers is ascertained to be 120V ±5%, 60 Hz or as specified; that for battery-operated receivers is to be at the voltage specified.

2.3 Since television receiver noise figures are usually measured at a stage preceding video output, it must first be determined whether or not the noise figure contribution of the receiver following the measurement point exceeds 0.3 dB. This can be done by application of the equation

$$\Delta F = 10 \log [1 + (F_2 - 1)/F_1 G_1]$$

where

ΔF = noise figure contribution in dB of the receiver following the measurement point,

F_2 = noise figure following the measurement point as power ratio,

F_1 = noise figure from receiver antenna input terminals to measurement point as power ratio, and

G_1 = gain of circuit from receiver antenna input terminals to measurement point as a power gain.

The values in this equation may be calculated design characteristics or measured values. If ΔF exceeds 0.3 dB, it must be added to the value obtained at the measurement point to arrive at data submitted for certification and proof of performance. If ΔF does not exceed 0.3 dB, it may be neglected in the submitted noise figure data.

2.4 A solid state UHF noise source is connected to the receiver's UHF input through a matching network. Particular care is to be taken that the signal path from the receiver's external input to its tuner is not disturbed. Care is also taken that any twin lead from a balun to the TV receiver does not affect the measurements; e.g., by routing the twin lead away from metal. The insertion loss of a balun and/or the matching network may be subtracted from the measured values.

2.5 Automatic gain control bias, preceding the noise output measurement point, is maintained at the level existing when there is no input signal with the receiver's UHF input terminated in its nominal impedance. The receiver is otherwise operated so that the noise figure data are actually those inherent to it.

2.6 The TV receiver noise figure is preferably measured by coaxially connecting a noise figure indicating system to the tuner output. If this connection is not feasible, or the gain insufficient, the noise output is obtained through the use of a small loop, or other suitable probe, coupled to one of the intermediate frequency amplifier stages. The stage chosen is that which yields an adequate noise output without disturbing shielding or other circuit elements. In the event that this, too, is not a workable approach, an appropriate low capacitance probe is used instead of the loop. A low noise preamplifier is used between the noise output from the receiver and the input of the indicating instrument in order to obtain sufficient level, if necessary.

2.7 The center frequency of the television receiver's nominal intermediate frequency band at the measurement point is used as the center frequency of the noise figure indicator to which the receiver's noise output is connected. (For a television receiver with a nominal intermediate frequency band of 41 to 47 MHz at the noise measurement point, the center frequency would be 44 MHz.)

2.8 Receivers using continuously tunable oscillators are to have those oscillators adjusted to within plus or minus one megahertz of the desired oscillator frequency. If there is more than one such tuning control, that yielding higher noise figures is to be used. Tuners using discrete selection of UHF channels are to have their associated fine tuning control, if any, set so that the local oscillator frequency for channel 14 is within 0.25 MHz of the correct value.

2.9 Noise figure data in dB are reported, compensated with necessary correction factors. These factors including balun loss, impedance transformation loss, and the required ΔF contribution must be given if they are part of the final submitted noise figure values. Data are obtained for the following ten UHF channels: 14, 20, 26, 32, 38, 44, 50, 56, 62, 69.

Channels upper or lower to these may be used if necessitated by local ambient signal conditions but may vary by no more than ±2 channels.

In addition to these discrete channels, the total range of the UHF channels is examined. The worst noise figure, with corrections as noted above, is reported along with that channel number.

Appendix C.—List of Committee Participants

The FCC gratefully recognizes the following individuals and organizations for their significant work in furthering the understanding of noise figure measurements:

Name and Organization

P. Smith, Quasar (Matsushita Industrial Company)
D. Hiday, Magnavox (NAP Consumer Electronics Corporation)
E. M. Hinsdale, RCA Corporation
C. W. Hoyt, RCA Corporation
J. J. Gibson, Chairman of Subcommittee B, RCA Corporation
G. C. Hermeling, RCA Corporation

S. P. Knight, RCA Corporation
W. Szydlowski, Zenith Radio Corporation
J. Rypkema, Zenith Radio Corporation
N. T. Watters, Chairman of Subcommittee A, Zenith Radio Corporation
P. Skerlos, Zenith Radio Corporation
S. Savic, Zenith Radio Corporation
S. Matthews, Zenith Radio Corporation
J. Yamada, Panasonic (Matsushita Industrial Company)
T. Tan, Panasonic (Matsushita Industrial Company)
H. Aris, Panasonic (Matsushita Industrial Company)
N. Kaburagi, Sony Corporation
J. F. Daly, Sony Corporation
A. Valdettaro, Sarkes Tarzian, Incorporated
W. Pastori, Ailtech, A Cutler-Hammer Company
C. B. Neal, GTE Sylvania (NAP Consumer Electronics Corporation)
M. Palladino, General Electric Company
C. Rhodes, Tektronix, Incorporated
N. Bach, Motorola, Incorporated
E. M. Tingley, Electronic Industries Association
J. B. O'Neal, North Carolina State University
D. Sillman, Public Broadcasting Service
D. Wait, National Bureau of Standards
W. E. Wright, Department of Communications, Government of Canada
L. C. Middlekamp, Federal Communications Commission
H. Davis, Federal Communications Commission
C. R. Weber, Federal Communications Commission
P. J. Fox, Federal Communications Commission
L. Felker, Federal Communications Commission

[FR Doc. 82-25101 Filed 9-10-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-714; RM-3930]

FM Broadcast Station in Williams, Arizona; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and order.

SUMMARY: This action assigns Channel 244A to Williams, Arizona, as that community's first FM assignment, in response to a petition for reconsideration filed by Soho Broadcasting.

DATE: Effective October 18, 1982.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 23, 1982.
Released: September 1, 1982.
By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for reconsideration of a *Report and Order*, adopted April 29, 1982 (Docket No. 81-714, RM-3930), dismissing the request of Soho Broadcasting ("petitioner") to assign Channel 244A to Williams, Arizona, as its first FM assignment. Reconsideration of the petition is sought by Soho Broadcasting, the original petitioner. Petitioner stated that it did not know comments, showing continued interest, were required. Petitioner also stated that it will apply for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. The Commission issued a *Notice of Proposed Rule Making*, seeking comments on the proposal to assign Channel 244A to Williams, Arizona. The Commission did not receive comments from the petitioner (or any other interested persons) and consistent with policy and procedures set forth in the Appendix to the *Notice*, we refrained from making the assignment.

3. We now believe that the public interest would be served by the assignment of Channel 244A to Williams, Arizona, since it would provide the community with an opportunity for a first FM broadcast service. Inasmuch as the channel would have been assigned earlier, had it not been for a lack of an expression of continuing interest, we believe that a reversal of our earlier dismissal of the petition is warranted.

4. Accordingly, it is ordered, That the petition for reconsideration filed by Soho Broadcasting is granted.

5. It is further ordered, That effective October 18, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to Williams, Arizona, as follows:

City	Channel No.
Williams, Arizona	244A

6. Authority for the action taken herein is found in Sections 4(i), 5(d)(1) and 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's Rules.

7. It is further ordered, that the proceeding is terminated.

8. For further information, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-25094 Filed 9-10-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-175; RM-4036]

FM Broadcast Station in Copperopolis, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On reconsideration this action assigns Channel 288A to Copperopolis, California, as the community's first FM assignment in response to a petition from ZIDO Corporation. By *Report and Order*, the Commission had previously dismissed the proposal filed by ZIDO Corporation for lack of continuing interest.

DATE: Effective October 18, 1982.

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

FOR FURTHER INFORMATION CONTACT: D. David Weston, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 23, 1982.
Released: September 1, 1982.
By the Chief, Policy and Rules Division.

1. The Commission herein reconsiders, pursuant to § 1.108 of the Commission's Rules, the *Report and Order* adopted July 19, 1982, BC Docket No. 82-175, denying the request of ZIDO Corporation ("petitioner") to assign FM Channel 288A to Copperopolis, California, as its first FM channel. No oppositions to the proposal were filed.

2. The Commission issued a *Notice of Proposed Rule Making* [1] seeking

[1] 47 FR 15377, published April 9, 1982.

comments on the proposal. The Commission failed to receive comments from petitioner and, consistent with our policy and procedures set forth in the Appendix to the *Notice*, refrained in the *Report and Order* from making the assignment to Copperopolis in the absence of an expression of continuing interest. Upon receipt of the *Report and Order*, petitioner informed the Commission by letter that timely comments were filed reiterating his continuing interest and intention to apply for the channel, if assigned.

3. We believe that the public interest would be served by the assignment of Channel 288A to Copperopolis, California, since this assignment would provide the community with an opportunity to obtain its first full-time aural broadcast service. Further, since the channel would have been assigned earlier had it not been for the lack of an expression of interest, we believe that Channel 288A should be assigned to Copperopolis, California.[2]

4. Accordingly, it is ordered, That effective October 18, 1982, the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) is amended as to the named community to read as follows:

City	Channel No.
Copperopolis, California	288A

5. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303 (g) and (r), 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules.

6. It is further ordered, That this proceeding is terminated.

7. For further information, contact D. David Weston, Broadcast Bureau, (202) 632–7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-25090 Filed 9-10-82; 8:45 am]

BILLING CODE 6712-01-M

[2] The transmitter site is restricted to 3.3 miles southwest of the community.

47 CFR Part 73

[BC Docket No. 82-263; RM-4069]

FM Broadcast Station in Chinook, Montana; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Class C FM Channel 267 to Chinook, Montana, in response to a petition filed by Rick Davies. The assigned channel could provide a first local aural service to Chinook.

DATE: Effective October 18, 1982.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 23, 1982.

Released: September 1, 1982.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 47 FR 22126, published May 21, 1982, proposing the assignment of Class C Channel 267 to Chinook, Montana, as that community's first FM assignment, in response to a petition filed by Rick D. Davies ("petitioner"). Petitioner filed comments in support of the assignment and reaffirmed his interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements. No oppositions to the proposal were received.

2. Canadian concurrence has been received.

3. The Commission has determined that the public interest would be served by assigning Channel 267 to Chinook, Montana, since it would provide a first local FM service to that community.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's Rules, it is ordered, that effective October 18, 1982, § 73.202(b) of the Commission's Rules is amended with respect to the following community:

City	Channel No.
Chinook, Montana	267

5. It is further ordered, that this proceeding is terminated.

6. For further information contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-25089 Filed 9-10-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 19045; RM-1637]

TV Broadcast Station in Clarksville, Tennessee; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action denies a request by Tennessee Televentures to assign VHF television Channel 10 to Clarksville, Tennessee. The proposed assignment does not meet the Commission's minimum spacing requirements for VHF television stations.

DATE: August 23, 1982.

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

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: August 23, 1982.

Released: September 1, 1982.

By the Chief, Policy and Rules Division.

1. Before the Commission is a *Notice of Proposed Rule Making*, 35 FR 16181, published October 15, 1970, proposing the assignment of VHF television Channel 10 to Clarksville, Tennessee, at the request of Tennessee Televentures. Resolution of this proceeding was delayed initially due to concerns about the assignment's impact on UHF television development in the nearby city of Nashville, Tennessee. Subsequently, because the assignment conflicted with several possible VHF drop-ins, the Clarksville proposal was

held in abeyance pending resolution of Docket 20418.[1] The Commission recently concluded the VHF drop-in proceeding, and we now find it appropriate to resolve the Clarksville proposal.[2]

2. Originally, the assignment of Channel 10 to Clarksville required a site restriction of 37 kilometers (23.2 miles) northeast. However, according to a recent channel availability study, due to other channel assignments in the area and facilities changes for existing stations, there is presently no site available for Channel 10 at Clarksville that meets all of the Commission's minimum spacing requirements.[3] Thus, the proposal to assign Channel 10 at Clarksville is presently inconsistent with the Commission's rules and it shall be denied.

3. Accordingly, it is ordered, That the petition of Tennessee Televentures to assign television Channel 10 to Clarksville, Tennessee, is denied.

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632–7792.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–25091 Filed 9–10–82; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Parts 73 and 74

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends broadcast station regulations in Parts 73 and 74 of the rules of the FCC. Amendments are made to delete regulations that are no longer necessary, correct inaccurate rule texts, contemporize certain requirements and to execute editorial revisions as needed for purposes of clarity and ease of understanding.

DATE: Effective August 31, 1982.

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

FOR FURTHER INFORMATION CONTACT: Steve Crane, (202) 632–5414, Broadcast Bureau.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 73

Radio broadcast, Television.

47 CFR Part 74

Television.

Adopted: August 24, 1982.

Released: August 31, 1982.

By the Chief, Broadcast Bureau:

1. In this *Order*, the Commission focuses its attention on the oversight of its radio and TV broadcast rules. Modifications are made herein to update, delete, clarify or correct broadcast regulations as described in the following amendment summaries:

(a) In § 73.313, Prediction of coverage, several lines of regulatory text have been inadvertently deleted from paragraph (e). The rule is amended herein by adding the missing text. (see appendix item 1.)

(b) In § 73.561, Operating schedule; time sharing, there are effective dates for certain requirements in paragraphs (a) and (b) which have passed. Since they are now meaningless and add clutter to the rule, these dates are excised. (see appendix item 2.)

(c) Parts 73 and 74 each contain the requirements pertaining to use of a common antenna structure by more than one station.

For years the Commission has held each of the tower structure licenses or permittees responsible for tower painting and lighting. However, with Commission approval, designation can be made of one tower "tenant" as the party responsible for conformance to our painting and lighting rules.

Our procedures here create administrative burden hours on both licensee or permittee and FCC staff as follows:

1st: Approval of the FCC must be formally petitioned to pick a designee;
2nd: Approval, in letter form, must be given to petitioners by the FCC;
3rd: Copy of the agreements between the parties must be filed at the FCC. (FCC approval and copy of the agreement must be retained in each parties' file.)
4th: In the event responsibility passes to a new designee, the whole procedure is repeated.

In a further effort to reduce paperwork burdens, we herein revise the rule to allow sharing licensees or permittees to make such designations and file the agreements in the parties' separate files, and delete the petition and approval routines and the requirement to file the agreements with the FCC, Washington or at a district office. The only requirement we retain is that agreements be made available to the FCC either via letter-request or in the person of a field inspector. The rules modified are § 73.1213, Antenna structure, marking and lighting and § 74.22, Use of common antenna structure. (see appendix items 3 and 10.)

(d) The FCC application and report forms are listed, by number, in § 73.3500. Form 330–P is mis-titled; it is corrected in this *Order*. (see appendix item 5.)

(e) Sections 73.3511 and 73.3542 contain provisions pertaining to emergency or temporary authorizations. Some of the qualifying factors are in one rule, some in the other. As the two rules presently stand, neither is complete by itself. Consolidation of the pertinent text in § 73.3511 into § 73.3542 would make the latter into a complete rule covering the various contingencies which qualify for emergency and/or temporary operations and authorizations. Section 73.3511 will continue as "Applications required" (its title) defining "formal" and "informal" Applications and certain other associated requirements. Section 73.3542 will be redesignated as "Application for temporary or emergency authorization" and will have added to it the transplanted text (from § 73.3511) pertaining to emergencies that are a danger to life and property or due to damage to equipment, or to emergencies proclaimed by the President or the Congress. Section 73.1635, Special temporary authorizations (STA), has text affected by these changes and will be conformed accordingly. (See appendix items 4, 6 and 7.)

(f) Section 73.3572(b) has an incorrect cross reference in paragraph (b) which states "(see § 73.3450)." It is corrected to read "(see § 73.3540)." (See appendix item 8.)

(g) Commission Policy, adopted in the Second Report and Order in BC Docket 21136 on April 23, 1981, is added, via this *Order*, to the Listing of FCC Policies. It is designated § 73.4163, Noncommercial nature of educational broadcast stations. (See appendix item 9.)

(h) The Third Report and Order in BC Docket 21502 (STV proceeding) deleted subparagraph (f)(3) in § 73.642, STV licensing policies. A cross reference exists in § 74.731, Purpose and

---

[1] The assignment of Channel 10 at Clarksville conflicted with possible VHF drop-ins at Nashville, Louisville and Paducah, Kentucky. Although the Nashville, Louisville, and Paducah drop-ins were not officially proposed in the *Notice* in Docket 20418, they were included in the original list of 96 possible assignments. Technically, even those assignments not proposed in the *Notice* were not officially denied until the entire VHF drop-in proceeding was terminated.

[2] *Report and Order* in Docket 20418, 81 F.C.C. 2d 233 (1980), *recon. den.*, Mimeo No. 31302, adopted May 13, 1982, released June 10, 1982.

[3] *See* § 73.610 of the Commission's rules.

permissible service (found in Subpart G of Part 74, Low Power TV and TV Translator Station). The cross reference is deleted herein. (See appendix item 11.)

2. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

3. These amendments are implemented by authority designated by the Commission to the Chief, Broadcast Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

4. Since a general notice of proposed rule making is not required, the Regulatory Flexibility Act does not apply.

5. Therefore, it is ordered, That pursuant to sections 4(i), 303(r) and 5(d)(1) of the Communications Act of 1934, as amended, and §§ 0.71 and 0.281 of the Commission's Rules, Parts 73 and 74 of Volume III of the FCC Rules and Regulations are amended as set forth in the attached appendix, effective August 31, 1982.

6. For further information on this *Order*, contact Steve Crane, (202) 632-5414, Broadcast Bureau.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154. 305)

Federal Communications Commission.

Laurence E. Harris,

Chief, Broadcast Bureau.

PART 73—RADIO BROADCAST SERVICES

Appendix

1. Section 73.313 is amended by revising paragraph (e) as follows:

§ 73.313 Prediction of coverage.

* * * * *

(e) In cases where the terrain in one or more directions from the antenna site departs widely from the average elevation of the 2- to 10-mile sector, the prediction method may indicate contour distances that are different from what may be expected in practice. For example, a mountain ridge may indicate the practical limit of service although the prediction method may indicate otherwise. In such cases the prediction method should be followed, but a supplemental showing may be made concerning the contour distances as determined by other means. Such supplemental showing should describe the procedure employed and should include sample calculations. Maps of predicted coverage should include both the coverage as predicted by the regular method and as predicted by a supplemental method. When measurements of area are required, these should include the area obtained by the regular prediction method and the area obtained by the supplemental method. In directions where the terrain is such that negative antenna heights or heights below 100 feet for the 2- to 10-mile sector are obtained, an assumed height of 100 feet shall be used for the prediction of coverage. However, where the actual contour distances are critical factors, a supplemental showing of expected coverage must be included together with a description of the method employed in predicting such coverage. In special cases, the Commission may require additional information as to terrain and coverage.

* * * * *

2. Section 73.561 is revised to read as follows:

§ 73.561 Operating schedule; time sharing.

(a) All noncommercial educational FM stations will be licensed for unlimited time operation except those stations operating under a time sharing arrangement. (See § 73.1715.) All noncommercial educational FM stations are required to operate at least 36 hours per week, consisting of at least 5 hours of operation per day on at least 6 days of the week; however, stations licensed to educational institutions are not required to operate on Saturday or Sunday or to observe the minimum operating requirements during those days designated on the official school calendar as vacation or recess periods.

(b) All noncommercial educational FM stations, including those meeting the requirements of paragraph (a) above, but which do not operate 12 hours per day each day of the year, will be required to share use of the frequency upon the grant of an appropriate application proposing such share time arrangement. Such applications shall set forth the intent to share time and shall be filed in the same manner as are applications for new stations. They may be filed at any time, but in cases where the parties are unable to agree on time sharing, action on the application will be taken only in connection with the renewal of application for the existing station. In order to be considered for this purpose, such an application to share time must be filed no later than the deadline for filing applications in conflict with the renewal application of the existing licensee.

3. Section 73.1213 is amended to revise paragraph (c) to read as follows:

§ 73.1213 Antenna structure, marking and lighting.

* * * * *

(c) If a common tower is used for antenna and/or antenna supporting purposes by more than one licensee or permittee of an AM, FM, or TV station or by one or more such licensees or permittees of any other service, each licensee or permittee shall be responsible for painting and lighting the structure when obstruction marking and lighting are required by FCC rules. However, each such licensee or permittee utilizing a common tower may designate one of the licensees or permittees as responsible for painting and lighting the structure. Such designated licensee or permittee shall be solely responsible for conforming to all FCC requirements of Part 17 of this Chapter regarding obstruction marking and lighting of antenna structures. (See §§ 17.47 through 17.56.) A copy of the agreement between the licensees or permittees must be retained in each licensee's or permittee' station file, available for inspection by FCC representatives. In the event of default by the designated licensee of his responsibility, each of the licensees or permittees shall again be individually responsible for conforming to the requirements of the rules, pending appointment of a new designated licensee responsible for conforming to these rules.

4. Section 73.1635 is revised to read as follows:

§ 73.1635 Special temporary authorizations (STA).

A special temporary authorization (STA) is the authority granted to permit the operation of a broadcast facility for a limited period at a specified variance with the terms of the station authorization or requirements of the FCC rules applicable to the particular class of station. Certain rules, however, permit temporary operation at variance without prior authorization from the FCC, when notification is filed as prescribed in the particular rules. See §§ 73.1615, "Operation during modification of facilities," 73.3511, "Applications required" and 73.3542, "Application for temporary or emergency authorization," for procedures on requesting special temporary authorizations. The FCC may modify or cancel a special temporary authorization without prior notice or right to hearing.

§ 73.3500 [Amended]

5. Section 73.3500, Application and report forms, is amended to correct the title of Form 330–P as follows:

330–P Application for Authority to Construct or Make Changes in Instructional TV Fixed and/or Response Station(s) and Low Power Relay Station(s) License

§ 73.3511 [Amended]

6. Section 73.3511 is amended by removing paragraph (d) introductory text, the last paragraph, and subparagraphs (d)(1), (2), (3), (4), (5), (6), (7) and (8).

7. Section 73.3542 is revised in its entirety as follows:

§ 73.3542 Application for temporary or emergency authorization.

(a) Temporary authority may be granted to a licensee or permittee of a broadcast station to operate such station for a period not to exceed 90 days. Requests should be filed with the FCC at least 10 days prior to the date of the proposed operation. Requests should be accompanied by a statement giving full particulars regarding the purpose for the request.

(1) Temporary authority issued under this Section may be cancelled by the FCC without further notice or right to hearing.

(2) Written notification may be given to FCC in Washington, D.C. and the Engineer in Charge of the station's radio district, instead of a request for temporary authorization, where specifically allowed by a rule. (*E.g.*, § 73.1615, Operation during modification of facilities.)

(3) An informal application (see definition in § 73.3511, Applications required) will be used for requesting temporary authority, and signed in accordance with § 73.3513, Signing of application.

(4) Request for temporary authorization necessitated by equipment damage or failure may be made without regard to the procedural requirements of this Section. (*E.g.*, via telephone, telegram.)

(b) Temporary authority may be granted in extraordinary circumstances requiring emergency operation to serve the public interest. Such situations include: emergencies involving danger to life and property; during a national emergency proclaimed by the President or the Congress of the U.S.A. and; during the continuance of any war in which the United States is engaged, and where such action is necessary for the national defense or security or otherwise in furtherance of the war effort.

(1) An informal application may be used; the FCC may grant construction permits and station licenses, or modifications or renewals thereof, without the filing of a formal application.

(2) No authorization so granted shall continue in effect beyond the period of the emergency or the war requiring it.

(3) Each individual request submitted under the provisions of this paragraph shall contain, as a minimum requirement, the following information:

(i) Name and address of applicant.

(ii) Location of proposed installation or operation.

(iii) Official call letters of any valid station authorization already held by applicant and the station location.

(iv) Type of service desired (not required for renewal, nor for modification unless class of station is to be modified).

(v) Frequency assignment, authorizd transmitter power(s), and authorized class(es) of emission desired (not required for renewal; required for modification only to the extent such information may be involved).

(vi) Equipment to be used, specifying the manufacturer and type or model number (not required for renewal; required for modification only to the extent such information may be involved).

(vii) Statements to the extent necessary for the FCC to determine whether or not the granting of the desired authorization will be in accordance with the citizenship eligibility requirements of Section 310 of the Communications Act.

(viii) Statement of facts which, in the opinion of the applicant, constitute an emergency to be found by the FCC for the purpose of this Section, including the estimated duration of the emergency; or which, if during an emergency or war declared by the President or Congress, necessitate such action, without formal application, for the national defense or security or in furtherance of the war effort.

§ 73.3572 [Amended]

8. Section 73.3572, Processing TV broadcast and TV translator station applications, is amended as follows:

Reference in § 73.3572(b) to "(see § 73.3450)" is revised to read "(see § 73.3540)."

9. New § 73.4163 is added to 47 CFR, Part 73 as follows:

§ 73.4163 Noncommercial nature of educational broadcast stations.

See Second Report and Order, BC Docket 21136, FCC 81–204, adopted April 23, 1981. 86 FCC 2d 141; 46 FR 27944, May 22, 1981.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

10. Section 74.22 is revised to read as follows:

§ 74.22 Use of common antenna structure.

The simultaneous use of a common antenna structure by more than one station authorized under this Part, or by one or more such stations and one or more stations of any other service may be authorized, provided that each licensee or permittee using such structure shall be responsible for painting and lighting of the structure when obstruction marking is required by the FCC. However, each such licensee or permittee utilizing a common structure may designate one of the licensees or permittees as responsible for painting and lighting the structure. Such designated licensee or permittee shall be solely responsible for conforming to all FCC requirements of Part 17 of this Chapter regarding obstruction marking and lighting of antenna structures. (See §§ 17.47 through 17.56.) A copy of the agreement between the licensees or permittees must be retained in each licensee's or permittee's station file, available for inspection by FCC representatives. In the event of default by the designated licensee of his responsibility, each of the licensees or permittees shall again be individually responsible for conforming to the requirements of the rules, pending appointment of a new designated licensee responsible for conforming to these rules.

11. Section 74.731 is amended by revising paragraph (g)(3) as follows:

§ 74.731 Purpose and permissible service.

* * * * *

(g) * * *

* * * * *

(3) For the transmission of subscription television broadcast (STV) programs, intended to be received in intelligible form by members of the public for a fee or charge subject to the provisions of §§ 73.642(e) and 73.644.

* * * * *

[FR Doc. 82–25092 Filed 9–10–82; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Parts 73 and 74

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends broadcast station regulations in Parts 73 and 74 of the rules of the FCC. Amendments are made to delete regulations that are no longer necessary, and to execute editorial revisions as needed. These changes eliminate paperwork and administrative burdens of broadcast licensees and the FCC staff.

DATE: Effective August 31, 1982.

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

FOR FURTHER INFORMATION CONTACT: Steve Crane, (202) 632–5414, Broadcast Bureau.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 73

Radio broadcast.

47 CFR Part 74

Television.

Adopted: August 24, 1982.

Released: August 31, 1982.

By the Chief, Broadcast Bureau:

1. The Commission, in its continuing resolve to reduce paperwork and administrative burdens, herein eliminates certain licensee notification requirements. A large number of written notifications, sent to our field offices by licensees, are currently mandated by many of the broadcast rules. Review of the Field Operation Bureau's operational procedures and information retrieval needs reveals that excision of certain notifications would not imperil the efficiency or effectiveness of FOB's service or enforcement activities. Such data as the Field Operation Bureau requires may now be quickly obtained from the FCC offices in Washington; improved access to the data base here at "home office" assures the field offices of continued capability of quick response to their informational needs without continued demand on licensees to file duplicate data at field offices when submitting filings to FCC, Washington, D.C.

2. Therefore certain notifications to Engineers in Charge of our District Offices are herein eliminated in the following rule sections:

In Part 73—§§ 73.66, 73.99, 73.274, 73.574, 73.642, 73.677, 73.712, 73.713, 73.761, 73.1610, 73.1615, 73.1620, 73.1715, 73.1750, 73.3542, and 73.3548.

In Part 74—§§ 74.21, 74.551, 74.603, 74.651, 74.751, 74.763, 74.951, 74.1251, and 74.1263.

See the attached Appendix for rule revisions.

3. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

4. These amendments are implemented by authority delegated by the Commission to the Chief, Broadcast Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

5. Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

6. Therefore, it is ordered, That pursuant to sections 4(i), 303(r) and 5(d)(1) of the Communications Act of 1934, as amended, and §§ 0.71 and 0.281 of the Commission's Rules, Parts 73 and 74 of Volume III of the FCC Rules and Regulations are amended as set forth in the attached appendix, effective August 31, 1982.

7. For further information on this *Order*, contact Steve Crane, (202) 632–5414, Broadcast Bureau.

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

Federal Communications Commission.

Laurence E. Harris,

Chief, Broadcast Bureau.

Appendix

PART 73—RADIO BROADCAST SERVICES

1. In § 73.66, paragraph (a) is revised to read as follows:

§ 73.66 Remote control authorizations.

(a) The licensee of an AM station using a nondirectional antenna may operate by remote control without specific authorization from the FCC. Written notice giving the address and description of the remote control point being used must be sent to the FCC in Washington, D.C. within 3 days of commencing remote control operation.

* * * * *

2. In § 73.99, paragraph (k) is revised as follows:

§ 73.99 Presunrise service authorizations (PSA).

* * * * *

(k) In the event of permanent discontinuance of presunrise operation, the PSA shall be forwarded to the FCC in Washington, D.C. for cancellation.

3. In § 73.274, paragraph (a) is revised to read as follows:

§ 73.274 Remote control authorizations.

(a) The licensee of an FM station may operate by remote control without authorization from the FCC. Written notice giving the address and description of the remote control point being used must be sent to the FCC in Washington, D.C. within 3 days of commencing remote control operation.

* * * * *

4. In § 73.574, paragraph (a) is revised to read as follows:

§ 73.574 Remote control authorizations.

(a) The licensee of a noncommercial educational FM station may operate by remote control without authorization from the FCC. Written notice giving the address and description of the remote control point being used must be sent to the FCC in Washington, D.C. within 3 days of commencing remote control operation.

* * * * *

5. In § 73.642, paragraph (c) is revised to read as follows:

§ 73.642 Subscription TV licensing policies.

* * * * *

(c) Holders of subscription television authorizations shall complete construction of subscription television transmitting facilities within a period of 18 months after issuance of the authorization. The holder of a subscription television authorization shall file a report in the ninth month after the grant of the authorization setting forth the progress made toward building the subscription television facility. During the process of construction of the subscription television facilities, the holder of the authorization, after notifying the FCC in Washington, D.C. may, without further authority of the FCC, conduct equipment tests for the purpose of such adjustments and measurements as may be necessary to assure compliance with the terms of the authorization, the technical provisions of the application therefor, and the rules and regulations. The FCC may notify the holder of the authorization not to conduct tests if such tests appear to be contrary to the public interest, convenience, and necessity. Upon completion of the construction, the

holder of the authorization shall submit a detailed showing that compliance with the terms of the authorization, the technical provisions of the application therefor, and the rules and regulations has been achieved. No subscription television operation shall commence until requirements of this paragraph have been fulfilled and operation has been specifically authorized by the FCC.

* * * * *

6. In § 73.677, paragraph (a) is revised to read as follows:

§ 73.677 TV remote control authorizations.

(a) The licensee of a TV station may operate by remote control without authorization from the FCC. Written notice giving the address and description of the remote control point being used must be sent to the FCC in Washington, D.C. within 3 days after commencing remote control operation.

* * * * *

7. In § 73.712, paragraph (a) is revised; the text of paragraph (d) is removed and the text of paragraph (e) is redesignated (d) and the designation "paragraph (e)" is removed, as follows:

§ 73.712 Equipment tests.

(a) During the process of construction of an international broadcasting station, the permittee, having obtained authorization for frequencies and hours as set forth in the Note to § 73.702(d) may, without further authority of the FCC, conduct equipment tests for the purpose of such adjustments and measurements as may be necessary to assure compliance with the terms of the construction permit, the technical provisions of the application therefor and the rules and regulations. Such tests shall use voice identification and test tones only. No programming shall be conducted during equipment tests.

* * * * *

(d) The authorization for tests embodied in this section shall not be construed as constituting a license to operate but as a necessary part of construction.

8. In § 73.713, paragraph (a) is revised to read as follows:

§ 73.713 Program tests.

(a) Upon completion of construction of an international broadcasting station in accordance with the terms of the construction permit, the technical provisions of the application therefor, and the rules and regulations and the applicable engineering standards, and when an application for station license has been filed showing the station to be in satisfactory operating condition, the permittee may request authority to conduct program tests. Such request shall be filed with the FCC at least 10 days prior to the date on which it is desired to begin such operation. All data necessary to show compliance with the terms and conditions of the construction permit must be filed with the license application.

* * * * *

9. In § 73.761, paragraphs (b) and (c) are revised to read as follows:

§ 73.761 Time of operation.

* * * * *

(b) In the event that causes beyond a licensee's control make it impossible to adhere to the seasonal schedule or to continue operating, the station may limit or discontinue operation for a period of not more than 10 days, without further authority from the FCC. However, in such cases, the FCC shall be immediately notified in writing of such limitation or discontinuance of operation and shall subsequently be notified when the station resumes regular operation.

(c) In the event that causes beyond a licensee's control make it impossible to adhere to the seasonal schedule or to continue operating for a temporary period of more than 10 days, the station may not limit or discontinue operation until it requests and receives specific authority to do so from the FCC. When the station subsequently resumes regular operation after such limited operation or discontinuance of operation, it shall notify the FCC in Washington, D.C.

10. In § 73.1610, paragraph (a) is revised, the text of paragraph (d) is removed and the text of paragraph (e) is redesignated (d) and the designation "paragraph (e)" is removed, as follows:

§ 73.1610 Equipment tests.

(a) During the process of construction of a broadcast station, the permittee, after notifying the FCC in Washington, D.C. may, without further authority of the FCC, conduct equipment tests for the purpose of such adjustments and measurements as may be necessary to assure compliance with the term of the construction permit, the technical provisions of the application therefor, the rules and regulations and the applicable engineering standards. For AM stations, tests must be conducted during the experimental period, 12 midnight local time to local sunrise. The FCC may authorize equipment tests other than during the experimental period for AM stations, if such operation is shown to be desirable to the proper completion of construction and adjustment of the transmitting equipment and antenna system. An informal application for such authority, giving full details regarding the need for such tests, shall be filed with the FCC in Washington, D.C. at least 2 days (not including Saturdays, Sundays and legal holidays when the offices of the FCC are not open) prior to the date on which it is desired to begin such operation.

* * * * *

(d) The authorization for tests embodied in this section shall not be construed as constituting a license to operate but as a necessary part of construction.

11. In § 73.1615, paragraphs (a)(3) and (b)(2) are revised to read as follows:

§ 73.1615 Operation during modification of facilities.

* * * * *

(a) * * *

(3) In either procedure, such operation or discontinuance of operation may begin upon notification to the FCC in Washington, D.C.

* * * * *

(b) * * *

(2) Discontinuance of operation is permitted upon notification to the FCC in Washington, D.C. Should it be necessary to discontinue operation longer than 30 days, an informal letter request, signed by the licensee or the licensee's representative, must be sent to the FCC in Washington, D.C. prior to the 30th day.

* * * * *

12. In § 73.1620, paragraph (a)(1) is revised to read as follows:

§ 73.1620 Program tests.

(a) * * *

(1) The permittee of a nondirectional AM or FM station, or a nondirectional or directional TV station, may begin program tests upon notification to the FCC in Washington, D.C. provided that within 10 days thereafter, an application for a license is filed with the FCC in Washington, D.C.

* * * * *

13. In § 73.1715, paragraph (a) is revised to read as follows:

§ 73.1715 Share time.

* * * * *

(a) If the licenses of stations authorized to share time do not specify hours of operation, the licensees shall endeavor to reach an agreement for a definite schedule of periods of time to be used by each. Such agreement shall be in writing and each licensee shall file it in duplicate original with each application to the FCC in Washington, D.C. for renewal of license. If and when such written agreements are properly filed in conformity with this Section, the file mark of the FCC will be affixed

thereto, one copy will be retained by the FCC, and one copy returned to the licensee to be posted with the station license and considered as a part thereof. If the license specifies a proportionate time division, the agreement shall maintain this proportion. If no proportionate time division is specified in the license, the licensees shall agree upon a division of time. Such division of time shall not include simultaneous operation of the stations unless specifically authorized by the terms of the license.

* * * * *

14. Section 73.1750 is revised to read as follows:

§ 73.1750 Discontinuance of operation.

The licensee of each station shall notify the FCC in Washington, D.C. of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, D.C. for cancellation.

15. In § 73.3542, paragraph (a)(2) is revised to read as follows:

§ 73.3542 Application for temporary or emergency authorization.

(a) * * *

(2) Written notification may be given to FCC in Washington, D.C. instead of a request for temporary authorization, where specifically allowed by a rule. (*E.g.*, § 73.1615, Operation during modification of facilities.)

* * * * *

16. In § 73.3548, paragraph (a)(1) is revised to read as follows:

§ 73.3548 [Amended]

(a) * * *

(1) Licensees or permittees of existing stations must send written notice giving the address and description of the remote control point(s) being established to the FCC in Washington, D.C., within 3 days after commencing remote control operation.

* * * * *

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

17. In § 74.21, paragraph (b) is revised to read as follows:

§ 74.21 Broadcasting emergency information.

* * * * *

(b) Whenever such operation involves communications of a nature other than those for which the station is licensed to perform, the licensee shall, at the earliest practicable time, notify the FCC in Washington, D.C. of the nature of the emergency and the use to which the station is being put and shall subsequently notify the same offices when the emergency operation has been terminated.

* * * * *

18. In § 74.551, paragraph (b) is revised to read as follows:

§ 74.551 Equipment changes.

* * * * *

(b) Other equipment changes not specifically referred to in this section may be made at the discretion of the licensee, provided that the FCC in Washington, D.C. is promptly notified in writing upon the completion of such changes, and provided that the changes are set forth in the next application for renewal of license. Where such changes include the installation of multiplex equipment to provide additional aural channels, the purpose for which these added channels will be used shall be stated.

19. In § 74.603, paragraph (a) is revised to read as follows:

§ 74.603 Sound channels.

(a) The frequences listed in § 74.602(a) may be used for the simultaneous transmission of the picture and sound portions of television broadcast programs and for cue and order circuits, either by means of multiplexing or by the use of a separate transmitter within the same channel. When multiplexing of a television STL station is contemplated, consideration should be given to the requirements of § 73.687 of this chapter regarding the overall system performance requirements. Applications for new television pickup, television STL, television intercity relay and television translator relay stations shall clearly indicate the nature of any multiplexing proposed. Multiplexing equipment may be installed on licensed equipment without further authority of the FCC, provided that the FCC in Washington, D.C. shall be promptly notified of the installation of such apparatus. Also, the installation of such apparatus on a television STL station shall not result in degradation of the overall system performance of the television broadcast station below that permitted by § 73.687 of this chapter.

* * * * *

20. In § 74.651, paragraphs (b) and (c) are revised to read as follows:

§ 74.651 [Amended]

* * * * *

(b) Other equipment changes not specifically referred to above may be made at the discretion of the licensee provided that the FCC in Washington, D.C. is notified in writing upon the completion of such changes, and provided that the changes are appropriately reflected in the next application for renewal of license of the television auxiliary broadcast station filed by the licensee.

(c) Multiplexing equipment may be installed on any licensed television broadcast STL, intercity relay, or translator relay station without further authority of the FCC provided that the FCC in Washington, D.C. is promptly notified in writing of such addition and the use which will be made of the additional aural circuits, and that the changes are shown in the next application for renewal of license for the station.

21. In § 74.751, paragraph (c) is revised to read as follows:

§ 74.751 [Amended]

* * * * *

(c) Other equipment changes not specifically referred to in paragraphs (a) or (b) of this section may be made at the discretion of the licensee, provided that the FCC in Washington, D.C. is notified in writing upon completion of such changes, and that the changes are appropriately reflected in the next application for renewal of the station license.

* * * * *

§ 74.763 [Amended]

22. In § 74.763, Time of operation, the text of paragraph (b) is removed and (b) is designated [Reserved].

§ 74.1263 [Amended]

23. In § 74.1263, Time of operation, the text of paragraph (b) is removed and (b) is designated [Reserved].

[FR Doc. 82-25093 Filed 9-10-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 74

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order adopts an alphabetical index of the rules in Part 74, Volume III of the FCC's broadcast regulations (47 CFR Part 74). The index will provide fast access to the rules thereby reducing letters and phone calls to the FCC requesting help in locating regulations. This will minimize

administrative work load on the FCC staff and broadcasters.

DATE: Effective August 31, 1982.

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

FOR FURTHER INFORMATION CONTACT: Steve Crane, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 74

Radio broadcast, Television.

Adopted: August 24, 1982.

Released: August 31, 1982.

By the Chief, Broadcast Bureau.

1. In this *Order*, the Commission facilitates quick location of its regulations in Part 74 of Volume III of the rules by creating an alphabetical index for that Part.

2. Our experience in alphabetically indexing the broadcast rules in Part 73 some years ago has shown that this procedure makes possible the location of regulations quickly and easily. This fast access has brought about a better understanding of our rules by broadcasters and practitioners due to their ready availability. We also perceive that providing easy access to the rules has reduced considerably the number of letters and phone calls to the FCC requesting help in rule location, thereby minimizing paperwork and administrative workload on the FCC staff, broadcasters and their legal and engineering advisors.

3. As in the case of the Part 73 index, revisions will be made as required to keep this Part 74 index completely accruate and timely.

4. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these additions to Part 74 will serve the public interest.

5. These amendments are implemented by authority designated by the Commission to the Chief, Broadcast Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

6. Since general notice of proposed rule making is not required, the Regulatory Flexibility Act does not apply.

7. Therefore, it is ordered, that pursuant to sections 4(i), 303(r) and 5(d)(1) of the Communications Act of 1934, as amended, and §§ 0.71 and 0.281 of the Commission's Rules, Part 74 of Volume III of the FCC Rules and Regulations is amended as set forth in the attached appendix, effective August 31, 1982.

8. For further information on this *Order*, contact Steve Crane, Broadcast Bureau, (202) 632-5414.

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

Federal Communications Commission.

Laurence E. Harris,

Chief, Broadcast Bureau.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Appendix

An alphabetical index of rules is added to Part 74 and will be inserted immediately following "Contents—Part 74."

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[A rule applying to all services will be indicated as such in parenthesis]

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V-W-X-Y-Z

[FR Doc. 82-25105 Filed 9-10-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

[RM-4041; FCC 82-396]

Amendment of the Commission's Rules To Add an Emission to a Certain Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Amateur Radio Service Rules to authorize F0 emission in the frequency band 51.0–54.0 MHz. The amendment is necessary in order to provide explicitly in the rules that this emission mode is permitted, since its authorization previously has only been implicitly provided for.

DATE: Effective October 4, 1982.

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

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554, (202) 632-7197.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio.

Adopted: August 24, 1982.

Released: August 26, 1982.

By the Commission.

1. On January 22, 1982, the Commission received a petition for rule making (RM-4041) from Mr. Albert C. Hajny of Milwaukee, Wisconsin. Mr. Hajny requested that Amateur Rule § 97.61 be amended by adding F0 emission to the classes of emissions already permitted in the frequency band 51.0–54.0 MHz. Petitioner states that since there is no detectable difference between A0 emission, which is already authorized in that frequency band, and the proposed F0 mode (except by examination of the immediately prior or subsequent modulation of the carrier), the addition of F0 emission to that band would have an insignificant interference impact. Further, he asserted that it might encourage more experimentation in the 51.0–54.0 MHz band. The petitioner states that another Amateur radio rule, Section 97.93, apparently already permits F0 emission in the special case of radiotelephone (F3) stations. Mr. Hajny concludes that his interests would be affected because a type of duplex FM communications would be specifically, as opposed to apparently, permitted. No comments in support of, or in opposition to, the petition for rule making have been filed.

2. From a technical standpoint, A0 and F0 emissions are indistinguishable from one another. Both are types of transmissions with no modulation present. Therefore, the table of authorized emissions in § 97.61 which permits A0 emission in the frequency band 51.0–54.0 MHz also implicitly allows F0 emission. However, we agree with Mr. Hajny that it would be useful to specify explicitly that F0 emission is authorized in that frequency band.

3. Since the rule amendment ordered herein is minor in nature, compliance with the prior notice and public procedure provisions of section 553 of the Administrative procedure Act is unnecessary.

4. Accordingly, it is ordered, effective October 4, 1982, that Part 97 is amended as shown in the Appendix attached hereto. Authority for this action is found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

5. For information concerning this rule change, contact Maurice J. DePont, (202) 632-7197.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 97 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended, as follows:

In the table in Section 97.61(a), change the entry referring to the 51.0–54.0 MHz frequency band to read, as follows:

Frequency band	Emissions	Limitations (See paragraph (b))
* * * * *		
51.0–54.0	A0,F0	
* * * * *		

[FR Doc. 82-25099 Filed 9-10-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 2907-180]

Atlantic Tuna Fisheries; Notice of Closure

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

ACTION: Notice of closure.

SUMMARY: This notice closes the fishery for giant Atlantic bluefin tuna conducted by vessels permitted in the General category. Closure of this fishery is necessary because the portion of the annual catch quota available before September 15 will be attained by the effective date of this notice. Upon closure, vessels permitted in this category will be prohibited from retaining giant Atlantic bluefin tuna captured in the regulatory area.

EFFECTIVE DATE: September 10, 1982.

FOR FURTHER INFORMATION CONTACT: William G. Jerome, Jr., 617–281–3600, extension 325, or David S. Crestin, 617–281–3600, extension 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971–971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the **Federal Register** on June 11, 1982 (47 FR 25350).

Section 285(a) of the regulations provides for an annual quota of 310 short tons (st) of giant Atlantic bluefin tuna to be taken by vessels permitted in the General category in the Regulatory Area. The regulations further establish that only 284 st of the annual quota may be taken before September 15. The Assistant Administrator of Fisheries, NOAA (Assistant Administrator), is authorized under § 285.29(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.30. The Assistant Administrator, further, is authorized under § 285.29(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quota. The Assistant Administrator has determined that based on the reported catch of giant Atlantic bluefin tuna of 250 st, and the recent catch rate of approximately 40 tons per week, the portion of the annual quota of giant Atlantic bluefin tuna available to vessels permitted in the general category prior to September 15 will be attained by September 10. Fishing for, and retention of, giant Atlantic bluefin tuna by these vessels must cease at 0001 e.d.t. on September 10, 1982, and may not resume until further notice.

Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery. This action is taken under the authority of 50 CFR 285.29, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Administrative practice and procedure, Fish, Fisheries, Fishing, Imports, International organizations, Penalties, Reporting requirements.

(16 U.S.C. 971–971h)

Dated: September 8, 1982.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries.

[FR Doc. 82-25075 Filed 9-8-82; 4:41 pm]

BILLING CODE 3510-22-M

50 CFR Part 285

[Docket No. 2903-179]

Atlantic Tuna Fisheries; Technical Changes

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

ACTION: Final rule; technical changes.

SUMMARY: This document makes several technical changes and corrections to the final Atlantic bluefin tuna regulations which were published on June 11, 1982 (47 FR 25350). This action is necessary to correct several word omissions, provide internal consistency, and clarify the intent of specific sections of the regulations. In addition, provisions relating to the "tag and release" program are amended to indicate that NOAA will no longer require permits for participation.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617–281–3600, extension 325.

Dated: September 8, 1982.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries.

In FR Doc. 82–15816, appearing at page 25350 in the issue of June 11, 1982, 50 CFR Part 285 is corrected as follows:

§ 285.2 [Corrected]

1. In § 285.2, the definition of "plastic tag" is amended by removing the words "with a tag and release permit under § 285.33(b)" and inserting in their place the words "under the tag and release program under § 285.33".

§ 285.21 [Corrected]

2. In § 285.21(b), the last sentence is corrected by inserting the words "purse seine" before the word "fishery".

3. In § 285.21(c) the heading "Registration procedure" is corrected by changing it to read "Application procedure".

4. Section 285.21(c)(1) and § 285.25(v) are corrected by removing the word "registered" in each place where it appears and inserting in its place the word "permitted".

§ 285.22 [Corrected]

5. Section 285.22(b) introductory text is corrected by removing the last sentence and inserting in its place the sentence "Applications must contain the name, mailing address, and telephone number of the applicant."

§ 285.25 [Corrected]

6. Section 285.25(b) is corrected by removing the words "§ 285.31 or".

7. In § 285.25, paragraphs (u) and (v) are corrected by removing the word "giant".

§ 285.31 [Corrected]

8. Section 285.31(a) is corrected by inserting the word "seasonal" before the word "termination".

9. Section 285.31(d) introductory text is corrected by removing the word "giant".

10. Section 285.33 is revised to read as follows:

§ 285.33 Tag and release program.

Notwithstanding other provisions of these regulations, an angler may fish for Atlantic bluefin tuna under a tag and release program, provided the angler (a) tags all Atlantic bluefin tuna so caught with plastic tags issued under this section, and (b) releases and returns such fish to the sea immediately after tagging and with a minimum of injury. Anglers may obtain plastic tags, reporting cards, and detailed instructions for their use by writing to the Cooperative Game Fish Tagging Program, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Flordia 33149–1099.

(16 U.S.C. 971–971h)

[FR Doc. 82–25058 Filed 9–8–82; 4:36 pm]

BILLING CODE 3510–22–M

50 CFR Part 671

[Docket No. 2729–143]

Tanner Crab Off Alaska

Correction

In FR Doc. 82–21039 appearing on page 33711 in the issue for Wednesday, August 4, 1982, third column, eighth line from the bottom, "Room 543" should read "Room 453".

BILLING CODE 1505–01–M

Proposed Rules

Federal Register
Vol. 47, No. 177
Monday, September 13, 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 1079

Milk in the Iowa Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend portions of the Iowa Federal milk marketing order for the months of October and November 1982. The proposed suspension would increase the limits on the quantity of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. A cooperative association which operates a plant regulated by the order requested this action to prevent uneconomic movements of milk.

DATE: Comments are due not later than September 20, 1982.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action. It also has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget for at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the completion of the required suspension procedures in time for the suspension to be made effective for the month of October 1982 if this is found necessary. The initial request for the action was received on August 26, 1982.

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

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Iowa marketing area is being considered for October and November 1982.

In § 1079.13(d)(2) and (3) the words "50 percent in the months of September through November, and", and the words "in other months," as they appear in each subparagraph.

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than seven days after the publication of this notice in the **Federal Register.** The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and make the suspension effective for October 1982.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

Land O' Lakes, Inc., a cooperative association of producers, operates a plant regulated by the Iowa milk order. Land O' Lakes has requested that the 50 percent diversion limitation be suspended for October and November 1982. The remaining effective diversion limitation in the order would permit up to 70 percent of the producer milk receipts to be moved directly from farms to nonpool manufacturing plants and still be priced under the order.

The cooperative said that large supplies of milk in relation to Class I sales in the coming months will require more diversions of milk from farms to manufacturing plants than can be accommodated by the order without the proposed suspension. The cooperative stated that the suspension of the 50 percent requirement and the retention of the 70 percent diversion limitation would still require the receipt of 30 percent of all milk supplies at pool plants, assuring the availability of milk for fluid use. The cooperative stated that the suspension of the 50 percent diversion limitation would allow for a more efficient means of handling the reserve supplies of milk in the Iowa market.

Reserve milk supplies within a marketing order normally decline during the fall months. However, current marketing information indicates that this year reserve milk supplies for the Iowa market are expected to exceed the quantity of milk that could be diverted to nonpool manufacturing plants under the present diversion limitations and still maintain producer status for all such milk. Under these marketing conditions, a suspension of the 50 percent limitation of the diversion provisions may be appropriate so that producer receipts that are not needed for fluid use may be moved directly from farms to manufacturing plants and still be priced under the order. An increase in the diversion limits from 50 percent to 70 percent for October and November 1982 may tend to prevent the uneconomic handling and movement of reserve milk supplies merely for pooling purposes.

List of Subjects in 7 CFR Part 1079

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on September 7, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-25005 Filed 9-10-82; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 1079

Milk in the Iowa Marketing Area; Proposed Temporary Revision of Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal that the supply plant shipping requirements under the Iowa milk order be decreased for the months of October and November 1982. This action was requested by the operator of a pool supply plant who ships milk to several distributing plants regulated by the order.

DATE: Comments are due on or before September 20, 1982.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: It has been determined that this action is not a major rule under the criteria set forth in Executive Order 12291.

Also, it has been determined that the potential need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the completion of the procedure in time to give interested parties timely notice that supply plant shipping requirements for October 1982 would be modified. The initial request for the action was received on August 30, 1982.

It has been determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to assure that the market would be adequately supplied with milk for fluid use with a smaller proportion of milk shipments from pool supply plants.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provision of § 1079.7(b)(1) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Iowa marketing area is being considered for the months of October and November 1982.

All persons who desire to submit written data, views or arguments in connection with the proposed revision should file the same with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250 not later than 7 days after publication in the **Federal Register.** Please submit two copies of the document filed. The period for filing views is being somewhat limited to enable the timely consideration of the matter since the proposed action would be applicable to milk shipments made during October. Further, the proposed change provides some reduction of pooling standards and will not require extensive preparation or substantial alteration in the method of operation for handlers.

All written submission made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be revised are the supply plant shipping percentages set forth in § 1079.7(b) that are applicable during the months of October and November 1982. It has been requested that they be temporarily reduced 10 percentage points from the present 35 percent to 25 percent during each respective month.

Pursuant to the provisions of § 1079.7(b)(1) the supply plant shipping percentages set forth in § 1079.7(b) may be increased or decreased by up to 10 percentage points during any month to encourage additional milk shipments to pool distributing plants or to remove the need for milk shipments to such plants merely to qualify a supply plant under the order.

The handler requesting the action said that under the current supply conditions distributing plants in the Iowa market will have more than an adequate supply of milk for Class I use and that there will be no need for supply plants to ship 35 percent of their producer receipts to distributing plants during October and November 1982. The petitioner said that a 25 percent shipping standard would be adequate for such months and would prevent uneconomic shipments of milk merely to assure pool status for supply plants.

List of Subjects in 7 CFR Part 1079

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on September 7, 1982.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 82–25004 Filed 9–10–82; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 82–ASW–54]

Airworthiness Directives; Bell Model 204B and UH–1 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require repetitive inspections and repair or replacement, as necessary, of the tail boom skin and fin spare cap on certain Bell Model 204B and UH–1 series helicopters. The proposed AD is needed to detect tail boom skin and fin spar cracks which could result in tail boom failure and cause loss of the helicopter.

DATE: Comments must be received on or before October 15, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Docket No. 82–ASW–54, Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: Mr. R. T. Weaver, Helicopter Policy and Procedures Staff, ASW–110, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624–4911, extension 505.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications reveived on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments,

in the Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of the proposed AD will be filed in the Rules Docket.

The FAA has determined that tail boom skin cracks occurred in a model UH–1B which crashed. A metallurgical examination revealed the cracks to be due to structural fatigue. Since this condition is likely to exist or develop on other helicopters of the same type design, the proposed AD would require visual and radiographic inspections for fretting and cracking, and repair or replacement, as necessary, of the tail boom skin and the fin spar cap on Bell Model UH–1 series and certain modified Bell Model 204B helicopters.

Approximately 34 of Bell Model UH–1 series and modified Bell Model 204B helicopters could be affected by the proposal for an estimated fleet cost of $28,560.

List of Subjects in 14 CFR 39

Air transportation Aircraft, Aviation safety, Safety.

The proposed amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Bell Helicopter Textron, Inc.

Applies to model UH–1 series helicopters certificated in restricted category and model 204B helicopters equipped with other than 204B tail booms, Part No. 204–032–800–(any dash number), certificated in all categories.

Compliance is required as indicated unless already accomplished.

To detect cracks and to prevent possible failure of the tail boom and fin, accomplish the following:

a. Within the next 30 hours' time in service after the effective date of this AD:

(1) Visually inspect the tail boom skin joint at tail boom Station 194 for fretting or cracking (inspect 10 inches forward and 10 inches aft of Station 194).

(2) Visually inspect the vertical fin front spar cap at its intersection with the tail rotor gear box support fitting for cracks.

(3) The areas to be inspected are shown in Figure I.

b. For aircraft found to have fretting or cracks by the inspection of paragraph a. above and for aircraft with more than 1,000 hours' time in service conduct a radiographic inspection of the tail boom Station 194 splice joint in accordance with Advisory Circulars 43–3 (Chapter 2) and 43–13–1A (paragraph 298) to MIL–STD–453 requirements, or FAA approved equivalent.

c. After the initial inspections—

(1) Visually inspect the tail boom skin and fin spar cap area in accordance with paragraph a. above, at intervals not to exceed 100 hours' time in service from the last inspection.

(2) Radiographically inspect the tail boom skin in accordance with paragraph b above at intervals not to exceed 500 hours' time in service from the last radiographic inspection.

d. Replace cracked skin panels with serviceable panels.

e. Replace cracked fin spar caps with serviceable parts.

f. Any equivalent method of compliance with this AD must be approved by the Manager, Aircraft Certification Division, Southwest Region, Federal Aviation Administration.

g. In accordance with FAR 21.197, flight is permitted to a base where the inspections required by this AD may be accomplished.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

Note.—The FAA has determined that this proposed regulation 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 certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities since it applies to approximately 34 helicopters for an estimated annual cost of $28,560. A draft regulatory evaluation has been prepared and has been placed in the public docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Fort Worth, Texas, on August 31, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

BILLING CODE 4910–13–M

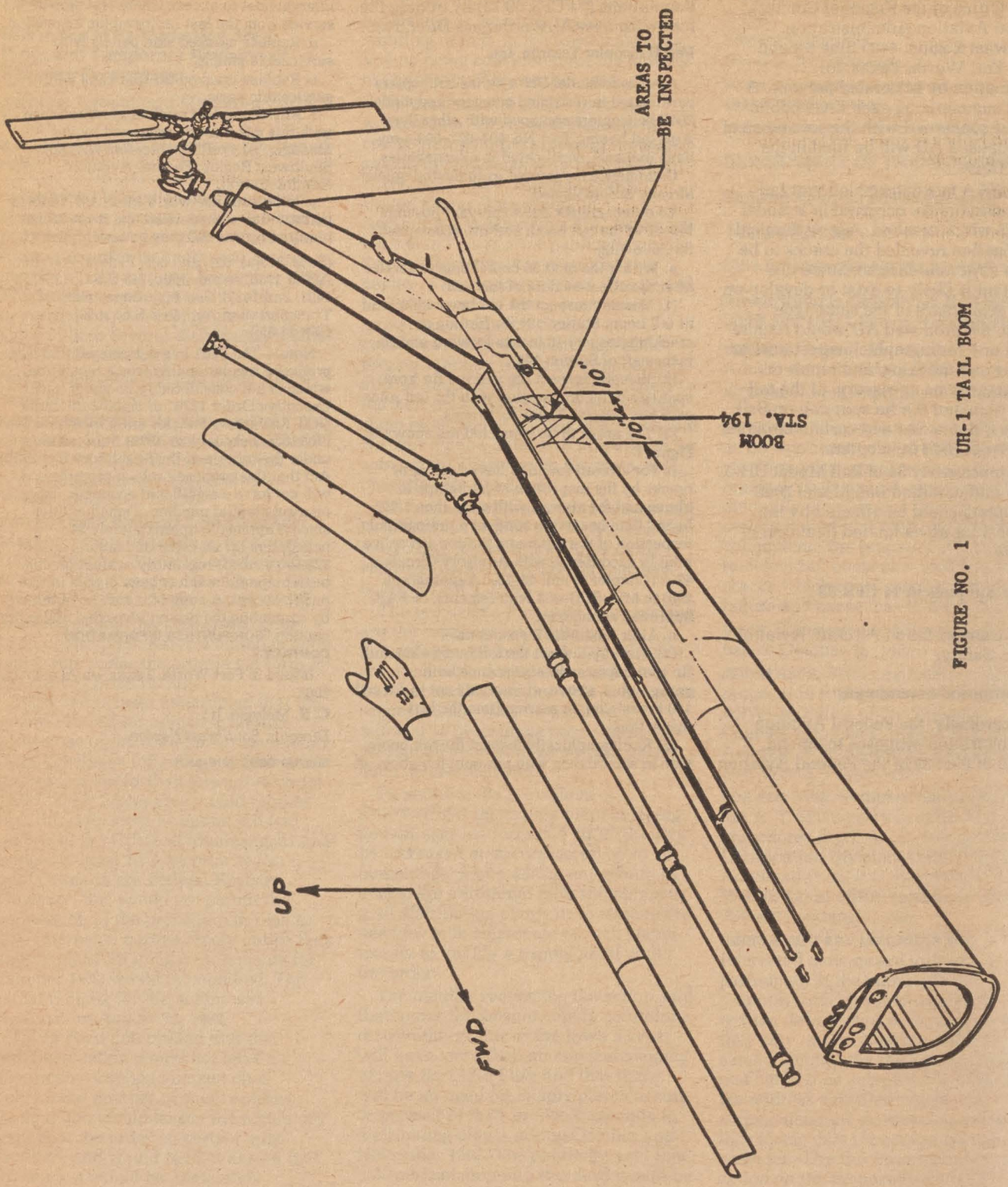


FIGURE NO. 1 UH-1 TAIL BOOM

[FR Doc. 82-24933 Filed 9-10-82; 8:45 am]
BILLING CODE 4910-13-C

CIVIL AERONAUTICS BOARD

14 CFR Part 253

Terms or Contract of Carriage

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order affirming staff action, order 82–9–6.

SUMMARY: On August 5, in EDR–444B (47 FR 34795, August 11, 1982) the CAB Associate General Counsel, Rules and Legislation, under authority delegated by the CAB extended the comment period until September 7, 1982, in a rulemaking (Docket 40772) (EDR–444, 47 FR 40772, July 7, 1982) that proposes rules for disclosure of contract terms in domestic air transportation after the expiration of tariff filing on January 1, 1983. The Air Transport Association of America filed a petition for review of that extension. Order 82–9–6 affirmed the extension of the comment period.

DATE: Adopted September 2, 1982.

FOR FURTHER INFORMATION: Richard B. Dyson, Associate General Counsel, Rules & Legislation, or Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673–5442.

SUPPLEMENTARY INFORMATION:

List of Subjects for 14 CFR Part 253

Advertising, Air carriers, Air transportation, Claims, Consumer protection, Law, and Travel.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–25117 Filed 9–10–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGD 73–186]

Berwick Bay Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Coast Guard published proposed regulations to establish a vessel traffic service (VTS) at Berwick Bay (Morgan City, Louisiana) (47 FR 35523; August 16, 1982). The American Waterways Operators, Inc. (AWO) would like to place the proposed rules on the agenda of the AWO Coast Guard Liaison Committee meeting (October 5, 1982) and the Towing Safety Advisory Committee meeting (October 6 and 7, 1982).

As the meeting dates fall after the date when the comment period would end, AWO has requested an extension of the comment period. This will allow representatives of the industry most affected by the proposed rules to discuss them prior to submitting comments to the Coast Guard. This action will extend the comment period an additional 45 days.

DATES: Comments must be received on or before November 15, 1982.

ADDRESSES: Comments may be mailed to Commandant (G–CMC/44) (CGD 73–186), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G–CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426–1477 between 8 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Edward J. LaRue, Jr., Office of Marine Environment and Systems (G–WWM–2) Room 1608, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC, 20593 (202) 426–4958 between 8 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

R. L. Brown,

Acting Chief, Office of Marine Environment and Systems.

September 3, 1982.

[FR Doc. 82–25088 Filed 9–10–82; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–I–FRL 2187–8]

Approval and Promulgation of Implementation Plans; Manchester, New Hampshire, 1982 Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The purpose of this Notice is to propose approval of the 1982 State Implementation Plan revisions for the State of New Hampshire which were submitted on June 18, 1982. The intended effect of these revisions is to control emissions of carbon monoxide in order to attain the primary carbon monoxide National Ambient Air Quality Standards within the City of Manchester by December 31, 1987 and to provide for reasonable further progress in the interim as required under Part D of the Clean Air Act Amendments of 1977.

DATE: Comments must be received on or before October 13, 1982.

ADDRESSES: Comments may be sent to Harley F. Laing, Acting Director, Air Management Division, JFK Federal Bldg., Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 1903, JFK Federal Bldg., Boston, MA 02203; and the New Hampshire Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Susan S. Hager, State Air Programs Section, (617) 223–5130.

SUPPLEMENTARY INFORMATION:

A. Background

The Clean Air Act Amendments of 1977 (the Act) specifies that all areas of the country must attain the primary National Ambient Air Quality Standards (NAAQS) no later than December 31, 1982 with specific exceptions. The Act requires states to have submitted revisions to their State Implementation Plan (SIPs) in 1979 which included enforceable regulations and demonstrated attainment of the NAAQS by the 1982 deadline. For states unable to demonstrate attainment of the ozone and carbon monoxide standards by 1982, the Act allows an extension until 1987. In order to receive an extension until 1987, states were required to have adopted, as part of their 1979 attainment plans, control strategies considered to be reasonably available at that time and to have committed to the submission of additional revisions by July 1, 1982.

Although New Hampshire's 1979 carbon monoxide attainment plan for the City of Manchester included various transportation control measures, the State was unable to demonstrate attainment of the carbon monoxide standards by 1982. Therefore, the Governor requested an extension until 1987. EPA approved this request in the final action on the State's 1979 attainment plan, published on January 7, 1982 (47 FR 763).

EPA policy requires that the SIP revisions due by July 1, 1982 include a demonstration of attainment by 1987 and any control measures needed to support that demonstration. These requirements are discussed in detail in a

policy document published on January 22, 1981 (46 FR 7182). As required, New Hampshire submitted draft 1982 revisions to its Carbon Monoxide SIP for the City of Manchester on June 18, 1982. The proposed revisions provide a thorough and comprehensive demonstration that carbon monoxide standards will be achieved by 1987 throughout the city. The technical support for the demonstration is excellent, including (a) the use of Caline-3, a sophisticated dispersion model, modified to consider emissions from traffic queuing; (b) the testing of up to twenty receptor locations at each intersection suspected of violating carbon monoxide standards; and (c) the analysis of the impacts on carbon monoxide levels that currently planned projects will have on the single intersection needing site-specific controls. In order to reduce the time necessary for EPA review of the SIP revisions, EPA is proposing to conduct a concurrent review called parallel processing.

This notice will discuss the New Hampshire submittal as outlined below:

Manchester CO Attainment Plan

- Introduction
- Monitoring
- Modeling
- Transportation Control Measures
- Reasonable Further Progress
- Emissions Inventory
- Public Participation and Intergovernmental Cooperation
- Resource Commitment

B. Manchester Carbon Monoxide Attainment Plan

1. *Introduction:* Violations of the 9 ppm eight-hour carbon monoxide standard are primarily caused by automobile emissions and are generally associated with traffic congestion at the intersection of major roads or in a central business district. At these locations, vehicles tend to idle (queue) for relatively long periods of time while waiting for the traffic light to change. The emissions during this period are very high and tend not to be diluted. These problem areas are called hotspots.

2. *Monitoring:* The New Hampshire Air Resources Agency (NHARA) monitors carbon monoxide on Elm Street near the corner of Bridge Street. The proposed New Hampshire SIP revision present ambient carbon monoxide monitoring data for the last three years, summarized as follows:

Ambient air quality data		
Year	2d High 8-hour average	Number of violations
1979	13.1	9
1980	12.1	13
1981	9.1	0

Proposed Action: EPA is proposing to approve the monitoring portion of the New Hampshire 1982 SIP revisions.

3. *Modeling:* New Hampshire developed a modeling procedure to augment the information from the monitoring site in order to be certain that the extent and severity of carbon monoxide problems in Manchester were defined. The Southern New Hampshire Planning Commission (SNHPC), the lead agency for transportation planning designated under section 174 of the Act, in cooperation with the NHARA analyzed known (Elm and Bridge Streets) and potential hotspots through the use of the GCA Hotspot Guidelines.

The analysis produced a listing of potential carbon monoxide violations within the City of Manchester in order of their severity. From this ranked list, the ten intersections predicted to have the highest carbon monoxide levels were further analyzed using current emission factors (Mobile 2) and a dispersion model that can estimate ambient concentrations of carbon monoxide more accurately than the GCA Hotspot Model (California Line Source Model-3 with modifications allowing traffic queing characteristics to be represented). The table below summarizes the Planning Commission's findings:

CARBON MONOXIDE SUMMARY TABLE

[Maximum 8-hour concentration (ppm)]

NA area and modeled site	1987 No controls	1987 W/ controls	Attain. year
City of Manchester:			
Elm and Bridge Sts.	8.6	8.1	1985
Granite and Main Sts.	6.4	NA	NA
Canal and Granite Sts.	6.3	NA	NA
Beech and Hanover Sts.	6.3	NA	NA
Maple and Hanover Sts.	6.0	NA	NA
Amory and McGregor Sts.	5.6	NA	NA
Elm and Granite Sts.	5.5	NA	NA
S. Willow St. and Mall of New Hampshire	5.3	NA	NA
Elm and Salmon Sts.	4.2	NA	NA
S. River Rd. and Jordan Marsh	3.9	NA	NA

Although no intersections were predicted to exceed either the 1-hour or 8-hour carbon monoxide standard, the modeling results for Elm and Bridge Streets showed predicted concentrations within 10% of the 8-hour standard in 1987. Based on the State's and regional EPA's judgement that the model can accurately estimate levels within 10% of the true value, the proposed SIP commits to certain air quality improving transportation measures as discussed in the next section in order to ensure attainment by 1987. As a further test, EPA has asked the Planning Commission for a comparison of the base year modeled value for carbon monoxide with the monitored value. This will allow an evaluation of whether the modeled valued are reasonable, and thus will confirm that standards will be achieved.

Proposed Action: EPA is proposing to approve the modeling portion of the New Hampshire 1982 SIP revisions subject to an evaluation of the results of the modeled versus monitored value comparison.

4. *Transportation Control Measures:* The SNHPC studied both areawide and site-specific "Reasonably Available Control Measures" as defined by § 108 of the Act. The State and Planning Commission are proposing three site-specific control measures which are sufficient to show standards will be achieved by 1985 at Elm and Bridge Streets. The controls are (1) to increase the traffic signal cycle length, (2) to shift the proportion of green time to favor the more heavily traveled Bridge Street traffic, and (3) to provide right turn lanes on Elm Street. These measures are to be completed by the fall of 1982, pending approval by the Manchester Aldermanic Traffic Committee. EPA has asked the State to include this approval or a schedule for obtaining the approval in the final submittal of the 1982 SIP revisions. The SNHPC also committed to evaluating the proposed control measures after their implementation during the winder of 1982–83 and to refining the operational changes, if necessary. Transportation projects currently planned for construction within the next few years in the vicinity of Elm and Bridge Streets were evaluated, and none were found to cause carbon monoxide violations.

The State, however, did not make a commitment to meet the "basic transportation needs" of the nonattainment area as required by section 110(a)(3)(D) of the Act. Since the transportation control measures proposed by New Hampshire do not restrict personal mobility, EPA believes that it is not necessary for the State to make additional commitments to improve public transportation.

Further, the city has made efforts to improve the public transit service, including one study done under a section 175 contract to find ways to increase ridership. In EPA's judgment the basic transportation needs of the area are being met.

EPA invites comment specifically on this portion of the New Hampshire proposal.

The State submitted no revisions to their section 176 conformity procedures which were approved by EPA as part of the 1979 plan revisions at 47 FR 763.

Proposed Action: EPA is proposing to approve the three transportation control measures for the City of Manchester with the understanding that the final SIP submittal will contain either the approval by Manchester Aldermanic Traffic Committee, or a schedule for obtaining the Committee's approval.

5. *Reasonable Further Progress:* The New Hampshire proposed 1982 SIP revisions contain a Reasonable Further progress (RFP) demonstration for the Elm and Bridge Streets location showing attainment by 1985.

Proposed Action: EPA is proposing to approve the RFP demonstration for carbon monoxide.

6. *Emissions Inventory:* For the 1982 SIP revisions, the State is required to submit a carbon monoxide emissions inventory of sufficient accuracy and detail to provide the necessary input to models, and to determine the effectiveness of proposed control measures. The inventory is to cover the entire urban area and represent a typical weekday during the worst corbon monoxide season. The areawide emissions data presented in the proposed revisions are for the City of Manchester, as the City is the only portion of the urban area designated nonattainment. For the site-specific analysis discussed earlier in this notice, the State used Mobile 2 emission factors, worst case meterological data, and avarage daily traffic data.

Manchester has no stationary sources of carbon monoxide greater than 1000 tons/year.

Proposed Action: EPA is proposing to approve the carbon monoxide emissions inventory.

7. *Public Participation and Intergovernmental Consultation:* The proposed revisions to the New Hampshire SIP state that the SNHPC maintained contact with the City of Manchester to assure a mutually acceptable solution to carbon monoxide problems within the City. Although not discussed in the proposed revisions, as part of the SNHPC's § 175 planning grant, the SNHPC provided a public information and participation program during the development of these SIP revisions.

Proposed Action: EPA is proposing to approve this portion of the SIP revisions.

8. *Resource Commitments:* In order to assure that the control strategies included in New Hampshire's 1982 attainment plan are implemented, EPA has requested that the State discuss how the actions will be supported financially. The State has indicated that the final New Hampshire 1982 SIP submission will discuss the State's or City's commitment to providing the resources necessary to implement the 1982 plan revisions.

Proposed Action: EPA is proposing to approve this portion of the SIP.

Proposed action

EPA is proposing to approve the New Hampshire 1982 Carbon Monoxide State Implementation Plan Revisions for the City of Manchester, which was submitted on June 18, 1982.

These revisions are being proposed under a new procedure called "parallel processing" (47 FR 27073). If the proposed revisions are substantially changed, in areas other than those identified in this notice, EPA will evaluate those changes and publish a revised notice of proposed rulemaking. If no substantial changes are made, EPA will issue a notice of final rulemaking on the revisions. That final rulemaking action by EPA will be published only after the SIP revisions have been adopted by New Hampshire and submitted to EPA for incorporation into the SIP. "Parallel processing", it is estimated, will reduce the time necessary for final approval of these SIP revisions by an average of 3 to 4 months. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

Under 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. (46 FR 8709)

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

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Section 110(a) and 301(a) of the Clean Act Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: August 4, 1982.

Lester A. Sutton,

Regional Administrator, Region I.

[FR Doc. 82-24891 Filed 9-10-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 81 and 83

[PR Docket No. 82-611; FCC 82-401]

Specification of the Circumstances Under Which Limited Coast Stations May Be Exempted From the Requirement To Maintain a Watch on 156.8 MHz, and Authorization of Simplex Marine VHF Channel 88A (157.425 MHz) Use in the Lake Michigan Area; Notice of Proposed Rule Making

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to specify the circumstances under which limited coast stations may be exempted from the requirement to maintain a watch on 156.8 MHz, and to allow the use of simplex marine VHF Channel 88A in the Lake Michigan area. This action will relieve limited coast stations of an unnecessary economic burden, and in Lake Michigan it will provide the public with an additional marine channel. This rule making will further the Commission's objective of providing service to the public in the least burdensome and most efficient manner possible.

DATES: Comments must be received by September 30, 1982.

Reply comments must be received by October 15, 1982.

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

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 81

Coast stations, Radio Telephone.

List of Subjects in 47 CFR Part 83

Ship stations Great Lakes.

In the matter of amendment of Parts 81 and 83 of the Commission's rules to specify the circumstances under which limited coast stations may be exempted from the watch requirement on 156.8 MHz and to authorize the use of marine VHF Channel 88A in the Lake Michigan area.

Adopted: August 26, 1982.

Released: August 31, 1982.

By the Commission:

Summary

1. In this Notice of Proposed Rule Making we propose to amend Parts 81 and 83 of the Commission's rules to specify the circumstances under which limited coast stations may be exempted from the requirement to maintain a watch on 156.8 MHz and to make simplex marine VHF Channel 88A (157.425 MHz) available for commercial intership communications in the Lake Michigan area beyond 75 miles of the United States/Canada border.

The 156.8 MHz Watch Requirement for Limited Coast Stations

2. Limited coast stations serve the operational and business needs of ships, including the transmission of safety communications. These maritime radio stations are located on land.

3. The frequency 156.8 MHz is designated as the distress, safety and calling frequency in the VHF maritime mobile service. As a calling frequency, 156.8 MHz is the frequency on which contact can be made with ship and coast stations. After contact is made the parties shift to a working frequency. Although this operating procedure is permitted, whenever practicable, contact between ship stations and limited coast stations is made directly on the appropriate ship-shore working frequency to reduce unnecessary communications on 156.8 MHz. Distress, urgency and announcements of safety messages are also transmitted on 156.8 MHz. By designating the distress frequency as the calling frequency, the rules ensure that a maximum number of stations will be listening at any given time.

4. Under § 81.191(d)(1) of the Commission's rules, each limited coast station licensed to transmit by telephony in the band 156–162 MHz shall, during its hours of service for telephony, maintain an efficient watch on the frequency 156.8 MHz whenever such station is not being used for transmission on that frequency. However the Commission may exempt any limited coast station from this watch requirement if it considers that the circumstances demonstrate that the watch is duplicated by public coast stations or Government coast stations having continuous hours of service.

5. In this notice of proposed rule making we are proposing to amend the rules to exempt some limited coast stations from the watch requirement. The Commission has previously exempted public coast stations from this watch in areas where coverage is provided by the Coast Guard or other government entities. The Coast Guard maintains a continuous watch on 156.8 MHz along the entire coast of the United States. Therefore, in the case of limited coast stations on the coast a general exemption is appropriate. The circumstances proposed are identical to those under which the Commission presently exempts public coast stations from the 156.8 MHz watch requirement. The amendment will provide for exemption from the watch requirement of all coast stations not serving inland lakes, rivers and bays. Limited coast stations servicing inland waters will be exempted from the 156.8 MHz watch requirement on a case by case basis where it is shown that Federal, State or Local Government stations maintain the watch.

Frequency Allocation in the Lake Michigan Area

6. In 1976 we changed the status of frequencies 157.425 (commercial intership frequency) and 162.025 MHz (Government frequency) to form duplex marine VHF Channel 88.[1] Section 83.351 subparagraph (b)(55) was amended and a new subparagraph (b)(72) was added to except vessels plying the Great Lakes and St. Lawrence Seaway from the category of vessels permitted to use simplex Channel 88A for commercial intership communications. In the same action we also made the newly formed duplex channel available to ship stations plying the Great Lakes and St. Lawrence Seaway for public correspondence with Canadian coast stations (see § 2.106, footnote US223, and 81.351(c)(72) of the rules).

7. The Great Lakes area includes Lakes Superior, Huron, Erie, Ontario and Michigan. With the exception of Lake Michigan, all the lakes border on both the United States and Canada. Lake Michigan is located totally within the bounds of the United States and as a result, except at the northern end of the lake, is beyond the range of communication with Canadian coast stations. Consequently, simplex Channel 88A could be used in much of Lake Michigan without the ned to coordinate with Canada.

8. We propose to limit the broad language used in subparagraphs (b)(55) and (72) of Section 83.351, thereby permitting the use of simplex Channel 88A for commercial intership communications in the Lake Michigan area beyond 75 miles of the United States/Canada border. In view of Lake Michigan's internal location, we see no reason why the public should be deprived of the use of this additional channel.

9. The proposed amendments to the Commission's rules as set forth in the attached Appendix are issued under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

Comments

10. Under procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before September 30, 1982, and reply comments on or before October 15, 1982. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

11. In accordance with the provisions of Section 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

12. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments)

[1] *Report and Order*, Docket No. 20838, adopted November 23, 1976, 41 FR 54490, 62 FCC 2d 445.

between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation decribed above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231.

13. We have determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rule making proceeding because its effects will be to eliminate a watch requirement and make an additional frequency available to ships in the Lake Michigan area. Therefore, if promulgated, it will not have a significant economic impact on a substantial number of small entities.

14. Regarding questions on matters covered in this document contact Robert H. McNamara, 202/632–7175.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

In § 81.191 paragraph (d) is removed and reserved and paragraph (c) is amended to read as follows:

§ 81.191 Radiotelephone watch by coast stations.

* * * * *

(c) All coast stations not serving inland lakes, rivers and bays (i.e., inland waters) shall be exempt from the channel 16 watch requirement. However, each coast station located on inland waters (exclusive of the Great Lakes, which are exempt) licensed to transmit by telephony on one or more frequencies within the band 156–162 MHz shall, during its hours of service for telephony, maintain an efficient watch for the reception of Class F3 emission on the frequency 156.800 MHz whenever such station is not being used for transmission on that frequency. An exemption will be granted to any inland water coast station from compliance with this requirement when it has been demonstrated that an efficient watch on 156.800 MHz is maintained over 95% of the coast station's service area by Federal, State or local government stations. Such a request for an exemption must include a chart showing the receiving service area of the inland water coast station by the method specified in Subpart R of this part of the rules. The location by coordinates, to the nearest minute, and the receiving service area of the government station maintaining the continous watch on 156.800 MHz must be indicated on the same chart. The receiving service area of these stations shall be calculated using criteria specified in Subpart R of this part of the rules. Where the station(s) providing the 156.800 watch over the service area of an exempt station temporarily discontinues that watch, the exempt coast station, upon receiving notice of this condition, shall maintain the watch on 156.800 MHz during the down period. However, in the case of automated maritime communications systems, compliance with this "back-up" watch requirement shall only require the use of existing facilities, when not otherwise being utilized, and shall not be construed as necessitating additional equipment or circuits.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

In § 83.351 paragraphs (b)(55) and (72) are revised to read as follows:

§ 83.351 Frequencies available.

* * * * *

(b) * * *

(55) Except within 75 miles of the United States/Canada border on the Great Lakes and St. Lawrence Seaway, available for intership and commercial communications. Except on the Great Lakes, also available for communications between commercial fishing vessels and associated aircraft while engaged in commercial fishing activities.

* * * * *

(72) Within 75 miles of the United States/Canada border on the Great Lakes and St. Lawrence Seaway, 157.425 MHz is half of the duplex pair designted as Channel 88. In this area, Channel 88 is available for use by ship stations for public correspondence communications.

* * * * *

[FR Doc. 82–25032 Filed 9–10–82; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 83

[Docket No. 82–617; FCC 82–403]

Emergency Position-Indicating Radiobeacon (EPIRB) for Survival Craft of Vessels Operating in the Great Lakes

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This notice proposes to amend the rules to provide for Emergency Position-Indicating Radiobeacons for use on survival craft of vessels operating in the Great Lakes and to separate the technical and operational requirements now in the rules for Class A, Class B and Class C EPIRB's. This action was requested by the U.S. Coast Guard as a result of two casualties which occurred on the Great Lakes. The intended effect is increased probability of alerting others to a distress situation.

DATE: Comments must be received on or before October 25, 1982, and reply comments must be received on or before November 9, 1982.

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

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 83

Communications equipment, Great Lakes, Marine safety, Emergency position indicating radiobeacon, Ship stations.

Adopted: August 30, 1982.

Released: September 3, 1982.

1. In this notice we propose to provide for the use of very high frequency (VHF) Emergency Position-Indicating Radiobeacons (EPIRB's) for survival craft of vessels operating in the Great Lakes. We also propose to clarify the rules pertaining to existing classes of EPIRB's.

Background

2. EPIRB's are radio frequency devices which transmit signals used to facilitate search and rescue (SAR) operations by indicating the position of a distress

situation. The EPIRB carrier frequency is modulated by a well defined, distinctive tone chosen to be easily recognizable aurally, and compatible with radio location equipment used by search and rescue personnel. Coast Guard aircraft and vessels, as well as some land based stations used in SAR operations, are equipped with radio direction finding equipment capable of receiving EPIRB signals. The position of an EPIRB when transmitting such a signal can generally be rapidly located by means of radio direction finding equipment. Aid can be brought with a minimum of delay to the vessel or person in distress. In addition to its primary function of providing position information, the EPIRB will often serve as a distress alerting device when other means of communications are not successful or available.

3. The Commission adopted rules [1] on September 27, 1979, which provided for the voluntary use of a VHF–FM EPIRB (designated class C) for vessels operating in coastal waters. This equipment is intended primarily for recreational boats operating in coastal waters, including the Great Lakes. The device tramsmits the distinctive EPIRB tone for a 1.5 second period on channel 16, the designated emergency and calling frequency. It then shifts to channel 15 and transmits for a period of 15 seconds before shifting back to channel 16. Silent periods of varying length are also included in the cycle. This allows a brief alerting function on the emergency and calling frequency without seriously disrupting communications. The longer period on channel 15 is provided for the use of homing devices. The Class D and E EPIRB's differ from the Class C EPIRB in operational requirements. The Class D EPIRB must be securely mounted in the survival craft and the Class E ERIRB must be attached to the liferaft and be automatically activated when the liferaft floats free or is inflated.

4. The need for this type of device to be compulsorily fitted on survival craft of cargo vessels in the Great Lakes was pointed out by the U.S. Coast Guard in reference to Marine Boards of Investigation for two Great Lakes casualties. The casualties involved the sinking of the SS *Daniel J. Morrell* and the SS *Edmund Fitzgerald.* The Board investigating the SS *Daniel J. Morrell* incident recommended [2] that a data marker buoy be attached to liferaft or float which is free from the sinking vessel and which would transmit a distress signal on an emergency frequency. The board investigating the SS *Edmund Fitzgerald* incident recommended [3] that each vessel sailing during the severe weather season have an EPIRB. In both cases, other vessels were nearby at the time of sinkings which occurred at night. Also, in both cases, liferafts floated free of the sinking vessels. The search for the *Morrell* did not begin until 10 hours after the sinking when the Coast Guard was informed that the vessel was overdue. Of the 23 persons thought to have abandoned ship, only one survived. If the rafts had been equipped with VHF–FM EPIRB's, vessels and shore stations in the area could have been immediately alerted, and survivors could have been located soon afterward by homing on the distress signal. In the case of the *Fitzgerald,* there was radio contact with another vessel about 10 miles away on VHF–FM just minutes before the apparent sinking. It was not until four hours later that it was concluded that the *Fitzgerald* was missing and search efforts begun. Again, a VHF–FM EPIRB could have provided an immediate alert and a homing beacon. For these reasons, we believe that our rules should provide for the use of EPIRB's which operate in the VHF maritime mobile band for survival craft of vessels which navigate on the Great Lakes. These devices would primarliy be monitored and located by surface SAR activities.

5. The U.S. Coast Guard, through a network of radio stations, monitors the frequency 156.8 MHz for distress and safety purposes along the coast of the United States, including the Great Lakes. VHF radio communication coverage is provided for distances of at least 20 miles from shore. The Coast Guard watch on this frequency is further supplemented by ship stations and certain Commission licensed coast stations operating in this band. Because of the large number of stations normally monitoring the international distress, safety and calling channel, signals transmitted by an EPIRB device on 156.8 MHz will have a high probability of alerting such stations to a distress situation.

6. In view of the discussed incidents and the coverage on the frequency 156.8 MHz, the U.S. Coast Guard informally requested that EPIRB's be provided for compulsory carriage by survival craft on certain vessels operating in the Great Lakes. The request specifically asked for an automatically activated EPIRB for float free survival craft [4] and a manually activated EPIRB for non-float free survival craft.[5]

Discussion

7. The Coast Guard, in its request, suggested an EPIRB with characteristics similar to the Class C EPIRB be provided in the rules so that it can be authorized to a vessel's ship station. The Coast Guard will require compulsory use of these EPIRB's on passenger and cargo vessels with survival craft in the Great Lakes.

8. Because these EPIRB's would be used on the Great Lakes and because Canada shares the use of the frequency 156.8 MHz, coordination with Canada was needed. Canada indicated that they support the concept of EPIRB's on vessels in the Great Lakes and that amendment of the "Great Lakes Agreement" [6] is considered unnecessary to effect this usage.

9. The existing rules for Class A, Class B and Class C EPIRB's were rewritten to separate the technical requirements for type acceptance by the Commission from the operational requirements designated by the U.S. Coast Guard. Class A and B EPIRB's operate on aviation frequencies 121.5 MHz and 243 MHz. The Class A EPIRB is required by the Coast Guard to be carried by certain classes of ships on the high seas.

10. We believe that EPIRB's on survival craft in the Great Lakes would greatly enhance the chances for rescue from a distress situation. The Class D and E EPIRB's proposed will use the same type emission, transmit on the same frequencies (156.75 and 156.8 MHz), and use the same alerting signal as the Class C EPIRB. The Class D EPIRB will be mounted on the survival craft. The Class E EPIRB will automatically activate, and be attached to the survival craft. Both EPIRB's (Class D and E) will be subject to Coast Guard approval as presently required for the Class A EPIRB. Coast Guard Regulations will also require Class D EPIRB's for non-float free survival craft of certain vessels, and Class E EPIRB's for float free survival craft of certain vessels in the Great Lakes.

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[1] *Report and Order* adopted September 27, 1979, Docket No. 78–230, 67 FCC 2d 1357, 44 FR 58712, October 11, 1979.

[2] Marine Board of Investigation; SS DANIEL J. MORRELL: Released by National Transportation Safety Board March 4, 1966; p. 33.

[3] Marine Casualty Report, No. USCG 16732/64216; p. 107.

[4] Survival craft that float freely from a sinking vessel.

[5] Survival craft that have to be manually placed or lowered into the water.

[6] Agreement Between Canada and the United States of America for the Promotion of Safety on the Great Lakes by Means of Radio, 1973, as amended 1978.

Proposal

11. Accordingly we propose to add new §§ 83.147 and 83.148 to provide for Class D and E EPIRB's on the Great Lakes and to revise §§ 83.144, 83.145 and 83.146 to separate the technical requirements for type acceptance from the operational requirements. By separately identifying the operational and technical requirements, we believe we can reduce the amount of time required to review a type acceptance application submitted in accordance with the procedures in Subpart J of Part 2.

12. The specifications contained in the Appendix regarding the activation, installation, and maintenance of the EPIRB's have been suggested by the Coast Guard to minimize the possibility of failure of this device during an emergency situation. Coast Guard regulations require that certain classes of vessels carry either a Class A, D, or E EPIRB. The operational requirements for such devices will be evaluated by the Coast Guard, and for type acceptance purposes the FCC will only examine the technical requirements pertaining to interference. For Class A, B, C, D, and E EPIRB's the application for type acceptance shall include a signed affidavit stating that the EPIRB has been manufactured and tested to meet the operational requirements specified in the appropriate rule section or sections, and that each unit manufactured will conform to the unit tested within the variations that can be expected due to quantity production and testing on a statistical basis. Procedures have been established to permit the Coast Guard to comment on such applications. We believe this change will reduce the burden upon applicants for type acceptance, and ultimately be beneficial to the users of EPIRB's.

13. The proposed amendments of the rules, as set forth in the attached Appendix, are issued pursuant to the authority contained in Sections 4(i) and 303(b), (c), (e), (f), (g) and (r) of the Communications Act of 1934, as amended.

14. Interested persons who desire to submit comment on these, or related matters may do so on or before October 25, 1982. Replies to any suggestions or comments may be submitted not later than November 9, 1982. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. An original and 5 copies will be furnished of all statements, briefs or comments filed in response to this notice. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

15. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation to the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

16. The Commission is not mandating use of the emergency position indicating radio-beacon. Such a requirement is within the authority of the United States Coast Guard. However, we are proposing to provide for the operation of these beacons at the Coast Guard's request and we expect the Coast Guard to mandate their use. Therefore, the Coast Guard has prepared the required Initial Regulatory Flexibility Analysis (IRFA). Accordingly, we have determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rulemaking proceeding because the rules will not, if promulgated, have a significant economic impact on a substantial number of small entities.

17. For further information of this proceeding, contact Nicholas G. Bagnato at (202) 632–7175 or Daniel Yates at (202) 653–6288.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICE

1. In § 83.24 paragraph (c) is revised and new paragraphs (d) and (e) are added to read as follows:

§ 83.24 Eligibility for station license.

* * * * *

(c) Class C EPIRB stations will be authorized for use aboard vessels operating within 20 miles of shore and in the Great Lakes.

(d) Class D EPIRB stations will be authorized for use aboard rigid (non-float free) survival craft on vessels in the Great Lakes.

(e) Class E EPIRB stations will be authorized for float free survival craft on vessels in the Great Lakes.

2. In § 83.28, paragraph (a)(1) is revised as follows:

§ 83.28 Standard forms to be used.

* * * * *

(a) * * *

(1) *FCC Form 506, Application for Ship Radio Station License.* This form shall be used when applying for a new or modified ship station license. This form shall also be used when applying for authority to operate an EPIRB. No modification of ship station license is required for authority to operate an EPIRB.

* * * * *

3. In § 83.132, paragraphs (a)(5) (iii) and (iv) are revised to read as follows:

§ 83.132 Authorized classes of emission.

(a) * * *

(5) * * *

(iii) For the frequency 156.75 MHz—F9 Class C, Class D, and Class E EPIRB stations.

(iv) For the frequency 156.8 MHz—F9 Class C, Class D, and Class E EPIRB stations.

* * * * *

4. In § 83.140 a new paragraph (e) is added to read as follows:

§ 83.140 Type acceptance of equipment.

* * * * *

(e) In the case of applications for type acceptance of each class of EPIRB's the application shall include a signed affidavit which states:

This EPIRB has been manufactured and tested to meet the operational requirements specified in the appropriate rule section or sections. Each unit manufactured will conform to the unit tested within the variations that can be expected due to quantity production and testing on a statistical basis.

A copy of the type acceptance application which also includes information that shows compliance with the operational requirements of § 83.144(b) or § 83.146(b) as appropriate shall be submitted to the Office of Merchant Marine Safety (G–MVI–3), Department of Transportation, U.S. Coast Guard Headquarters, Washington, D.C. 20593.

5. In § 83.141, paragraph (d) is revised to read as follows:

§ 83.141 Special requirements for survival craft stations.

* * * * *

(d) When an EPIRB is part of a survival craft station, the EPIRB shall be limited to:

(1) The frequencies 121.5 and 243 MHz using A9 emission, or;

(2) The frequencies 156.75 and 156.8 MHz using F9 emission.

6. Section 83.144 is revised to read as follows:

§ 83.144 Special requirements for emergency position indicating radiobeacon (EPIRB) station, class B.

(a) The type acceptance application shall demonstrate compliance with the following special technical requirements.

(1) The EPIRB station is limited to transmission only, using A9 emission, on the frequencies 121.5 and 243 MHz.

(2) The equipment shall not incorporate any vacuum tubes in its design. Components shall be so rated that the equipment will meet the requirements specified for EPIRB's in this part after extended periods of inaction while carried in vessels and subjected to the environmental conditions prescribed. Operation into any load likely to occur in service, from open to short, shall not cause continuing degradation in performance.

(3) A positive means of turning the equipment off shall be provided. Where an on-off switch is employed, a guard or other means shall be provided to prevent inadvertent activation.

(4) The EPIRB shall be provided with a visible and/or audible indicator which clearly shows that the device is operating. The indicator shall be activated by the transmitter RF output power.

(5) If equipped with a manually-activated test switch, or comparable device, it shall be a type which must be held in position to operate, and will switch the transmitter off and reconnect the output from the test circuit (dummy load) to the antenna when released. A guard or other means shall be provided to prevent its inadvertent activation.

(6) Means shall be provided to protect the indicator from damage due to dropping or contact with other objects.

(7) The power and modulation requirements specified in this part for EPIRB's shall be met under the environmental test conditions, with the exception of the temperature limits, specified in the Radio Technical Commission for Aeronautics (RTCA) Document numbers DO–145 or DO–146, dated November 5, 1970. The air temperature limits for testing these devices shall be from −20 to +50 degrees Celsius. Additionally, those tests specified by RTCA with reqard to altitude, decompression and overpressure are not applicable to EPIRB stations.

(8) The electromechanical connectors on and to the battery must be corrosion resistant and positive in action, and may not rely upon spring force alone for contact.

(b) A Class B EPIRB must also be capable of complying with the following operational requirements.

(1) The operation of controls intended for use during normal operation in all possible combinations or sequences shall not result in a condition whose presence or continuation would be detrimental to the continued performance of the equipment.

(2) The EPIRB shall be powered by a battery, whether an original or replacement component, contained within the transmitter case or in a battery holder that is securely and rigidly attached to the transmitter case. The useful life of the battery (established by the EPIRB manufacturer) is the length of time, after its date of manufacture that the battery may retain its ability to meet the transmitter power requirement prescribed in Section 83.134(i). The date (month and year) of its manufacture shall be indelibly and legibly marked on the battery and the expiration date (month and year) upon which 50 percent of its useful life will have expired shall be indelibly and legibly marked on both the battery and the outside of the transmitter.

(3) The EPIRB shall be waterproof and shall not be accidentally activated by rain, seaspray, hose washdown spray or storage in high humidity conditions. The effects of standing water on the outer surface of the equipment shall have no significant adverse effect upon the performance of the EPIRB.

(4) Concise, unambiguous operating instructions, understandable by untrained personnel shall be conspicuously and permanently displayed on the equipment. The display shall be weather resistant, waterproof, and abrasion resistant.

(5) The exterior of the equipment shall have no sharp edges or projections which could easily damage inflatable survival equipment, injure personnel or damage their clothing. Means shall be provided to secure the EPIRB to a survival craft or person.

(6) The antenna shall be securely attached to the EPIRB and of such design that it is easy to de-ice. The antenna shall provide optimum performance at 121.5 and 243 MHz and its radiation pattern in the horizontal plane shall be omnidirectional.

(7) The equipment shall be so designed that it may be deployed, its controls actuated, or the antenna erected, each by a single action task which can be performed by either hand.

7. Section 83.145 is revised to read as follows:

§ 83.145 Special requirements for emergency position indicating radiobeacon (EPIRB) stations, class A.

(a) The type acceptance application for a Class A EPIRB must demonstrate compliance with the following special technical requirements in addition to the technical requirements for a Class B device.

(1) Operate on frequencies 121.5 and 243 MHz, and have a manually activated test switch or comparable device, associated test circuit, and output indicator.

(2) In addition to the labelling requirement specified in Part 2, Subpart J, provide space for the Coast Guard approval number and the indication of class.

(b) A Class A EPIRB must be capable of complying with the following operational requirements in addition to the operational requirement for a Class B device. The operational rquirements will be evaluated by the Coast Guard before a Coast Guard approval number is issued.

(1) Be capable of floating free of a sinking vessel and activating automatically.

(2) Have an antenna that deploys automatically when the EPIRB activates automatically;

(3) Float in calm water with at least the upper 5 cm (2 in.) of the EPIRB out of the water and the base of the antenna at least 5 cm (2 in.) above the water;

(4) Be ballasted to right itself from a position of 90 degrees from its upright position in one second or less;

(5) Meet the requirements of paragraphs (1) through (5) above after free fall into water 3 times from a height of 18 m (60 ft.);

(6) Have the batteries replaced after the date specified in § 83.144(b)(3) upon which 50 percent of its useful life has expired or after the transmitter has been used in an emergency situation.

8. Section 83.146 is revised as follows:

§ 83.146 Special requirements for emergency position indicating radiobeacon (EPIRB) stations, class C.

(a) The type acceptance application for a Class C EPIRB must demonstrate compliance with the following special technical requirements:

(1) The EPIRB is limited to transmission using F9 emission on the frequencies 156.75 and 156.8 MHz.

(2) The equipment shall not incorporate any vacuum tubes in its design. Components shall be so rated that the equipment will meet the requirements specified for EPIRB's in this part after extended periods of inaction while carried in vessels and subjected to marine environmental conditions. Operation into any load likely to occur in service shall not result in permanent damage to the equipment.

(3) The equipment shall be provided with a visible and/or audible indicator which clearly shows that the device is operating. The indicator shall be activated by the transmitter RF output power.

(4) The switch used to activate the EPIRB shall be of a type which indicates the state of the equipment (on/off) by the physical position of the switch. A guard shall be provided to prevent changing the position of the switch without operation of the guard device.

(5) The EPIRB shall automatically be turned off after a period of 24 hours ±—5%. Provision shall be provided in the equipment to permit the EPIRB transmission sequence to be repeated by manually placing the on-off switch momentarily in the off position and returning it to the on position.

(6) The EPIRB shall be equipped with a visual indication of a low battery condition to alert the operator that the transmitter may not be capable of complying with the output power requirements prescribed in § 83.134(k).

(b) A Class C EPIRB shall also be capable of complying with the following operational requirements:

(1) The equipment shall consist of a transmitter, an integral (built in) antenna and a power supply. The transmitter and power supply shall be secured in separate compartments in a single watertight case to prevent corrosive agents generated by the battery from affecting components in the transmitter compartment.

(2) The equipment shall be capable of operation when hand held or when floating in water after storage for extended periods under marine environmental conditions.

(3) The equipment case shall be designed to be resealable without the use of special tools or sealing compounds and EPIRB operation shall not be degraded by submersion in sea water for a period of 24 hours.

(4) The EPIRB shall float in fresh water with the antenna vertical and completely out of the water.

(5) The exterior of the equipment shall have no sharp edges or projections which could easily damage inflatable survival equipment, injure personnel or damage their clothing. Means shall be provided to secure the EPIRB to a survival craft or person.

(6) Concise, unambiguous operating instructions, understandable by untrained personnel, shall be conspicuously and permanently displayed on the equipment. The display shall be weather resistant, waterproof, and abrasion resistant; it shall indicate that the device is "to be use solely for distress purposes."

(7) The equipment shall have no exposed areas or terminals that could produce a condition capable of igniting inflammable gases or materials.

(8) The antenna shall be securely attached to the case and designed such that it is capable of being safely stowed without being damaged. The antenna shall provide optimum performance at 156.75 and 156.8 MHz; its radiation pattern shall be essentially omnidirectional.

(9) The equipment shall not be damaged when dropped into water from a height of 6 meters.

(10) The EPIRB shall be capable of operating in accordance with the technical standards set out in this part when plunged into sea water after storage at a temperature of 50 degrees C to sea water at 20 degrees C.

9. A new § 83.147, is added to read as follows:

§ 83.147 Special requirements for emergency position indicating radiobeacon EPIRB stations, class D.

(a) The type acceptance application for a Class D EPIRB must demonstrate compliance with the following special technical requirements.

(1) The EPIRB is limited to transmission using F9 emission on the frequencies 156.75 and 156.8 MHz.

(2) The equipment shall be provided with a visible and/or audible indicator which clearly shows that the device is operating. The indicator shall be activated by the transmitter RF output power.

(3) The EPIRB shall automatically be turned off after a period of 24 hours ± 5%. Provisions shall be provided in the equipment to permit the EPIRB transmission sequence to be repeated by manually placing the on-off switch momentarily in the off position and returning it to the on position.

(4) The electromechanical connectors on and to the battery must be corrosion resistant and positive in action, and may not rely on spring force alone for contact.

(5) In addition to the labelling requirement specified in Part 2, Subpart J, the EPIRB shall also provide space for the Coast Guard approval number and the indication of class.

(b) The EPIRB shall also be capable of complying with the following operational requirements. The operational requirements will be evaluated by the Coast Guard before a Coast Guard approval number is issued. Mandatory carriage by non-float free survival craft in the Great Lakes is required by the Coast Guard.

(1) The EPIRB must be securely mounted to the survival craft with the antenna in an upright position.

(2) The date (month and year) of the battery manufacture shall be indelibly and legibly marked on the battery and the expiration date (month and year) upon which 50 percent of its useful life will have expired shall be indelibly and legibly marked on both the battery and the outside of the battery case. The useful life of the battery, whether an original or replacement component, is the length of time after its date of manufacture that the battery may be stored under marine environmental conditions without losing its ability to meet the transmitter power requirement prescribed in § 83.134(k).

(3) In addition to the operational requirements set forth in this section, Class D EPIRB's must also meet the operational requirements for Class C EPIRBs in paragraphs (b) (3), (5), (6), (7), (8), (9), (10), (11), and (12) of § 83.146.

10. A new § 83.148 is added to read as follows:

§ 83.148 Special requirements for emergency position indicating radiobeacon (EPIRB) stations, class E.

(a) The type acceptance application for a Class E EPIRB must demonstrate compliance with the following special technical requirements.

(1) The EPIRB is limited to transmission using F9 emission on the frequencies 156.75 and 156.8 MHz.

(2) The EPIRB shall have a manually activated test switch or comparable device, and associated test circuit. The test switch must automatically return to the off position when released.

(3) The equipment shall be provided with a visible and/or audible indicator which clearly shows that the device is operating. The indicator shall be activated by the transmitter RF output power.

(4) The EPIRB shall automatically be turned off after a period of 24 hours ± 5%. Provision shall be provided in the equipment to permit the EPIRB transmission sequence to be repeated by manually placing the on-off switch momentarily in the off position and returning it to the on position.

(5) In addition to the labelling requirement specified in Part 2, Subpart J, the EPIRB shall also provide space for the Coast Guard approval number and the indication of class.

(b) The EPIRB shall also be capable of complying with the following operational requirements. The operational requirements will be evaluated by the Coast Guard before a Coast Guard approval number is issued. Mandatory carriage by float free survival craft in the Great Lakes is required by the Coast Guard.

(1) The EPIRB shall have a switch to manually activiate the transmitter. The activating switch shall be of the type that indicates the state of the equipment (on-off) by the physical position of the switch. The EPIRB shall be arranged to activate automatically with the manual activation switch in the off position during the launching sequence of the survival craft.

(2) The EPIRB shall be securely attached to the survival craft and it shall consist of a transmitter, an antenna, and a power supply. The transmitter and power supply can be in separate water tight cases or in separate compartments in a single watertight case to prevent corrosive agents generated by the battery from affecting components of the transmitter.

(3) The EPIRB shall be capable of operation after storage for extended periods under marine environmental conditions.

11. In § 83.252, paragraph (b) is revised as follows:

§ 83.252 Equipment to facilitate search and rescue operations.

* * * * *

(b) Emergency position indicating radiobeacons may only be modulated as specified in § 83.137 and only on the frequencies 121.5 and 243 MHz or 156.75 and 156.8 MHz.

13. In § 83.352, a new paragraph (d) is added as follows:

§ 83.352 Frequencies for use in distress and search and rescue operations.

* * * * *

(d) The frequencies 156.75 and 156.8 MHz (Class F9 emission) are available to EPIRB stations for facilitating search and rescue operations.

§ 83.359 [Amended]

14. In § 83.359, the table is amended by revising the heading over channel designator 15 to read:

"ENVIRONMENTAL AND EPIRB's"

15. In § 83.401, the list of frequencies followig the introductory sentence of paragraph (c) is revised as follows:

§ 83.401 Assignable frequencies for direction finding.

* * * * *

(c) * * *

410 kHz
500 kHz
2182 kHz
8364 kHz
121.50 MHz
156.75 MHz
243.00 MHz

[FR Doc. 82-25100 Filed 9-10-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 82-618; RM-4016; FCC 82-404]

Amendment of Part 90 of the Rules To Authorize Frequencies for Wildlife Tracking Telemetry in the Forestry-Conservation Radio Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend Part 90 of the Commission's Rules to authorize wildlife tracking telemetry in the Forestry-Conservation Radio Service. Presently, such telemetry is authorized in the Experimental (Research) Service with a renewal period every two years. Allowing the use of these telemetry operations in the Forestry-Conservation Radio Service will permit renewal every five years, reducing the burden on both the licensee and the Commission.

DATES: Comments are due by October 12, 1982 and replies by October 27, 1982.

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

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Public safety radio services.

In the matter of amendment of Part 90 of the rules to authorize frequencies for wildlife tracking telemetry in the Forestry-Conservation Radio Service.

Adopted: August 30, 1982.

Released: September 3, 1982.

By the Commission:

1. On November 30, 1981, the State of Oregon filed a petition to amend § 90.25 of the Commission's Rules and Regulations to allow the use of Forestry-Conservation Radio Service frequency bands for wildlife tracking telemetry.

2. The State of Oregon indicated that it has used radio in connection with size, density, distribution and vital statistics studies of animal populations since 1971, when it was issued an authorization for twenty-two frequencies in the Forestry-Conservation Radio Service for its animal tracking program. In 1973, this authorization was modified to increase the number of units as well as input power, and was renewed for 5 years. In 1978, the State's request for renewal of its authorization in the Forestry-Conservation Radio Service was denied, however. Instead the Commission required that the licensing be changed from the Forestry-Conservation Radio Service to the Experimental Radio Service under Part 5 of the Commission's Rules. Station call sign KK2XBX in the Experimental Service (Research) was issued to the State in December 1978. This was renewed in 1980 for an additional two-year term, and is the State of Oregon's current experimental radio license, expiring in July 1982.

3. The State of Oregon indicates that during this period of time there have only been changes in the licensing paperwork since the radio frequencies and equipments have not changed at all. They claim that going through an exercise every two years of renewing an experimental license only produces unnecessary costs for them. Therefore, they are requesting to be allowed to utilize their present Forestry-Conservation Radio Service frequencies under a Forestry-Conservation authorization so that renewals will be

made every five years instead of every two years.

4. In support of their petition, they claim that the use of radio for tracking of wildlife has gone from a short-term program to one virtually without a foreseeable end, and that tracking of wildlife by radio is the only economical method in their statewide wildlife management and wildlife habitat management programs. In addition they state that since its inception over 10 years ago, there has not been one report of interference to any other agency's radio system from Oregon's tracking telemetry transmitters. The reason for this lack of interference to other systems is the very low power of the tracking transmitters (in the neighborhood of 5 milliwatts), and the very low on-off transmitter duty cycle of 2%.

5. We have reviewed the petition and the proposed technical standards for the tracking telemetry transmitters and feel there is merit in allowing the use of animal tracking telemetry in the Forestry-Conservation Radio Service. While the results of these programs may yield research information, it appears that the animal and tracking programs are a daily and continuous function of the State of Oregon Forestry Department. Therefore, allowing animal tracking telemetry to be licensed in the Forestry-Conservation Radio Service rather than in the Experimental Service (Research), would decrease the regulatory burden on the licensee by requiring license renewals every five years rather than every two years. In addition, the administrative impact on the Commission's facilities would be reduced.

6. We are proposing therefore to permit the use of low power telemetry in the Forestry-Conservation Radio Service in connection with wildlife tracking and official forestry conservation activities on a secondary basis, providing that such use shall not cause harmful interference to other licensees operating on regularly assigned frequencies. Frequency bands and technical standards are outlined in the attached Appendix.

7. The rulemaking action contained herein proposes only to change wildlife tracking telemetry licensing from the Experimental Service to the Forestry-Conservation Radio Service. Accordingly, the Commission certifies that Sections 603 and 604 of the Regulatory Flexibility Act do not apply to this proceeding.

8. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding, must prepare a written summary of that presentation. On the day of that oral presentation, a written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commissions' Rules, 47 CFR § 1.1231.

9. Authority for issuance of this Notice of Proposed Rule Making is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to the procedures set out in § 1.415 of the Commission's Rules, 47 CFR 1.415, interested persons may file comments on or before October 12, 1982, and reply comments on or before October 27, 1982. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file and provided that the fact of the Commissions's reliance on such information is noted in the Report and Order.

10. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

11. For further information on this proceeding, contact Eugene Thomson, Private Radio Bureau, Federal Communciations Commission, Washington, D.C. (202) 634–2443.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 90 of the Commissions' rules and regulations is amended as follows:

In § 90.25, a new paragraph (f) is added to read:

§ 90.25 Forestry-conservation radio service.

* * * * *

(f) A licensee in the Forestry-Conservation Radio Service may use transmitters on the frequencies indicated below in connection with wildlife tracking and/or telemetry and in connection with official forestry-conservation activities, provided that such use shall be on a secondary basis and shall not cause harmful interference to services of other licensees operating on regularly assigned frequencies, and further provided that all such use complies with the requirements of Federal, State and local laws. The provisions of § 90.203, § 90.425 and § 90.429 of this part shall not apply to transmitters authorized under this subparagraph. To be eligible for operations in this manner, the transmitter must comply with all of the following requirements.

(1) The carrier frequency shall be within the bands of:

(MHz)

31.17 to 31.19	31.85 to 31.87
31.21 to 31.23	31.89 to 31.91
31.25 to 31.27	31.93 to 31.95
31.29 to 31.31	31.97 to 31.99
31.33 to 31.35	44.63 to 44.65
31.37 to 31.39	44.67 to 44.69
31.41 to 31.43	44.71 to 44.73
31.45 to 31.47	44.75 to 44.77
31.49 to 31.51	44.79 to 44.81
31.53 to 31.55	44.83 to 44.85
31.57 to 31.59	44.87 to 44.89
31.61 to 31.63	44.91 to 44.93
31.65 to 31.67	44.95 to 44.97
31.69 to 31.71	44.99 to 45.01
31.73 to 31.75	45.03 to 45.05
31.77 to 31.79	151.145 to 151.475
31.81 to 31.83	159.225 to 159.465

The carrier frequency must be maintained within 0.005 percent of the frequency of operation. Use on assigned channel center frequencies is not required.

(2) The emitted signal shall be non-voice modulation (A9 or F9 emission).

(3) The maximum occupied bandwidth, containing 99 percent of the radiated power, shall not exceed 0.25 kHz.

(4) The transmitter output power shall not exceed a mean power of 5 mW nor shall any peak exceed 100 mW peak power, as measured into a 50 ohm resistive load. Should the transmitter be supplied with a permanently attached antenna or should the transmitter and antenna combination be contained in a sealed unit, the following standard may be used in lieu of the above: the field strength of the fundamental signal of the transmitter and antenna combination shall not exceed 0.29 V/m mean or 1.28 V/m peak when measured at a distance of 3 meters.

(5) Nothing in this section is intended to eliminate the requirements of § 90.175 regarding frequency coordination.

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BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal to Change the Status of the America Alligator in the State of Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to reclassify the status of the American alligator (*Alligator mississippiensis*) throughout the State of Texas, where the species is now classified as Endangered on Threatened, to Threatened due to Similarity of Appearance as provided for by the Endangered Species Act of 1973, as amended. This proposed change is based on evidence that the species is no longer biologically Endangered or Threatened in Texas and has recovered from former low numbers in response to complete protection afforded by effective enforcement of laws and regulations by the State of Texas and the U.S. Fish and Wildlife Service. The proposed action, if made final, would be a formal recognition by the Service of biological recovery of the alligator in Texas. An option would be made available to the State to institute management of alligators on a statewide basis in accordance with Section 4(e) of the Endangered Species Act of 1973, as amended, and with the Service's special rule on Threatened American alligators (50 CFR 17.42(a)). The Service is requesting information on environmental and economic impacts and effects on small entities that would result from reclassifying the American alligator as Threatened due to Similarity of Appearance in Texas.

DATES: Comments from the public must be received by November 12, 1982. Comments from the Governor of Texas must be received by December 13, 1982.

ADDRESSES: Comments and materials concerning the proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.B. Box 1306, Albuquerque, New Mexico 87103. Comments and materials related to this rule will be available for public inspection by appointment during normal business hours at 421 Gold Avenue, S.W., Room 407, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Woody, Endangered Species Coordinator, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766-3972).

SUPPLEMENTARY INFORMATION:

Background

The population density of the American alligator (*Alligator mississippiensis*) in the United States varies in the Southeast and includes all or parts of the States of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas.

The American alligator was first classified as Endangered throughout its range in 1967 because hunting and poaching substantially reduced alligator numbers. Subsequently, in response to strict Federal and State protection, the alligator recovered rapidly in many parts of its range. Its recovery then enabled the Service to undertake the following reclassification actions: (1) Reclassification to Threatened due to Similarity of Appearance in three coastal parishes of Louisiana that reflected complete recovery (September 26, 1975; 40 FR 44412); (2) Reclassification to Threatened that reflected partial recovery in all of Florida and certain coastal areas in Georgia, Louisiana, South Carolina, and Texas (January 10, 1977; 42 FR 2071); (3) Reclassification to Threatened due to Similarity of Appearance again reflecting complete recovery in nine additional parishes of Louisiana (June 25, 1979; 44 FR 37130); (4) Elimination of the permit requirement for fabricators of alligator products from lawfully taken alligators so long as the fabricators comply with the laws and regulations of: (a) The State in which the taking occurs, and (b) the State in which the sale occurs (November 25, 1980; 45 FR 78153), and (5) Reclassification to Threatened due to Similarity of Appearance throughout the State of Louisiana reflecting complete recovery of the species (August 10, 1981; 46 FR 40664).

Alligators in Texas have been studied by Crouch (1974), Potter (1974, 1975, 1981), Dixon and Staton (1976) and Kroll (1976). Crouch used a series of survey forms, live capture, and accumulated data on botanical, environmental, meteorological, and sociological parameters to prepare a report on the status of alligator habitat and populations in Texas. Dixon and Staton(1976) studied the survival, movements, and possible predation on alligators through their first 1.5 years of life on two coastal marsh sites and one inland pond site in East Texas. The marsh sites (Sea Rim State Park) contained 10 nests. The nests and their subsequent pods were followed through a winter and a summer period. Eight pods of the 10 nests were successful, while the contents of one nest drowned before hatching and the other was lost through predation. The inland nest site has been followed for 10 years, with a known marked female nesting each of those 10 years. As the size of the female increased, clutch size increased slightly from 34 to 48 with an average of 42 eggs. This single female has produced enough individuals that alligator reports are commonplace today, whereas 10 years ago there were no reports of alligators in the county (Dixon, pers. comm.).

Two Texas A&M University students followed one female through three nesting periods (1969–71) at the Welder Wildlife Foundation Refuge in South Texas. This female nested in the exact same place each year with clutches of 35, 37, and 48 eggs, respectively. The 1969 clutch failed from an insect attacking the eggs, but the 1970–71 eggs hatched. However, following hatching, the pods were decimated by predation from great blue herons, common and Louisiana herons, and snowy egrets; these birds were observed eating the young alligators. Twelve alligators survived from the two successful hatching periods (Dixon, unpublished data).

Kroll (1976) studied the movements of captive bred and reared alligators released into two East Texas sites. One adult female (2.79m LOA, 124kg) was released in Big Slough on March 22,

1975, and observed nesting on June 14, 1975. Crouch (1974) also observed active nesting associated with power plant lakes, and Kroll (1976) followed up Crouch's observations in additional years and observed increased nesting activities.

The data accumulated by university, State, and private biologists point to increased numbers of alligators in prime marsh and marginal inland habitats through increased nesting and nesting success. In addition, Service data indicate four National Wildlife Refuges along the Texas coast have shown an increase in alligator populations from 1977 to 1979. Alligator populations doubled at Anahuac, Aransas, and Laguna Refuges and slightly increased at the Brazoria Wildlife Refuge (Klett 1981).

Smith (1975a,b; 1976a,b,c; 1978a,b; 1979, 1980) has provided important data concerning the physiological requirements of Texas alligators, i.e., thermoregulation and behavior, parasitism, population densities of alligators on a South Texas refuge, heating and cooling mechanisms, cutaneous blood flow, and other physiological parameters.

Potter (1981) accumulated data on population structure of Texas alligators by questionnaires, aerial surveys of alligator nests; night line-transect counts in marsh and inland waters, and by other means. Whereas Crouch's, Kroll's, Dixon's and Staton's studies were of short duration (1 to 2 years), Potter maintained annual counts of alligators by line-transects, aerial surveys, and survey questionnaires for 7 years (1975–1981).

Potter (1981) indicated that alligator populations in prime Texas habitat have doubled in the past 5 years, based upon a census technique supplied by Taylor (1980). Potter also noted that the number of nests per square mile in census areas increased from 1.95 in 1976–78, to 4.05 in 1979–80. Furthermore, recent surveys indicated that nest densities appear to be near maximum and population growth may have reached optimum proportions (Potter 1981). This is consistent with recent data from Louisiana which indicated that the alligator population structure is stable and is limited by the support capability of the habitat; consequently, no further significant increases in Louisiana alligator numbers can be expected (Taylor 1980). The Service believes that the best scientific and commercial data available indicate that the Texas population of alligators has recovered and is no longer biologically Endangered or Threatened.

However, because of the similarity of appearance of alligator hides and parts to protected crocodilians, it is necessary to restrict commercial activities involving alligator specimens taken in Texas to insure the conservation of other alligator populations, as well as other crocodilians that are Threatened or Endangered. Recent amendments to the Texas Parks and Wildlife Code, i.e., addition of Chapter 65, gives the Texas Parks and Wildlife Department authority to regulate the taking, possession, and sale of alligators or any part of an alligator.

Section 4(e) of the Endangered Species Act authorizes the treatment of a species (or subspecies or group of wildlife in common spatial arrangement) as an Endangered or Threatened species even though it is not otherwise listed as Endangered or Threatened if it is found: (a) That the species so closely resembles in appearance an Endangered or Threatened species that enforcement personnel would have substantial difficulty in differentiating between listed and unlisted species; (b) that the effect of this substantial difficulty is an additional threat to the Endangered or Threatened species; and (c) that such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of the Act.

American alligators in Texas are presently listed as Threatened or Endangered. Currently, commercial take of alligators in Texas under any condition is illegal. This insures the conservation of alligators and other crocodilians. This proposed rule would permit regulated commercial harvest of alligators in Texas as part of the State's alligator management program in a manner authorized by Texas law and compatible with conservation of Endangered and Threatened populations of alligators and crocodilians.

Factors Affecting the Species

The Service's listing regulations (Section 424.11(d), Title 50, Code of Federal Regulations) further state that a species may be removed from the Federal list of Threatened and Endangered species if the best scientific and commercial data available to the Director substantiate that the species is neither Endangered nor Threatened for one or more of the following reasons:

(1) *Extinction.* Unless each individual of the listed species was previously identified and located, a sufficient period of time must be allowed before delisting to clearly insure that the species is in fact extinct.

(2) *Recovery of the species.* The principal goal of the Service is to return listed species to a point at which protection under the Act is no longer required. A species may be delisted if evidence shows that it is no longer Endangered or Threatened.

(3) *Original data for classification in error.* Subsequent investigations may produce data that show that the best scientific or commercial data available at the time that the species was listed were in error.

These findings are summarized herein under each of the five criteria of 50 CFR 424.11(b). These factors, and their application to the American alligator in Texas, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The total size of alligator populations in Texas is influenced greatly by the amount of available aquatic or wetland habitats. Examples of these habitats are rivers, bayous, canals, lakes, ponds, marshes, and swamps. The amount of good alligator wetlands in Texas was conservatively estimated by Potter (1981) from unfinished analysis of satellite photographs to be 1,086,720 acres (439,968 ha); the total aquatic habitat suitable for alligators in Texas could be as much as 3.7 million acres (1,497,976 ha) made up of fresh, intermediate, and brackish waters. Taylor (1980) indicated non-marsh, permanently flooded habitat in Louisiana with woody and herbaceous cover dominated by bald cypress and tupelo gum apparently produces higher densities of alligators in many instances than marshland habitats. This cypress-tupelo habitat extends into and is common in southeastern Texas (Potter 1981).

The estimated 9,649 miles of streams in historical alligator range in Texas support alligators to the extent permitted by the presence of oxbows and marshlands associated with the streams. Streams without adjacent, permanently inundated cypress-tupelo or marshland habitat areas constitute poor quality habitat and support insignificant numbers of alligators. A minimum estimate of non-marsh alligator habitat in Texas consists of 736,000 acres (297,976 ha) of all vegetation associations with permanent water levels, and 31,754 shoreline miles of private and public waters in the form of ponds and lakes (Potter 1981).

Prime coastal alligator habitat in the Chenier Plain was reduced by 20.0 percent between 1952–1974 (Gosselink et al., 1979). However, permanently flooded cypress-tupelo association and open water acreages are changed slowly by water management practices.

The overall picture of statewide habitat is good, because much of the prime habitat is under State and Federal control and because water storage activities are increasing habitat availability (Potter 1981). Therefore, habitat alteration and loss pose no serious threat to alligator populations in Texas within the foreseeable future.

2. *Utilization for commercial, sporting, scientific, or educational purposes at levels that detrimentally affect the species.* The commercial demand for products from alligators, including hides, teeth, and meat is high. This demand and the harvest generated by the demand were responsible for a decline in alligators throughout their range in the 1950's and 1960's (with some exceptions, such as on sanctuaries and wildlife refuges). This decline was reversed by the following actions: (1) The State of Texas closed alligator seasons in 1969; (2) The Lacey Act was amended in 1969 to include control of interstate commerce in reptiles; (3) The Endangered Species Act was passed in 1973; (4) State and Federal authorities vigorously enforced these protective measures.

Taylor (1980) and Potter (1981) provide convincing evidence that under strict protection, reproductive capability of the species provides for rapid recovery.

Experience in Louisiana clearly documented the impact of controlled harvest on alligators. A comparison between size-class frequencies found in non-marsh night counts and hide measurements from harvested areas shows no statistical difference in population structure. Furthermore, a comparison of population structure from a series of time specific views (1975–80), shows no trend towards shrinkage of adult/subadult size-class ratios or increasing adult/subadult size-class ratios, either of which would be indicative of populations moving away from stability.

Since the Texas alligator population is adjacent to that of Louisiana (very similar ecological conditions exist in the adjacent areas), much of the information from Texas (Potter 1981) and from Louisiana (Chabreck 1980, Taylor 1980) apply equally to the populations of alligators in both States. These data indicate alligators are not being detrimentally affected by legal harvests in Louisiana marshlands or by illegal taking in marsh or non-marsh areas in either State. Some illegal taking undoubtedly continues to occur, but the State's and Service's law enforcement efforts have reduced this to insignificant levels. The inaccessibility of non-marsh habitats further helps to protect the species in these areas (Kroll 1976, Crouch 1974, Potter 1981).

3. *Disease or predation.* Alligators suffer various types of disease and predation, but these factors are not excessive and are not known to have hindered alligator recovery.

4. *Absence of existing regulatory mechanisms adequate to prevent the decline of a species or degradation of its habitat.* The following State and Federal laws and regulations adequately protect the alligator in Texas: (a) Chapter 65 of the Texas Parks and Wildlife Code regulates harvest, possession, and sale of alligators; (b) the 1969 amendment to the Lacey Act extends Federal law enforcement authority to include interstate movement of reptiles; (c) the Endangered Species Act of 1973 provides mandatory protection for listed alligators; special rules promulgated by the Service for Threatened (including Similarity due to Appearance) alligators govern taking of an commerce in alligator products; (e) the annual findings of the Scientific and Management Authorities of the Service govern the export of species, including the alligator, listed on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

The success of efforts by State and Federal agencies to stop illegal activity involving alligators is evidenced by the recovery of alligator populations throughout the State of Texas.

5. *Other natural or manmade factors affecting its continued existence.* Although other factors occasionally may have an affect on some alligators, e.g., freezes and flooding of nests; none of these factors are known to have limited recovery of the alligator in Texas nor are they expected to become threatening factors in the future.

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Effects of This Proposal if Published as a Final Rule

This proposal, if made final, would change the status of the American alligator in Texas from Endangered or Threatened to a statewide status of Threatened due to Similarity of Appearance. The rule would formally recognize the biological recovery of the American alligator in a part of its range. A final rule would result in a removal of Federal agency responsibilities under

Section 7 of the Endangered Species Act. No adverse effects to the status of this species are expected to occur if this proposal is enacted as a final rule.

A final rule resulting from this proposal would give the State an option to allow alligator harvests in specified counties. If the State elects to harvest its alligators, harvests would be allowed at a level commensurate with development and implementation of a management program. The economic value of the alligator resource under a sustained yield scheme may result in significant economic benefits to Texas trappers and others participating in the commercial process. The value of alligators also may help reduce indiscriminate, illegal killing of alligators. Harvests would be expected to increase the workloads of the personnel of Texas Parks and Wildlife Department, the Texas Department of Health, and the Service's Division of Law Enforcement. Conversely, the harvests would be expected to reduce the number of nuisance alligator complaints which are increasing rapidly (Bill Brownlee, Texas Parks and Wildlife, pers. comm.) and result in a corresponding reduction in manpower commitments devoted to handling nuisance alligators. Local governments involved in catching and removing nuisance alligators would receive some relief if the number of larger, more dangerous alligators were reduced in areas with human-alligator conflicts.

Harvest of alligators in Texas would create the potential for an increased volume of alligator exports. The Service has previously expressed its concern about the effects of increased exports on Endangered crocodilians that occur in international trade. International trade in alligator products is presently allowed with certain restrictions in the form of licensing and permit requirements for buyers and tanners. A determination by the Service (October 21, 1980; 45 FR 69844) on this subject concluded that the export of alligators taken during the 1980–81 season in Florida and the 1980 season in Louisiana was not detrimental to the survival of the alligator or other Endangered crocodilians. The Service will continue to review this possible impact and will take appropriate action, if evidence indicates that restrictions are warranted.

This proposed action, if completed, would not be an irreversible commitment on the part of the Service. The action is reversible and relisting would be possible should the State change existing management programs or other changes occur which result in new threats to the species' recovery of recovery or crocodilians.

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible toward conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning: (1) Biological, commercial, or other relevant data concerning any threat (or lack thereof) to the species included in this proposal; (2) additional information concerning the range and distribution of this species.

Also, the Service is requesting information on environmental and economic impacts and effects on small businesses, small organizations, small governmental jurisdictions, and other small entities that would result from the reclassification of the American alligator to Threatened by Similarity of Appearance and information on other possible conservation or use measures. This information will aid the Service in complying with the requirements of the National Environmental Policy Act, Executive Order 12291 on Federal Regulation, and the Regulatory Flexibility Act, and in preparing any analyses of effect. The Department has determined that this proposed rule is not major under Executive Order 12291.

Information Collection and Recordkeeping Requirements

This proposed rule does not contain information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980 (44 U.S.C.3501 *et seq.*). The special rules for alligators treated as Threatened by Similarity of Appearance (50 CFR 17.42(a)) would remain in effect and would provide the needed regulation of trade in hides and meat.

Effect on Small Entities

The Department has determined that this proposed rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The only entity directly affected by the rule would be the State of Texas. The rule would give the State discretionary authority to further manage alligator nuisance problems and to conduct regulated harvest. The course of action (if any) which the State chooses to take when given this discretionary authority is not dictated or imposed by the rule. Any economic effect upon small entities will result from the wishes of the sovereign State of Texas.

It is expected that costs of alligator nuisance control will diminish in the counties affected if the State increases hunting and decreases the number of alligators. The rule does not add any recordkeeping requirements which might affect small entities (trade in alligator hides and meat from Texas would be regulated by Special Rule, 50 CFR 17.42(a) now in effect in Louisiana).

The landowners and trappers that might be affected by this rule could experience an increase in income from harvesting alligators, if the State of Texas chooses to allow alligator hunting. The income from harvesting is initially expected to amount to $.238 million. The option of hunting could result in 87 jobs. The initial marketing in Texas is expected to be handled by the present fur dealers. The alligator meat, leather and parts buyers, processors, wholesalers, and retailers presently in Louisiana could experience an increase in business. It is also expected that eventually such a domestic marketing system would be developed in Texas. Because of the diversity of impact upon these industries, it is presently impossible to trace a very speculative increase in business. All effect is expected to be beneficial. Because the demand for all alligators is high and is expected to remain well above supply, an increase in alligator hunting is not expected to affect the monetary returns of alligator farmers.

Should the State of Texas exercise the option of instituting a statewide alligator management program, there would be some effects on State and local governments. Administration of harvest would require preharvest surveys, computation of removal rates, tag allocation, and law enforcement monitoring of harvests and additional commercial enterprises in alligator products. The Texas Parks and Wildlife Department would have to support this additional workload to comply with the Special Rules issued by the Service and those governing rules promulgated by the State of Texas. The biological and enforcement staffs and facilities of the Department's district offices would be available for handling this increased workload. The Texas State Health Department, in monitoring the sale of alligator meat, could receive an increased workload should demand continue to grow. The costs of such

activities is presently unestimated but is expected to be greatly exceeded by the economic benefits of this determination.

This finding is made as a result of staff discussions and the analysis of data provided by the Louisiana Department of Wildlife and Fisheries, the Texas Parks and Wildlife Department, and Texas A & M University.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Regional Office of Endangered Species, 500 Gold SW., Albuquerque, New Mexico, and may be examined by appointment during regular business hours. A determination will be made at the time of the final rule as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (40 CFR Parts 1500–1508).

Note.—All cited literature, including unpublished reports, are available in the Service's Jackson Area Office, Jackson, Mississippi and the Albuquerque Regional Office, Albuquerque, New Mexico.

Primary Author

The principal author of this rule is David Bowman, U.S. Fish and Wildlife Service, Albuquerque, New Mexico 87103 (505/766–3972), with technical collaboration by Dr. James Dixon, Texas A&M University, College Station, Texas 77840.

List of Subjects in 50 CFR Part 17

Endangered and Threatened wildlife, Fish Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

§ 17.11 [Amended]

1. Amend § 17.11 by revising the entries for the American alligator, under "Reptiles," to read as follows:

SPECIES		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Alligator, American	*Alligator mississippiensis*	Southeastern U.S.A.	Wherever found in wild except those areas where listed as threatened as set forth below.	E	1, 11, 51, 60	NA	NA.
Alligator, American	*Alligator mississippiensis*	Southeastern U.S.A.	U.S.A. (FL and certain areas of GA., SC.).	T	20,47, 51, 60	NA	17.42(a).
Alligator, American	*Alligator mississippiensis*	Southeastern U.S.A.	U.S.A. (LA., TX.)	T (S/A)	11, 47, 51, 60	NA	17.42(a).
Alligator, American	*Alligator mississippiensis*	Southeastern U.S.A.	In captivity wherever found	T (S/A)	11, 47, 51	NA	17.42(a).

2. It is further proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below.

Paragraph (a)(1) of 17.42 is revised to read as follows:

§ 17.42 Special rules—reptiles.

(a) American alligator (*Alligator mississippiensis*).

(1) *Definitions.* For purpose of this paragraph (a):

"American alligator" shall mean any member of the species *Alligator mississippiensis*, whether alive or dead, and any part, product, egg, or offspring thereof occurring: (i) in captivity wherever found, (ii) in the wild wherever the species is listed under § 17.111 as Threatened by Similarity of Appearance, or (iii) in the wild in Florida and in the coastal areas of Georgia and South Carolina, contained within the following boundaries: From Winyah Bay near Georgetown, South Carolina, west on U.S. Highway 17 to Georgetown; thence west and south on U.S. Alternate Highway 17 to junction with South Carolina State Highway 63 south of Walterboro, South Carolina; thence west on State Highway 63 to junction with U.S. Interstate Highway 95; thence south on U.S. Interstate Highway 95 (including incomplete portions) across the South Carolina-Georgia border to junction with U.S. Highway 82 in Liberty County, Georgia; thence southwest on U.S. Highway 82 to junction with U.S. Highway 84 at Waycross, Georgia; thence west on U.S. Highway 84 to the Alabama-Georgia border; thence south along this border to the Florida border and following the Florida border west and south to its termination at the Gulf of Mexico.

"Buyer" shall mean a person engaged in buying a raw, green, salted, crusted or otherwise untanned hide of an American alligator.

"Tanner" shall mean a person engaged in processing a raw, green, salted, or crusted hide of an American alligator into leather.

Dated: July 15, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-24817 Filed 9-10-82; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 47, No. 177
Monday, September 13, 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.

CIVIL AERONAUTICS BOARD

[Order 82-9-14; Docket 35634, Agreement CAB 28792, R-1 through R-19]

Agreement Adopted by the Traffic Conferences of the International Air Transport Association Relating to North/Central Pacific Cargo Rates

September 3, 1982.

Order

Issued under delegated authority.

An agreement among various members of the International Air Transport Association (IATA) has been filed with us under section 412(a) of the Federal Aviation Act of 1958 and Part 261 of our Economic Regulations. The agreement was adopted at the Composite Meetings of the Cargo Tariff Coordinating Conferences held in Athens during May 1982.

Intended for effectiveness October 1, 1982, Agreement CAB 28792 would restructure IATA air cargo rates between the Western Hemisphere and Japan/Korea/South East Asia. Specifically, in the U.S.-Japan market, the agreement would decrease general commodity rates (GCRs) by two to eight percent, and increase most specific commodity rates (SCRs) and container charges by four percent. In the U.S.-Korea market, IATA proposes GCR increases of one to five percent, with a nine percent increase in various SCRs and container rates. For U.S.-South East Asia cargo traffic, the agreement incorporates increases of four to 12 percent in GCRs, ten percent in SCRs, and three to ten percent in container charges. Mr. John W. Simpson, attorney for various electronics shippers, filed comments and objections to the agreement on August 19, 1982. North/Central Pacific cargo rates for electronic components have been a matter of controversy in recent years, and the shippers' comments on Agreement CAB 28792 raise substantive issues which we cannot evaluate without further information.

The purpose of this order is to establish procedural dates for the submission of carrier justifications in support of the agreement and comments by interested persons. The Flying Tiger Line Inc. and Pan American World Airways, Inc., the two U.S. air carrier members of IATA providing service within the areas covered by the agreement, shall submit justifications setting out detailed historical data on the economic status of North/Central Pacific scheduled cargo services for the year ended June 30, 1982, and forecasts for the year ending September 30, 1983, in the tabular format suggested in Order 75-7-88, July 17, 1975. The carrier forecasts, based on both present and proposed rates, should annualize expected cost and revenue increases and specifically document cost changes and the revenue impact of the proposed rates. For cargo service on scheduled combination aircraft, present and projected costs should be allocated between the passenger and cargo compartments by the "space method" stipulated in the Nonpriority Mail Rates decision, 53 CAB 391 (1970), with full explanatory notes and supporting statistical data to describe the methodology used in making the allocations. in addition, the justifications should provide a comparison of the present and proposed rate levels and charges, including the percentage increases/decreases proposed, by rate category, for major U.S.-Japan/Korea/South East Asia city-pair markets. The carrier submissions should also include detailed traffic data by rate category, as well as capacity and load factor information for the historical period and for the forecast period under the present and proposed rates.

Because we have decided to give expedited treatment to this matter [1] we do not intend to extend the filing dates set forth below nor do we provide for replies to the comments filed. With regard to the latter, we note that IATA has requested that no party be permitted to file a reply. However, while we do not provide for such coments, any replies received prior to our taking final action will be considered to the extent possible.

Accordingly, it is ordered that:

1. The Flying Tiger Line Inc. and Pan American World Airways, Inc., the only United States air carrier members of the International Air Transport Association providing service within the areas affected by Agreement CAB 28792, shall file by September 13, 1982, full documentation and economic justification for the rates embodied in the agreement, and shall serve 20 copies on Mr. John W. Simpson, attorney for the electronics shippers;

2. Interested persons and parties shall submit comments and objections by September 23, 1982; [2]

3. Insofar as air transportaton as defined by the Act is concerned, tariffs implementing the agreement shall not be filed in advance of Board action on the agreement; and

4. This order shall be served on the International Air Transport Association, The Flying Tiger Line Inc., Pan American World Airways, Inc., and Mr. John W. Simpson of Kelley Drye and Warren, attorneys for the electronics shippers.

We will publish this order in the **Federal Register.**

Norman D. Schwartz,

Assistant Director, Fares, Rates and Tariffs, Bureau of International Aviation.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-25028 Filed 9-10-82; 8:45 am]

BILLING CODE 6320-01-M

[1] By letter dated September 1, 1982, IATA requested expedited considerationof the agreement, stating that the relief sought is "urgently needed" for implementation during the fourth quarter of 1982.

[2] By letter dated September 2, 1982, Mr. John W. Simpson, on behalf of the electronics shippers, requested that interested parties be given at least three weeks to respond to the justifications submitted. after due consideration, however, we believe that the ten-day response period set forth here is both adequate and reasonable.

[Order 82-9-7]

Application of Arctic Circle Air Service Inc.; Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (82-9-7).

SUMMARY: The Board is proposing to award a certificate of public convenience and necessity to Arctic Circle Air Service, Inc. (Arctic) authorizing it to engage in the interstate and overseas air transportation of

persons, property and mail between all points in the United States, its territories and possessions, except that its authority to conduct all-cargo operations within Alaska shall be limited to the points listed in its application. The Board is also tentatively deciding that Arctic is fit, willing, and able to provide service and to provide reliable essential air service.

DATES: Objections: All interested persons having objections to the Board's issuing the proposed certificate or to its tentative finding of fitness shall file, and serve upon all persons listed below no later than September 22, 1982, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 40619, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Arctic Circle Air Service, Inc.; the mayor and airport manager of each city to which the pleading refers; and the Alaska Transportation Commission, the Governor of Alaska, the FAA Regional Headquarters in Anchorage and the CAB Field Office in Anchorage.

FOR FURTHER INFORMATION CONTACT: Charles Stohr, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673–5330.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–9–7 is available from our Distribution Section, Room 100, 1825 Connecticut Ave., NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–9–7 to that address.

By the Civil Aeronautics Board: September 2, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–25024 Filed 9–10–82; 8:45 am]

BILLING CODE 6320–01–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed under Subpart Q of the Board's Procedural Regulations

See, 14 CFR 302.1701 et seq.; Week Ended September 3, 1982.

Subpart Q Applications

The due date for answers, conforming applications, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Aug. 30, 1982	40953	U.S. Air, Inc., Washington National Airport, Washington, D.C. 20001.
		Application of U.S. Air, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, applies for a new certificate of public convenience and necessity or for an amendment of its certificate for Route 97F authorizing U.S. Air to engage in the scheduled air transportation of persons, property, and mail on an unrestricted basis between Albany, New York and Toronto, Ontario, Canada. U.S. Air requests amendment of any other conditions in its certificates of public convenience and necessity which would prevent or impede full exercise of the authority sought, including the right to tack such authority with U.S. Air's other authorities.
		Conforming Applications, motions to modify scope, and Answers may be filed by September 27, 1982.
Sept. 3, 1982	40963	Air Illinois, Inc., Southern Illinois Airport, P.O. Box 201, Carbondale, Illinois 62901.
		Application of Air Illinois, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests the Board to grant its application for certificate authority to engage in interstate and overseas air transportation of persons and interstate and overseas air transportation of property and mail between all points in the United States, its territories and possessions, and to grant any further and other relief which the Board may deem appropriate. Conforming Applications, motions to modify scope, and Answers may be filed by October 1, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–25025 Filed 9–10–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Stainless Steel Products From Brazil; Postponement of Preliminary Countervailing Duty Determinations

AGENCY: International Trade Administration; Commerce.

ACTION: Postponement of preliminary countervailing duty determinations.

SUMMARY: The preliminary countervailing duty determinations involving certain stainless steel products from Brazil are being postponed as the investigations have been determined to be extraordinarily complicated. We intend to issue the preliminary countervailing duty determinations not later than November 15, 1982.

EFFECTIVE DATE: September 13, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Binder, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230/ (202) 377–1273.

SUPPLEMENTARY INFORMATION: On July 13, 1982, we announced our initiation of countervailing duty investigations to determine whether manufacturers, producers, or exporters of certain stainless steel products from Brazil receive any benefits which constitute subsidies (47 FR 30275). The notice stated that we would issue preliminary determinations by September 9, 1982.

The products covered by these investigations are hot-rolled stainless steel bar, cold-formed stainless steel bar, and stainless steel wire rod from Brazil. See Appendix A to the notice of initiation for a detailed description of these products.

As detailed in the notice of initiation of the countervailing duty investigations, the petition alleges that the government of Brazil provides various programs which constitute subsidies to manufacturers, producers, or exporters of the aforementioned steel products. The alleged subsidy practices are numerous and raise complex issues. Moreover, it is difficult to assess the extent of utilization of the programs by the manufacturers, producers, or exporters.

We have determined that the government of Brazil and the other parties concerned are cooperating and that additional time is necessary to make the preliminary countervailing duty determinations. For these reasons we determine that these cases are extraordinarily complicated in accordance with section 703(c)(1)(B) of the Tariff Act of 1930, as amended (the Act), and we intend to issue preliminary countervailing duty determinations not later than November 15, 1982.

This notice is published pursuant to section 703(c)(2) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 7, 1982.

[FR Doc. 82-25060 Filed 9-10-82; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determination; Steel Wire Rope From South Africa

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: We have preliminarily determined that there is reason to believe or suspect that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in South Africa of steel wire rope, as described in the "Scope of Investigation" section of this notice. We estimate the amount of the benefits to be 21.75 percent of the f.o.b. value of the merchandise.

Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and to require a cash deposit or bond in the amount equal to the estimated bounties or grants.

If this investigation proceeds normally, we will make our final determination by November 22, 1982.

EFFECTIVE DATE: September 13, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. Thran, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1766.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we have preliminarily determined that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in South Africa of steel wire rope, as described in the "Scope of Investigation" section of this notice. We find the net bounty or grant to be 21.75 percent *ad valorem*, consisting of the following benefit amounts:

- Rail rate differential (2.40%)
- Export incentive program—category B (0.00%)
- Export incentive program—category D (3.10%)
- Iron/Steel Export Promotion Scheme (16.25%)

Case History: On June 14, 1982, we received a petition from counsel for the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers, on behalf of the U.S. industry producing steel wire rope. The petition alleged that manufacturers, producers, or exporters in South Africa of steel wire rope receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. We found the petition sufficient, and on July 2, 1982, we initiated a countervailing duty investigation (47 FR 29867).

Since South Africa is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise at issue here is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to the U.S. industry in question.

We presented a questionnaire in Washington to the South African government on July 13, 1982. We received its response on August 26, 1982.

Scope of Investigation: For the purpose of this investigation, the term "steel wire rope" covers ropes, cables, and cordage, other than wire strand, made of steel wire, other than brass plated wire, whether or not cut to length, and not fitted with hooks, swivels, clamps, clips, thimbles, sockets or other fittings, or made up into slings, cargo nets, or similar articles and not covered with textile or other nonmetallic material, currently provided for in items 642.1200, 642.1400, 642.1600, and 642.1650 of the *Tariff Schedules of the United States Annotated.*

Haggie Limited is the only known producer and exporter in South Africa of the steel wire rope exported to the United States.

Analysis of Programs: The period for which subsidization is being measured is the corporate fiscal year ending June 30, 1981. In its response to our questionnaire, the government of South Africa provided data for this period. Additionally, we received information from Haggie Limited, which produced and exported steel wire rope to the United States during 1981.

Based upon our analysis to date of the response and petition, we have preliminarily determined the following.

I. Programs Preliminarily Determined To Confer Bounties or Grants To Manufacturers, Producers, or Exporters of Steel Wire Rope

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in South Africa of steel wire rope under the programs listed below:

Railroad Rate Differential: The South African Transport Services (SATS), a government-owned corporation, maintains a rate schedule that provides preferential railroad rates for container shipments destined for export. Haggie Limited ships its steel wire rope for export in containers. SATS container rates depend on distance railed and on whether intended for export or domestic destinations. Based upon the above, we have preliminarily determined that Haggie Limited, through preferential railroad rates on export container shipments, is receiving benefits which constitute a bounty or grant. We found that the export rate is 50 percent of the domestic rate. (In our final determinations regarding certain steel products from South Africa (47 FR 39379) we held that the rail rate differential on steel shipped in open cars was not a bounty or grant because it was largely cost justified and that domestic shipments were afforded the lower export rates if shipped in the same condition as for export. This is not true of steel wire rope shipped in containers.) The value of the benefit is the difference between the export container rate and the domestic container rate. We calculated the bounty or grant to Haggie Limited under this program by dividing the value per ton of the benefit by the average f.o.b. value per ton. We found the bounty or grant to be 2.4 percent *ad valorem.*

Export Incentive Program: The South African Department of Industries, Commerce and Tourism has a four-part general export incentive program, two parts of which Haggie Limited used in 1981. These two are described below.

Category B. This program consists of a credit against income taxes of 10

percent of the value-added component of the exported merchandise if there is a South African import duty on such merchandise. There is an import duty on steel wire rope. The value-added component is calculated by taking the average f.o.b. sales price per ton, increasing it by the rebate received under the Iron/Steel Export Promotion Scheme (see below), and subtracting the average raw materials costs. This figure is then multiplied by 10 percent to obtain the amount of the credit. We preliminarily determine that the government of South Africa through this Category B tax credit program provides a benefit which constitutes a bounty or grant. For programs involving income tax benefits, the Department generally determines the value of the bounty or grant by the value of the benefit received during the period for which subsidization is being measured.

Haggie Limited has not yet received any benefits under this program. Therefore, although we preliminarily determine the program to confer a bounty or grant, we find the estimated net bounty or grant for the period for which we are measuring subsidization to be 0.0 percent ad valorem.

Category D (Export Marketing Assistance Program). This program consists of a deduction from taxable income of between 175 and 200 percent of export market development expenses. We found that Haggie Limited was eligible for the full deduction of 200 percent. We preliminarily determine that the government of South Africa through this Category D tax deduction program provides a benefit which constitutes a bounty or grant. In this case, the measure of the benefit is the deduction received for 1980 marketing expenses allocable to sales made to the United States, which is known and accounted for in 1981. This figure was divided by the total value of exports of steel wire rope to the United States in 1981. The result is a benefit of 3.10 percent ad valorem.

Iron/Steel Export Promotion Scheme: The Iron/Steel Export Promotion Scheme rebates a fixed percentage of the f.o.b. value of exports containing rolled, drawn, or forged steel to the secondary producers if the exported product meets a value-added criterion. It is administered by the South African Iron and Steel Industrial Corporation. During the period for which subsidization is measured, the government of South Africa participated in the advisory committee of the scheme. Under those circumstances, the Department considers the scheme to have provided a countervailable bounty or grant under section 303(a)(1) of the Act.

Primary steel producers in South Africa contribute to a special fund at a rate of 4 rand per ton of steel sold in the domestic market. (In its response, the government of South Africa states that the secondary producers fund the scheme. No evidence of this has been provided.) The South African government does not contribute to this fund. Direct payments from the fund are provided to exporters of fabricated articles containing iron or steel. The current value of that assistance is 16.25 percent of the f.o.b. value of the exported fabricated steel products. We have determined that the Iron/Steel Export Promotion Scheme provides a benefit which constitutes a bounty or grant. We have found that Haggie Limited takes full advantage of this program on its exports of steel wire rope.

II. Programs Preliminarily Determined Not To Confer Bounties or Grants to Manufacturers, Producers, or Exporters of Steel Wire Rope

We preliminarily determine that no bounties or grants are being provided to manufacturers, producers or exporters in South Africa of steel wire rope under the programs listed below:

Employee Training Programs: The South African Department of Manpower certifies training programs to the taxing authority which allows businesses to deduct 200 percent of qualified training expenses. The Department of Manpower has demonstrated that all qualified training programs are available to all companies and industries and that they are neither restricted to certain sectors of the economy nor preferential to exporters. Therefore, the training programs are preliminarily determined not to confer bounties or grants.

Reduced Ocean Freight Rates: The petition alleged that South African shippers benefited from reduced ocean freight rates. In previous countervailng duty investigations, we could find no evidence of such a program. We did find evidence of variable ocean freight rates due to rate negotiation between shippers and carriers; however, this does not constitute a bounty or grant under the Act.

III. Programs Preliminarily Determined Not To Be Used by Manufacturers, Producers, or Exporters of Steel Wire Rope

We preliminarily determine that the following programs are not used by the manufacturers, producers or exporters in South Africa of steel wire rope.

- Export credit insurance,
- Pre- and post-shipment financing,
- Central government rebate,
- Export incentive program—category A,
- Beneficiation allowances for base mineral processing, and
- Homeland development.

IV. Programs Preliminarily Determined To Be No Longer in Existence

We preliminarily determine that the following program is no longer in existence.

Export Incentive Program—Category C (Finance Charges Aid Scheme): The South African government provided for a tax-free rebate to certain firms increasing the value of their exports of manufactured goods. The rebate was equal to 25 percent of the interest costs for financing exports. Haggie Limited benefited from this program in 1981. However, as this program was terminated on April 1, 1982, we are not including this benefit in our calculation of the estimated bounties or grants.

Verification: In accordance with section 776(a) of the Act, we will verify the information relied upon for our final determination.

Suspension of Liquidation: We are directing the U.S. Customs Service to suspend liquidation of all entries of steel wire rope from South Africa, which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond in the amount equal to 21.75 percent of the f.o.b. value of the merchanise.

Public Comment

In accordance with section 355.35 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on September 29, 1982, at the U.S. Department of Commerce, Room 3080, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by September 22, 1982. Oral presentations

will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.43, within thirty days of this notice's publication, at the above address and in at least ten copies.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

September 3, 1982.

FR Doc. 82-25059 Filed 9-10-82; 8:45 am]

BILLING CODE 3510-25-M

[Case No. 635]

John Brown Engineering LTD.; Order Temporarily Denying Export Privileges

The Department of Commerce (the "Department"), pursuant to the provisions of Section 388.19 of the Export Administration Regulations (15 CFR Part 368, *et seq.* (1981)) (the "Regulations"), has petitioned the Hearing Commissioner for an order temporarily denying to John Brown Engineering Ltd. ("John Brown"), Clydebank, Dunbartonshire G81 1YA, Scotland, export privileges concerning U.S.-origin commodities and technical data for or relating to oil and gas exploration, production, transmission, or refinement.

The Department states that John Brown is under investigation by the Department's Office of Export Enforcement. The Department states further that its investigation gives it reason to believe: (i) That John Brown is a U.K. corporation which is a licensee of General Electric, a United States corporation; (ii) that, in order to carry out certain transactions, John Brown has exported, or has placed beyond its control to prevent the export of, certain gas turbines from the United Kingdom to the Soviet Union; (iii) that these gas turbines were manufactured in Britain incorporating U.S.-origin rotors and technology; (iv) that the Regulations prohibit the export to the Soviet Union of such items; and (v) that John Brown may make similar exports in the future contrary to the Regulations unless appropriate action is taken to preclude such attempts.

Based upon the showing made by the Department, I find that an order temporarily denying to John Brown export privileges concerning U.S.-origin commodities and technical data for or relating to oil and gas exploration, production, transmission, or refinement is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401, *et seq.*) (Supp. III (1979)), and the Regulations, and to permit completion of the Department's investigation.

Anyone who is now or may in the future be dealing with the above-named respondent or any related party in transactions that in any way involve U.S.-origin commodities or technical data for or relating to oil and gas exploration, production, transmission, or refinement is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby

Ordered

I. All outstanding validated export licenses concerning U.S.-origin commodities or technical data for or relating to oil and gas exploration, production, transmission, or refinement in which respondent or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondent, its successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving U.S.-origin commodities or technical data for or relating to oil and gas exploration, production, transmission, or refinement exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity, (a) as a party or as a representative of a party to a validated export license application, (b) in the preparation or filing of any export license application or reexport authorization, or of any document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any such commodities or technical data exported from the United States in whole or in part, or to be exported, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to its agents and employees and to any successor. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services. Business organizations in the U.K. now known to be owned by or affiliated with John Brown Engineering Ltd., and which are accordingly subject to the provisions of this order, are:

John Brown Engineering Gas Turbines, Ltd., Clydebank, Dunbartonshire, G81 1YA, Scotland

John Brown Engineering (International) Ltd., Isle of Jersey

Masaood John Brown Ltd., Isle of Jersey

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data for or relating to oil and gas exploration, production, transmission, or refinement, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party or whereby the respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any such commodity or technical data exported from the United States in wholw or in part, or to be exported, by, to, or for the respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any such commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, the respondent or any related party may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest

convenient date. In accordance with the provisions of § 388.22 of the Regulations, the respondent or any related party may appeal to the Asssistant Secretary for Trade Administration, U.S. Department of Commerce, Room 3898–B, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an order denying export privileges.

VI. This order is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceeding or proceedings initiated against the named respondent as a result of the ongoing investigation. A copy of this order and Parts 387 and 388 of the Regulations shall be served upon the respondent and the above-named related parties.

Dated: September 9, 1982.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 82–25147 Filed 9–9–82; 3:00 pm]

BILLING CODE 3510–25–M

DEPARTMENT OF EDUCATION

Advisory Panel on Financing Elementary and Secondary Education; Meeting

AGENCY: Advisory Panel on Financing Elementary and Secondary Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Panel on Financing Elementary and Secondary Education. It also describes the functions of the Panel. Notice of this meeting is required under the Federal Advisory Committee Act, Section 10(a)(2). This document is intended to notify the general public of its opportunity to attend.

DATE: September 27 and 28, 1982.

TIME: 9.00 a.m. to 5:00 p.m.

ADDRESS: Cathedral Hill Hotel, Mezzanine Floor, Van Ness and Geary Streets, San Francisco, California.

FOR FURTHER INFORMATION CONTACT: Will S. Myers, Executive Director, Advisory Panel on Financing Elementary and Secondary Education, P.O. Box 19125, Washington, D.C., 20036; (202) 653–8278.

SUPPLEMENTARY INFORMATION: The Advisory Panel on Financing Elementary and Secondary Education is established under Section 1203, Title XII of the Education Amendments of 1978 (Pub. L. 95–560). The Panel provides the Secretary and the Congress with advice and counsel concerning public policies on raising and distributing revenues to support elementary and secondary education. The Advisory Panel also provides periodic advice to the Secretary concerning the conduct of studies authorized by Section 1203. The Advisory Panel is scheduled to report its findings and recommendations to the President and the Congress December 31, 1982.

The tentative Agenda for the meeting will include the following items:

1. Discussion of topics for inclusion in Panel's report to Congress.

2. Schedule of future meetings.

A record of the proceedings shall be available for public inspection at the offices of the Advisory Panel on Financing Elementary and Secondary Education located at 1200 19th Street, NW., Room 725, Washington, D.C.

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

Will S. Myers,

Executive Director, Advisory Panel on Financing, Elementary and Secondary Education.

[FR Doc. 82–25–045 Filed 9–10–82; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6624–000]

Alfred D. Huey; Notice of Exemption From Licensing

September 7, 1982.

A notice of exemption from licensing of a small hydroelectric project known as the Tyrone Project No. 6624, was filed on August 23, 1982, by Alfred D. Huey. The proposed hydroelectric project would have an installed capacity of 50 kW and would be located on Big Tobehanna Creek, near Tyrone Village, Schuyler County, New York.

Pursuant to § 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in § 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of September 23, 1982. Any terms and conditions specified in any agency letters of certification do not apply to this exemption.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 82–24977 Filed 9–10–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA82–2–20–001]

Algonquin Gas Transmission Co.; Notice of Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

September 3, 1982.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on August 30, 1982, tendered for filing Substitute 59th Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that Substitute 59th Revised Sheet No. 10 is being filed in substitution of 59th Revised Sheet No. 10 filed by Algonquin Gas in Docket No. TA82–2–20–000 on July 30, 1982, as its semi-annual PGA filing pursuant to Section 17 of the General Terms and Conditions of Algonquin Gas' FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that this sheet is being filed to track a downward adjustment in rates by its pipeline supplier, Texas Eastern Transmission Corporation.

Algonquin Gas proposes the effective date of Substitute 59th Revised Sheet No. 10 to be September 1, 1982, the same date as proposed effective for 59th Revised Sheet No. 10.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state 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, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 20, 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. 82–24971 Filed 9–10–82; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6471-000]

David W. Allen; Notice of Exemption From Licensing

September 7, 1982.

A notice of exemption from licensing of a small hydroelectric project known as Academy Brook Project No. 6471, was filed on June 28, 1982, by David W. Allen. The proposed hydroelectric project would have an installed capacity of 6 kW and would be located on Academy Brook, Jones Sawmill Dam, Belknap County, New Hampshire.

Pursuant to §§ 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in Section 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of the date of issuance of this notice. Any terms and conditions specified in any agency letters of certification do not apply to this exemption.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 82-24984 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-31-001 (PGA83-1, IPR83-1)]

Arkansas Louisiana Gas Co.; Notice of Filing of Revised Tariff Sheets Reflecting Tariff Adjustment

September 3, 1982.

Take notice that on August 30, 1982 Arkansas Louisiana Gas Company (Arkla) tendered for filing 31st Revised Sheet No. 185 and 6th Revised Sheet No. 185A to its FERC Gas Tariff Original Volume No. 3, Rate Schedule No. X-26, to become effective October 1, 1982.

Arkla states that the purpose of 31st Revised Sheet No. 185 is to (1) reflect the cost of purchased gas for the six months period commencing October 1, 1982, (2) recover the accumulated deferred gas costs as of June 30, 1982, (3) recover the estimated amount of retroactive payments to Arkla's producers pursuant to order Nos. 93 and 93-A and, (4) set forth the reduced PGA and estimated incremental pricing surcharges to be billed during the PGA period as contained on 6th Revised Sheet No. 185A effective October 1, 1982.

Arkla requests waiver of § 154.38(d)(4) of the Commission's regulations so that recovery of the rate schedule portion of the estimated amount of retroactive payments to Arkla's independent producers pursuant to Order Nos. 93 and 93-A may commence on October 1, 1982 through a special surcharge rate.

Arkla proposes to establish a subaccount of Account 191 to record the actual payments and recoveries of such costs along with carrying charges on the monthly balances. The balance remaining at the end of the collection period will be transferred to the current 191 subaccount. Arkla anticipates actual payment of these retroactive amounts will be made to its producers in October 1982 at which time detailed information of these payments will be furnished to the Commission.

Arkla also states that copies of the revised tariff sheet and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (§§ 385.211, 385.214). All such petitions or protests should be filed on or before September 20, 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. 82-24972 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-31-000 (PGA83-1, IPR83-1)]

Arkansas Louisiana Gas Co.; Notice of Filing of Revised Tariff Sheets Reflecting Tariff Adjustment

September 3, 1982.

Take notice that on August 30, 1982 Arkansas Louisiana Gas Company (Arkla) tendered for filing 32nd Revised Sheet No. 4 and 6th Revised Sheet No. 4A to its FERC Gas Tariff First Revised Volume No. 1, Rate Schedule No. G-2, to become effective October 1, 1982.

Arkla states that the purpose of 32nd Revised Sheet No. 4 is to (1) reflect the cost of purchased gas for the six month period commencing October 1, 1982, (2) recover the accumulated deferred gas costs as of June 30, 1982, (3) recover the estimated amount of retroactive payments to Arkla's producers pursuant to Order Nos. 93 and 93-A and, (4) set forth the reduced PGA and estimated incremental pricing surcharges to be billed during the PGA period as contained on 6th Revised Sheet No. 4A effective October 1, 1982.

Arkla requests waiver of § 154.38(d)(4) of the Commission's regulations so that recovery of the rate schedule portion of the estimated amount of retroactive payments to Arkla's independent procedures pursuant to Order Nos. 93 and 93-A may commence on October 1, 1982 through a special surcharge rate.

Arkla proposes to establish a subaccount of Account 191 to record the actual payments and recoveries of such costs along with carrying charges on the monthly balances. The balance remaining at the end of the collection period will be transferred to the current 191 subaccount. Arkla anticipates actual payment of these retroactive amounts will be made to its producers in October 1982 at which time detailed information of these payments will be furnished to the Commission.

Arkla also states that copies of the revised tariff sheet and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (§§ 385.211, 385.214). All such petitions or protests should be filed on or before September 20, 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. 82-24973 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-479-000]

Cities Service Gas Co.; Notice of Application

September 7, 1982.

Take notice that on August 11, 1982, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP82-479-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket

certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application of file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the 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 motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24965 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-146-005]

Commonwealth Edison Co.; Notice of Compliance Filing

September 3, 1982.

The filing Company submits the following:

Take notice that on August 23, 1982, Commonwealth Edison Company filed revised rates pursuant to the Commission's order in Docket No. ER82-146-004, issued on July 23, 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, N.E., Washington, D.C. 20426, on or before September 17, 1982. Comments will be considered by the Commission in determinig 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. 82-24974 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6474-000]

Eastman Brook Hydro; Notice of Exemption From Licensing

September 7, 1982.

A notice of exemption from licensing of a small hydroelectric project known as the Eastman Brook, Project No. 6474, was filed on June 28, 1982, by Eastman Brook Hydro. The proposed hydro-electric project would have an installed capacity of 100 kW and would be located on Eastman Brook, Grafton County, New Hampshire.

Pursuant to §§ 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in § 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of the date of this notice. Any terms and conditions specified in any agency letters of certification do not apply to this exemption.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 82-24975 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP79-12-005 (Further Extension) CP80-367-001 and CI80-311 Through CI80-320]

El Paso Natural Gas Co.; Notice of Refund Report

September 3, 1982.

Take notice that on August 30, 1982, El Paso Natural Gas Company ("El Paso") tendered for filing a Refund Report reflecting a jurisdictional refund of $44,529,651 to be credited to its Account 191, Unrecovered Purchased Gas Cost, effective June 1, 1982. The refund amount is attributable to actual sales in excess of the settlement sales volumes for the twelve (12) month period ending May 31, 1982, as offset by an actual cost of service in excess of the settlement cost of service for that period. The report detailing the refund calculation is submitted in accordance with Section C of Article IV, *Contingent Refunds Applicable to the Period Commencing June 1, 1981,* of El Paso's Stipulation and Agreement filed July 13, 1981 and approved by Federal Energy Regulatory Commission letter order dated August 28, 1981 at Docket Nos. RP79-12 (Further Extension), CP80-367 and CI80-311 through CI80-320.

El Paso states that copies of the applicable documents were served upon all of El Paso's interstate transmission system customers, all parties of record in Docket No. RP79-12 and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before Sept. 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rule 214 or Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24976 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-33-000, RP82-94-000 and RP82-108-000]

El Paso Natural Gas Co.; Notice of Rescheduling of Informal Settlement Conference

September 7, 1982.

Take notice that the informal settlement conference in the above-captioned dockets scheduled previously for September 1, 1982, and noticed on August 18, 1982, has been rescheduled for October 12, 1982. This meeting will commence at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in a Commission meeting room to be announced.

All interested parties and Staff will be permitted to attend.

Kennth F. Plumb,

Secretary.

[FR Doc. 82-24986 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-33-000]

El Paso Natural Gas; Notice of Proposed Change in Rates Pursuant to Purchased Gas Cost Adjustments

September 3, 1982.

Take notice that on August 31, 1982, El Paso Natural Gas Company ("El Paso") tendered for filing a notice of a change in rates:

(i) for jurisdictional gas service rendered to customers served by its interstate gas transmission system under rate schedules affected by and subject to Section 19, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in the General Terms and Conditions applicable to El Paso's FERC Gas Tariff, Original Volume No. 1, which Section 19 also applies to certain special rate schedules contained in El Paso's FERC Gas Tariff, Third Revised Volume No. 2 and Original Volume No. 2A; and

(ii) attributable to El Paso's implementation of the May 24, 1982 decision by the United States Court of Appeals for the Fifth Circuit in *El Paso Natural Gas Co.* v. *FERC*, No. 81-4295, hereinafter referred to as *El Paso*.

El Paso states that the total net change in El Paso's currently effective rates attributable to the PGAC and the implementation of the *El Paso* decision is an increase of 55.17¢ per Mcf.

To implement the instant notice of change in rates, El Paso filed the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A:

Tariff volume and tariff sheet

Original Volume No. 1; Thirty-third Revised Sheet No. 3-B; Sixth Revised Sheet No. 159
Third Revised Volume No. 2; Twenty-fourth Revised Sheet No. 1-D.
Original Volume No. 2A; Twenty-fifth Revised Sheet No. 1-C

El Paso has included in the instant filing an implementation of the *El Paso* decision. Although the Commission has asked the Court to rehear its decision, El Paso presently has the right to include these costs in Account 191, as shown by the action of the Fifth Circuit in granting stays of Commission orders directing United Gas Pipe Line Company to exclude those costs. In the event the Court grants rehearing of its decision and holds that El Paso does not have the right to include unpaid accruals in Account 191, El Paso has included alternative revised tariff sheets reflecting their exclusion.

El Paso further states that copies of the filing and the enclosures thereto have been served upon all interstate pipeline system customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before September 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rule 214 or Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24958 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-33-011]

El Paso Natural Gas Co.; Notice of Tariff Filing

September 3, 1982.

Take notice that on August 30, 1982, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act, the following revised tariff sheets, to be made effective as of September 1, 1982, as part of its FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A:

Original Volume No. 1

Thirty-second Revised Sheet No. 3-B

Third Revised Volume No. 2

Twenty-third Revised Sheet No. 1-D

Original Volume No. 2A

Twenty-fourth Revised Sheet No. 1-C

El Paso states that when the tendered revised tariff sheets are permitted to become effective, they will serve to establish a 2.19¢ per Mcf increase in El Paso's currently effective rates resulting from the implementtion of the decision in *Mid-Louisiana Gas Co. v. FERC*, No. 80-3804 (5th Cir., December 23, 1981), hereinafter referred to as *Mid-Louisiana*.

El Paso further states that by letter order issued by the Director of the Office of Pipeline and Producer Regulation ("OPPR") dated June 24, 1982 at Docket No. TA82-2-33-010, the Commission, *inter alia*, accepted for filing, to be effective as of September 1, 1982, subject to refund, the alternative higher revised tariff sheets filed in compliance with the Commission's "Order Accepting for Filing and Suspending Proposed Tariff Sheets Subject to Refund and Conditions and Setting Matter for Hearing," issued March 31, 1982 at Docket No. TA82-2-33-000 (PGA82-2) (IPR82-2) (AP82-2) and (TT82-2) and the letter of the OPPR dated May 13, 1982 at Docket No. TA82-2-33-006 and included an increase of 12.26¢ per Mcf reflecting the impact of the implementation of *Mid-Louisiana*. In order to make the appropriate adjustments to the rates on said tariff sheets so as to reflect the acceptance by the Commission of El Paso's notice of rate change, effective July 1, 1982 at Docket No. RP82-33 and to correct the page designations, El Paso retendered said tariff sheets for filing with the Commission.

The rates set forth on revised Sheet Nos. 3-B, 1-D and 1-C differ from the rates which were suspended in Docket No. TA82-2-33-010 in that said suspended rates have been adjusted so as to reflect: (i) an increase in the Base Tariff Rates as provided for in El Paso's notice of rate change filing at Docket No. RP82-33, effective July 1, 1982; and (ii) a reduction of 10.07¢ per Mcf attributable to the impact of *Mid-Louisiana* which makes the overall impact of *Mid-Louisiana* 2.19¢ per Mcf in lieu of 12.26¢ per Mcf.

El Paso filed concurrently with the instant filing a motion to place the increased rates into effect on September 1, 1982, the end of the suspension period

in Docket No. TA82-2-33-000, and its agreement and undertaking.

In order to effectuate the purposes of the instant filing, El Paso has requested that the Commission grant such waiver of its Regulations Under the Natural Gas Act as may be deemed necessary in order to permit effectiveness of the tendered revised tariff sheets, and the rates set forth therein, on September 1, 1982.

El Paso states that copies of the filing and attachments thereto, have been served upon all parties of record in Docket No. TA82-2-33-000 and, otherwise, upon all affected customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before Sept. 20, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a motion to intervene or a protest in accordance with the requirements of Rule 214 or Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24959 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-207-000]

Florida Crushed Stone Co.; Notice of Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 7, 1982.

On August 27, 1982, Florida Crushed Stone Co., P.O. Box 217, Leesburg, Florida 32748, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission rules.

The topping/bottoming cycle cogeneration facility is to be located 3 miles northwest of Brooksville, in Hernando County, Florida. The primary energy source to the facility will be coal and waste heat from a cement plant. The electric power production capacity will be 75 megawatts. The facility will provide turbine extraction steam as a source of heat for drying incoming high moisture materials to a 600,000 ton per year cement plant. The cogeneration facility will also utilize waste heat from the cement plant as part of its energy supply. Operation of the facility is scheduled for November 1984. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to interevene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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.

Kennth F. Plumb,

Secretary.

[FR Doc. 82-24987 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-34-000 (PGA) (IP)]

Florida Gas Transmission Co.; Notice of Proposed Changes in Rates and Charges Under Purchased Gas Adjustment and Incremental Pricing Provisions

September 3, 1982.

Take notice that on August 31, 1982 Flordia Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, tendered for filing the following tariff sheets to its F.E.R.C. Gas Tariff to be effective October 1, 1982:

Original Volume No. 1

Substitute 28th Revised Sheet No. 3-A,
Sixth Revised Sheet No. 3-B

Original Volume No. 2

Substitute 18th Revised Sheet No. 128

The aforementioned tariff sheets contain changes in FGT's resale rates, Rate Schedules G and I, and in Rate Schedule T-3 resulting from adjustment provisions in FGT's tariff for the cost of purchased gas and Incremental Pricing Provision. FGT proposes to make the rate changes effective October 1, 1982.

According to FGT, the changes contained on Substitute 28th Revised Sheet No. 3-A and Substitute 18th Revised Sheet No. 128 are made in accordance with the purchased gas cost adjustment and incremental pricing provision in its tariff (Section 15, General Terms and Conditions). FGT also states that Sixth Revised Sheet No. 3-B contains the estimated incremental pricing surcharges by customer by month for the adjustment period.

FGT is also proposing to include a special surcharge (Order No. 93 Surcharge) to recover the jurisdictional portion of the retroactive payments to producers in accordance with FERC Order Nos. 93 and 93A. FGT is proposing to amortize these retroactive payments during the adjustment period of October 1, 1982 through March 31, 1983.

In support of including the special surcharge, FGT anticipates that a substantial amount of the retroactive payments will have been paid by October 31, 1982; therefore the six month amortization period will minimize the FGT's cash-flow problem while at the same time reducing the carrying charges that would result if FGT had to wait until its next PGA filing before it could begin to collect these amounts.

The net effect of the above-mentioned adjustments for the Rate Schedule G and I is to increase the currently effective rate by 2.268¢/therm. Based on estimated G and I sales for the next 12 months this results in an annual revenue increase of approximately $18,720,000. The net effect of the above-mentioned adjustments for Rate Schedule T-3 is an increase of .19¢/Mcf. The rate to be effective on October 1, 1982 is 49.47¢/Mcf. The annual effect on revenues from Rate Schedule T-3 is an increase of approximately $138,700.

FGT states that a copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff, Original Volume Nos. 1 and 2 and interested State Commissions and is being posted.

Any person desiring to heard or to be 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 20, 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. 82-24960 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-71-000]

Idaho Power Co.; Notice of Application

September 3, 1982.

Take notice that on August 27, 1982, Idaho Power Company (Applicant), filed an application with the Federal Energy Regulatory Commission pursuant to Section 204 of the Federal Power Act, seeking an Order authorizing the issuance of up to 1,000,000 shares of its Common Stock, par value of $5 per share, pursuant to the Applicant's Dividend Reinvestment and Stock Purchase Plan.

Any person desiring to be heard or to make any protest with reference to said application should, on or before September 17, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rule of Practice and Procedure (18 CFR 385.211, 385.214). The application is on file with the commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24961 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-46-002]

Kentucky West Virginia Gas Co.; Notice of Proposed Change in Rates

September 3, 1982.

Take notice that on August 31, 1982, Kentucky West Virginia Gas Company ("Kentucky West") tendered for filing its Substitute Twenty-Fourth Revised Sheet No. 27 and its Fifth Revised Sheet No. 27A to its FERC Gas Tariff, First Revised Volume No. 1, to become effective May 1, 1982 or the alternative October 1, 1982.

Kentucky West states that its tariff sheets are in compliance with the Commission's order of April 30, 1982 and moves that the tariff sheets be permitted to go into effect as of May 1, 1982 or the alternative October 1, 1982, subject to possible refund of any portion of the increase which may not be approved by final and non-appealable order of the Commission.

Kentucky West also states that it has filed a motion to place the suspended sheets into effect together with the requisite corporate agreement and undertaking.

Copies of the filing were served upon the Company's jurisdictional customers or interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 20, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24962 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-560-000]

Lockhart Power Co.; Order Granting Motion for Interim Rate Reduction, Requiring Refunds, and Establishing Dates for Service of Top Sheets and a Prehearing Conference

Issued September 1, 1982.

On June 15, 1982, Lockhart Power Company (Lockhart) filed an unopposed motion requesting that the Commission (1) permit Lockhart to collect reduced interim rates, (2) direct top sheets to be served within 30 days of the issuance of this order, and (3) convene a prehearing conference before an administrative law judge within 15 days of the service of top sheets. For the reasons discussed below, we shall grant Lockhart's motion.

By order issued on October 22, 1981, the Commission, *inter alia*, accepted for filing Lockhart's two-phased rate increase to the City of Union, South Carolina (Union) [1] to become effective, subject to refund, coincident with the effective dates of Duke Power Company's two-phased rate increase in Docket No. ER81-550-000.[2] In addition, the Commission directed Lockhart to file revised rates following the Commission's acceptance of a compliance filing which Duke was required to submit to reflect summary disposition with respect to an issue involving nuclear fuel in process in Docket No. ER81-550-000. The Commission further ordered that top sheets in the instant proceeding be served and an initial prehearing conference be convened only after the acceptance of Lockhart's compliance filing. In order to facilitate settlement negotiations in Docket No. ER81-550-000, Duke subsequently requested and obtained a postponement of the dates for the submittal of its compliance filing. On June 11, 1982, Duke filed a settlement agreement to resolve all issues in Docket No. ER81-550-000 and a request to permit an immediate reduction in Duke's wholesale rates pending Commission action on the settlement.

In order to reflect reduced purchased power costs attributable to Duke's settlement rates, Lockhart's June 15 motion requested authorization for an interim rate reduction to Union to become effective on June 1, 1982, pending resolution of the instant proceeding. Lockhart also asserted that a quick resumption of the proceedings to ventilate issues unrelated to purchased power costs from Duke would be in the public interest and in the interest of all parties.[3] Union has executed a letter agreement providing for the interim rate reduction and Lockhart states that Union does not oppose the June 15 motion.

By letter order dated August 26, 1982, in Docket No. ER81-550-000, the Commission approved the Duke settlement proposal, placing the settlement rates into effect as of December 1, 1981. As a result, pursuant to sections 35.1(e) and 35.11 of the Commission's regulations, the Commission finds that good cause exists to permit Lockhart to collect the reduced interim rates, subject to refund, pending resolution of the outstanding issues. Accordingly, we shall grant Lockhart's motion to collect the reduced rates contained in its motion as of June 1, 1982, subject to refund. Inasmuch as Duke's settlement rates have now been allowed to go into effect on December 1,

[1] Union, an intervenor in this proceeding, is Lockhart's sole wholesale customer.

[2] Because lockhart purchases approximately 72% of its power and energy requirements from Duke Power Company (Duke), Lockhart's rate increase in large part is intended to track Duke's corresponding increase in rates filed on July 29, 1981, in Docket No. ER81-550-000.

[3] The remaining issues include (1) a purported failure to reduce purchased power requirements from Duke to reflect a recent power agreement with Lockhart and Pacolet Hydro, (2) use of a hypothetical capital structure with an excessive rate of return, (3) use of an excessive rate case expenses, (4) use of a zero working cash allowance, and (5) inclusion of hydro licensing charges dating from November, 1963.

1981, we shall also direct that Lockhart refund to Union the difference in purchased power costs for the period December 1, 1981, through May 31, 1982, resulting from Duke's reduced settlement rates. In addition, Lockhart will be required to refund any amounts collected since June 1, 1982, in excess of the interim rates. We shall further direct that top sheets be served and that a prehearing conference be convened.

The Commission orders:

(A) The unopposed motion filed by Lockhart on June 15, 1982, is hereby granted.

(B) Good cause having been shown, Lockhart is hereby authorized pursuant to § 35.1(e) and 35.11 of the Commission's regulations, to collect the interim rates proposed in its June 15, 1982 motion, subject to refund, pending resolution of the instant proceeding.

(C) Within thirty (30) days of the date of this order, Lockhart shall refund the difference in purchased power costs for the period December 1, 1981, through May 31, 1982, resulting from Duke's reduced settlement rates, together with interest as prescribed by section 35.19a of the regulations. Lockhart shall also refund, with appropriate interest, any amounts collected since June 1, 1982, in excess of the interim rates contained in its June 15 motion. Lockhart shall submit a refund compliance report within fifteen (15) days after refunds have been made.

(D) The Commission staff shall serve top sheets in this proceeding within thirty (30) days of the date of this order.

(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 fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. 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 for 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.

Attachment—Lockhart Power Company—Docket No. ER81-560-000, Rate Schedule Designations

Designation and Description

Lockhart Power Company:

(1) Supplement No. 12 to Rate Schedule FPC No. 2 (Supersedes Supplement No. 11), Interim Rate to Pass Through Duke Power Interim Settlement.

(2) Supplement No. 12 to Rate Schedule FPC No. 3 (Supersedes Supplement No. 11), Interim Rate to Pass Through Duke Power Interim Settlement. (South Station.)

[FR Doc. 82-24963 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RA82-28-000]

MGPC, Inc.; Notice of Filing of Petition for Review Under 42 U.S.C. 7194

September 3, 1982.

Take notice that MGPC, Inc. on August 30, 1982, filed a Petition for Review under 42 U.S.C. 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before September 20, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before September 20, 1982, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.1005(c)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through the Office of General Counsel, the Deputy General Counsel for Enforcement and Litigation, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W. Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24964 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-480-000]

Michigan Wisconsin Pipe Line Co.; Notice of Application

September 7, 1982.

Take notice that on August 11, 1982, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP82-480-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the 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 motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24988 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-489-000]

Mississippi River Transmission Corp.; Notice of Application

September 7, 1982.

Take notice that on August 16, 1982, Mississippi River Transmission Corporation (Applicant), P.O. Box 14521, St. Louis, Missouri 63178, filed in Docket No. CP82-489-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 27, 1982, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the 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 motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24989 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-491-000]

Mountain Fuel Resources, Inc.; Application

September 7, 1982.

Take notice that on August 16, 1982, Mountain Fuel Resources, Inc. (Applicant), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP82-491-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the 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 motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24991 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-490-000]

Mountain Fuel Supply Co.; Application

September 7, 1982.

Take notice that on August 16, 1982, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84111, filed in Docket No. CP82-490-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants

parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that pursuant to the authority contained in and subject to the 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 motion to intervene is filed within the time required herein, if the Commission on it own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24990 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-132-000]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

September 3, 1982.

Take notice that North Penn Gas Company (North Penn) on August 31, 1982, pursuant to Section 4 of the Natural Gas Act and § 154.63 of the Commission's Regulations, filed proposed changes to its FERC Gas Tariff, First Revised Volume No. 1, to become effective October 1, 1982.

The proposed rate changes would increase North Penn's revenue from jurisdictional sales and services by $2,112,652, based on the twelve months ended April 30, 1982, adjusted for know and measurable changes through January 31, 1983.

North Penn states that the increased rates are necessary to recover increased operation and maintenance expenses, increased taxes, and increased cost of money. The rates are based on an overall rate of return of 14.64% and on return of equity of 19%.

North Penn states that the cost of gas was computed using the base cost of gas reflected in North Penn's Sixty-Eighth Revised Sheet No. PGA-1. Additionally, North Penn is filing tariff sheets which modify Section 14 of its Tariff (PGA Clause) to permit a unit of sales method in computing amounts to be included in its deferred account.

Copies of this filing were served upon North Penn's jurisdictional customers, as well as interested State Commissions.

Any persons 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protest should be filed on or before September 20, 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. 82-24978 Filed 9-10-82; 8:45am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-7-000 (PGA83-1)]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 3, 1982.

Take notice that Southern Natural Gas Company (Southern), on August 31, 1982, tendered for filing proposed changes in its FERC Gas Tariff, Sixth Revised Volume No. 1, to become effective October 1, 1982. Such filing is pursuant to Section 17 (Purchased Gas Adjustment) of the General Terms and Conditions of Southern's FERC Gas Tariff, Sixth Revised Volume No. 1. The proposed changes would increase Southern's rates as a result of the following items.

(1) A Current Adjustment pursuant to § 17.3 of the General Terms and Conditions of Southern's Tariff, reflecting an annual increase in cost of purchased gas to jurisdictional customers of $218,520,704 or approximately 43.952¢ per Mcf.

(2) A Surcharge Adjustment, pursuant to § 17.4 of the General Terms and Conditions of Southern's Tariff, for Unrecovered Purchased Gas Costs of 10.268¢ per Mcf which is an increase of 2.279¢ from the present Surcharge Adjustment. This Surcharge Adjustment will amortize the $31,753,064 balance in the Deferred Account which was accumulated during the months of April, May and June of 1982 over the estimated sales for the six-month period commencing October 1, 1982.

(3) A Surcharge Adjustment for estimated Demand Charge Credits pursuant to § 9.6(3) of the General Terms and Conditions of Southern's Tariff of (.073¢) per Mcf which is an increase of .029¢ from the present Surcharge Adjustment.

(4) Pursuant to § 282.602(a)(1)(ii) of the Regulations Under the Natural Gas Policy Act of 1978, Southern is also filing Sixth Revised Sheet No. 45R with a proposed effective date of October 1, 1982. Such tariff sheet reflects Southern's projected incremental pricing surcharge for each of the six months during the rate collection period aggregating a total for the six month period of $13,162.

In addition, Southern filed to clarify the dates for its semi-annual demand charge credits to conform to the change in its purchased gas adjustment filing dates as approved by the Commission by order of June 30, 1982.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR, Section 385.211 or 385.214). All such petitions or protests should be filed on or before September 20, 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. 82-24967 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EF82-4011-000]

Southwestern Power Administration; Filing

September 1, 1982.

The filing party submits the following:

Take notice that on January 25, 1982, the Commission, under Docket No. EF79-4011, granted final confirmation and approval of the below-listed System Rates of the Southwestern Power Administration (Southwestern) for the

period April 1, 1979 through September 30, 1982:

Rate Schedule

P-3, Peaking Power
F-2, Firm Power from Integrated System
F-3, Firm Power through Oklahoma Utility Companies
EE-2, Excess Energy
Ic-2, Interruptible Capacity
Contract No. 14-02-001-864; Section 2, Tex-La Electric Cooperative, Inc.

According to the Assistant Secretary for Conservation and Renewable Energy of the Department of Energy, compliance with Department of Energy regulations relating to the public participation process will preclude Southwestern from submitting the necessary studies in time for Commission approval of the proposed System Rates by September 30, 1982.

On July 27, 1982, the Assistant Secretary submitted a request that the Commission extend final confirmation and approval of the present System Rates from October 1, 1982, through September 30, 1983, pursuant to authority vested in the Commission by Delegation Order No. 0204-33

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 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 motion to intervene. Copies of this filing are on file with the commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24968 Filed 9-10-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6162-001]

Tourin Musica; Exemption From Licensing

September 7, 1982.

A notice of exemption from licensing of a small hydroelectric project known as Tourin Musica, Project No. 6162-001 was filed on June 23, 1982, by Tourin Musica. The proposed hydroelectric project would have an installed capacity of 50-kW and would be located on Crossett Brook, Washington County, Vermont.

Pursuant to §§ 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in § 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of the date of this notice. Any terms and conditions specified in any agency letters of certification do not apply to this exemption.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 82-24992 Filed 9-10-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-497-000]

Trailblazer Pipeline Co.; Application

September 7, 1982.

Take notice that on August 19, 1982, Trailblazer Pipeline Company (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-497-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to interevene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the 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 motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kennth F. Plumb,

Secretary.

[FR Doc. 82-24995 Filed 9-10-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-498-000]

Trailblazer Pipeline Co.; Application

September 7, 1982.

Take notice that on August 19, 1982, Trailblazer Pipeline Company (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-498-000 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to transport natural gas for other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authorization to transport gas for other interstate pipeline companies for periods of up to two years. It states that it would comply with Section 284.221(d) of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person

wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Takee 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 motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24981 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-29-001]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

September 3, 1982.

Take notice that on September 3, 1982, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, identified as follows:

To second revised volume No. 1:
- Substitute Seventh Revised Twenty-Second Revised Sheet No. 12
- Substitute Seventh Revised Twenty-Second Revised Sheet No. 15
- Substitute Sixth Revised Sheet No. 16
- Third Revised Sheet No. 245
- Third Revised Sheet No. 247
- Third Revised Sheet No. 248

To original volume No. 2:
- Substitute Fifth Revised Twenty-Eighth Revised Sheet No. 121

Transco states that these tariff sheets, which are proposed to be effective September 1, 1982, reflect a change in the effective dates of Transco's semi-annual Purchased Gas Adjustment (PGA) and Demand Charge Adjustment (DCA) filing from the currently scheduled effective dates of March 1 and September 1 of each year to November 1 and May 1 of each year and the elimination of the currently effective Deferred surcharge component of negative $18.3 cents per dekatherm (dt) contained in Transco's March 1, 1982 PGA increase. Transco states that such tariff sheets reflect a net increase of 18.3 cents per dt in the commodity or delivery charge of Transco's CD, G, OG, E, PS, S-2 and ACQ rate schedules.

The Company states that copies of the filing are being mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 13, 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. 82-24996 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-134-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

September 3, 1982.

Take notice that Transwestern Pipeline Company (Transwestern) on August 31, 1982 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheets:

Revised Second Revised Sheet No. 73

The above listed tariff sheet is being issued for the sole purpose of revising Section 19.2 B(3), *Surcharge Adjustment*, of the General Terms and Conditions of Transwestern's FERC Gas Tariff to enable the use of the balance in the PGA account as of two months prior to the Effective Date of Adjustment for determination of the Surcharge Adjustment included in Transwestern's semi-annual PGA tracking filings.

By order dated August 20, 1982 in Docket No. RP82-122 the Commission rejected tariff sheets filed by Transwestern for a similar purpose. Such earlier filed sheets were rejected for filing as not being in satisfactory compliance with the Commission's Regulations. The instant filing is in full compliance with those regulations with respect to which the earlier filing was deficient. In particular, the filing contained a Statement of the Nature, Reasons and Basis for the Proposed Change as is required by Section 154.63(b)(1)(ii) of the regulations and a "comparative revenue statement" showing the effect of the proposed tariff change as is required by Section 154.63(b)(2).

The proposed effective date of these tariff sheets is October 1, 1982.

Copies of this filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 20, 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. 82-24969 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-42-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

September 3, 1982.

Take notice that Transwestern Pipeline Company (Transwestern) on August 31, 1982 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheets:

(A) Twenty-first Revised Sheet No. 5, Twenty-first Revised Sheet No. 6, Sixth Revised Sheet No. 6A, or as an alternative to Sheet Nos. 5 and 6,

(B) Alternate Twenty-first Revised Sheet No. 5, Alternate Twenty-first Revised Sheet No. 6.

The tariff sheets listed in (A) above are issued pursuant to Transwestern's Purchased Gas Cost Adjustment provision as currently set forth in Article 19 of the General Terms and Conditions of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1. The Purchased Gas Cost Adjustment

reflected in these tariff sheets consists of an increase of 15.12¢/dth based upon increased projected purchased gas costs and an increased balance in the Gas Cost Adjustment Account as of May 31, 1982. This increase in rates is measured against the revised April 1, 1982 PGA filing made by Transwestern on April 26, 1982, which is still pending final Commission approval. Included in the rates proposed herein as well as in the rates filed April 26, 1982, is the Order No. 93 Special Surcharge Adjustment of 7.05¢/dth which is proposed to be effective for the twelve-month period, April 1, 1982 through March 31, 1983. The Incremental Pricing Surcharges for the months of October, 1982 through March, 1983 are projected to be zero.

The alternate tariff sheets listed in (B) above are offered as an alternative to Sheet Nos. 5 and 6 reflecting a smaller PGA increase than the sheets in (A) above. The sole difference in these alternate tariff sheets is the balance in the Gas Cost Adjustment Account used to calculate the PGA increase. As explained below, the alternate tariff sheets are based upon the balance as of July 31, 1982, which is reduced from the May 31, 1982 balance and which results in an 8.83¢/dth reduction in the PGA increase proposed herein, so that the net PGA increase reflected in the alternate tariff sheets is 6.29¢/dth.

Transwestern filed concurrently with this filing a revision to the Purchased Gas Cost Adjustment provision set forth in Article 19 of the General Terms and Condition of Transwestern's FERC Gas Tariff, to enable Transwestern to use the balance in the PGA account two months prior to the proposed effective date of each PGA filing. The alternate tariff sheets listed in (B) above are issued pursuant to Transwestern's PGA provision as proposed to be revised by such concurrent filing.

The proposed effective date of these tariff sheets is October 1, 1982.

Copies of this filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 20, 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. 82-24970 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER81-388-000 and ER78-522-000]

Virginia Electric and Power Co.; Refund Report

September 3, 1982.

The filing Company submits the following:

Take notice that on August 20, 1982, Virginia Electric and Power Company filed a refund compliance report pursuant to the Commission's order of June 28, 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 September 17, 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. 82-24982 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-61-001]

West Lake Arthur Corp., Compliance Filing

September 7, 1982.

Take notice that on August 30, 1982, West Lake Arthur Corporation (WLAC), in accordance with the Commission's Order dated July 30, 1982, submitted for filing the following information to the Federal Energy Regulatory Commission: (1) Gas cost data for the twelve months ended March 31, 1982; (2) revised exhibits reflecting removal of unpaid accruals from Account 191 and establishment of proper Account No. 191 subaccount balances; (3) projected gas purchases for the twelve months ended July 31, 1983; and (4) Third Revised Sheet No. 4A which has been filed with the Commission Secretary.

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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 20, 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. 82-24998 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-61-003]

West Lake Arthur Corp., Proposed Change in FERC Gas Tariff

September 7, 1982.

Take notice that on August 30, 1982, West Lake Arthur Corporation (WLAC) submitted for filing Third Revised Sheet No. 4A to its FERC Gas Tariff.

WLAC states that the instant filing contains a reduced surcharge adjustment reflecting (1) removal of unpaid accruals from Account 191, and (2) establishment of proper Account No. 191 subaccount balances.

Copies of this filing were mailed to WLAC's jurisdictional customer and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 20, 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. 82-24999 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER77-347-003]

Wisconsin Power & Light Co.; Compliance Filing

September 3, 1982.

The filing Company submits the following:

Take notice that on August 18, 1982, Wisconsin Power & Light Company filed revised rate and a revised cost of service study pursuant to the Commission's Opinion No. 141 issued June 23, 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 September 17, 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. 82-24983 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-493-000]

Overthrust Pipeline Co.; Application

September 7, 1982.

Take notice that on August 16, 1982, Overthrust Pipeline Company (Applicant), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP82-493-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the 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 motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24993 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-492-000]

Overthrust Pipeline Co.; Application

September 7, 1982.

Take notice that on August 16, 1982, Overthrust Pipeline Company (Applicant), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP82-492-000 an application pursuant to Section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to transport natural gas for other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authorization to transport gas for other interstate pipeline companies for periods of up to two years. It states that it would comply with § 284.221(d) of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24994 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-39-000 (PGA 83-1 and IPR 83-1)]

Pacific Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff Pursuant To Purchased Gas Cost Adjustment Provision

September 3, 1982.

Take notice that Pacific Interstate Transmission Company (Pacific Interstate) on August 31, 1982 tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following sheets:

Twenty-first Revised Sheet No. 4
Fifth Revised Sheet No. 4-A
Seventeenth Revised Sheet No. 5
Third Revised Sheet No. 22

Pacific Interstate states that these tariff sheets are issued pursuant to the Purchased Gas Cost Adjustment (PGCA) Provision as set forth in Section 16 of the General Terms and Conditions of its FERC Gas Tariff, Origianl Volume No. 2. The proposed effective date of both of these tendered tariff sheets and the

rates reflected thereon is October 1, 1982.

Pacific Interstate states that the above tendered tariff sheets reflect a proposed October 1, 1982 Pacific Interstate Rate Schedule S–G–1 commodity rate of 288.62¢ per decatherm, a decrease of 20.91¢ from the currently effective 309.53¢ per decatherm. Such decrease inrate reflects a Current Gas Cost Adjustment and a change in the Surcharge Adjustment.

Pacific Interstate states that production from older wells, whose gas is typically less expensive than other production, has increased while production has declined from newer wells, whose gas is typically more expensive than other production, resulting in a lower weighted average cost of gas.

Pacific Interstate also states that the Current Gas Cost Adjustment is based on an annualized gas cost increase of $41,923 and that the Surcharge Adjustment is designed to recover, over a six-month period beginning October 1, 1982, an amount of $44,210, the amount in Pacific Interstate's Unrecovered Purchased Gas Cost Account at June 30, 1982, including carrying charges of $5,066. Furthmore, Pacific Interstate states that there is no incremental price surcharge adjustment applicable to this filing, since its only customer has no surcharge absorption capability.

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, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 20, 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. 82–24979 Filed 9–10–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP82–58–002]

Panhandle Eastern Pipe Line Co; Compliance Filing

September 3, 1982.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on August 31, 1982, tendered for filing the revised tariff sheets as listed on the attached Appendix No. A.

These revised tariff sheets were filed in compliance with Ordering Paragraph (B) of the Commission's order of April 30, 1982 in Docket No. RP82–58. The Commission's order of April 30, 1982 conditionally accepted Panhandle's proposed alternate revised tariff sheets as filed on March 31, 1982, subject to certain conditions. Panhandle states that the revised tariff sheets filed on August 31, 1982 are in compliance with those conditions.

Copies of this filing were served on Panhandle's jurisdictional customers, interested state commissions and all parties to this proceeding.

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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before Sept. 20, 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. 82–24965 Filed 9–10–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ES82–70–000]

Pennsylvania Power & Light Co.; Application

September 3, 1982.

Take notice that on August 27, 1982, Pennsylvania Power & Light Company (Applicant), filed an application with the Federal Energy Regulatory Commission pursuant to Section 204 of the Federal Power Act seeking authority to issue up to $400 million of short-term unsecured promissory notes including paper notes. The unsecured promissory notes are to be issued from time to time, prior to September 30, 1984, with a final maturity one year from date of issuance.

Any person desiring to be heard or to make any protest with reference to said application should, on or before September 24, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rule of Practice and Procedure (18 CFR 385.211, .214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–24966 Filed 9–10–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA 83–1–40–000 (PGA 83–1)]

Raton Natural Gas Co.; Change in Rates

September 3, 1982.

Take notice that Raton Natural Gas Company (Raton), on August 30, 1982, tendered for filing, proposed changes in its FERC Gas Tariff, Volume No. 1, consisting of Twenty-eighth Revised Sheet No. 3a. The change in rates is for jurisdictional gas service. The proposed effective date is October 1, 1982.

Raton states that the instant notice of change in rates is occasioned solely for increase in the cost of gas purchased from Colorado Interstate Gas Company (CIG). The tracking of CIG Gas Cost Increase results in increase in Demand Rate from $2.16 to $3.73 and increase in Commodity Rate from 344.09¢ to 446.64¢ per MCF. The annual revenue increase, by reason of the tracking, amounts to $1,054,550.

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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before Sept. 20, 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 inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–24960 Filed 9–10–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–1–38–000]

Ringwood Gathering Co.; Proposed Change in FERC Gas Tariff

September 7, 1982.

Take notice that on August 31, 1982, Ringwood Gathering Company

(Ringwood) tendered for filing a revised tariff sheet to its FERC Gas Tariff in order to include Twenty-Eighth Revised Sheet PGA–1. The tariff sheet is proposed to become effective October 1, 1982.

Ringwood states that the tariff sheet will revise Ringwood's Base Tariff Rate to flow through the increase in the system cost of purchased gas and recover the balance accumulated in the unrecovered purchased gas account.

Copies of this tariff filing were mailed to Cities Service Gas Company and interested state regulatory agencies.

Any person wishing 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 20, 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. 82–24997 Filed 9–10–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EF80–2011–001 (Remand)]

Secretary of Energy, Bonneville Power Administration; Order Scheduling Informal Conference, Denying Motion, Granting Interventions, and Establishing Procedures

Issued: September 1, 1982.

Before us is the response of the Bonneville Power Administration to the Commission's November 21, 1980 order remanding Bonneville's rates without prejudice.[1] In the Remand Order, the Commission had found that the record, as submitted to the Commission by the Assistant Secretary for Resource Applications of the Department of Energy (AS/RA),[2] did not provide the requisite support to permit the Commission to confirm that the standards set forth in the Bonneville Project Act of 1937 [3] and the Flood Control Act of 1944 [4] had been met. The Commission therefore could not determine, based on the data and information submitted, whether Bonneville's rate schedule had been drawn:

1. Having regard to the recovery of the cost of generation and transmission of such electric energy;
2. So as to encourage the most widespread use of Bonneville power;
3. To provide the lowest possible rates to consumers consistent with sound business principles; and
4. In a manner which protects the interests of the United States in amortizing its investments in the projects within a reasonable period.[5]

Because the record did not provide the requisite support to demonstrate that the statutory criteria had been met, the Commission remanded the record in order to allow the Bonneville Administrator and the AS/RA an additional opportunity to demonstrate that these standards had been satisfied. The Commission's Remand Order specifically delineated those areas where the record had been found to be deficient. In particular, the Remand Order noted that Bonneville had failed to provide the basic source data for its revenue estimates, thereby making it impossible to verify that the proposed rates would produce the projected revenues, or that the assumptions utilized in formulating the revenue estimates were reasonable. The Commission also found that Bonneville had failed to adequately explain the rationale for developing substantially differing cost-revenue relationships for the non-firm energy, annual firm capacity rates and charges, and the industrial firm power rates and charges, respectively. The Commission thus could not determine whether the various components of BPA's overall pricing scheme would meet the criteria set forth in the Bonneville Project Act and the Flood Control Act.

The Commission also noted that the record did not contain sufficient information to permit an understanding of the reasons underlying Bonneville's policy of repaying high interest investments ahead of the required repayment date while deferring repayment of low interest investments. Finally, the Commission pointed out that the record did not provide an adequate basis to explain Bonneville's elimination of the facilities charge for wholesale firm preferred customers in light of the fact that some customers, relying upon Bonneville's past practice of collecting a facilities charge, had purchased their own transformation facilities.

On July 10, 1981, the Bonneville Administrator, acting by and through the Assistant Secretary for Conservation and Renewable Energy (AS/CRE), filed its response to the Commission's Remand Order. Included with Bonneville's written response were thirteen exhibits, all of which were directed to the Commission's concerns with Bonneville's estimates of revenue, load, and sale data, and long range power loads and resources. Bonneville also noted that in addition to the exhibits supplied, its files on this subject would be made available to the Commission staff in lieu of forwarding the source material to the Commission and all parties.

With respect to the issue of repayment of the highest interest first, Bonneville noted that the subsequent opinions of the Commission on this issue are consistent with Bonneville's practices.[6] Based on these opinions, Bonneville argues that repayment of the highest interest bearing investment first policy is appropriate. No further discussion of the reasons underlying Bonneville's practice were provided in its response.

With respect to the remanded issues concerning cost allocation and rate design, Bonneville states that it refuses to provide any additional data or information to the Commission. In its response, Bonneville takes the position that "as to matters of rate design, the Administrator acts, and the Courts are the final arbitrators to determine whether the Administrator has complied with the requirements of the Act." Bonneville had thus directly challenged the authority of the Commission to review or even inquire into Bonneville's development and design of its individual rates and charges.

Notice of Bonneville's response was published on August 14, 1981, with interested parties invited to submit written comments to the Commission on or before August 31, 1981. In response to the Commission's notice, additional pleadings were filed by twelve of the eighteen parties that had filed petitions to intervene, protests, or notices of intervention in response to Bonneville's, original filing in December, 1979.[7] Many

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[1] *U.S. Secretary of Energy, Bonneville Power Administration,* "Order Remanding Rates Without Prejudice," Docket No. EF80–2011–000, 12 FERC ¶61,155 (Remand Order).

[2] By DOE Delegation Order No. 0204–33, the Secretary of Energy delegated to the AS/RA the authority to develop power and transmission rates, acting by and through the Bonneville Administrator, and to confirm, approve, and place in effect such rates on an interim basis. This authority has since been transferred to the Assistant Secretary for Conservation and Renewable Energy.

[3] 16 U.S.C. 832.

[4] 16 U.S.C. 825s.

[5] 16 U.S.C. 832, 825s.

[6] *Citing, Southeastern Power Administration,* Docket No. EF79–3021, 14 FERC ¶ 61,197 (February 27, 1981).

[7] *See* Attachment.

of the twelve parties have taken common positions on certain issues. Eight of the twelve petitions, for example, note that Bonneville has refuse to respond to the Commission's inquiries related to rate design. Based on the inadequacy of Bonneville's response, these eight petitioners have requested that the Commission set the matter for hearing in order to resolve the outstanding issues. Anaconda Aluminum Company and the Northwest Private Utilities[8] also note Bonneville's refusal to address alleged contractual violations by Bonneville raised in the Remand Order. Portland General Electric Company and Pacific Power and Light Company, argue that Bonneville's policy or repaying highest interest first still has not been explained as required by the Commission. The Public Power Council incorporates by reference the position taken in its original petition to intervene that Bonneville's rates are to high for the first two years. Finally, the Direct Service Industrial customers by reference to their original pleadings support Bonneville's "share-the-savings" H–6 rate as being just and reasonable.

In addition to the comments filed in response to the Commission's notice, the Northwest Private Utilities on September 16, 1981, filed a motion for the Commission to disapprove the rates and direct a refund as a result of Bonneville's refusal to comply with the Remand Order. In the alternative, the Northwest Private Utilities request that the matter be set for hearing.

Discussion

Bonneville has refused to provide the Commission with any technical information or data responsive to the Commission's inquiries into the rationale used for establishing substantially differing cost-revenue relationships for the H–6, F–7, and IF–2 rate schedules, respectively. Bonneville also has refused to provide the rationale for its elimination of the facilities charge for wholesale firm preference customers. In refusing to provide any information on the above issues, Bonneville has directly challenged the Commission's review authority over rate design questions. Bonneville's challenge is based primarily upon three assertions. First, Bonneville claims that, between 1937 and the enactment of the Department of Energy Act in 1977, the Federal Power Commission had failed to exercise rate design functions over the Federal Power Marketing Authorities.[9] Bonneville argues that, since the FPC did not believe this review function existed for forty years, it does not exist and therefore could not have been delegated to this Commission. Second, Bonneville contends that the Commission has derived its rate design review function from statutory language requiring that rates shall be developed "with a view to encouraging the widest possible diversified use of electricity." Bonneville states that to imply a rate design review function from this language is improper, arguing that this phrase is "subsumed" in the phrase "lowest possible rates to consumers consistent with sound business principles." Finally, Bonneville contends that, with respect to exercising review over rate design, there is no law to apply, citing *Pacific Power & Light Co.* v. *Duncan.*[10] Because there is "no law to apply," Bonneville asserts that as a matter of law, there is no applicable statutory standard regarding rate design by which the Commission may review Bonneville's rate schedules. For all of the above reasons, Bonneville refuses to provide the Commission with its rationale for establishing the various rate designs or to supply the Commission with any data or information supporting the designs.

Bonneville asserts that the FPC which, prior to the DOE Act, exercised the review functions for Bonneville's rates, did not inquire into rate design. Our review of prior Bonneville rate cases, however, would indicate the contrary. In Order No. 741, for example, the Commission, in reviewing Bonneville's individual rate schedules, specifically noted that "careful consideration of rate designs directed toward bringing rates more closely into alignment with costs by agencies such as BPA would clearly be in the public interest."[11] Similarly, in Opinion No. 482, the Commission in affirming Bonneville's rates stated that:

> In our opinion Bonneville * * * has arrived at a reasonable rate structure * * * and we find that the rate structure is designed within the meaning of the statute to encourage the widest possible use of electric energy.[12]

Other Commission decisions also confirm the fact that review of the individual components of Bonneville's rate schedules is neither novel nor inconsistent with prior practices of the Commission.[13]

Bonneville's contention that the Commission has improperly focused on the phrase "widest possible use" to derive its rate design review function is equally unpersuasive. In remanding Bonneville's rates, the Commission did not note that the rates failed to meet any one criterion. Indeed, the Remand Order makes clear that the Commission could not determine whether the various components of Bonneville's overall pricing scheme met *any* of the tests set forth in the Bonneville Project Act and the Flood Control Act.[14] The Commission pointed out that the record failed to provide any adequate explanation of how the revenue requirements and the relationships among the various rate schedules were determined. We do not find that our authority to review Bonneville's rate scheme turns on whether the phrase "lowest possible use" is viewed as a single standard or, as Bonneville argues, as a criterion interrelated with the phrase "widest possible rates to consumers consistent with sound business principles." Under either interpretation our statutory obligation exists to confirm that the various rate schedules conform to the standards set forth in the applicable statutes.

Finally, Bonneville's contention that the Commission may not review issues pertaining to rate design because there is "no law to apply" is seriously misplaced. In the *Duncan* case cited by Bonneville, the court found that *it* could not review Bonneville's rate design because this was an area in which the Secretary of Energy had been granted broad discretion by Congress.[15] The U.S. District Court also found that this broad discretion had been properly delegated by the Secretary to the Assistant Secretary for Resource Applications and to this Commission.[16] Because the statutory scheme vested such broad discretion in the Secretary of Energy, the Court found that, with respect to rate design, "*judicial* review is not available

[8] A group of intervenors in this proceeding comprised of Idaho Power Company, Pacific Power and Light Company, Portland General Electric Company, Puget Sound Power & Light Company, Montana Power Company, and Washington Water Power Company.

[9] On October 1, 1977, the Department of Energy Organization Act (42 U.S.C. 7101, *et. seq.*) became effective, abolishing the FPC. The functions of the FPC under the Flood Control Act of 1944 and other statutes relating to Power Marketing Agencies were transferred to and vested in the Secretary of Energy pursuant to sections 302(a) and 301(b) of the Department of Energy Organization Act.

[10] 499 F. Supp. 672 (D. Ore. 1980). *See* discussion at pp. 6–7, *infra.*

[11] Order No. 741, 54 F.P.C. 808, 813 (1975).

[12] Opinion No. 482, Docket Nos. E–6611, E–6905 and E–7242, 34 F.P.C. 1462, 1470 (December 14, 1965).

[13] *See, e.g., Bonneville Project, Columbia River, Oregon-Washington* order issued March 26, 1948, 7 FPC 517, where the Commission rejected a single wholesale power rate schedule because of its limited availability as well as the fact that the rate was insufficient o recover Bonneville's costs and therefore "not in keeping with the purpose of the Bonneville Project Act." 7 FPC at 518.

[14] Remand Order, 13 FERC at 61,339.

[15] *PP&L* v. *Duncan, supra,* 499 F. Supp. 672, 682–683.

[16] *Id.* at 684.

because there is no law to apply." [17] The Court therefore held that "where several administrative solutions exist for a problem, courts will uphold any one with a rational basis, but the Secretary's balancing of competing uses must not be an arbitrary one." [18] We do not read the *Duncan* case as precluding this Commission's inquiry into rate design matters; however, because the Administrator has refused to provide any information or explanation for the differing pricing schemes used in the various rate schedules, the Commission has been unable to determine from the record whether a rational basis exists for the rate design.

Although prior legislation requires that the Commission evaluate the rate schedules at issue in this docket to assure conformity with the standards of the Flood Control Act and the Bonneville Project Act, we have indicated in an order issued concurrently with this order [19] that the Commission's review responsibilities have since been limited by Congress under the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act). [20] The Regional Act provides in Section 9(e) for the Ninth Circuit Court of Appeals to review challenges of statutory non-compliance by Bonneville relating to issues of rate design and cost allocation. [21] These new legislative provisions, however, do not alter the Commission's review responsibilities in the present case.

Upon review, the Commission finds that Bonneville's response to the Commission's order is inadequate. Indeed, Bonneville admits in its response that it has not even attempted to respond to the specific concerns raised in the Remand Order except to refer the Commission to the same record that the Commission had previously found to be inadequate. We would therefore be inclined to reject Bonneville's proposed filing solely on the basis of its response. In the information submitted, however, Bonneville did provide the Commission with new technical data relating to estimates of sales, revenues, power resources including purchased power and future load forecasts. Based upon this data and information, it appears that Bonneville's rates and charges, if approved, would provide a sufficient total revenue level to recover its costs. Since we are not convinced yet that no rational basis exists for the specific rate schemes employed by the Administrator, we are unwilling at this time to act in a manner that may unjustly deprive the United States Treasury of amounts that would be sufficient to recover the costs of the United States investment in the Bonneville Project within a reasonable period of time. [22] The acceptablility of the rates, of course, would depend not only upon the adequacy of revenues but also upon whether the Bonneville Administrator can provide the requisite information that would support a finding that the various rate schedules have been designed in accordance with the applicable statutory standards. We shall therefore provide Bonneville with a final opportunity to demonstrate that a rational basis exists for its rate schedules and we shall direct that an informal conference be held on the following rate design and cost allocation issues:

1. The rationale for the development of the H–6 Rate Schedule for wholesale Non-firm Energy which was expected to yield an estimated $89.2 million annually in excess of BPA's costs for providing this service; also, how this rate schedule, which applies to one-way sales to other public utilities, comports with the statutory standard of providing the lowest possible rates to consumers consistent with sound business principles;

2. The rationable for use of a customer avoided cost concept in developing the F–7 Rate Schedule for Wholesale Firm Capacity which was expected to result in annual revenues which were $2.3 million in excess of costs; how the avoided cost concept comports with statutory standards; how a penalty charge for extended capacity used longer than 6 hours will achieve the effect proffered as the basis for the rate design;

3.The extent to which the IF–2 Rate Schedule for Industrial Firm Power, which provides an "availability credit" for interruptible service, was set at a level which reflects an appropriate sharing of benefits of these sales between the system firm and the system interruptible customer classes;

The rationale for elimination of the practice of providing discounts to wholesale firm customers based on the voltage at delivery point in light of the fact that some customers have relied upon BPA's past practice and have purchased their own transformation facilities.

Based on the outcome of the informal conference, the Commission will take appropriate action in confirming and approving, or disapproving, Bonneville's rates.

Other Issues

With respect to Bonneville's policy of repaying highest interest first, Bonneville is correct in noting that subsequent comments of the Commission in other cases would obviate the need for any further discussion by Bonneville of its repayment practice. [23] While the Commission is still concerned with this repayment methodology, in exercising our review function, we are not prepared to conclude that no rational basis exists for this practice.

With respect to Bonneville's failure to address alleged contractual violations raised by the parties, the Commission had noted in its Remand Order that the remand provided an opportunity for the Assistant Secretary, if she so desired, to consider the various contractual claims raised by the parties. We do not view the failure of Bonneville's response to address this matter, however, as a defect in its response. We therefore decline to reject or remand the rates on this basis.

As to the intervenors' request for a hearing, we have previously noted that the Commission views its role as essentially appellate in nature. We shall therefore deny the petitioners's requests for a hearing at this time. This, of course, would not preclude us from ordering a hearing should the appropriate circumstances arise.

Finally, we find that participation of the parties who have filed requests for intervention in this docket is in the public interest. Their petitions therefore will be granted.

The Commission orders

(A) Within forty-five (45) days of the date of this order an informal conference of all parties to this proceeding shall be convened to discuss the matters raised in this order. The Commission's staff shall arrange such conference and make a recommendation to the Commission within thirty (30) days following the conference regarding further Commission action on this matter.

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[17] *Id.* at 683 (emphasis in original).

[18] *Id.*

[19] *Bonneville Power Administration*, "Order Resolving Scope of Commission's Jurisdiction, Granting Intervention, and Establishing Further Procedures," Docket Nos. EF81–2014–000 and EF81–2021–000, issued August—, 1982.

[20] 16 U.S.C. 839, Pub. L. 96–501.

[21] The Commission, however, would still retain review responsibilities over rates for non-firm sales outside the Pacific Northwest, but within the United States. *See*, 16 U.S.C. 839(e).

[22] *See* 16 U.S.C. 825s.

[23] *See Southeastern Power Administration*, Docket No. EF79–3021, 14 FERC ¶ 61,197 (February, 1981).

(B) The petitions to intervene filed in this docket are hereby granted subject to the Commission's Rules of Practice and Procedure; *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 shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(C) The Northwest Private Utilities' motion to disapprove Bonneville's rates and direct a refund for Bonneville's refusal to comply with the remand order is denied without prejudice.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission. Commissioner Hughes dissented with a separate statement attached.

Kenneth F. Plumb,

Secretary.

Docket No. EF80–2011 (Remand), Secretary of Energy, Bonneville Power Administration.

Issued: September 1, 1982.

Hughes, Commissioner, *concurring* in part, *dissenting* in part:

I am in agreement with the Commission's order on all substantive points. I part from my colleagues only on the question of what procedural course we should follow to obtain Bonneville's compliance with the statutory standards we have set out in this and prior orders.

The sense of my colleagues is that Bonneville will respond to an informal conference and that such discussion will clear away the remaining differences and lead Bonneville to submit a filing we can approve.

While I hope their judgment proves correct, I am less optimistic than they are. Were this a case where our elucidation of the applicable statutes left reasonable room for doubt, or if I detected an inability to satisfy our standards despite diligent efforts, I might be disposed to make another informal effort to resolve this matter.

Unfortunately, I do not so perceive the case. We have made clear our view of the standards by which we must evaluate Bonneville's rates. Our staff has had no success in informal attempts to secure Bonneville's cooperation. To me, the time is now ripe to set this issue for hearing. A prehearing conference conducted by an administrative law judge would provide the same opportunity to resolve disputed matters as the informal conference my colleagues prefer, and the matter could then be terminated with no additional procedures. On the other hand, if the informal conference does not lead to a full resolution, the Commission will be obliged to again reconsider this matter and will no doubt then order a hearing. At the cost of many months of additional delay, we would then reach the same point I would reach today.

J. David Hughes,

Commissioner.

Attachment

Bonneville Power Administration
Docket No. EF80–2011–000

Public Utilities Commission of the State of California
Portland General Electric Company
Pacific Power and Light Company
Puget Sound Power and Light Company
Anaconda Aluminum Company
Montana Power Company
Public Generating Pool
Direct Service Industrial Customers
Public Service Department of the City of Burbank,
Public Service Department of the City of Glendale,
The Department of Water & Power of the City of Los Angeles,
The Pacific Gas & Electric Company
The Water & Power Department of the City of Pasadena, and
The Southern California Edison Company
Idaho Power Company
Public Utility Commissioner of Oregon
Public Power Council
Washington Water Power Company

[FR Doc. 82–24956 Filed 9–10–82; 8:45 am]

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[Docket Nos. EF81–2011–000 and EF81–2021–000]

Secretary of Energy, Bonneville Power Administration; Order Resolving Scope of Commission's Jurisdiction, Granting Intervention, and Establishing Further Procedures

Issued: September 1, 1982.

On January 19, 1982, the Commission issued in these dockets an "Order Directing the Submittal of Briefs on Jurisdictional Issues." [1] Our order was prompted by our concerns as to whether, in light of the enactment of the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Regional Act),[2] we were still authorized to review issues relating to rate design and interclass allocation of costs with respect to rates and charges developed by the Bonneville Power Administrator and submitted to the Commission for final confirmation and approval.

Prior to passage of the Regional Act, the Commission's review responsibilities were conducted under the authority of the Bonneville Project Act of 1937,[3] the Flood Control Act of 1944,[4] the Federal Columbia River Transmission System Act,[5] and the Department of Energy Organization Act,[6] by virtue of the U.S. Secretary of Energy's Delegation Order No. 0204–33.[7] The standards delineated in these statutes required the Commission to assure, not only that the overall revenues to be generated by the rates would recover BPA's capital investment allocated to electric power, but also that the various components of BPA's overall pricing scheme met the tests set forth in the applicable Power Marketing Acts. In the various pleadings and petitions to intervene filed in this docket, many parties raised questions as to whether and to what extent the Commission's review authority may have been altered by the standards set forth for Commission review in section 7(a)(2) of the Regional Act. Because of the widespread public interest in this question and because of the conflicts of interpretation raised regarding the scope of its authority, the Commission, on January 19, 1982, invited all interested parties to this proceeding to submit Initial and Reply briefs on the extent of the Commission's authority under the Regional Act.

In response to the Commission's order, ten initial briefs [8] and six reply briefs [9] were received. On July 1, 1982, the Honorable James McClure, Chairman of the U.S. Senate Committee on Energy and Natural Resources, submitted a letter to the Commission expressing his views on the Commission's responsibilities under the Regional Act. On August 9, 1982, the Honorable Mark Hatfield, Chairman of the U.S. Senate Subcommittee on Energy and Water Development, also submitted a letter to the Commission expressing his views on this matter. The briefs filed by ICP, CPUC, PGP, California Utilities, the Low Density Systems, the Public Utility Commission of Oregon, and St. Regis generally take the position that the Commission's review authority has not been circumscribed by the Regional

[1] *Bonneville Power Administration,* 18 FERC ¶61,037.

[2] Pub. L. 96–501, 16 U.S.C. 839.

[3] 16 U.S.C. 832.

[4] 16 U.S.C. 825.

[5] 16 U.S.C. 838.

[6] Pub. L. 95–91, August 4, 1977 as amended.

[7] 43 FR 60636 (Dec. 28, 1978).

[8] Briefs were submitted by Intercompany Pool (ICP); Public Generating Pool (PGP); Public Utility Commission of California (CPUC); Public Utility Commission of Oregon; St. Regis Paper Co. (St. Regis); Pacific Gas and Electric Co., Southern California Edison Co. and the Los Angeles Department of Water and Power (California Utilities); Vigilante Electric Coop., *et al.* (Low Density Customers); Bonneville Power Administration; Direct Service Industrial Customers and Anaconda Aluminum Co. (DSI's), and Public Power Council (PPC).

[9] PGP, California Energy Commission, CPUC, ICP, BPA, and the DSI's.

Act. These parties state that the Commission's review authority is not limited by Section 7(a)(2) of the Act, to be discussed, *infra*, to that of making findings relating to overall cost recovery. The parties indicate that, to the contrary, the Commission is still permitted to inquire into issues of rate design and cost allocation.

Senator McClure, Senator Hatfield, the Bonneville Power Administrator, the DSI's and PPC, on the other hand, generally indicate their belief that the Commission has no authority under the Regional Act to address questions of rate design and cost allocation, but rather has authority only to review the adequacy of Bonneville's total system costs in relation to its overall rates. These parties state that, under the Regional Act, the Commission would be precluded from investigating the cost-revenue relationships of rate schedules for each class of customers, except for the mandatory statutory protection provided to non-regional power customers under section 7(k) and to BPA's transmission service customers.

The Commission has reviewed the comments, briefs and pleadings of the parties and has also reviewed the language and legislative history of the Act. In light of our review, the Commission finds that, with respect to rates other than the non-firm export rates, the Regional Act was intended to limit the Commission to the three findings delineated in section 7(a)(2) of the Act.

The Commission's role in the BPA ratemaking process is set forth in section 7(a)(2), 7(i)(6) and, with respect to the non-regional, non-firm customers, in Section 7(k) of the Regional Act.

Section 7(a)(2) of the Act states that, except as otherwise provided for the non-firm, non-regional customers, all BPA rates are to be confirmed and approved by the FERC upon a finding that such rates:

(A) Are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs;

(B) Are based upon the Administrator's total system costs; and

(C) Insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system.[10]

Most of the parties who submitted briefs interpreting the above statutory language cite to portions of the legislative history to support their positions regarding the Commission's review authority. Our review of the legislative history however, only points out its ambiguous nature.[11] Nevertheless, we find that the legislative history of the Act as well as the statutory framework itself is more persuasive in favor of a more limited ratemaking role under the Act than many of the parties would have the Commission assert.

Section 7(a) of the Regional Act separates the BPA ratemaking and review process between the Administrator and the Commission. Section 7(a)(1) is addressed to the Administrator and establishes the basic ratemaking directives to be applied. The Administrator is required to establish rates consistent with the Federal Columbia River Transmission System Act, the Flood Control Act of 1944, and the provisions of the Regional Act.

In contrast, section 7(a)(2) is addressed to the Commission. This section states that rates established by the Administrator shall become effective upon confirmation and approval by the Commission upon a finding that they meet the three-part test established therein. The Commission's review function is thus limited to the specific findings in subsections 7(a)(2) (A), (B), and (C). Once the Commission makes these three findings, the rates are to become effective on a final basis.

Furthermore, a comparison of section 7(a) of the Regional Act with sections 7(i)(6) and 7(k) would support this view. Section 7(i) contains the procedural steps which the Administrator must take in order to establish rates. Subsection 7(i)(6) specifically makes reference only to subsection 7(a)(2) in discussing the Commission's role in confirming and approving Bonneville rates. This indicates that Congress intended to limit Commission review to the specific findings in section 7(a)(2) of the Regional Act.

The provisions of section 7(k) similarly indicate a Congressional intent to limit Commission review over regional rates. When providing for Commission review of non-firm export rates under section 7(k), Congress specifically incorporated the review standards of the Bonneville Project Act, Flood Control Act of 1944, and Federal Columbia River Transmission System Act. Such incorporation in Section 7(k) demonstrates that Congress knew how to provide for broad Commission review authority for non-firm export rates and chose not to do so for section 7(a) rates.

We believe that the above statutory construction is in harmony with the intent of Congress. In writing the Regional Act, Congress provided for a detailed ratemaking procedure for the Administrator in subsection 7(i) of the Act to ensure that the Administrator would develop and establish regional rates fully recognizing the concerns and impact of the rates on the customers and people of the region. The Act recognizes that BPA, as an agency with ratemaking expertse of its own, would be responsible for establishing rates for its regional customers in light of its understanding of the needs of the region. Accordingly, the Act provided Bonneville with the relatively unfettered discretion to design rates and distinguish among its customer classes in the region within the bounds of the Act. The Act also provided, in Section 9(e), for the Ninth Circuit Court of Appeals to be the forum in which to challenge any statutory violations by Bonneville relating to issues of rate design and cost allocation. Thus, with respect to regional rates, the Commission's function is to assure that Bonneville's overall rates recover its system costs, but not more than its system costs.

On the other hand, Congress established a separate subsection 7(k) to give the Commission authority to review the Administrator's rates for non-firm sales outside the Pacific Northwest, but within the United States. Section 7(k) was intended to be a unique check on the Administrator's ability to set non-firm rates outside the Pacific Northwest Region in order to assure that the Administrator complies with the pre-existing statutory obligations in designing such rates. This review authority was established as a special check on the Administrator's development of rates in an area outside his normal area of interest. We therefore find that the Regional Act was not intended to limit our review authority with respect to rates established for the sale of non-firm electric power within the United States, but outside the Pacific Northwest region.

In light of the above interpretation of the Act, and in light of our resolution of these outstanding jurisdictional issues, the Commission finds it appropriate to reinstitute the procedural schedule suspended in our January 1982 order. The Commission shall therefore order that a date for cross-comments be

[10] Section 7(a)(2) of the Regional Act; 16 U.S.C. 839(a)(2).

[11] Indeed, the ambiguous nature of the legislative history was recently noted by the Ninth Circuit Court of Appeals: It is unfortunate that the legislative history fails to give a clearer indication of Congressional intent. The inconsistent character of the legislative history is reflected several places in the Act, leading inevitably to burdensome resort to the courts for interpretation. *Central Lincoln Peoples' Utility District* v. *Johson*, 673 F.2d 1076, —— (9th Cir., 1982).

reestablished. The Commission would also request that the parties specifically delineate in their cross-comments any and all issues that they feel should be properly set for hearing under Section 7(k) of the Act, in light of the Commission's interpretation of the Act set forth above.

The Commission finds that the participation of the parties who have filed requests for intervention in these dockets [12] is in the public interest. Their petitions will therefore be granted.

The Commission Orders

(A) The petitions to intervene filed in this docket are hereby granted subject to the Commission's Rules of Practice and Procedure; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their pleadings and *provided further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(B) Within thirty (30) days of issuance of this order, all parties who wish to do so shall file cross-comments consistent with this order.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

Bonneville Power Administration
Docket Nos. EF81-2011-000 and EF81-2021-000
St. Regis Paper Company
Public Utility Commissioner of Oregon
Southern California Edison Company
Direct Service Industrial Customers
Puget Sound Power and Light Company
Public Utilities Commission of the State of California
Department of Water and Power of the City of Los Angeles, Public Service Department of the City of Glendale, Public Service Department of the City of Burbank, The Water and Power Department of the City of Pasadena
Washington Utilities and Transportation Commission
Washington Water Power Company
The Montana Power Company
CP National Corporation
Portland General Electric Company
Pacific Power and Light Company
Public Generating Pool
Pacific Gas and Electric Company
Public Utility District No. 1 of Snohomish County, Washington
Public Power Council
Idaho Power Company
Idaho Public Utilities Commission
Utah Power and Light Company
International Paper Company
Anaconda Aluminum Company
Honorable James Weaver
Public Service Commission of Montana
California Energy Commission
Vigilante Electric Cooperative Inc.

[12] *See* Attachment A.

[FR Doc. 82-24957 Filed 9-10-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and as authorized by the Taiwan Relations Act of 1979 (Pub. L. 96-8).

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the following retransfer: RTD/CI(EU)-5, from Belgium to the Institute of Nuclear Energy Research, Taiwan, 10 irradiated fuel rods containing approximately 4,600 grams of uranium enriched to 8.25% in U-235, for post-irradiation examination and subsequent disposal. The material is to be examined in connection with an international cooperative project which addresses a potential safety issue on extended burn-up fuel which has been subjected to either an interruption or a surge of radioactivity.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: September 7, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-24943 Filed 9-10-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59097A; TSH FRL 2206-7]

Terephthalate Polyester Transesterification Product With Dialkylene Glycols and Glycerine; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for test marketing exemption (TM-82-38) under section 5 of the Toxic Substances Control Act (TSCA) on August 4, 1982. Notice of receipt of the application was published in the Federal Register of August 13, 1982 (47 FR 35331). EPA has granted the exemption.

EFFECTIVE DATE: September 1, 1982.

FOR FURTHER INFORMATION CONTACT: Anna Coutlakis, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St., SW., Washington, D.C. 20460 (202-382-3742).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register.** If EPA grants a test marketing

exemption, it may impose restrictions on the test marketing activities.

On August 4, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM–82–38. U.C.T., Inc. claimed the specific chemical identity of the new substance as confidential business information. The generic name of the new substance is terephthalate polyester transesterification product with dialkylene glycols and gylcerine. It will be used in the manufacture of rigid urethane foam. A maximum of 441 kilograms (kg) will be manufactured for test market purposes during a test marketing period not to exceed 45 days. The potential for dermal exposure during manufacture and processing will be to four workers. A notice published in the **Federal Register** of August 13, 1982 (47 FR 35331) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM–82–38, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. No significant health effects or environmental effects were identified for the TME substance. Releases to the environment will be low.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to customers and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity 441 kg described in the test marketing exemption application.

5. The test marketing activity approved in this notice is limited to a period of 45 days commencing on the date of signature of this notice by the Director of the Office of Toxic Substances.

6. The number of workers exposed to the new chemical should not exceed that specified in the application, and the duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: September 1, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82–25044 Filed 9–10–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee)

September 8, 1982.

Main Committee and Working Group Meetings (October 7 and 8, 1982)

Thursday, October 7, 1982

Working Group A: Services, Facilities and U.S. interests
Chairman: William R. Schnicke (202) 863–6691
Time: 9:00 a.m.–12 Noon
Location: Federal Communications Commission, 1200 19th Street, NW., Room 330, Washington, D.C.
Agenda:
(1) Introduction
(2) Sub-Group Progress Reports:
A. WGA–1 Forecasts
B. WGA–2 Facilities & Technology
C. WGA–3 U.S. Interests
(3) Schedule of Future Work
(4) Other Business
(5) Adjournment

Working Group B: Political, Institutional and International Considerations
Chairman: R. F. Stowe (703) 442–5022
Time: 2:00–4:30 p.m.
Location: Federal Communications Commission, 1200 19th Street, NW., Room 330, Washington, D.C.
Agenda:
(1) Introductions
(2) Approval of Agenda
(3) Annoucements
(4) Status Reports from Task Groups
(5) Schedule and Work Assignments
(6) Other Business
(7) Next Meeting
(8) Adjournment

Friday, October 8, 1982

Working Group C: Available U.S. Options and Strategies
Chairman: P. G. Ackerman (213) 648–4134
Time: 9:00 a.m.–12 Noon
Location: Federal Communications Commission, 1919 M Street, NW., Room 856, Washington, D.C.
Agenda:
(1) Review of "Guidance Document for Plenipotentiary Delegation"
(2) Review other Oustanding Documents
(3) Announcements of International Activities
(4) Review of Work Schedule
(5) Work Assignments
(6) Other Business
(7) Next Meeting

Main Committee:
Chairman: S. E. Doyle (916) 355–6941
Time: 1:30–4:30 p.m.
Location: Federal Communications Commission, 1919 M Street, NW., Room 856, Washington, D.C.
Agenda:
(1) Minutes of Last Meeting
(2) Working Group Progress Reports:
A. Working Group A
B. Working Group B
C. Working Group C
(3) Consideration of Establishment of Working Group D—Economic Analysis
(4) Consideration of Informal Advice for ITU Plenipotentiary Conference—1982
(5) Consideration of Future Work Schedule
(6) Adjournment

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–25102 Filed 9–10–82; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 17133; CC Docket No. 82–548]

Inquiry Begun on Direct Access to INTELSAT Space Segment for U.S. International Service Carriers

August 6, 1982.

The Commission has begun an inquiry on granting the U.S. International Service Carriers (USISCs) "direct" access to INTELSAT space segment facilities via Communications Satellite Corporation (Comsat). The USISCs are comprised of American Telephone and Telegraph Company, which provides primarily voice service and the

International Record Carriers (IRCs), which provide primarily data service.

It noted that a number of parties in several recent proceedings have urged that if the Commission permits Comsat to provide international satellite communications services directly to the public (as it has done in a separate order adopted today), the USISCs should be granted a more "direct" form of access to INTELSAT satellite facilities.

These parties maintained that any modification of the Authorized Users policy that would permit Comsat to serve the public directly would place competing international carriers at a disadvantage vis-a-vis Comsat, the monopoly supplier of INTELSAT facilities in the United States. They argued that the international service carriers would not be able to compete on equal financial terms with Comsat unless the FCC (1) authorizes the international carriers either to invest in INTELSAT circuits via Comsat or to acquire long-term, "cost-sharing" leases in these facilities and (2) requires Comsat to offer INTELSAT space segment and associated earth segment facilities under separate tariffs.

The Commission asked for comments specifically on:

—Whether the Commission, as a matter of policy, should require Comsat to provide other firms with some form of "direct" access to INTELSAT space segment;

—The nature and scope of such access; and

—Whether it would be in the public interest to implement a policy of "direct" access even if Comsat does not immediately enter the market to provide international satellite services directly to the public, but remains merely a potential entrant.

The Commission asked parties proposing "cost-based" or "direct economic" access to the INTELSAT space segment to define clearly what they mean by those terms, to explain how such access differs from the access the carriers now have to INTELSAT's facilities and to provide technical, financial and any other information which will enable the Commission's staff to analyze thoroughly the proclaimed benefits to be derived from such access. It also requested Comsat to indicate the magnitude of any adverse financial impact on itselt and INTELSAT that might result from adoption of some form of "direct" access.

It also asked for comments on two alternative access approaches.

Option I: Non-profit "capital lease" of INTELSAT facilities on a "cost-sharing" basis. Comsat would continue making capital investments in INTELSAT; Comsat would unbundle Tariff FCC 101; other carriers would be permitted to lease INTELSAT facilities from Comsat on a cost-pass-through basis; the leasing carriers would be required to pay Comsat a ministerial fee; and the leasing carrier would be solely responsible for acquiring and paying for earth station access. (This option was proposed by the National Telecommunications and Information Administration and RCA Global Communications, Inc.).

Option II: Capital investment interests in INTELSAT space segment under an indefeasible right of use (IRU) arrangement with Comsat. Carriers would be permitted to invest in INTELSAT by paying Comsat for the share of space segment they use; pay Comsat for its share of INTELSAT operating costs; pay Comsat a pro-rata share of its costs and pay for Comsat's use of its corporate facilities in carrying out its functions as U.S. Signatory and those required by the Satellite Act; and acquire and separately pay for earth station access. (This is an alternative option by NTIA).

The FCC also asked for other alternative proposals that would be consistent with its general policy initiatives in the international telecommunications area.

Comments are due by November 15, 1982 and replies by December 15, 1982.

For more information contact Joel Pearlman at (202) 632-4047.

Action by the Commission August 5, 1982, by Notice of Inquiry (FCC 82-374). Commissioners Fowler (Chairman), Quello, Fogarty, Jones, Dawson and Rivera with Commissioner Washburn concurring in the result and issuing a statement.

Note.—Because of the continuing effort to minimize publishing costs, the Notice of Inquiry will not be printed herein. However, copies may be obtained from any of the distribution centers listed in the FCC Office of Public Affairs, Rm. 202, 1919 M St., N.W., Washington, D.C. 20554 (202) 254-7674. A copy is also available for inspection in the FCC Dockets Branch, Rm. 239, and the FCC Library, Rm. 639, both located at 1919 M St., N.W.

William J. Tricarico,

Secretary, Federal Communications Commission.

August 5, 1982.

Concurring Statement of Commissioner Abbott Washburn

Common Carrier Item #4, August 5, 1982 NOI on proposals to allow U.S. international service carriers "direct economic access" to the INTELSAT space segment.

I have a number of reservations about this item but am nevertheless concurring in it since it is an open-ended Notice of Inquiry which does no more than seek additional information without stating a Commission position.

In my view there is a serious legal question as to whether the Communications Satellite Act of 1962 and the INTELSAT Definitive Arrangements negotiated in 1969-71 can be construed to allow capital investment in the INTELSAT space segment by any but the legally designated U.S. entity, Comsat, as Signatory. A proliferation of investing non-signatories was never envisioned.

Any serious prospect of multiple U.S. voices in the INTELSAT Board of Governors (where we are today the largest stockholder with 24% of the total investment) would be a cause of grave concern to the other 106 member countries. Would this disruption of an extraordinarily successful and useful international body be offset by possible benefits of "direct economic access"? I doubt it.

The two suggested methods of non-signatory investment—cost-sharing leases and IRU interests in half-circuits—offer no more than ephemeral advantages to the public, in their present skeletal forms. We are given no evidence or explanation of how they might might result in better service and/or lower prices to end-users. Indeed, for the rate-payers, the implicit problem of double rate-basing could mean *higher* rates.

Without question this Inquiry ventures onto delicate ground. It is likely to be interpreted by some as the first step toward "tampering" with an organization that is serving the entire world well.[1]

New language for paragraph 21 was added this morning which allays somewhat my reluctance to concur in the item—language giving assurance that there is no intention of altering the key role of the U.S. Signatory.

[FR Doc. 82-25103 Filed 9-10-82; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 17156; PR Docket No. 82-594]

Inquiry Begun on International Maritime Safety System Recommendations

August 27, 1982.

The Commission has begun an inquiry to inform the public and solicit comments on maritime safety telecommunications actions under consideration by the Maritime Safety Committee (MSC) and Subcommittee on Radiocommunications of the Inter-Governmental Maritime Consultative Organization, of which the United States is a member.

The Subcommittee on Radiocommunications met in March 1982 to give further consideration to the Future Global Maritime Distress and Safety System and other matters. Draft recommendations approved by the

[1] INTELSAT today handles two-thirds of the world's international telecommunications and virtually all overseas television.

Subcommittee are forwarded to the MSC. Under the 1974 Safety of Life at Sea (SOLAS) Convention, amendments approved by the MSC come into force after a prescribed period, usually two years.

The Future Global System is expected to become fully operationall about 1990. It will replace the existing distress communications system, which relies primarily on ship-to-ship alerting, using Morse code. While retaining ship-to-ship alerting for distances up to about 100 miles, it will rely primarily on ship-to-shore distress alerting, using polar-orbiting satellites, geostationary satellites and high frequency terrestrial systems employing digital selective calling.

The Subcommittee desires to finalize safety and distress communications equipment carriage requirements at its December 1982 meeting. Proposed requirements vary according to the area in which a vessel operates.

The Subcommittee also will consider whether the minimum tonnage at which the equipment carriage requirements will apply should be 300 tons. The U.S. proposal for a 1,600-ton minimum did not receive support at the March meeting. A plan for transition to the Future Global System also is under consideration.

Other recommendations to be considered at the December meeting include performance standards for VHF dual channel watch facilities and for narrow-band direct-printing telegraph equipment, required communications operator functions, environmental conditions for shipboard earth stations recommended by the International Maritime Satellite Organization (INMARSAT) and matters relating to the 1983 World Administrative Radio Conference (WARC) on Mobile Radio.

Comments are due by October 12, 1982 and replies by October 27, 1982. Persons wishing to participate in the preparation of U.S. positions may attend meetings of the U.S. Working Group, which are open to the public.

For further information contact Robert McIntyre, (202) 632-7175.

Action by the Commission August 23, 1982, by Notice of Inquiry (FCC 82-395). Commissioners Fowler (Chairman), Quello, Washburn, Fogarty, Jones, Dawson and Rivera.

Note.—Because of the continuing effort to minimize publishing costs, the Notice of Inquiry will not be printed herein. However, copies may be obtained from any of the distribution centers listed in the FCC Office of Public Affairs, Rm. 202, 1919 M St., N.W., Washington, D.C. 20554, (202) 254-7674. A copy is also available for inspection in the FCC Dockets Branch, Rm. 239, and the FCC Library, Rm. 639, both located at 1919 M St., N.W.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-25041 Filed 9-10-82; 8:45 am]

BILLING CODE 6712-01-M

[Docket No. CC 81-351; Transmittal No. 13663]

American Telephone and Telegraph Co.; Revisions To Tariff FCC Nos. 258 and 260, and the Establishment of Tariff FCC No. 269, for Series 7000 Terrestrial Television Transmission Services

Order

Adopted: August 27, 1982.

Released: August 31, 1982.

1. Before the Bureau is a letter of August 26, 1982, from counsel to American Broadcasting Companies, Inc., CBS, Inc., and National Broadcasting Company, Inc. (Networks) requesting deferral of the date for comments in this proceeding from September 2, 1982 to October 21, 1982. In support, the Networks state that negotiations among principal customers have commenced, looking toward a settlement acceptable to the parties, American Telephone and Telegraph Company (AT&T), and the Commission. Thus, the postponement is necessary to allow parties an opportunity to concentrate on negotiations thereby enhancing their chances for success. The Networks state that AT&T and Cable News Network pose no objection to this deferral.

2. We agree that efforts to negotiate a settlement may ultimately be conducive to resolving the issues in this proceeding in an expeditious manner and freeing Commission resources for other tasks. Consequently, we will grant the request.[1]

3. Accordingly, it is ordered that the date for filing comments by interested parties in this proceeding on the answers to questions, illustrative tariff, and customer impact statement submitted by the American Telephone and Telegraph Company on July 19, 1982, is deferred to not later than October 21, 1982.

4. It is further ordered that the Secretary will cause this Order to be published in the **Federal Register.**

5. It is further ordered that this Order is effective upon adoption.

Federal Communications Commission.

Leon M. Kestenbaum,

Deputy Bureau Chief, Policy Common Carrier Bureau.

[FR Doc. 82-25035 Filed 9-10-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Also before the Bureau is a Joint Motion for Additional Clarification and Extension of Time filed August 18, 1982, by the Networks and other parties. In their letters, the Networks, with the concurrence of other movants, request withdrawal of the motion, without prejudice, should the Commission defer the filing date. Since we grant this request for deferral, we allow withdrawal of the motion, without prejudice.

[BC Docket No. 82-612; File No. BP-810206AM, etc.]

Family Group Enterprises, Inc., et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Family Group Enterprises, Inc., KIKR, Conroe, Texas, Has: 900 kHz, 500 W, DA-D, Req: 880 kHz, 500 W, 10 kW-LS, DA-2, U; BC Docket No. 82-612, File No. BP-810206AM; Red River Radio, Inc., Bossier City-Shreveport, Louisiana, Req: 880 kHz, 5 kW, 10 kW-LS, DA-2, U; BC Docket No. 82-613, File No. BP-810309AK; and Madison County Radio, Inc., Madisonville, Texas, Req: 880 kHz, 500 W, 5 kW-LS, DA-2, U BC Docket No. 82-614, file No. BP-810526AD, For Construction Permit.

Hearing Designation Order

Adopted: August 16, 1982.

Released: September 3, 1982.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration: (a) The three above-captioned mutually exclusive applications for AM broadcast stations; (b) a petition to specify issue filed by Loyola University, licensee of AM station WWL, New Orleans, Louisiana, (Loyola) against Family Group Enterprises, Inc. (Family); (c) a petition to designate for hearing and to specify issues filed by Loyola against Madison County Radio, Inc. (Madison);[1] (d) a motion to return as unacceptable for filing, filed by Family against Red River Radio, Inc. (Red River); (e) a petition to deny Red River's application filed by Mid America Media Company, licensee of AM station KOKA, Shreveport, Louisiana; (f) a request for waiver of Section 73.21 of the Commission's Rules filed by Red River; and (g) related pleadings.[2]

[1] While styled petitions to enlarge issues, Loyola's pleadings are in fact, informal objections (Section 73.3587 of our Rules), the licensee lacking standing to file either a petition to deny at this stage of the proceeding or a petition to enlarge issues after designation.

[2] Family Group's motion to strike and admonish is an unauthorized pleading which will be dismissed as such.

2. *The Loyola Petitions:* Loyola contends that the Commission's primary objective in *Clear Channel Broadcasting in the AM Broadcast Band*, 78 FCC 2d 1345 *recon. granted in part and denied in part*, 83 FCC 2d 216 (1981), *aff'd sub-nom Loyola University* v. *FCC*, 670 F 2d 1222 (D.C. Cir. 1982), was to foster minority ownership of broadcast facilities. Therefore, Loyola requests that an issue be specified to explore whether the grant of these non-minority owned applications would preclude potential minority-owned facilities in the future. We must reject Loyola's argument. While the fostering of minority ownership was one of our goals in "breaking up" the U.S. Class I–A clear channels for new facilities, it was not our only goal. Service to unserved and underserved areas, first and second local service and non-commercial service were also to be encouraged. Loyola's argument to the contrary notwithstanding, *Clear Channel Broadcasting in the AM Broadcast Band, supra*, does not place a higher priority on one objective than on the others.

3. *Red River's Waiver Request:* Because Family's motion to return Red River's application as unacceptable for filing and KOKA's petition to deny are related to Red River's waiver request, they will be considered together. Both Family and KOKA[3] note that § 73.21(a)(2)(ii)(C) limits new Class II–B stations on the clear channels to a nighttime power of one kilowatt, except where substantial white area service would be provided. Red River has proposed 5 kilowatts nighttime power and, therefore, requests waiver of the rule. In support of its waiver request, Red River argues that it is minority owned, will bring Bossier City its first local broadcast service, will provide the second local fulltime broadcast service to Shreveport's black community, and will offer "a first and only nighttime service to the black community in the outlying parishes of Northern Louisiana." Family's motion, filed previous to Red River's request for waiver, seeks return of the application, while KOKA argues that Red River has not met its burden of supporting its request for waiver and should therefore be limited to the lower power kilowatt.

4. The Commission has adopted a strict standard for waiver requests of this nature. Thus waivers will be granted only upon a showing that the higher power proposed is necessary to provide principal city service and will not impede our allocation objectives; an applicant may meet the latter by showing either that the higher power would not preclude other possible co-channel, unlimited-time class II assignments, or that the improved principal-city service entailed by the higher power clearly outweighs any potential service tht might be precluded. As Red River's showing does not address either of these questions a waiver issue will be specified.

5. Red River proposes to be licensed to serve both Bossier City and Shreveport, Louisiana. Section 73.1120(b) provides that AM stations will be licensed to serve more than one community or other political subdivision only where a satisfactory showing is made:

(1) That each such place meets all requirements of Section 73.1125 with respect to the location of main studios;

(2) That the station can and will originate a substantial number of local live programs from each place; and

(3) That the requirements as to origination of programs in Section 73.1130 would place an unreasonable burden on the station if it were licensed to serve only one community or other political subdivision.

Since Red River proposes studios in both cities and local live programming originating in both studios, it has satisfied the showing required by § 73.1120(b) (1) and (2). However, the applicant has made no showing as to subsection (b)(3): that single city licensing would place an unreasonable burden on the applicant. See *Lake Shore Broadcasting Co., Inc.*, 34 FCC 395 (Rev. Bd. 1963). Therefore, an approriate issue will be specified.

6. *Local Notice:* Family's local notice of the filing of its application did not include a description of its proposed antenna system nor the location of its new transmitter site as required by Section 73.3580 of the Rules. Red River's local notice did not identify the class of station, location of proposed transmitter or antenna height. We have no evidence that Madison gave any local notice of its application. Accordingly, we will require (1) Family and Red River to republish local notice; (2) Madison to demonstrate that it has published; and (3) all three to certify to the presiding Administrative Law Judge that compliance with the rules has been accomplished.

7. *Other Matters:* The Family and Red River proposals, although for different communities, would serve substantial common areas. Consequently, in addition to an issue to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will be specified.

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed.[4] However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

9. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:[5]

2. To determine with respect to the application of Red River Radio, Inc. whether circumstances exist which warrant waiver of § 73.21(a)(2)(ii)(C) of the Commission's Rules.

3. To determine with respect to the application of Red River Radio, Inc. whether the dual-city license proposed is justified under the provisions of § 73.1120(b) of the Commission's rules.

4. To determine the areas and population which would receive primary service from each proposal and the availability of other primary aural service to such areas and populations.

5. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

6. To determine, in the event it be concluded that a choice between the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

7. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

10. It is further ordered, That the petition to specify issues and the petition to designate for hearing and specify issues filed by Loyola University, are denied.

11. It is further ordered, That the motion to return as unacceptable for filing filed by Family Group Enterprises, Inc. and the petition to deny filed by

[3] KOKA has standing to file a petition to deny as a potential economic competitor. See *FCC* v. *Sanders Brothers Radio Station*, 309 U.S. 470 (1940).

[4] Operation with the facilities specified herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

[5] For issue number 1 see attached appendix.

Mid-America Media Company, are granted to the extent indicated above and are denied in all other respects and that Mid-America Media Company is made a party to the proceeding.

12. It is further ordered, That Madison County Radio, Inc. shall publish notice of the filing of its applications and that Family Group Enterprises, Inc. and Red River Radio, Inc. shall publish corrected notices of their applications in accordance with § 73.3580 of the Commission's Rules (if they have not already done so), and shall file statements of publication with the presiding Administrative Law Judge within 40 days after this order is published in the **Federal Register.**

13. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

14. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of designation for hearing as prescribed in the rule, and shall advise the Commission of the publication of their notices as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

Appendix

The Commission has not yet received Federal Aviation Administration clearance for the antenna tower(s) proposed by the below listed applicant(s). Accordingly, It is further ordered, That the following issue is specified:

1. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower height(s) and location(s) proposed by Family Group Enterprises, Inc.

It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

[FR Doc. 82-25043 Filed 9-10-82; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 82-581; File No. 22764-CD-P-(1)-82; etc.]

Gulf Energy Corp., et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re Applications of Gulf Energy Corp., for a construction permit to construct a new station to operate on frequency 454.025 MHz in the Domestic Public Land Mobile Radio Service (DPLMRS) at Milton, Florida, CC Docket No. 82-581, File No. 22764-CD-P-(1)-82; Gulf Mobilphone of Alabama, Inc., for a construction permit to modify the facilities of Station KTS206 to add an additional location and frequencies 454.050 and 454.200 MHz in the DPLMRS at Malbis, Alabama, CC Docket No. 82-582, File No. 23090-CD-P-(2)-82; Radio and Electronics Service Company, Inc. d.b.a. Mobilfone, for a construction permit to modify the facilities of Station KIF649 to add frequency 454.025 MHz in the DPLMRS at Milton, Florida, CC Docket No. 82-583, File No. 23094-CD-P-(1)-82; and Communitronics, Inc., for a construction permit to modify the facilities of Station KLF565 to add frequencies 454.025, 454.050, and 454.200 MHz in the DPLMRS at Perdido, Spanish Fort and Silver Hill, Alabama, CC Docket No. 82-584, File No. 23095-CD-P-(3)-82.

Order Designating Applications for Hearing

Adopted: August 18, 1982.

Released: August 27, 1982.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications of Gulf Energy Corp. (Gulf), Gulf Mobilphone of Alabama, Inc. (GMA), Radio and Electronics Service Company, Inc. d.b.a. Mobilfone (Mobilfone) and Communitronics, Inc. (CI). Gulf proposes to build a new station to operate on frequency 454.025 MHz at Milton, Florida. GMA proposes to modify the facilities of Station KTS206 to add an additional location on frequencies 454.050 and 454.200 MHz at Malbis, Alabama. Mobilfone proposes to modify the facilities of Station KIF 649 to add frequency 454.025 MHz at Milton, Florida. CI proposes to modify the facilities of Station KLF565 to add an additional location to operate on frequencies 454.025, 454.050 and 454.200 MHz at Perdido, Spanish Fort and Silver Hill, Alabama. We find that all of these applicants are legally, technically and otherwise qualified to construct and operate the proposed facilities.

2. These applications are electrically mutually exclusive because they request the use of the same frequencies in the same general area.[1] Accordingly, a comparative hearing will be held to determine which applicant or applicants would better serve the public interest.

3. Accordingly, it is ordered, That pursuant to Section 309 of the Communicaitons Act of 1934, as amended, the applications of Gulf Energy Corp., File No. 22764-CD-P-(1)-82, Gulf Mobilphone of Alabama, Inc., File No. 23090-CD-P-(2)-82, Radio and Electronics Service Company, Inc. d.b.a. Mobilfone, File No. 23094-CD-P-(1)-82 and Communitronics, Inc., File No. 23095-CD-P-(3)-82, are designated for hearing in a consolidated proceeding upon the following issues:

(a) to determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) to determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 39 dBu contours,[2] based upon the standards set forth in Section 22.504(a) of the Commission's Rules,[3] and to determine and compare the relative demand for the proposed services in said areas; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience, and necessity.

4. It is further ordered, that the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

5. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

6. It is further ordered, that the applicants shall written notices of

[1] Gulf, Mobilfone and CI are mutually exclusive on frequency 454.025 MHz, while GMA is mutually exclusive with CI on frequencies 454.050 and 454.200 MHz.

[2] For the purpose of this proceeding, the interference-free area is defined as the area within the 39 dBu contour as calculated from Section 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R-6404, equation 8.

[3] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 39 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in two-way communications service on frequencies in the 450 MHz band. Propagation data set forth in Section 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. (The applicants should consult with the Bureau counsel with the goal of reaching joint technical exhibits.)

appearances under §1.221 of the Commission's Rules within 20 days of the release of this Order.

7. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82-25034 Filed 9-10-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-570; File No. BPH-810423AD, etc]

Hispanic Owners, Inc., et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Hispanic Owners, Inc., Albuquerque, New Mexico, Req: 103.3 MHz, Channel 277, 22.4 kW (H&V), 4110 feet, BC Docket No. 82-570, File No. BPH-810423AD; John Deme, Rio Rancho, New Mexico, Req: 101.7 MHz, Channel 269, 3 kW (H&V), 98 feet, BC Docket No. 82-571, File No. BPH-810730AE; Professional Communications, Inc., Albuquerque, New Mexico, Req: 103.3 MHz, Channel 277, 22.5 kW (H&V), 4162 feet, BC Docket No. 82-572, File No. BPH-810819AO; Loretta Rose Salazar, Albuquerque, New Mexico, Req: 103.3 MHz, Channel 277, 22.4 kW (H&V), 4069 feet, BC Docket No. 82-573, File No. BPH-810819AW; Land of Enchantment Broadcasting Inc., Albuquerque, New Mexico, Req: 103.3 MHz, Channel 277, 21.9 kW (H&V), 4110 feet, BC Docket No. 82-574, File No. BPH-810819AX; Wiskes/Abaris Communications Albuquerque Partnership, Albuquerque, New Mexico, Req: 103.3 MHz, Channel 277, 22.0 kW (H&V), 4140 feet, BC Docket No. 82-575, File No. BPH-810819BM; Southwest Women's Broadcasting, Inc., Rio Rancho, New Mexico, Req: 103.9 MHz, Channel 277, 22.4 kW (H&V), 4100 feet, BC Docket No. 82-576, File No. BPH-810819BQ; Spanish Radio, Inc., Albuquerque, New Mexico, Req: 103.3 MHz, Channel 277, 21.84 kW (H&V), 4107 feet, BC Docket No. 82-577, File No. BPH-810819BW; Sandia Radio, Inc., Albuquerque, New Mexico, Req: 103.3 MHz, Channel 277, 22.4 kW (H&V), 4110 feet, BC Docket No. 82-578, File No. BPH-810819BY; Rio Ranchos Broadcasting, Inc., Rio Rancho, New Mexico, Req: 103.3 MHz, Channel 277, 22.5 kW (H&V), 4070 feet, BC Docket No. 82-579, File No. BPH-810819BZ; Albuquerque FM Broadcasters, Inc., Albuquerque, New Mexico, Req: 103.3 MHz, Channel 277, 22.4 kW (H&V), 4107 feet, BC Docket No. 82-580, File No. BPH-810819CA; CP for New FM Station.

Hearing Designation Order

Adopted: August 18, 1982.

Released: August 25, 1982.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of Hispanic Owners, Inc.; John Deme (Deme); Professional Communications, Inc. (Professional Communications); Loretta Rose Salazar; Land of Enchantment Broadcasting, Inc.; Wiskes/Abaris Communications Albuquerque Partnership; Southwest Women's Broadcasting, Inc. (Southwest Women); Spanish Radio, Inc. (Spanish Radio); Sandia Radio, Inc.; Rio Rancho. Broadcasting, Inc. (Rio Rancho); and Albuquerque FM Broadcasters, Inc. (Albuquerque FM).

2. *Deme.* John Deme seeks to serve Rio Rancho, and, to do so, is specifying Channel 269, a channel that is assigned to Bernallilo, New Mexico. John Deme is doing this under the "10 mile rule", which allows communities within 10 miles of the assigned city to be named by applicants in lieu of the assigned city, § 73.203(b). Similarily, Southwest Women's Broadcasting, Inc. and Rio Rancho Broadcasting, Inc. are applying for Rio Rancho, specifying Channel 277, a channel that is assigned to Albuquerque, New Mexico. Both John Deme and the Channel 277 applicants cannot be granted. Section 73.203(b) states that only one channel may be removed from cities with assignments to serve an unassigned city, not two. Rio Rancho may not receive both Channel 269 and Channel 277. Therefore, the applicants proposing to serve Rio Rancho are mutually exclusive despite the fact that they specify different channels. Thus, John Deme is included in this proceeding.

3. The material submitted in the John Deme, Professional Communications, Spanish Radio, Rio Rancho, and Albuquerque applications does not demonstrate that the applicants are financially qualified. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, these applicants will be given 30 days from the mailing of this Order to review their financial proposals in light of Commission requirements, to make any changes that may be necessary, and if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If any of the applicants cannot make the required certification, they shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcast of East St. Louis, Inc.*, BC Docket No. 82-378.

4. Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. We have no evidence that Professional Communications, Spanish Radio, or Rio Rancho published the required notice. In addition, Southwest Women have failed to include the names of its the officers, directors, and 10% shareholders in its public notice as required by the Rules. To remedy this deficiency, they must publish local notice, if they have not already done so, and so inform the presiding Administrative Law Judge.

5. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

7. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary aural service (1 mV/m or greater) from the proposals and the availability of other primary service to such areas and populations.

2. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

3. To determine, in the event it is concluded that a choice between the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the

foregoing issues, which of the applications should be granted.

8. It is further ordered, That John Deme, Professional Communications Inc., Spanish Radio, Inc., Rio Rancho Broadcasting, Inc., and Albuquerque FM Broadcasters, Inc. shall file financial certifications in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

9. It is further ordered, That Professional Communications, Inc., Southwest Women's Broadcasting, Inc., Spanish Radio, Inc., and Rio Rancho, Inc. shall inform the presiding Administrative Law Judge as to whether they have complied with the public notice requirements of Section 73.3580(f) of the Commission's Rules.

10. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-25038 Filed 9-10-82; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos 82-585, 82-586; File Nos. 23074-CD-P-(4)-22, 23096-CD-P-(1)-82]

Lou Goldstein d.b.a. West Florida Communication and Communitronics; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Lou Goldstein d.b.a. West Florida Communications, for a construction permit for a new station to operate on frequencies 454.075, 454.100, 454.150 and 454.300 MHz in the Domestic Public Land Mobile Radio Service (DPLMRS) at Pensacola, Florida, CC Docket No. 82-585, File No. 23074-CD-P-(4)-82; and Communitronics, Inc., for a construction permit for a new station to operate on frequency 454.100 MHz in the DPLMRS at Pensacola, Florida CC Docket No. 82-586, File No. 23096-CD-P-(1)-82.

Order Designating Applications for Hearing

Adopted: August 18, 1982.

Released: August 27, 1982.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications of Lou Goldstein d.b.a. West Florida Communications (West Florida) and Communitronics, Inc. (CI). West Florida proposes to build a new station to operate on frequencies 454.075, 454.100, 454.150 and 454.300 MHz at Pensacola, Florida. CI proposes to build a new station to operate on frequency 454.100 MHz at Pensacola, Florida.

2. The proposals of West Florida and CI to use frequency 454.100 MHz in the same geographical area are electrically mutually exclusive; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. The West Florida proposals to use frequencies 454.075, 454.150 and 454.300 MHz are not mutually exclusive with any other pending application.

3. We find both applicants to be legally, technically, and otherwise qualified to construct and operate the proposed facilities. We further find that a grant of the request by West Florida to operate on frequencies 454.075, 454.150 and 454.300 MHz will serve the public interest, convenience and necessity.

4. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the application of Lou Goldstein d/b/a West Florida Communications, File No. 23074-CD-P-(4)-82, is granted in part to the extent that the request for frequencies 454.075, 454.150 and 454.300 MHz is granted, and that the application of Communitronics, Inc., File No. 23096-CD-P-(1)-82 and the application of Lou Goldstein d/b/a West Florida Communications, File No No. 23074-CD-P-(4)-82 for use of frequency 454.100 MHz are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 39 dBu contours,[1] based upon the standards set forth in Section 22.504(a) of the Commission's Rules,[2] and to determine and compare the relative demand for the proposed services in said areas; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience, and necessity.

5. It is further ordered, that the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

6. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

7. It is further ordered, that the applicants shall file written notices of appearances under § 1.221 of the Commission's Rules within 20 days of the release date of this Order.

8. The Secretary shall cause a copy of this order to be published in the Federal Register.

William Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82-25039 Filed 9-10-82; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 82-122]

Interconnection Arrangements Between and Among the Domestic and International Record Carriers

Order

Adopted: August 23, 1981.

Released: August 25, 1982.

1. In the Commission's *Interim Order* in this docket, 89 FCC 2d 928 (1982), the Commission recognized that the Record Carrier Competition Act of 1981, (RCCA)[1] "grandfathers" certain contracts for outbound international record traffic. Section 4 of the RCCA provides that "The amendment made in

[1] For the purpose of this proceeding, the interference-free area is defined as the area within the 39 dBu contour as calculated from Section 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R-6404, equation 8.

[2] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 39 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in two-way communications service on frequencies in the 450 MHz band. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. [The applicants should consult with the Bureau counsel with the goal of reaching joint technical exhibits.]

[1] Pub. Law 97-130, 95 Stat. 1687.

section 2 (replacing former Section 222 of the Communications Act) shall not affect the validity of the terms of any otherwise lawful contract relating to the distribution of outbound international record traffic between any domestic record carrier and any international record carrier if such contract was entered into before June 23, 1981." Thus, revised Section 222 does not apply to such "otherwise lawful" contracts. When TRT Telecommunications, Inc. (TRT) attempted to include in its interconnection tariff a May 19, 1980 agreement with Western Union Telegraph Company (Western Union) for transiting or international telex traffic, however, the Commission rejected it. *Rejection Order*, FCC 82-264, released June 11, 1982. It noted that the Second Circuit Court of Appeals had previously held contracts of this sort to be unlawful and had directed the Commission to enter an order to that effect.[2] The Commission concluded that it had no record from which to determine whether it should modify or reverse its 1980 Order in compliance with that mandate. It specifically stated that "We express no view on the ultimate lawfulness or enforceability of the contract pending development of a proper record." *Rejection Order*, p. 16-17, n. 35. The Commission also had stated in its *Interim Order* that where such contracts are grandfathered, they will be included in the calculation for pro rata distribution of inbound record communications services under Section 222 (c)(1)(A)(ii) of the Communications, Act, as revised by the RCCA. 89 FCC 2d at 970.

2. TRT has sought to include the Western Union contract in its interconnection tariff in a number of filings. TRT has requested rejection of Western Union's application to provide international record service or, in the alternative, approval of its contract with Western Union; a stay of the Commission's *Rejection Order* before both the Commission and the D.C. Circuit Court of Appeals; special permission to include this contract in its tariff to be effective at the same time as Western Union's international service tariff; and reconsideration of the *Interim Order's* resolution of these issues. FTC Communications, Inc. also seeks reconsideration of the *Interim Order* on these issues.

3. First, as a procedural matter, we believe that any contracts found to be grandfathered should not be filed as part of a tariff. Section 211 of the Communications Act provides for filing of carrier—carrier contracts apart from the tariff process, 47 U.S.C. 211. The Commission requested interconnection arrangements by record carriers subject to the RCCA to be filed as tariffs, but these were general public offerings of interconnection service to all other record carriers. Tariffing is appropriate for such general offerings, but these contracts would be bilateral agreements applicable solely to the contracting carriers and not subject to unilateral revision by tariff filing or to the requirements of the tariff process. Accordingly, any agreements which are found to be grandfathered should be filed as contracts with the Commission and the carrier should at the same time provide notice of this fact in its appropriate interconnection tariffs.

4. Next, we recognized in the *Rejection Order* that TRT may have a valid preexisting contract with Western Union that would prevail over any contrary tariff provisions. However, we have lacked an adequate basis to determine whether its contract, or any other similar contracts which were previously barred by former Section 222 and the mandate of the Second Circuit, are "otherwise lawful" within the meaning of Section 4 of the RCCA and therefore grandfathered.[3] To resolve this question, we request all carriers who have contracts which they assert are grandfathered under Section 4 of the RCCA to file such contracts with the Commission within 5 days of the release of this Order so that they may be placed on public notice. Interested persons will be allowed twenty days following the publication of these contracts in the Federal Register to address this issue for each contract:

Is the contract subject to Section 4 of the RCCA and is it otherwise lawful within the meaning of that section?

Our inquiry will be limited to the lawfulness of the contract under the Communications Act. Issues of contract law, if any, should properly be decided by a court. Carriers filing contracts will be allowed 10 days to reply to these comments.

5. Finally, we deny TRT's request for special permission to include its agreement with Western Union in its interconnection tariff. Pending completion of this inquiry, we also deny its request for stay of the *Rejection Order*.

6. The Secretary is directed to have this Order printed in the Federal Register.

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 82-25037 Filed 9-10-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 82-591, 82-592; File Nos. BPCT-820104KF, BPCT-820315KK]

Stephens County Broadcasting Co. and Millard V. Oakley; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: August 16, 1982.

Released: August 27, 1982.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above mutually exclusive applications of Stephens County Broadcasting Company (Stephens) and Millard V. Oakley for authority to construct a new commercial television station on Channel 32, Toccoa, Georgia.[1]

Stephens County Broadcasting Company

2. The material submitted in the application does not demonstrate the applicant's financial qualifications. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of mailing of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378 (released July 15, 1982).

3. Section 73.636(a)(1) of the Commission's Rules sets forth a policy against granting a television construction permit to-an applicant with principals who, directly or indirectly,

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[2] ITT World Communications, Inc. v. F.C.C., 635 F.2d 45 (2d Cir. 1980). The Commission complied with this mandate in Western Union Telegraph Co., 84 F.C.C. 2d 150 (1980).

[3] The issue of whether the pro rata return flow provisions of section 222(c)(i)(ii)(A)(ii) of the Act, as amended by the RCCA, should apply to such contracts has already been raised in the petitions for reconsideration and further comment on this issue does not appear necessary.

[1] Stephens filed a petition to Dismiss or Deny against Millard V. Oakley. The petition is, in essence, a pre-designation petition to specify issues. Since such petitions are no longer permitted, it will be dismissed. *Processing of Contested Broadcasting Applications*, 72 FCC 2d 202 (1979).

own, operate, or control a radio station licensed to a community which is completely encompassed by the predicted Grade A contour of their proposed television station. Note 8 exempts UHF applicants from the blanket prohibition of § 73.636(a)(1) and, instead, requires case-by-case analysis to determine whether common ownership, operation, or control of the station in question would be in the public interest. Stephens states that Roy E. Gaines, a director and 50.25 percent stockholder of the applicant, is also 100 percent owner of WNEG(AM), Toccoa, Georgia. Since Stephens' proposed Grade A contour would envelop Toccoa, a "one-toa-market" issue will be designated.

Millard V. Oakley

4. No determination has been reached that the tower height and location proposed by Millard V. Oakley would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Stephens:

(a) Whether common ownership, operation and control of station WNEG(AM) and Stephens County Broadcasting Company's proposed television station would be in the public interest.

(b) Whether, in light of the evidence adduced pursuant (a) above, applicant is qualified.

2. To determine with respect to Millard V. Oakley whether there is a reasonable possibility that the tower height and location proposed by applicant would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That Stephens County Broadcasting Company shall submit a financial certification in the form required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

8. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with regard to issue 2.

9. It is further ordered, That the petition to Dismiss or Deny filed by Stephens County Broadcasting Company against Millard V. Oakley is dismissed.

10. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-25040 Filed 9-10-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-604; File No. BPCT-820201KI, etc.]

Vine & Branch, Inc., et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Vine & Branch, Inc., Roanoke, Virginia, BC Docket No. 82-604, File No. BPCT-820201KI; Roanoke Family Television, Ltd., Roanoke, Virginia, BC Docket No. 82-605, File No. BPCT-820415KE; Telecommunications Partners, Ltd., Roanoke, Virginia, BC Docket No. 82-606, File No. BPCT-820415KL; Roanoke Media 38, Ltd., Roanoke, Virginia, BC Docket No. 82-607, File No. BPCT-820416KF; for construction permit, for a new television station.

Hearing Designation Order

Adopted: August 20, 1982.

Released: September 2, 1982.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Vine & Branch, Inc., Roanoke Family Television, Ltd., Telecommunications Partners, Ltd., and Roanoke Media 38, Ltd., for a new commercial television station to operate on Channel 38, Roanoke, Virginia.

2. No determination has been reached that the tower height and location proposed in each of the above-captioned applications would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

3. In its application, Vine & Branch, Inc. lists Evangel Foursquare Church as its sole stockholder. A resolution passed by the Church Council was filed on June 7, 1982, as part of an amendment to this application. The resolution authorized Reverend C. Kenneth Wright, Pastor of Evangel Foursquare Church, to make "all policy decisions involving Vine & Branch's television application and * * * shall determine and administer all business, management, and policy decisions * * * with respect to the operation of its proposed television facility * * *" Further, the resolution permits Reverend Wright to consult with the Church Council "at his disposal" and limits the Church Council's authority to that of "an advisory panel" whose recommendations are not binding upon Reverend Wright, who, in turn, votes all shares of Vine & Branch, Inc. owned by the church.

4. We believe that this resolution is tantamount to abandonment of responsibility and control of the applicant. It appears that Reverend Wright, and not the applicant, would exercise the prerogatives of a licensee and would bear the obligations and responsibilities. We do not believe that this result was intended and, as it stands, the resolution is not acceptable. Consequently, the applicant will be afforded an opportunity to rescind the resolution and file the recission as an amendment to its application within 20 days of the mailing of this Order. A failure or refusal to file such an amendment would be construed as an affirmation of the intention to abandon the application. The inescapable inference would be that Vine & Branch was unwilling to discharge the obligations and responsibilities of a licensee. Accordingly, if no such amendment is filed within the time specified, the Administrative Law Judge shall dismiss the application for failure to prosecute.

Conclusion and Order

5. The applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, however, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Vine & Branch, Inc., Roanoke Family Television, Ltd., Telecommunications Partners, Ltd., and Roanoke Media 38, Ltd., whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That Vine & Branch, Inc. shall file with the presiding Administrative Law Judge within 20 days of the mailing of this Order, an amendment rescinding the resolution of the Evangel Foursquare Church Council submitted with the June 7, 1982 amendment to the Vine & Branch, Inc. application.

8. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

9. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

10. It is further ordered, That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Bureau.

[FR Doc. 82-25038 Filed 9-10-82; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1376]

Petitions for Reconsideration of Actions in Rule Making Proceedings

September 3, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Appomattox and Farmville, Virginia) (BC Docket No. 80-494, RM's 3597 & 3754).

Filed By: Richard Hildreth & Robert L. Pettit, Attorneys for HTB, Inc., (WTTX-AM-FM), on 8-20-82. Wilbur M. Vitols & Jonathan G. Hall for Genesis Communications, Inc., on 8-20-82.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-25042 Filed 9-10-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; Federal Reserve Bank of Atlanta

The companies listed in this notice have 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 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 Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Alabama Bancshares, Inc.,* Montgomery, Alabama; to acquire 100 percent of the voting shares of South Baldwin Bank, Foley, Alabama. Comments on this application must be received not later than October 3, 1982.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *United Missouri Bancshares, Inc.,* Kansas City, Missouri; to acquire 33 percent of the voting shares or assets of Platte County Bancshares, Inc., Platte City, Missouri, and to exchange these shares to acquire 80 percent or more of the voting shares of Platte County Bank of Camden Point, Camden Point, Missouri now owned by Platte County Bancshares, Inc. Comments on this application must be received not later than October 2, 1982.

C. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *Texas American Bancshares, Inc.,* Fort Worth, Texas; to acquire 100 percent of the voting shares or assets of Texas American Bank/Las Colinas, N.A., Irving, Texas. This application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than October 3, 1982.

Board of Governors of the Federal Reserve System, September 7, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-24955 Filed 9-10-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a 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 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. 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 represented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Northern Trust Corporation*, Chicago, Illinois; to acquire 100 percent (less directors qualifying shares) of the voting shares or assets of Colonial Bank of Schaumberg, Schaumberg, Illinois. Comments on this application must be received not later than October 6, 1982.

Board of Governors of the Federal Reserve System, September 7, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-24950 Filed 9-10-82; 8:45 am]

BILLING CODE 6210-10-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking pratices." 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 aggreived 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 Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *First National Boston Corporation*, Boston, Massachusetts (commercial lending services; worldwide): To engage, through its *de novo* subsidiary First Venture Corporation of Boston, in commercial lending operations, including, without limitation, making, acquiring and selling, for its own account or for the account of others, secured and unsecured loans and other extensions of credit (including issuing letters of credit and accepting drafts) to business or commercial enterprises or to individuals for business or commercial purposes, servicing such loans and other extensions of credit, and purchasing and selling participations in such loans and other extensions of credit. In addition to its lending activities, First Venture Corporation of Boston will make equity investments in unaffiliated companies to the extent permitted by the Bank Holding Company Act, including Section 4(c)(6). These activities will be conducted from an office in Boston, Massachusetts, serving customers located throughout the world. Comments on this application must be received not later that October 4, 1982.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Virginia National Bankshares, Inc.*, Norfolk, Virginia (financing and insurance activities; Virginia): To engage, through its subsidiary, VNB Credit Corporation, in making direct consumer installment loans, secured and unsecured, to individuals; purchasing consumer installment sales finance contracts; extending direct loans to dealers for the financing of inventory (floor planning) and working capital purposes; making, acquiring and servicing, for its own account or for the account of others, loans secured principally by mortgages on real property, and; acting as agent for the sale of credit life and credit accident and health insurance and physical damage insurance, all of which are direclty related to extensions of credit by VNB Credit Corporation. These activities would be conducted from an office in Virginia Beach, Virginia serving an area within a five-mile radius of that office. Comments on this application must be received not later than October 6, 1982.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Jefferson Corporation*, Biloxi, Mississippi (financing and credit insurance activities; Mississippi): To engage, through its subisidary, First Jefferson Financial Services, Inc., in making of loans to persons, partnerships, corporations, and other legal entities, taking security therefor as appropriate, and selling credit related life and accident insurance directly related to extensions of credit. First Jefferson Financial Services, Inc.'s activities would be conducted from an office in Biloxi, Mississippi, serving Harrison County, Mississippi. Comments on this application must be received not later than October 6, 1982.

Board of Governors of the Federal Reserve System, September 7, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-24951 Filed 9-10-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (2 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 Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Northern National Corporation,* Moorestown, New Jersey (management consulting services: Delaware, Pennsylvania and New Jersey): To engage *de novo* in the activity of providing management consulting services to non-affiliated banks and non-bank depository institutions through its subsidiary Northern National Financial Corporation, Wilmington, Delaware. This activity will be conducted through offices in Wilmington, Delaware, Philadelphia, Pennsylvania, and Moorestown, New Jersey serving the States of Delaware, Pennsylvania, and New Jersey. Comments on this application must be received not later than October 3, 1982.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First National of Nebraska, Inc.,* Omaha, Nebraska (leasing personal property and acting as agent or broker in leasing personal property; midwestern United States, primarily Nebraska and Iowa): To engage, through its subsidiary, Banclease, Inc., in leasing personal property and act as broker or agent for banks in leasing personal property. The leases entered into will primarily involve participation in the lessor's interest by affiliated and non-affiliated banks. These activities would be conducted from an office in Omaha, Nebraska and serve the general midwestern Unted States, but primarily Nebraska and Iowa. Comments on this application must be received not later than October 2, 1982.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation,* San Francisco, California (financing and servicing activities; expansion of geographic scope; Alaska and Hawaii): To continue to engage, through its indirect subsidiaries, FinanceAmerica Private Brands Inc., Ariens Credit Corporation, MerCredit Corporation, and BA FinanceAmerica Corporation, in the activities of making loans and extending credit, servicing loans and other extensions of credit for itself and others, and providing services incidental to such loans and extensions of credit such as are made or provided by a finance company. Such activities will include, but not be limited to, providing funds and/or credit services in connection with the financing of stock and floor plan inventory of distributors and dealers of consumer products. FA Private Brands' activities will be conducted from five existing offices located in the following cities: Allentown, Pennsylvania, serving the State of Alaska; Charlotte, North Carolina, serving the States of Alaska and Hawaii; Arlington Heights, Illinois, serving the State of Alaska; Daly City, California, serving the States of Alaska and Hawaii; and Downey, California, serving the State of Hawaii. Ariens Credit's activities will be conducted from an existing office located in Daly City, California, serving the State of Alaska; MerCredit's activities will be conducted from two existing offices located in Allentown, Pennsylvania, serving the State of Alaska; and, Daly City, California, serving the States of Alaska and Hawaii. BA Finance America's activities will be conducted from an existing office located in Cheektowaga, New York, serving the State of Hawaii. Comments on this application must be received not later than October 3, 1982.

Board of Governors of the Federal Reserve System, September 7, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-24953 Filed 9-10-82; 8:45 am]

BILLING CODE 6210-01-M

Citizens Fidelity Corp.; Proposed Acquisition of Citizens Fidelity (Ohio), N.A.

Citizens Fidelity Corporation, Louisville, Kentucky has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Citizens Fidelity (Ohio), N.A., Cincinnati, Ohio.

Applicant states that the proposed subsidiary would engage in the activities of making consumer loans through a bank credit card operation. These activities would be performed from offices of Applicant's subsidiary in Cincinnati, Ohio, and the geographic areas to be served are Ohio and Kentucky. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, the outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 3, 1982.

Board of Governors of the Federal Reserve System, September 7, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-24954 Filed 9-10-82; 8:45]

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 Atlanta (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *City Savings Bancshares, Inc.*, DeRidder, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of City Savings Bank & Trust Company, DeRidder, Louisiana. Comments on this application must be received not later than October 3, 1982.

2. *CNB Capital Corp.*, Pascagoula, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank, Pascagoula, Mississippi. Comments on this application must be received not later than October 3, 1982.

3. *First Bankshares, Inc.*, Marianna, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of The First Bank of Marianna, Marianna, Florida. Comments on this application must be received not later than October 3, 1982.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Three Forks Bancorporation*, Three Forks, Montana; to become a bank holding company by acquiring 85.5 percent of the voting shares of Security Bank of Three Forks, Three Forks, Montana. Comments on this application must be received not later than October 3, 1982.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Luling Bancshares, Inc.*, Luling, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank in Luling, Luling, Texas. Comments on this application must be received not later than October 3, 1982.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120

1. *Central Arizona Bancorp, Inc.*, Chandler, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of Central Arizona Bank, Chandler, Arizona. Comments on this application must be received not later than October 3, 1982.

Board of Governors of the Federal Reserve System, September 7, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-24953 Filed 9-10-82; 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 Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Heritage Financial Services Corporation*, Lewistown, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The Russell National Bank, Lewistown, Pennsylvania. Comments on this application must be received not later than October 7, 1982.

2. *U.S. Bancorp, Inc.*, Johnstown, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of United States National Bank in Johnstown, Johnstown, Pennsylvania. Comments on this application must be received not later than October 7, 1982.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Cloud County Bancshares, Inc.*, Concordia, Kansas; to become a bank holding company by acquiring 99 percent of the voting shares of Cloud County Bank and Trust, Concordia, Kansas. Comments on this application must be received not later than october 7, 1982.

2. *Hedlund Bancshares, Ltd.*, Montezuma, Kansas; to become a bank holding company by acquiring 80 percent of the voting shares of Montezuma State Bank, Montezuma, Kansas. Comments on this application must be received not later than October 2, 1982.

C. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Golden Valley Bancorp*, Turlock, California; to become a bank holding company by acquiring 100 percent of the voting shares of Golden Valley Bank, Turlock, California. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Comments on this application must be received not later than October 7, 1982.

2. *Istituto Bancario San Paolo di Torino*, Turin, Italy, and its subsidiary, San Paolo U.S. Holding Company, New York, New York; to become bank holding companies by acquiring 85 percent of the voting shares of First Los Angeles Bank, Los Angeles, California. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Comments on this application must be received not later than October 7, 1982.

Board of Governors of the Federal Reserve System, September 7, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-24949 Filed 9-10-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Realty Action; Sale of Public Lands in Sweetwater County, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action. Sale of public lands in Sweetwater County, Wyoming.

SUMMARY: The following described lands have been identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, at no less than the fair market value shown:

SIXTH PRINCIPAL MERIDIAN, WYOMING

Township 18 North, Range 105 West, Section 18

Parcel No.	Legal description	Acreage	Value
1	Lot 5, N½NE¼, NE¼NW¼	157.22	$260,000
2	Lot 6, S½NE¼, SE¼NW¼	157.23	315,000

DATE: November 17, 1982 at 2:30 p.m..

ADDRESS: The sale will be held at the Rock Springs City Hall, 212 D Street, Rock Springs, Wyoming.

FOR FURTHER INFORMATION CONTACT: Robert W. Bierer, Area Manager, Salt Wells Resource Area, P.O. Box 1869, Rock Springs, Wyoming 82901 (307/382-5350).

SUPPLEMENTARY INFORMATION: The lands are being offered for sale in order

to facilitate proper land use planning and development, and enhance land use compatibility with adjoining private lands. The property is currently zoned for agricultural use. The sale is consistent with the Bureau's planning for the lands involved and has been discussed with the Sweetwater County Planning and Zoning Commission. The public interest will be served by offering these lands for sale.

The terms and conditions applicable to the sale are as follows:

1. All minerals in the lands will be reserved to the United States in accordance with Section 209(a) of the Federal Land Policy and Management Act of 1976.

2. Right-of-way for ditches and canals will be reserved to the United States under 43 U.S.C. 945.

3. Patents will be issued subject to the following rights-of-way of record and any other valid existing rights:

a. Highway right-of-way W-0311876 to the Wyoming Highway Department.

b. Telephone line right-of-way W-71207 to Mountain Bell.

The Federal Land Policy and Management Act requires that bidders be U.S. citizens or, in the case of a corporation, subject to the laws of any state of the United States. Bids must be made by the principal or his agent. Section 452 of the Revised Statutes (43 U.S.C. 11) prohibits employees of the Department of the Interior, their spouses and agents, from directly or indirectly purchasing or becoming interested in the purchase of public land. Bidders shall be required to execute a Statement of Qualifications as to this statutory requirement. No bid will be accepted for less than the appraised price and bids must include all the lands contained in the parcel.

The land will be sold by a combination of sealed and oral bids. Sealed bids may be submitted by mail or in person and/or oral bids may be made at the sale. Sealed bids will be considered only if received at the Bureau of Land Management, Rock Springs District Office, Highway 191 North, P.O. Box 1869, Rock Springs, Wyoming 82901, prior to 11:00 a.m. on November 17, 1982.

Sealed bids may be submitted by mail or in person, and must contain a certified check, post office money order, bank draft, or cashier's check, made payable to the Bureau of Land Management, for at least twenty percent (20%) of the amount of the total bid for the parcel. Sealed bid envelopes must be marked in lower left hand corner as follows:

Rock Springs, Wyoming Public Land Sale
Bid Parcel No. ———
Sale Date ———

Registration of bidders will begin at 10:30 a.m., November 17, 1982, at the Rock Springs City Hall, 212 D Street, Rock Springs, Wyoming, and continue until start of the sale.

The high sealed bid for each parcel will be announced prior to invitation for oral bids. Oral bidding will begin at the level of the high sealed bid received.

All oral bids will be received in minimum $100 increments. The high bid will establish the sale price. The highest bidder can pay in full at the sale or pay a nonrefundable 20 percent (20%) of the purchase price at the sale and the balance within 29 days from the date of the sale. Payment may be made by personal check, certified check, money order, or cashier's check, made payable to the Bureau of Land Management, or by cash.

All bids will be either returned, accepted, or rejected no later than 30 days after the sale date. If the lands are not sold on November 17, 1982, the sale will be adjourned and reopened on May 16, 1983, at 2:30 p.m., at the Rock Springs District Office.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of public discussions, is available for review at the Salt Wells Resource Area Office, Rock Springs District, Highway 191 North, P.O. Box 1869, Rock Springs, Wyoming 82901 (307/382-5350).

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Donald H. Sweep,

District Manager.

[FR Doc. 82-24110 Filed 9-10-82; 8:45 am]

BILLING CODE 4310-84-M

Proposed Land Classifications

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Proposed Land Classifications.

SUMMARY: The Bureau of Land Management is proposing the classification of 9,250.39 acres of public land as suitable and 4,772.18 acres of public land as unsuitable for agricultural development under provisions of the Desert Land Act on Carey Act. Soils, critical resource values, and availability of the land were used to determine suitability. When classification becomes final, applications on suitable lands may be processed. Before an application may be approved, economic feasibility and availability of water must be determined.

DATE: Comment period ends November 13, 1982.

ADDRESSES: Send comments, suggestions, or protests to: District Manager, Boise District, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Delores L. Blom, 3948 Development Avenue, Boise, Idaho 83705, telephone number (208) 334-1582.

SUPPLEMENTARY INFORMATION: The classification is split into two decisions. One for suitable and one for unsuitable; the legal descriptions are shown in Attachments I, II, III, and IV.

Land classification is required by the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269), Section 7, prior to disposal under the Carey Act or Desert Land Act. This action will allow processing of Desert Land and Carey Act applications (either allowance or rejection) on these lands.

The Environmental Statement titled *Agricultural Development for Southwest Idaho* (Ag ES) published February 8, 1980, discusses the demands and impacts associated with agricultural development within a selected area of the Boise District, BLM. Six alternatives were discussed in the Agricultural Environmental Statement. In July 1980, a summary report was published explaining the Bureau of Land Management, Idaho State Director's decision and rationale for agricultural development in southwest Idaho. Alternative 1 from the Environmental Statement was selected for implementation. His decision calls for possible allowance of new farm development on approximately 176,000 acres of public land. This includes the Class I, II and III soils within the Agricultural Environmental Statement area.

Since December 1980, coordination meetings have been held by the State of Idaho, Department of Water Resources and the Bureau of Land Management to plan the implementation of the farm development decision. The decision will be carried out through systematic processing of existing Carey Act (CA)

and Desert Land Entry (DLE) applications.

In February 1981, the two agencies selected two blocks of land and some procedures to follow for the first year's (1981) processing effort. The area designated Block II, or the Grand View Block, was selected for Boise District to begin processing Desert Land Entry applications.

These lands have now been classified and work is beginning on allowances and rejections, based on economic feasibility.

Block I near Hammett was selected for Boise District to begin processing Carey Act applications.

There are two Carey Act project applications and 14 Desert Land applications within this block.

The following criteria were used in determining whether the subject lands are suitable or unsuitable for agricultural development.

1. Any 40 acre tract that contains a majority (75–100 percent) of Class 6 soils would be classified unsuitable for disposal under Desert Land Entry or Carey Act.

This is based on the agricultural capability criteria used for classifying soils that is explained in the Environmental Statement.

2. Any public lands containing known archeological or historical values determined to be unique or possibly significant would be classified unsuitable for disposal pending further analysis.

3. Any public lands where rare, endangered, or sensitive species of plants or animals are known to live (or nest) would be classified unsuitable for disposal, unless mitigation is possible.

4. Certain tracts of land identified for community needs such as landfills, gravel pits, sewage plants, schools, etc. would be classified unsuitable for disposal.

5. Certain tracts of land identified as valuable for wildlife habitat would be classified unsuitable for disposal. The guidelines and anaysis contained in the Environmental Statement, Appendix 1–1 were used to select the proposed wildlife leave areas.

6. Public land that does not qualify for agricultural use or disposal under Desert Land Act or Carey Act because of other existing uses will be classified unsuitable for disposal under these laws.

Once the lands are classified, applications may be processed. Applications on land classified unsuitable will be rejected. Applications on lands classified suitable will be subjected to engineering and economic feasibility analysis. If farming the land appears to be too difficult or not economically sound, an application will be rejected. Further background information is contained in the Agricultural Environmental Statement.

All future authorized agricultural use and title transfer of these lands will be subject to valid existing rights and authorized use in most instances. Some easements may be reserved for future needs.

You may comment on, or protest this Proposed Decision within 30 days from the date you receive this letter. Please submit any information you think may help to make a sound decision about this classification. Comments should be in writing and mailed to the Bureau of Land Management, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705.

Classification Decision

(Proposed)

(Suitable)

The lands described in Attachments I and II have been examined and found suitable for use for agricultural purposes.

These lands are hereby classified for disposal under the provisions of the Carey Act, as amended (28 Stat. 422, 43 U.S.C. 641 et. seq.) and the Desert Land Act, as amended (19 Stat. 377, 43 U.S.C. 321–323), and the regulations thereunder (43 CFR Parts 2520 and 2610).

These lands contain soils considered capable of producing irrigated crops, and, pursuant to the State Director's decision of July 1980 to allow up to 176,000 acres to be developed for agricultural use, they are being classified.

These lands are valuable for agricultural purposes under the criteria in 43 CFR 2430.5(a) and (c), and 2520.0–8, and they meet the classification criteria of 43 CFR 2410.1(a)–(d).

This decision relates only to land classification. Adjudicative action by the appropriate land office will determine at a later date the merits of the application as well as the qualifications of the applicant.

This classification does not segregate the subject lands from disposition or appropriation under any other applicable public land laws; however, it will segregate them from appropriation under the mining laws, except as to applications filed under the mineral leasing laws. In the event the lands are transferred out of Federal ownership, they will no longer be available to licensed livestock. However, the current demand for livestock forage can be met elsewhere in the Saylor Creek Planning Unit.

The lands described in Attachment I under "Bureau Motion", while physically suitable for agricultural use, are also habitat for the long-billed curlew. The Idaho Department of Fish and Game and the Bureau of Land Management regard the long-billed curlew as a "sensitive" species. By agreement between these two agencies, if curlew habitat is to be destroyed, it must be mitigated or compensated for. The Idaho Department of Water Resources is promoting the development of these lands for Carey Act, and they are currently working on a plan with the Department of Fish and Game and the Bureau of Land Management for compensation or mitigation. The development of the mitigation/compensation plan for these lands will be reviewed in one year to determine progress. If needed, more time will be allowed for an agreement to be made. However, until a plan is mutually agreed upon, no development will be allowed on these lands.

The Carey Act applications as shown on Attachment I is approved in whole or in part as to classification. The petitions for classification under the Desert Land Act shown on Attachment II conflicting with the above Carey Act applications are denied.

Classification Decision

(Proposed)

(Unsuitable)

The lands described in Attachments III and IV have been examined and found unsuitable for use for agricultural purposes.

These lands are hereby classified unsuitable for disposal under the provisions of the Carey Act, as amended (28 Stat. 422; 43 U.S.C. 641, et seq.) and the Desert Land Act, as amended (19 Stat. 377; 43 U.S.C. 321–323).

This Proposed Decision is in accordance with the Endangered Species Act of 1973 (Pub. L. 93–205, 87 Stat. 884, 16 U.S.C. 1531), Antiquities Act of 1906 (Pub. L. 59–209, 34 Stat. 225, 16 U.S.C. 432, 433), National Environmental Policy Act of 1969 (Pub. L. 91–190, 83 Stat. 852, 42 U.S.C. 4321), Federal Land Policy and Management Act of October 21, 1976 (Pub. L. 94–579, 90 Stat. 2743 Section 102 (8)), and Section 7 of the Taylor Grazing Act (43 U.S.C. 315, 315a–315r).

These lands do not meet the general criteria for all land classifications required under 43 CFR 2410.1(a)–(d), or the criteria under 43 CFR 2430.5(e) and 2520.0–8.

This classification does not segregate the subject lands from disposition or

appropriation under any other applicable public land laws.

The Carey Act applications and peitions for classification under the Desert Land Act, as shown on Attachments III and IV are denied in whole or in part.

ATTACHMENT I.—(SUITABLE)

Carey Act Application No.

I-8654:
T. 6 S., R. 8 E., Boise Meridian, Idaho.
Section 12: E½NE¼, SE¼SW¼, N½SE¼, SE¼SE¼. 240 acres.
Section 13: NE¼NE¼, SW¼NE¼, SE¼NW¼, W½SW¼, SE¼D360 acres..
Section 14: SE¼NE¼, N½SE¼, SE¼SE¼. 160 acres.
Section 23: SE¼NE¼ 40 acres.
Section 24: NE¼NE¼, SW¼NE¼, NW¼NW¼, SE¼NW¼, NE¼SW¼, N½SE¼, SE¼SE¼. 320 acres.
Section 25: E½NE¼ 80 acres.
Subtotal 1,200 acres.

I-8654:
T. 6 S., R. 9 E., Boise Meridian, Idaho.
Section 7: Lots 1, 2, 3, 4, SE¼NE¼, E½SW¼, NE¼SE¼, S½SE¼. 381.2 acres.
Section 8: S½NW¼ 80 acres.
Section 18: Lots 1, 4, E½NW¼, E½SW¼. 230.2 acres.
Section 19: Lots 1, 3, 4, NE¼NW¼, SE¼SW¼. 185.76 acres.
Section 29: N½SW¼ 80 acres.
Section 30: Lots 1, 2, NE¼, E½NW¼, NE¼SW¼, N½SE¼. 430.75 acres.
Section 31: Lots 1, 2, 3, 4, E½NW¼, E½SW¼, W½SE¼, SE¼SE¼. 422.48 acres.
Section 32: SW¼SW¼ 80 acres.
Subtotal 3,050.39 acres.

I-11838:
T. 6 S., R. 8 E., Boise Meridian, Idaho.
Section 25: NW¼, N½SW¼, SW¼SW¼, NW¼SE¼. 320 acres.
Section 26: N½NE¼ 80 acres.
Section 27: W½ 320 acres.
Section 28: E½ 320 acres.
Section 33: All 640 acres.
Section 34: All 640 acres.
Section 35: SW¼, W½SE¼ 240 acres.
Subtotal 2,560 acres.

Bureau Motion

T. 6 S., R. 9 E., Boise Meridian, Idaho.
Section 17: All 640 acres.
Section 18: E½ 320 acres.
Section 19: N½NE¼, SE¼NE¼, SW¼SE¼. 160 acres.
Section 20: W½NE¼, NW¼, E½SW¼, SE¼. 480 acres.
Section 21: N½, SW¼, W½SE¼ 560 acres.
Section 22: W½NE¼, W½, W½SE¼. 480 acres.
Section 27: SW¼NE¼, NW¼, N½SW¼, NW¼SE¼. 320 acres.
Section 28: N½, N½SW¼, N½SE¼. 480 acres.
Section 29: NE¼, SW¼NW¼ 200 acres.
Subtotal 3,640 acres.

ATTACHMENT II.—(SUITABLE)

Desert Land Application No.

I-015237, James McCurley:
T. 6 S., R. 8 E., Boise Meridian, Idaho.
Section 12: E½NE¼

ATTACHMENT II.—(SUITABLE)—Continued

Desert Land Application No.

T. 6 S., R. 9 E., Boise Meridian, Idaho.
Section 7: Lots 1, 2, SE¼NW¼ 190.9 acres.
I-8922, Orval Hymas:
T. 6 S., R. 8 E., Boise Meridian, Idaho.
Section 28: E½ 320 acres.
I-8919, LaPriel Hymas:
T. 6 S., R. 8 E., Boise Meridian, Idaho.
Section 27: NW¼ 160 acres.
I-8923, Lynette Allred
T. 6 S., R. 8 E., Boise Meridian, Idaho.
Section 27: W½SW¼
Section 34: NW¼, W½SW¼ 320 acres.
I-8924, Donald Allred:
T. 6 S., R. 8 E., Boise Meridian, Idaho.
Section 27: E½SW¼
Section 34: NE¼ 240 acres.
I-8921, Forrest Hymas:
T. 6 S., R. 8 E., Boise Meridian, Idaho.
Section 33: N½ 320 acres.
I-8920, Cheryl Hymas:
T. 6 S., R. 8 E., Boise Meridian, Idaho.
Section 33: S½ 320 acres.
I-6783, Robert Perry:
T. 6 S., R. 8 E., Boise Meridian, Idaho.
Section 25: NW¼, N½SW¼, NW¼SE¼. 280 acres.
I-8925, Holly Meaker:
T. 6 S., R. 8 E., Boise Meridian, Idaho.
Section 25: NW¼, N½SW¼, SW¼SW¼. 280 acres.
I-013823, Margaret Neeley:
T. 6 S., R. 8 E., Boise Meridian, Idaho.
Section 12: E½SE¼, SW¼SE¼
Section 13: NE¼NE¼, SW¼NE¼. 200 acres.
I-013824, Charlotte Skyles:
T. 6 S., R. 9 E., Boise Meridian, Idaho.
Section 7: Lots 3, 4, E½SW¼, S½SE¼.
Section 18: Lot 1, NE¼NW¼ 230.3 acres.
I-013821, Robert Skyles:
T. 6 S., R. 9 E., Boise Meridian, Idaho.
Section 18: Lot 4, SE¼NW¼, NE¼SW¼, SE¼SW¼,.
Section 19: NE¼NW¼ 195.18 acres.
I-6784, Joanne Anderson:
T. 6 S., R. 9 E., Boise Meridian, Idaho.
Section 29: N½SW¼
Section 30: S½NE¼, NE¼SE¼ 200 acres.

ATTACHMENT III.—(UNSUITABLE)

[Carey Act Application No.]

I-8654:
T. 6 S., R. 8 E., Boise Meridian, Idaho.
Section 1: S½SE¼ 80 acres.
Section 11: SW¼NE¼, SE¼SW¼, W½SE¼. 160 acres.
Section 12: NE¼SW¼, SW¼SE¼. 80 acres.
Section 13: NW¼NE¼, SE¼NE¼, N½NW¼, SW¼NW¼, E½SW¼. 280 acres.
Section 14: N½NE¼, SW¼NE¼ 120 acres.
Section 23: NE¼NE¼ 40 acres.
Section 24: NW¼NE¼, SE¼NE¼, NE¼NW¼, SW¼NW¼, NW¼SW¼, SE¼SW¼, SW¼SE¼. 280 acres.
Section 25: W½NE¼ 80 acres.
Subtotal 1,120 acres.
I-8654:
T. 6 S., R 9 E., Boise Meridian, Idaho.

ATTACHMENT III.—(UNSUITABLE)—Continued

[Carey Act Application No.]

Section 6: Lot 10 35.69 acres.
Section 7: N½NE¼, SW¼NE¼, E½NW¼, NW¼SE¼. 240 acres.
Section 8: N½NW¼ 80 acres.
Section 18:: Lots 2, 3 70.2 acres.
Section 19: Lot 2, SE¼NW¼, NE¼SW¼. 115.24 acres.
Section 29: S½SW¼, SE¼ 240 acres.
Section 30: Lots 3, 4, SE¼SW¼, S½SE¼. 191.05 acres.
Section 31: NE¼, NE¼SE¼ 200 acres.
Section 32: N½N½SW¼, SE¼SW¼, SE¼. 600 acres.
Subtotal 1,772.18 acres.
I-11838:
T. 6 S., R 8 E., Boise Meridian, Idaho.
Section 23: E½SE¼ 80 acres.
Section 24: SW¼SW¼ 40 acres.
Section 25: SE¼SW¼, NE¼,¼SE¼, S½SE¼. 160 acres.
Section 26: SE¼NE¼, SW¼NW¼, N½SW¼, SE¼SW¼, NE¼SE¼, S½SE¼. 320 acres.
Section 35: N½, E½SE¼ 400 acres.
Subtotal 1,000 acres.
I-51-CA-31:
T. 6 S., R 9 E., Boise Meridian, Idaho.
Section 19: SW¼NE¼ 40 acres.
Section 20: E½NE¼, W½SW¼ 160 acres.
Section 21: E½SE¼ 80 acres.
Section 27: NW¼NE¼ 40 acres.
Section 29: E½NW¼ 80 acres.
Subtotal 400 acres.

Bureau Motion

I-8654:
T. 6 S., R 9 E., Boise Meridian, Idaho.
Section 19: SW¼NE¼, N½SE¼, SE¼SE¼. 160 acres.
Section 20: E½NE¼, W½SW¼ 160 acres.
Section 21: E½SE¼ 80 acres.
Section 27: NW¼NE¼ 40 acres.
Section 29: N½NW¼, SE¼NW¼. 120 acres.
T. 6 S., R 8 E., Boise Meridian, Idaho.
Section 11: N½NE¼, SE¼NE¼, SE¼. 200 acres.
Section 12: SW¼NW¼, W½SW¼. 120 acres.
Subtotal 880 acres.

ATTACHMENT IV.—(UNSUITABLE)

[Desert Land Application No.]

I-015237, James McCurley:
T. 6 S., R. 8 E., Boise Meridian, Idaho.
Section 1: S½SE¼
T. 6 S., R. 9 E., Boise Meridian, Idaho.
Section 6: Lot 10 115.69 acres
I-6783, Robert Perry:
T. 6 S., R. 8 E., Boise Merdian, Idaho.
Section 24: SW¼SW¼ 40 acres.
I-8925, Holly Meaker:
T. 6 S., R. 8 E., Boise Meridian, Idaho.
Section 25: SE¼SW¼ 40 acres.
I-013823, Margaret Neeley:
T. 6. S., R. 8 E., Boise Meridian, Idaho.
Section 12: SW¼SE¼
Section 13: NW¼NE¼, SE¼Ne¼. 120 acres.
I-013821, Robert Skyles:
T. 6 S., R. 9 E., Boise Meridian, Idaho.
Section 18: Lots 2 and 3
Section 19: SE¼NW¼ 110.2 acres.
I-6784, Joanne Anderson:
T. 6 S., R. 9 E., Boise Meridian, Idaho.
Section 29: N½SE¼

ATTACHMENT IV.—(UNSUITABLE)—Continued

[Desert Land Application No.]

Section 30: SE¼SE¼..... 120 acres.
I-7073, Richard Nelson:
T. 6 S., R. 9 E., Boise Meridian, Idaho.
Section 32: W½NE¼, SE¼NE¼... 120 acres.

Martin J. Zimmer,

District Manager.

September 3, 1982.

[FR Doc.82-24919 Filed 9-10-82; 8:45 am]

BILLING CODE 4310-84-M

[ES 30679, Survey Group 103]

Filing of Plat of Survey; Florida

1. On April 10, 1980, the plat representing the dependent resurvey of a portion of the subdivisional lines, designed to restore the corners in their true original location; the adjusted record meander lines in Sec. 21; the extension survey of the boundary between Secs. 16 and 21; the survey of omitted land and of islands in Stagger Mud Lake and Lake Dexter in T. 16 S., R. 28 E., Tallahassee Meridian, Florida, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on October 28, 1982.

2. The areas shown below describe the islands omitted from the original survey.

Tallahassee Meridian, Florida

T. 16 S., R. 28 E.,
Tract Nos. 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68.
Sec. 16, Lot 5.

The character of the omitted islands is similar in all respects to that of the adjacent surveyed lands.

The omitted areas are primarily swampy with a soil composition alluvial in nature with a large amount of organic matter. Timber ranges from bay and maple in the swamps to cypress, sweetgum and cabbage palm in the overflow lands. The elevation of the omitted areas varies from 1 to approximately 3 feet above the ordinary high water mark of St. Johns River.

3. The islands described as Tract Nos. 54 through 68 and Lot 5 Sec. 16, have been determined to be more than 50% swamp in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). Title to these islands inured to the State of Florida as of that date; therefore, they are only open to selection by the State under that Act.

4. 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 October 28, 1982.

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-24948 Filed 9-10-82; 8:45 am]

BILLING CODE 4310-84-M

Utah; Notice of Invitation to Participate in Coal Exploration Program—Sunoco Energy Development Company U-51448

Sunoco Energy Development Company is inviting all qualified parties to participate in a program for the exploration of coal reserves in the Coal Creek area of the Book Cliffs located about ten miles east of Helper, Utah. The lands are located in Carbon County, Utah and are described as follows:

T. 12 S., R. 11 E., SLM, Utah
Sec. 25, NE¼NE¼, S½NE¼, NW¼, S½;
Sec. 27, S½;
Sec. 28, S½;
Sec. 29, SW¼SW¼, SE¼;
Sec. 30, lots 4, 14, 15 and 16;
Sec. 31, lots 1–22;
Sec. 32, all;
Sec. 33, all;
Sec. 34, all;
Sec. 35, S½.
T. 12., S., R. 12 E., SLM, Utah
Sec. 30, lots 1–4, SE¼NW¼, E½SW¼, W½SE¼;
Sec. 31, lots 1–4, NW¼NE¼, S½NE¼, E½W½, SE¼.
T. 13 S., R. 11 E., SLM, Utah
Sec. 1, lots 1–8;
Sec. 3, lots 1–4, 8;
Sec. 4, lots 1–4;
Sec. 10, E½E½;
Sec. 11, all;
Sec. 12, W½W½;
Sec. 13, NW¼NW¼, S½NW¼, SW¼;
Sec. 14, N½, N½S½, SE¼SE¼;
Sec. 15, NE¼NE¼;
Sec. 23, N½NE¼NE¼;
Sec. 24, N½N½NW¼.
T. 13 S., R. 12 E., SLM, Utah
Sec. 5, lots 3, 4, SW¼;
Sec. 6, lots 1–6, E½SW¼, SE¼.
Containing 8,464.41 acres.

Any party electing to participate in this exploration program must send written notice of such election to the Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, and to Mr. James Semborski, Sunoco Energy Development Company, 7401 West Mansfield Avenue, Box 35–B, Lakewood, Colorado 80235. Such written notice most be received within 30 days after the publication in the **Federal Register.**

Any party wishing to participate in this exploration program must be qualified to hold a lease under the provisions of 43 CFR 3472.1 and must share all cost on a pro rata basis. A copy of the exploration plan, as submitted by Sunoco Energy Development Company is available for public review during normal business hours in the following office, under serial number U–51448: Bureau of Land Management, Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Jens G. Jensen

Chief, Division of Operations.

[FR Doc. 82-25078 Filed 9-10-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On June 17, 1982, a notice was published in the **Federal Register** (47 FR 26247), that an application has been filed with the Fish and Wildlife Service by Izu-Mito Sea Paradise for a permit to take six northern sea otters *(Enhydra lutris)* for the purpose of public display.

Notice is hereby given that on September 3, 1982, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Fish and Wildlife Service issued a permit, PRT 2–8941, to Izu-Mito Sea Paradise to take six northern sea otters for public display subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated: September 8, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-25023 Filed 9-10-82; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

New Minerals Management Service Coal Lease Sale Procedures

The following procedures on Federal coal lease sale fair market value (FMV) determinations are published for public comment. These procedures have been put forward by the Director, Minerals Management Service, with the concurrence of the Minerals Management Board. They are effective immediately as interim procedures. Comments are requested and should be

sent by October 15, 1982, to Erick Kaarlela, Chief, Branch of Mineral Transactions, Resource Evaluation Division, Onshore Minerals Operations, Minerals Management Service, Mail Stop 654, 12203 Sunrise Valley Drive, Reston, Virginia, 22091.

The following new procedures for postsale evaluation of coal leases will expedite the leasing processes while meeting the legal requirements to obtain FMV for lease resources. These procedures provide for the Minerals Management Service (MMS) to recommend minimum bids. They also identify how MMS will screen the high bids on each tract as to competition and comparable value in making recommendations that the high bid has met the FMV requirement. Additionally, the procedures direct MMS to note to the Bureau of Land Management (BLM) special circumstances which may indicate it is in the best interest of the Government to accept the high bid.

A. Presale Procedures

1. Maintain data base on coal sales: Each region will routinely maintain a data base containing assignments, and resource and bidding information on all tracts previously offered for lease and on tracts to be offered. The Tract Delineation Summary Report will also be used to break tracts up into groups of high, medium, low, and very low development potential based on minability, transporation, marketability, and surface ownership. Moreover, data and trends will be maintained on regional coal markets including prices, sales, and the demand for new coal reserves.

2. Establish a "minimum bid" for each lease: The BLM will announce in the sale notice a "minimum bid" for each tract up for lease. The "minimum bid" is the lowest bid that may be considered for a Federal coal lease. Bids below the "minimum bid" will not be considered.

The "minimum bid" for a lease may be set as follows:

—At the level of $100 an acre for stand alone tracts or tracts having an estimated value of less than $100.

—At a level which would represent the Department's best estimate of the representative market value for bypass and maintenance tracts and other tracts where there is a minimum value greater than $100 per acre.

The cutoff level or representative market value may be drawn from a range of values related to the certainty of the estimate.

The Minerals Manager will prepare and forward to BLM a suggested "minimum bid" for each tract as requested. This recommendation will be based upon the information available to MMS as to the tract's value, and other circumstances of the lease offering. For example, is this an initial offering, a reoffering, a maintenance or bypass situation? The analysis and supporting data for this recommendation will be made part of the case file at MMS and available for use by the Sales Panel.

3. Additional Input to BLM: The MMS will also provide BLM with a written report on mining method, estimated coal reserves by bed, coal quality, royalty, rental, lease bond recommendations, and an evaluation of public comments on FMV and Maximum Economic Recovery.

B. Sale Procedures

1. The "minimum bids" will be published in the **Federal Register** notice of sale.

2. Bidding procedures: The sale is conducted by BLM. All bids will be submitted in sealed form. For a bid to be a qualifying bid, it must equal or exceed the "minimum bid" for the lease as published in the sale notice. Non-qualifying bids will not be considered by the Department. The sale notice will clearly indicated that the "minimum bid" for a lease does not necessarily constitute an acceptable FMV bid for that lease and that the determination of FMV will be made after the sale using the results of the bidding, indications of competition, and other factors that are indicative of the current market value of the coal leases in the region.

C. Postsale Procedure Guidelines

The MMS will review all high qualifying bids for each Federal coal lease according to the following guidelines and make a recommendation to the Sales Panel as to whether the high bid for each lease offering meets the test for FMV. Guideline numbers 1. and 2. will be used to make the recommendation while guideline number 3. will analyze special circumstances so that these may be noted with the recommendation.

1. Competition Analysis: A determination of adequate competition will be conducted for each tract receiving bids to see whether adequate bidding competition was clearly demonstrated for the respective tracts. The determination of whether adequate bidding competition has been demonstrated will proceed as follows. A profile of each tract and its bidding will be put together which focuses on three elements: (1) Competitive market; (2) bidder participation; and (3) high bid offered. Then, if the elements combined indicate adequate bidding competition, the high bid for the tract can be recommended as meeting the FMV requirement. The factors to be considered under each element are as follows:

Element 1: Competitive Market:

—The known existence of special bidding advantages or disadvantages for any companies bidding or potentially bidding for the tract at issue.

—The known existence of a relationship among bidders on the tract which might influence their competitiveness.

Elements 2: Bidder Participation:

—The number of reasonable bids submitted for the tract. Only reasonable bids should be considered. In cases where the "minimum bid" is set at the $100 an acre level, there is a chance that a number of nonreasonable bids near this level will be submitt on valuable tracts. These bids may not constitute real competition and should be excluded from the analysis. Reasonable bids would be determined based on a screen as in element 3.

Element 3: High Bid Offered:

—Make a qualitative ranking type assessment of high bids on tracts relative to acceptable high bids on comparable tracts in this sale and prior sales.

For example, high bids will be considered clearly competitive if examination of the sale results reveals all of the following:

Element 1:

—No bidder has a major bidding advantage over the other bidders for the tract, and there are no known relationships between the bidders which would influence their competitiveness.

Element 2:

—Two or more reasonable bids were submitted for the tract.

Element 3:

—The high bid is within the range of qualitatively ranked comparable tracts adjusted as necessary.

2. Detailed comparable high bid analysis: Tracts whose high bids are not deemed to be clearly competitive will be further analyzed. This will be done using the values based on comparative sales high bids. This postsale analysis will utilize all the tract delineation information plus prior sales, as well as all bidding data obtained from the sale. An estimate of a value representative of market value is obtained through comparability analysis.

The postsale comparability analysis for each tract will produce a geometric

mean comparable-value estimate for each tract analyzed (depending on how many sale tracts are selected as the base tracts for the comparability analysis). This is an estimate of the market value of the tract. If the actual high bid for the tract is above this average, a recommendation will be made that the bid be accepted as meeting the FMV requirement. In the event that satisfactory comparable sales on acceptable bids are not available, then other approaches, such as value in use or income, can be substituted. A postsale adjustment may be made for current market conditions.

3. Examination for special circumstances: The MMS will supply a bid acceptance/rejection recommendation based on the above analysis. Additionally, a report containing the rationale for the recommendation will be made a part of the MMS case file and will be available for use by the Sales Panel. Normally, this recommendation will be supplied within 30 days. Where MMS finds special circumstances which may have an overriding effect on the decision by BLM to accept or reject the high bid on a tract, MMS will inform BLM when the recommendation is supplied. These special circumstances may be derived from at least the following areas of analysis or any other special circumstances observed.

a. Adjustment to comparative values for Government losses from the delay in the sale of tracts.

b. Adjustment to comparative values to reflect factors not considered in the comparative analysis but which would serve important public objectives, for example, bypass situations.

c. Adjustment to comparative values to reflect uncertainties concerning the comparability of the tracts used for comparison or to reflect uncertainties in the adjustment and estimation process.

Dates: September 7, 1982.

Eddie R. Wyatt,

Acting Associate Director for Onshore Minerals Operations.

[FR Doc. 82-25085 Filed 9-10-82; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Mesa Petroleum Company, has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4558, Block A–7, Brazos Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 2, 1982.

John L. Rankin,

Acting Minerals Manager Gulf of Mexico OCS Region.

[FR Doc. 82-25072 Filed 9-10-82; 8:45 am]

BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Jeffrey Hill, at 202–395–7340.

Title: 30 CFR Part 785 Requirements for Permits for Special Categories of Mining
Bureau Form Number: None
Frequency: Once every five years
Description of Respondents: Coal Mine Operators
Annual Responses: 24,424
Annual Burden Hours: 122,653
Bureau clearance officer: Darlene Grose 202–343–5447

Ann L. Chapman,

Acting Assistant Director, Management and Budget.

August 31, 1982.

[FR Doc. 82-25070 Filed 9-10-82; 8:45 am]

BILLING CODE 4310-05-M

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Jeffrey Hill, at 202–395–7340.

Title: 30 CFR Part 772 - Requirements for Coal Exploration.
Bureau Form Number: None.
Frequency: Once.
Description of Respondents: Coal Mine Operators.
Annual Responses: 2,250.
Annual Burden Hours: 123,500.
Bureau clearance officer: Darlene Grose, 202–343–5447.

Ann L. Chapman,

Acting Assistant Director, Management and Budget.

August 31, 1982.

[FR Doc. 82-25074 Filed 9-10-82; 8:45 am]

BILLING CODE 4310-05-M

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contracting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Jeffrey Hill, at 202–395–7340.

Title: 30 CFR Part 764 State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations

Bureau Form Number: None
Frequency: On occasion
Description of Responents: State Regulatory Authorities
Annual Responses: 50
Annual Burden Hours: 5,400
Bureau Clearance Officer: Darlene Grose 202–343–5447

Ann L. Chapman,

Acting Assistant Director, Management and Budget.

September 3, 1982.

[FR Doc. 82–25071 Filed 9–10–82; 8:45 am]

BILLING CODE 4310–05–M

Office of the Secretary

Insignificant Revision in 5-Year Outer Continental Shelf Leasing Schedule; Sale No. 71

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: The 5-Year Outer Continental Shelf (OCS) Leasing Schedule issued on July 21, 1982, provided for OCS Sale No. 71 (Diapir Field) to be held in September 1982. After considering the relative merits of delaying the sale to October 1982, it has been concluded that holding the sale then serves the national interest. After analyzing whether moving the sale by 1 month is a significant revision under section 18 of the OCS Lands Act, we have concluded that it would not be a significant revision of the 5-Year Program. Copies of this analysis are available from the address below.

FOR FURTHER INFORMATION CONTACT: Chris Oynes, Division of Offshore Leasing Management, Minerals Management Service, U.S. Department of the Interior, 12203 Sunrise Valley Drive, Reston, Virginia 22091, (202) 343–3116.

Dated: September 9, 1982.

Donald Paul Hodel,

Under Secretary of the Interior.

[FR Doc. 82–25160 Filed 9–10–82; 8:45 am]

BILLING CODE 4310–10–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated 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 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.

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 Team 1 (202) 275–7992.

Volume No. OP1–152

Decided: September 7, 1982.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 38400 (Sub-10), filed August 27, 1982. Applicant: HITCHCOCK BROS., INC., Box 212, Canaan, CT 06018. Representative: C. Frank Hitchcock (same address as applicant), (203) 824–5332. Transporting *general commodities* (except classes A and B explosives and household goods), between points in CT, DE, ME, MA, NH, NJ, NY, PA, RI and VT.

MC 47171 (Sub-221), filed August 20, 1982. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant), (803) 879–2101. 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), under continuing contract(s) with Furman Lumber, Inc., of Boston, MA.

MC 59531 (Sub-120), filed August 27, 1982. Applicant: AUTO CONVOY CO., 12200 Park Central Drive, P.O. Box 400300, Dallas, TX 75240. Representative: Eugene C. Ewald, 100 West Long Lake Rd. Suite 102, Bloomfield Hills, MI 48013, (313)–645–9600. Transporting *motor vehicles,* between points in the U.S. (except AK and HI), under continuing contract(s) with persons as defined in Section 10923 of the Motor Carrier Act of 1980 who are engaged in business as manufacturers, distributors or dealers of motor vehicles.

MC 95490 (Sub-58), filed August 24, 1982. Applicant: UNION CARTAGE COMPANY, INC., 37 Southwest Cutoff, Worcester, MA 01604. Representative: Edward J. Kiley, 1730 M St., N.W., Washington, D.C. 20036, (202)–296–2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OH, and those in Tolland, Windham, New London, and Middlesex Counties, CT, Brook, Hancock, Wood and Roanoke Counties, WV, James City and York Counties, VA, Duvall, Orange, Hillsborough, Pinellas, Broward and Dade Counties, FL, Fulton, Chatham, Meriwether and Houston Counties, GA, Rockingham, Forsyth, Mecklenburg, Wilson and Wake Counties, NC, Spartanburg and Charleston Counties, SC, Rutland,

Windsor and Washington Counties, VT, Atlantic, Salem and Gloucester Counties, NJ, and Chemung, Broome, Niagara and Erie Counties, NY.

MC 97170 (Sub-2), filed August 25, 1982. Applicant: LAKE TRUCKING COMPANY, INC., 510 East First Ave., Corsicana, TX 75110. Representative: Robert J. Birnbaum, 3636 Executive Center Drive, Suite 151, Austin, TX 78731, (512)–346–4800. Transporting (1) *metal products;* (2) *concrete products;* (3) *Mercer commodities;* and (4) *those commodities* which because of their size or weight require the use of special handling or equipment, (a) between points in TX; and (b) between points in LA, MS, AR, TX, OK, KS, CO and NM.

MC 115840 (Sub-132), filed August 24, 1982. Applicant: COLONIAL FAST FREIGHT LINES, INC., P.O. Box 10327, Birmingham, AL 35202. Representative: Chester G. Groebel (same address as applicant), (205)–251–7211. 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 123640 (Sub-41), filed August 23, 1982. Applicant: SUMMIT CITY ENTERPRISES, INC., 3200 Maumee Ave., Fort Wayne, IN 46803. Representative: Irving Klein, Suite 7, 1205 Franklin Ave., Garden City, NY 11530 (516)–746–3050. Transporting *foam rubber,* between points in the U.S. (except AK and HI), under continuing contract(s) with Lifetime Foam Products, Inc., of Franklin Park, IL.

MC 124380 (Sub-6), filed August 25, 1982. Applicant: HOLMES FREIGHT LINES, INC., 7878 "I" Street, Omaha, NE 68127. Representative: Donald L. Stern, 7171 Mercy, Suite 610, Omaha, NE 68106, (402) 392–1220. *Over regular routes,* Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between St. Louis, MO, and junction Interstate Hwys 44 and 35 near Edmund, OK, over Interstate Hwy 44, (2) between Wichita, KS, and Dallas, TX, from Wichita, KS over Interstate Hwy 35 to junction Interstate Hwy 35E, then over Interstate Hwy 35E to Dallas, TX, and return over the same route, (3) between Denton and Fort Worth, TX, over Interstate Hwy 35W, (4) between junction of the Cimarron Turnpike and Interstate Hwy 35 near Perry, OK, and Tulsa, OK over the Cimarron Turnpike, serving all intermediate points and serving those in Tulsa, Wagoner, Creek, Muskogee, Oklahoma, Canadian, Cleveland, Pottawatomie, McClain, Grady, and Stillwater Counties, OK, and Dallas, Denton, Collin, Rockwall, Tarrant, Wise, Johnson, Kaufman, Ellis, Hood, and Parker Counties, TX as off-route points in connection with routes (1) to (4) above.

Note.—Applicant intends to tack the sought rights to its existing authority.

MC 136291 (Sub-24), filed August 20, 1982. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 3600 N.W. 82 Ave., Miami, FL 33166. Representative: Dale A. Tibbets (same address as applicant), (305)–593–3204. Transporting *liquid argon, liquid nitrogen and liquid oxygen,* between points in the U.S., under continuing contract(s) with Union Carbide Corporation, of Danbury, CT. Condition: Any permit issued in this proceeding shall expire 5 years from its date of issuance.

MC 138890 (Sub-18), filed August 30, 1982. Applicant: MOODIE, INC., 301 Acorn St., Stevens Point, WI 54481. Representative: Michael J. Collins, 14 West Mifflin St., Suite 310, P.O. Box 1042, Madison, WI 53701, (608—258–8555. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Jeno's, Inc., of Duluth, MN.

MC 140820 (Sub-18), filed August 26, 1982. Applicant: A & R TRANSPORT, INC., 2996 N. Illinois 71, R.R. #3, Ottawa, IL 61350. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 61350, (312) 726–6525. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with BTU Contracts, Inc., of Lincolnwood, IL.

MC 149250 (Sub-2), filed August 23, 1982. Applicant: H. H. SMITH FARMS, INC., 3325 Thomas Ave., Montgomery, AL 36106. Representative: James D. Harris, Jr., 200 South Lawrence St., Montgomery, AL 36104, (205)–265–0251. Transporting *clay,* between points in the U.S. (except AK and HI).

MC 149500 (Sub-10), filed August 23, 1982. Applicant: INTERMODAL SERVICES, INC., 11650 Courthouse Blvd., Inver Grove Heights, MN 55075. Representative: James M. Christenson, 4444 IDS Center, 80 South Eighth St., Minneapolis, MN 55402, (612)–339–4546. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Intermodal Consolidated Services, Inc., of Bridgewater, NJ, and Allied Trucking Service, Inc., of Inver Grove Heights, MN.

MC 152020 (Sub-3), filed August 27, 1982. Applicant: ALBERT G. DRIEBE, R.D. #1, Box 1229, Stroudsburg, PA 18360. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Transporting (1) *such commodities* as are dealt in or used by retail and wholesale grocery stores and hotel and restaurant establishments, between those points in PA, on and east of U.S. 15, beginning at the NY–PA state line and extending south to the MD–PA state line, on the one hand, and, on the other, points in the U.S. (except AK and HI); (2) *electrical equipment,* between points in Lehigh, Monroe and Washington Counties, PA, and Essex County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (3) *food and related products,* between points in Berk County, PA, on the one hand, and, on the other, points in AZ, CO, ID, MT, VT, OR, UT, WY, CA, NM and WA.

MC 153380 (Sub-2), filed August 23, 1982. Applicant: ROWAN FREIGHT CO., INC., P.O. Box 1571, Peeler Rd., Salisbury, NC 28144. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204, (704)–372–6730. Transporting *general commodities,* (except classes A and B explosives, household goods and commodities in bulk), between points in Guilford, Randolph, Davidson, Stanly, Union, Forsyth, Davie, Iredell, Catawba, Gaston, Mecklenburg, Cabarrus, Lincoln and Rowan Counties, NC, on the one hand, and, on the other, points in NC.

MC 153910 (Sub-3), filed August 23, 1982. Applicant: L & B TRUCKING CORPORATION, Johnson Street Rd., Keokuk, IA 52632. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515)–682–8154. 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), under continuing contract(s) with Sheller Globe Corporation, of Keokuk, IA.

MC 154881 (Sub-2), filed August 20, 1982. Applicant: J.L. and V.A. HATFIELD, d.b.a. HATFIELD ENTERPRIZES, 9908 E. Jackson, P.O. Box 14853, Spokane, WA 99206. Representatives: George R. LaBissoniere, 15 S Grady Way, Suite 239, Renton, WA 98055, (206) 228–3807. Transporting (1) *building materials* and *metal products,* between points in WA, OR, ID, CA, MT, TX, MN, AZ, NV, CO, WY and UT; and (2) *Pulp, paper and related products,* between points in WA, OR, CA, ID and MT.

MC 156480 (Sub-1), filed August 27, 1982. Applicant: INDEPENDENT DISPATCH, INC., 10310 N. Vancouver

Way, Suite 107, Portland, OR 97217. Representative: Michael D. Gilbert, 9460 S.W. Davies Rd., Beaverton, OR 97005, (503) 641–6160. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Tri-Venture Corp., of Portland, OR.

MC 159040 (Sub-2), filed August 27, 1982. Applicant: K.I.S.S. EXPRESS CO., 4820 West Belmont Ave., Chicago, IL 60641. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW., Suite 500, Washington, DC 20006, (202) 828–5051. 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), under continuing contract(s) with (1) Hobart Corporation, of Troy, OH, (2) DMi Furniture, Inc., of Huntingburg, IN, and (3) Fingerhut Corporation, of St. Cloud, MN.

MC 160500 (Sub-1), filed August 27, 1982. Applicant: SILVER STREAK EXPRESS, INC., 1002 Fuselage Ave., Baltimore, MD 21220. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (212) 263–2078. Transporting *those commodities* which because of their size or weight require the use of special handling or equipment, between points in CA, CO, MD, NV and TX.

MC 162851 (Sub-1), filed August 30, 1982. Applicant: BEL HEAVY HAULERS, INC., 3410 Marquart, Houston, TX 77027. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. Transporting (1) *Mercer commodities;* (2) *machinery;* and (3) *metal products,* between points in the U.S. (except AK and HI).

MC 163261, filed August 30, 1982. Applicant: ROADMASTER, INC., 8575 Dixon Road, Rives Junction, MI 49277. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (212) 263–2078. 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), under continuing contract(s) with Heat Controller, Inc., of Jackson, MI.

MC 163470, filed August 26, 1982. Applicant: MAR–DEB TRANSIT, INC., 9381 Loralinda Drive, Cincinnati, OH 45239. Representative: Mark McDevitt, (same address as applicant), (513) 729–5095. Transporting *metal products,* between Toledo and points in Fulton County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Eagle-Picher Bearings, of Toledo, OH.

MC 163491, filed August 23, 1982. Applicant: TRAILER SERVICE, INC., 521 South Curtis Rd., West Allis, WI 53214. Representative: Joseph N. Russo, (same address as applicant), (414) 476–6050. Transporting (1) *those commodities* which because of their size or weight require the use of special handling or equipment; (2) *iron and steel products;* (3) *machinery;* (4) *construction equipment and accessories;* (5) *road building equipment and accessories;* and (6) *electrical transformers,* between points in the U.S. (except AK and HI).

MC 163501, filed August 23, 1982. Applicant: FRANKIE J. VEREEN, d.b.a. VEREEN'S FARM CENTER, Rt. 1, Box 377, Longs, SC 29568. Representative: Linda L. Vereen, (same address as applicant), (803) 399–6711. Transporting *fertilizer,* between points in NC, GA and SC.

MC 163541, filed August 23, 1982. Applicant: FRANCES E. BERRETT, 33 Salem St., Springfield, MA 01105. Representative: Frances E. Berrett, (same address as applicant), (413) 737–0849. As a *broker,* at Springfield, MA, in arranging for the transportation of *passengers and their baggage* in special and charter operations, beginning and ending at points in MA and CT, and extending to points in the U.S. (excluding AK and HI).

MC 163570 (Sub-1), filed August 26, 1982. Applicant: CHARLES R. ALFORD, d.b.a. ALFORD TRUCK LINES, P.O. Box 732, Bridge City, TX 77611. Representative: C. W. Ferebee, 3910 FM 1960 West, Suite 106, Houston, TX, (713) 537–8156. Transporting *metal drums* and *machinery,* between points in Jefferson County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163581, filed August 27, 1982. Applicant: MODERN FORWARDING & LEASING CO., INC., 600 E.C. Rowe, Windsor, Ontario, Canada N9E 4B1. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226, (313) 962–6492. 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), on the one hand, and, on the other, ports of entry on the International Boundary line between the U.S. and Canada, under continuing contract(s) with Fabricated Steel Products (Windsor) Limited.

MC 163590, filed August 27, 1982. Applicant: PARKEWAY, INC., P.O. Box 112, Costigan, ME 04423. Representative: George L. Parker, (same address as applicant), (207) 827–6161. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in ME.

Please direct status inquiries to Team 2 (202) 275–6991.

Volume No. OP2–210

Decided: September 1, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 146853 (Sub-12), filed August 20, 1982. Applicant: FRANK F. SLOAN, d.b.a. HAWKEYE WOODSHAVINGS, Rte. 1, Runnells, IA 50327. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *sugar,* between Kansas City, MO, Moorhead, MN, Des Moines, IA, Chicago and Belvidere, IL, points in Sedgwick, Logan, Larimer, Ft. Morgan, and Weld Counties, CO, Goshen County, WY, Twin and Canyon Counties, ID, Polk and Carver Counties, MN, Chickasaw and Cerro Gordo Counties, IA, Marathon, Wood, Fond du Lac, and Clark Counties, WI, Sherman County, KS, and Yellowstone County, MT, on the one hand, and, on the other, points in CO, IA, IL, IN, KS, MI, MN, MO, MT, NE, ND, OH, OK, PA, SD, TX, and WI.

MC 154092 (Sub-4), filed August 26, 1982. Applicant: SUGARLAND EXPRESS, INC., 6623 Kansas Ave., Kansas City, KS 66111. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601, 913–234–0565. Transporting *petroleum and petroleum products,* between Tulsa, OK, on the one hand, and, on the other, points in AR, IL, IA, KS, LA, MN, MO, NE, ND, SD, TX, and WI.

MC 158362, filed August 18, 1982. Applicant: CESSNA, INC., 1907 41st St., West, Bradenton, FL 33505. Representative: Gary Cessna (same as applicant), (813) 746–4342. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Electro Services, Inc., of Bradenton, FL.

MC 160732 (Sub-1), filed August 26, 1982. Applicant: RGM TRANSPORTATION, INC., 203 S. Oak Park, Colfax, IA 50054. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting (1) *hides,* and (2) *Packinghouse products,* between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Transworld Meat Corp. and (b)

Transworld Hide Corp., both of Cedar Rapids, IA.

MC 162133, filed August 23, 1982. Applicant: COMMUTER BUS LINE, INC., 1515 Jefferson St., Hoboken, NJ 07030. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759–3700. Transporting *passengers and their baggage*, in the same vehicle with passengers, between Staten Island, NY and Manhattan, NY, under continuing contract(s) with South Shore Commuter Association, of Staten Island, NY. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 2, Room 2379.

MC 163542, filed August 23, 1982. Applicant: THE EXPAMET TRUCKING CORPORATION, 1080 Expamet Dr., SE., Smyrna, GA 30080. Representative: Paul P. Watkins, P.O. Box 76358, 404–255–0688. Transporting (1) *metal products*, and (2) *such commodities* as are dealt in or used by manufacturers and distributors of metal products, between those points in the U.S. in and east of ND, SD, NE, CO, and NM.

Volume No. OP2–212

Decided: September 2, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 31462 (Sub-32), filed August 20, 1982. Applicant: PARAMOUNT MOVERS, INC., 3164 Springfield, P.O. Box 309, Lancaster, TX 75146. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods*, between points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WA, OR, NV, CA, ID, UT, AZ, and DC, on the one hand, and, on the other, points in AK and HI.

MC 41122 (Sub-3), filed August 31, 1982. Applicant: FOREST HILLS TRANSFER & STORAGE, INC., 2101 Ardmore Blvd., Pittsburgh, PA 15221. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219, 412–471–1800. Transporting *household goods and furniture and fixtures*, between those points in the U.S. in and east of ND, SD, WY, UT, CO, OK, and TX.

MC 107012 (Sub-778), filed August 27, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant), (219) 429–2224. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Lily Tulip Company, of Toledo, OH.

MC 112713 (Sub-330), filed August 20, 1982. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Ave., P.O. Box 7270, Overland Park, KS 66207. Representative: William F. Martin, Jr. (same address as applicant), 913–383–3000. 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), under continuing contract(s) with Sears, Roebuck and Company, of Chicago, IL.

MC 135762 (Sub-24), filed August 31, 1982. Applicant: JOHN H. NEAL, INC., P.O. Box 3877, 6004 Highway 271 South, Fort Smith, AR 72913. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902, 501–782–1001. 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), under continuing contract(s) with Bundy Corporation, of Fort Smith, AR.

MC 136393 (Sub-12), filed August 20, 1982. Applicant: N.Y., N.J., CONN., FREIGHT & MESSENGER CORP., 351 West 38th St., New York, NY 10123. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, 212–239–4610. 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), under continuing contract(s) with American Freight Forwarding Corp., of New York, NY.

MC 138342 (Sub-2), filed August 23, 1982. Applicant: ANDREW T. STINSON d.b.a. STINSON TRUCKING, 351 South Park Victoria, Milpitas, CA 95035. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *Pulp, paper and related products*, between points in Santa Clara County, CA and Washoe County, NV.

MC 138702 (Sub-2), filed August 20, 1982. Applicant: ECONOMY CARRIERS LTD. 4086 Ogden Rd., SE., Calgary, AB, Canada T2G 4P7. Representative: John T. Wirth, 717—17th St., Suite 2600, Denver, CO 80202–3357, 303–892–6700. Transporting (1) *chemicals and related products*, between ports of entry on the international boundary line between the U.S. and Canada at points in WA, ID, MT, and ND, on the one hand, and, on the other, points in WA, ID, MT, ND, and WY; and (2) *petroleum, natural gas, and their products*, between ports of entry on the international boundary line between the U.S. and Canada at points in WA, ID, and MT, on the one hand, and, on the other, points in OR and WY.

MC 146853 (Sub-13), filed August 20, 1982. Applicant: FRANK F. SLOAN d.b.a. HAWKEYE WOODSHAVINGS, Route 1, Runnells, IA 50327. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *canned goods*, between Sacramento, Hollister, San Francisco, Watsonville, Yuba City, Oroville, and Los Angeles, CA, and points in Stanislaus, San Joaquin, Alameda, and Santa Clara Counties, CA, on the one hand, and, on the other, Ortonville and Minneapolis, MN, LaCrosse and Superior, WI, and points in IA.

MC 149043 (Sub-8), filed August 30, 1982. Applicant: EASTERN TANK LINES, INC., 5536 Brentlinger Drive, Dayton, OH 45414. Representative: H. Neil Garson, 3251 Old Lee Hwy., Fairfax, VA 22030, (703) 691–0900.Transporting (1) *liquid sweeteners* (a) between points in NY, NJ and PA; (b) between points in MO, on the one hand, and, on the other, points in IL, IN, KY and OH, and (2) *food and related products and industrial starch*, between points in OH, on the one hand, and, on the other, points in DE, MD, NY, PA, MI, KY, IN and DC.

MC 151343 (Sub-2), filed August 23, 1982. Applicant: SHIPPERS CONTRACT CARRIER, INC., 2236 S. Van Wert Rd., Villa Rica, GA 30180. Representative: Gerald K. Gimmel, Suite 200, 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 points in the U.S. (except AK and HI), under continuing contract(s) with Ralston Purina Co., of St. Louis, MO.

MC 151993 (Sub-3), filed August 23, 1982. Applicant: FRANK E. SMITH d.b.a. FRANK SMITH TRUCKING, Route 1, Box, Marble Falls, TX 78654. Representative: Robert J. Birnbaum, 3636 Executive Center Drive, Suite 151, Austin, TX 78731, (512) 346–4800. Transporting *graphite*, between points in TX, under continuing contract(s) with Southwestern Graphite Company Division, Joseph Dixon Crucible Company, of Burnet, TX.

MC 152393 (Sub-3), filed August 20, 1982. Applicant: SCOTT B. WARN d.b.a.

OVERNITE EXPRESS, 555 143rd Ave., San Leandro, CA 94577. Representative: Armand Karp, 743 San Simeon Dr., Concord, CA 94518, (415) 825–1774. Transporting (1) *plastics*, between points in the U.S., under continuing contract(s) with Wilshire Foam Products, of Carson, CA, and (2) *plastic products, metal products, solder, soldering flux, chemicals and related products*, between points in the U.S., under continuing contract(s) with Oatey, Inc., of San Jose, CA.

MC 152672 (Sub-10), filed August 24, 1982. Applicant: A. ROGER LEASING, LTD., P.O. Box 863, Coraopolis, PA 15108. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442–8330. Transporting *such commodities* as are dealt in or used by chain stores between points in the U.S. (except AK and HI) under continuing contract(s) with Giant Eagle Markets, Inc., of Pittsburgh, PA, and Tamarkin Company, of Youngstown, OH.

MC 155022 (Sub-1), filed August 24, 1982. Applicant: PROCHNOW FARMS, INC., Route 5, Medford, WI 54451. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, 608–273–1003. Transporting *lumber and wood products*, between points in the U.S. (except AK and HI), under continuing contract(s) with (A) Harlyn Industries, Inc., and (B) its subsidiary Hurd Millwork Company, both of Medford, WI.

MC 155782 (Sub-1), filed August 27, 1982. Applicant: REEDSBURG FOODS CORPORATION, P.O. Box 270, Reedsburg, WI 53959. Representative: Joseph E. Ludden, P.O. Box 1567, 2707 South Ave., La Crosse, WI 54601, 608–788–2000. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Wisconsin Country Inc., of Palm Beach, FL.

MC 156002, filed August 30, 1982. Applicant: CLAIR R. MESSERSMITH, Route 1, Box 67, Wilson, MI 49896. Representative: Clair R. Messersmith (same address as applicant), 906–466–2607. Transporting (1) *motorcycles, snowmobiles, snowblowers, lawn and garden equipment, generators, outboard motors*, and (2) *parts and accessories* for the commodities in (1) above, between Chicago, IL, on the one hand, and, on the other, points in Florence County, WI, and those in the Upper Pensinsula of MI.

MC 161842, filed August 30, 1982. Applicant: KNAACK MANUFACTURING COMPANY, 420 Terra Cotta Ave., Crystal Lake, IL 60014. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, 414–722–2848. 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), under continuing contract(s) with (a) Life-Like Products, Inc., of Baltimore, MD, and (b) P.V.P. Products Co., Inc., of Bound Brook, NJ.

MC 163143, filed August 3, 1982. Applicant: ALVIN E. JOHNSON, 13227 SW Fosberg Rd., Portland, OR 97219. Representative: David C. White, 2400 SW. Fourth Ave., Portland, OR 97201, (503) 226–6491. Transporting *hot tubs, spas, swimming pools*, and *related equipment*, between points in ID, MT, OR, and WA.

MC 163342, filed August 26, 1982. Applicant: MONICA KING AGENCY, d.b.a. EXECUTIVE TRAVEL, 563 Broad St., Hartford, CT 06156. Representative: Norma Ericson (same address as applicant), (203) 728–6764. Transporting *passengers and their baggage*, in the same vehicle with passengers, between points in CT, NY, MA, ME, NH, NJ, VA, GA, FL, and DC.

MC 163492, filed August 20, 1982. Applicant: STS TRANSPORTATION, INC., P.O. Box 1072, Somerville, NJ 08876. 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 Intermodal Consolidating Service, Inc., of Bridgewater, NJ.

MC 163522, filed August 23, 1982. Applicant: ROBERT A. ROBERTS, d.b.a. BOB ROBERTS TRUCKING, 608 3rd Ave., SW., Speepy Eye, MN 56085. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, 712–255–3127. Transporting *food and related products, chemicals and related products, petroleum and petroleum products, and coal products*, between points in IA, IL, MN, NE, ND, SD, and WI.

MC 163592, filed August 26, 1982. Applicant: CARROLL MILL CO., INC., 911 East Moore, Sedro-Woolley, WA 98284. Representative: Charles Christenson (same address as applicant), 206–856–2111. Transporting *lumber and wood products, and building materials*, between points in CA, ID, MT, NV, OR, UT, WA, and WY.

MC 163602, filed August 27, 1982. Applicant: FOUR STAR, INC., P.O. Box 97, College Grove, TN 37046. Representative: James H. Kinnard, 225 East Market St., Lebanon, TN 37087, (615) 444–4350. Transporting *agricultural implements, industrial equipment and parts*, and *such commodities* as are dealt in or used in the manufacture and distribution of agricultural implements and industrial equipment, between those points in the U.S., in and east of ND, SD, NE, KS, OK and TX.

MC 163613, filed August 27, 1982. Applicant: GIBSON TRANSPORTATION, INC., P.O. Box 121, Onarga, IL 60955. Representative: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62703, (217) 528–8476. Transporting (1) *asphalt coatings*, between points in Will County, IL, on the one hand, and, on the other, points in IN, MO and WI, and (2) *building and roofing materials and related products*, between points in Posey County, IN, on the one hand, and, on the other, points in IL, MI, IA and AR.

Please direct status inquiries to Team 4 at (202) 275–7669.

Volume No. OP4–319

Decided: September 1, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 647 (Sub-21), filed August 19, 1982. Applicant: EXHIBITORS SERVICE COMPANY, 85 Helen St., McKees Rocks, PA 15136. Representative: Samuel P. Delisi, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222, (412) 232–3505. Transporting *general commodities* (except classes A and B explosive, household goods and commodities in bulk), between points In VA, on the hand, and, on the other, points in OH, PA, WV, MD and NY.

MC 1117 (Sub-38), filed August 19, 1982. Applicant: M.G.M. TRANSPORT CORPORATION, 70 Maltese Dr., Totowa, NJ 07512. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (202) 466–0220. 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 34227 (Sub-28), filed August 16, 1982. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, 15910 E. Colfax Ave., Aurora, CO 80011. Representative: Steven K. Kuhlmann, 717 17th St., Suite 2600, Denver, CO 80202–3357, (303) 892–6700. 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), under continuing contract(s) with Simon Marketing, Inc., of Atlanta, GA.

MC 126717 (Sub-18), filed August 17, 1982. Applicant: WALT'S DRIVE-A-WAY SERVICE, INC., 1103 E. Franklin St., Evansville, IN 47711. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204, (317) 639–4511. Transporting such *commodities* as are dealt in by manufacturers of glass and glass products, between points in Vanderburgh County, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, under continuing contract(s) with PPG Industries, Inc. of Pittsburgh, PA.

MC 144927 (Sub-44), filed August 19, 1982. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204, (317) 639–4511. 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 151407 (Sub-6), filed August 16, 1982. Applicant: T & T TRUCKING, INC., 274 N.W. 37th St., Miami, FL 33127. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Jackson County, OR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 154237 (Sub-1), filed August 16, 1982. Applicant: PATGENT LINE AND SONS, INC., P.O. Box 238, Rochester, IN 46975. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IN on and north of Interstate highway 70, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 156347 (Sub-1), filed August 18, 1982. Applicant: TOOTSIE ROLL EXPRESS, INC., 7401 S. Cicero Ave,. Chicago, IL 60629. Representative: Edward G. Bazelon, 29 S. LaSalle St., Chicago, IL 60602, (312) 236–9375. 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), under continuing contract(s) with Popped Right, and its subsidiary, Wyandot Popcorn Co., both of Marion, OH.

MC 160767 (Sub-3), filed August 16, 1982. Applicant: LADD TRANSPORTATION, INC., 1 Plaza Center, Box HP 3, High Point, NC 27261. Representative: Beverly C. Davis (same address as applicant), (919) 889–0333. Transporting *resin solutions, oil compounds and chemicals*, between points in the U.S. (except AK and HI), under continuing contract(s) with Cargill, Inc., of Forest Park GA.

Volume No. OP4–320

Decided: September 1, 1982.

By the Commission, Review Board No. 2, members Carleton, Williams, and Ewing.

MC 34027 (Sub-28), Filed August 23, 1982. Applicant: GEETINGS, INC., P.O. Box 82, Pella, IA 50219. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 119547 (Sub-52), filed August 20, 1982. Applicant: EDGAR W. LONG, INC., 3815 Old Wheeling Rd., Zanesville, OH 43701. representative: Richard H. Brandon, P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 138177 (Sub-14), filed August 24, 1982. Applicant: BROWN TRUCKING, INC., 7622 Apple Valley Rd., Germantown, TN 38138. Representative: John Paul Jones, P.O. Box 3140, Front St. Station, 189 Jefferson Ave., Memphis, TN 38103, (901) 527–2482. Transporting (1) *those commodities which because of their size or weight require the use of special handling or equipment*, (2) *self-propelled articles*, (3) *machinery*, and (4) 3contractors' equipment, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 138177 (Sub-15), filed August 24, 1982. Applicant: BROWN TRUCKING, INC., 7622 Apple Valley Rd., Germantown, TN 38138. Representative: John Paul Jones, P.O. Box 3140, Front St. Station, 189 Jefferson Ave., Memphis, TN 38103, (901) 774–8210. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Shelby County, TN, on the one hand, and, on the other, points in AL, AR, IL, IN, KY, LA, MS, MO, TN, and TX.

MC 144927 (Sub-46), filed August 24, 1982. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 W., Remington, IN 47977. Representative: Jack Luck (same address as applicant), (219) 261–3461. Transporting *wood products*, between points in Piscataquis County, ME, and points in IL, CA, NJ, GA, KS, TX, and CO.

MC 146787 (Sub-8), filed August 20, 1982. Applicant: ALBAUGH FARMS TRUCKING CORPORATION, 1306 Wayne St., Des Moines, IA 50316. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245–4300. Transporting (1) *building materials*, between points in Kane County, IL, on the one hand, and, on the other, points in IN, KS, KY, MN, AR, IA, MO, ND, NE, OK, SD, TN, TX, and WI, and (2) *iron and steel articles and building materials*, between points in Polk and Muscatine Counties, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151767 (Sub-3), filed August 23, 1982. Applicant: BOYD F. POWERS AND MICHAEL J. POWERS, d.b.a. POWERS TRUCKING CO., 52 Market St., Lock Haven, Pa. 17745. Representative: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101, (717) 236–9318. Transporting (1) *wood products*, between points in Centre, Clinton, Lycoming, and Bradford Counties, PA, on the one hand, and, on the other, points in DE, MD, NY, and NJ, and (2) *scrap metals*, between points in PA, on the one hand, and, on the other, points in NY.

MC 154127 (Sub-6), filed August 23, 1982. Applicant: A. LUURTSEMA TRUCK LINES, INC., 5367 School St., P.O. Box 67, Hudsonville, MI 49426. Representative: Michael D. McCormick, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in IL, IN, IA, KY, MI, OH, TN, and WI.

MC 162697 (Sub-3), filed August 24, 1982. Applicant: REED H. WILSON AND CURTIS C. MORKEN d.b.a. CUREE CARRIERS, 1625—15th Ave. S., Fargo, ND 58103. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Chef-Reddy Foods Corp., of Park Rapids, MN, and Chef-Reddy Foods Corp.-Midwest, of Clark, SD.

MC 163307, filed August 24, 1982. Applicant: HUBER BULK TRANSIT, INC., N6882 Briggs Rd., Holmen, WI 54636. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting (1) *salt and salt products*, between points in

IA, MN and WI; (2) *fertilizers*, between points in Winona County, MN, on the one hand, and, on the other, points in IA, WI, IL, NE, KS, ND, SD, WY, MO, and MN; and (3) *coal*, between points in WI, MN and IA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25014 Filed 9-10-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated 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 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 become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1 (202) 275-7992.

Volume No. OP1-153

Decided: September 2, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 162610, filed August 19, 1982. Applicant: JETM DISTRIBUTING SYSTEMS, INC., 8424 W. 47th St., Lyons, IL 60534. Representative: William D. Brejcha, 180 N. Michigan Ave., Suite 1700, Chicago IL 60601, (312) 263-1600. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163551, filed August 25, 1982. Applicant: DANNY NICHOLSON, INC., Rt. 12, Box 208, Lexington, NC 27292. Representative: J. G. Dail, Jr., P.O. Box LL, McLean VA 22101, (703) 893-3050. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Please direct status inquiries to Team 2 (202) 275-7281.

Volume No. OP2-209

Decided: September 1, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 144893 (Sub-6), filed August 20, 1982. Applicant: NORMAN HOWARD, d.b.a. HOWARD TRUCKING OF UTAH, 1755 East 800 North, St. George, UT 84770. Representative: J. Ralph Atkin, 60 North 300 East, St. George, UT 84770, 801-628-2612. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163292, filed August 6, 1982. Applicant: FRED PINSON, d.b.a. MODEL "T" EXPRESS, General Delivery, U.S. Hwy. 1, Porthill, ID 83853. Representative: Debra Gordon, Rte. 3, Box 75G, 1.2 Miles East Garwood Road, Hayden Lake, ID 83835, (208) 772-4400. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle, in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP2-211

Decided: September 2, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 146783 (Sub-6), filed August 26, 1982. Applicant: S & L TRANSPORTATION, INC., 59-21 156th St., Flushing, NY 11355. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, 201-234-0301. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 161943 (Sub-2), filed August 31, 1982. Applicant: MOTOR CARRIER EXPRESS, INC., 906 Woodland Dr., Cardinal Bldg., Suite 208, Elizabethtown, KY 42701. Representative: Douglas F. Stancell, P.O. Box 440, Hermitage, TN 37076, 615-885-1330. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI); (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no package exceeds 100 pounds, between points in the U.S. (except AK and HI); and (3) *used household goods* for the account of the United States Government incidental to the performance of a pack-and-crate service on the behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 163563, filed August 26, 1982. Applicant: ITOFCA CONSOLIDATORS, INC., 1001 West 31st St., Downers Grove, IL 60515. Representative: Daniel C. Sullivan, 180 North Michigan Ave., Suite 1700, Chicago, IL 60601, 312–263–1600. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163623, filed August 20, 1982. Applicant: LARRY CURRIER, d.b.a. AMERICAN CONTAINER EXPRESS, 3212 48th Ave. SW., Seattle, WA 98116. Representative: Russell A. Evans, 410 Maynard Bldg., 119 First Ave. South, Seattle, WA 98104, 206–622–1471. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163643, filed August 31, 1982. Applicant: CASTELLAW TRANSPORTATION CONSULTANTS, INC., P.O. Box 577, 174 North Avenue, Jonesboro, GA 30237. Representative: J. M. Castellaw (same as applicant), (404) 477–1525. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Please direct status inquiries to Team 4, (202) 275–7669.

Volume No. OP4–323

Decided: September 1, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 163427, filed August 16, 1982. Applicant: ANTHONY M. ZAKRZEWSKI, 28 Maple Rd., Rosholt, WI 54472. Representative: Anthony M. Zakrzewski (same address as applicant), (715) 677–4598. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163447, filed August 18, 1982. Applicant: BANKS MOVING AND STORAGE COMPANY, 975 W. Jackson, Marshall, MO 65340. Representative: Alva Dean Banks (same address as applicant), (816) 886–7471. Transporting *used household goods* for the account of the United States Government incidental to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 163467, filed August 19, 1982. Applicant: MARVIN E. STRAUSHEIM, d.b.a. GOLDEN EAGLE TRANSPORTATION, 2126 Pioneer Rd., Dallas, OR 97338. Representative: Marvin E. Strausheim (same address as applicant), (503) 623–4677. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone, fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163497, filed August 23, 1982. Applicant: TAM RON TRANSPORTATION, INC., P.O. Box 368, East Syracuse, NY 13057. Representative: Gingold & Gingold, 824 University Bldg., Syracuse, NY 13202, (315) 471–7777. Transporting *used household goods* for the account of the United States Government incidental to a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–25013 Filed 9–10–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–199

The following applications were filed in Region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 123179 (Sub-1–1TA), filed August 26, 1982. Applicant: ARROW FREIGHT LINES, INC., 80 Progress Avenue, West Springfield, MA 01089. Representative: David M. Marshall, Marshall and Marshall, 101 State Street, Suite 304, Springfield, MA 01103. *Contract carrier:* irregular routes: *Paper and paper products* between West Springfield, MA on the one hand, and, on the other, points in CT, MD, NH, NJ, NY, and PA, under continuing contract(s) with Laurino Packaging Corp., West Springfield, MA. Supporting shipper: Laurino Packaging Corp., 360 Coldspring Avenue, West Springfield, MA 01089.

MC 134806 (Sub-1–39TA), filed August 27, 1982. Applicant: B–D–R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *(1) Emergency lighting equipment*, between Oxford, CT, on the one hand, and, on the other, Redwood City, CA; *(2) Batteries* between Huntington Beach, CA, on the one hand, and, on the other, Oxford, CT; and *(3) Materials and supplies used in the manufacture of those items in (1) above*, between San Francisco, CA, on the one hand, and, on the other, Oxford, CT, under continuing contract(s) with Sure-Lites, Inc., Oxford, CT. Supporting shipper: Sure-Lites, Inc., 339 Christian Road, Oxford, CT 06483.

MC 161033 (Sub-1–3TA), filed August 30, 1982. Applicant: CARDINAL CONTAINER, INC., 500 Nordhoff Pl., Englewood, NJ 07631. Representative: Jack L. Schiller, 123–60 83rd Avenue, Kew Gardens, NY 11415. *Contract carrier:* irregular routes: *Chemicals in bags and drums*, from the facilities of Allied Colloids, located at Fairfield, NJ, to San Francisco, CA, Denver, CO, Madison, ME, Raleigh, NC, Cleveland,

OH, Neenah, WI, and Huntington, WV; *(2) Tea* from New York, NY to Little Falls, NY; and *(3) Tea* from Suffolk, VA to Flemington, NJ, under continuing contract(s) with Clifford Transportation Services, Inc. of Ridgefield Park, NJ. Supporting shipper: Clifford Transportation Services, Inc., 86 Bergen Turnpike, Ridgefield Park, NJ 07660.

MC 163614 (Sub-1–1TA), filed August 30, 1982. Applicant: DOUGLAS TRANSPORTATION, INC., 221 Chestnut Street, Roselle, NJ 07203. Representative: Eugene D. Anderson, Suite 838, 1001 Connecticut Avenue NW., Washington, DC 20036. *Office Equipment* between points in and east of WI, IL, MO, AR and LA. Supporting shipper: A. M. International, 1834 Walden Office Square, Schamburg, IL 60196.

MC 161846 (Sub-1–1TA), filed September 1, 1982. Applicant: FURTADO'S FREIGHT LINES, INC., 200 Frontage Road, Boston, MA 02118. Representative: Dennis R. Furtado (same as applicant). *Contract carrier:* irregular routes: *Wooden and metal windows and window frames and related products* from the facilities of Velux-America, Inc., Woburn, MA to points in CT, ME, NH, VT, RI, NY, NJ, and PA, under continuing contract(s) with Velux-America, Inc., Woburn, MA. Supporting shipper: Velux-America, Inc., 74 Cummings Park, Woburn, MA 01801.

MC 99455 (Sub-1–5TA), filed August 26, 1982. Applicant: M. H. HILLERY, INC., 90 Western Avenue, Allston, MA 02134. Representative: Robert L. Cope, Suite 501, 1730 M Street NW., Washington, DC 20036. *General commodities (except hazardous wastes, Classes A and B explosives, household goods and commodities in bulk),* between Allston, MA, and Portsmouth, NH, on the one hand, and, on the other, points within the Commercial Zone of New York, NY. Supporting shipper(s): Hanjin Container Lines, Ltd., Suite 3220, 116 John Street, New York, NY 10038; Nike, Inc., 150 Ocean Road, P.O. Box 326, Greenland, NH 03840.

MC 163567 (Sub-1–1TA), filed August 26, 1982. Applicant: L.A.S. ENTERPRISES, INC., Route 102, Chepachet, RI 02814. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract carrier:* irregular routes: *(1) Textiles, yarns and all materials, equipment and supplies used in the manufacture, sale and distribution of them* between points in the U.S. (except AK and HI) under continuing contract(s) with Hanora Spinning, Inc., Woonsocket, RI; *(2) Sodas, softdrinks, juices, wines and all alcoholic beverages* betweeen points in the U.S. (except AK and HI), under continuing contract(s) with Michael Frenze Liquor Company, Inc., Johnston, RI; *(3) Beer* between points in the U.S. (except AK and HI), under continuing contract(s) with McLaughlin & Moran, Inc., Providence, RI. Supporting shipper(s): Hanora Spinning, Inc., 159 Singleton Street, Woonsocket, RI 02895; Michael Frenze Liquor Co., Inc., 39 Manuel Avenue, Johnston, RI 02919; McLaughlin & Moran, Inc., 175 Terminal Road, Providence, RI 02905.

MC 158006 (Sub-1–1TA), filed August 30, 1982. Applicant: LE GRAND VEHICULE ENRG, 15 Daniel-Johnson Blvd., Laval, P.Q., CD H7V 2C1. Representative: JoAnne Aubin, 4237 de Lanaudiere Street, Montreal, P.Q., CD H2J 3N8. *Such commodities as are used by entertainment groups* between the ports of entry on the International Boundary Line between the U.S. and CD and points in the U.S. (except AK and HI). Supporting shipper: April Wine Productions Ltd., 6265 Cote-de-Liesse Road, Ville St-Laurent, P.Q., CD H4T 1C3.

MC 138567 (Sub-1–4TA), filed August 30, 1982. Applicant: R. L. PAQUETTE, INC., Route 7 North, Box 162, Middlebury, VT 05753. Representative: Roger L. Paquette, Jr. (same address as applicant). *Contract carrier:* irregular routes: *Plastic materials* between Middlebury, VT, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract with C.P.C. of Vermont, Middlebury, VT. Supporting shipper: C.P.C. of Vermont, Pond Lane, Middlebury, VT 05753.

MC 1940 (Sub-1–1TA), filed August 31, 1982. Applicant: TRAILWAYS OF NEW ENGLAND, INC., 625 Eighth Avenue, New York, NY 10018. Representative: George W. Hanthorn, 1500 Jackson Street, Dallas, TX 75201. *Common carrier:* regular routes: *Passengers and their baggage and express and newspapers in the same vehicle with passengers* (1) Between Boston, MA, and Portland, ME, serving all intermediate points from Boston over U.S. Hwy 1 to Portland and return over the same route; (2) Between the junction of U.S. Hwy 1 and Interstate Hwy 95 near West Peabody, MA and Portland, ME, serving all intermediate points from junction U.S. Hwy 1 and Interstate 95 over Interstate Hwy 95 to junction Interstate Hwy 295, then over Interstate Hwy 295 to Portland, and return over the same route; and (3) Between the junction of U.S. Hwy 1 and New Hampshire Hwy 101E near Hampton, NH, and Hampton Beach, NH, serving all intermediate points from junction of U.S. Hwy 1 and New Hampshire Hwy 101E, over New Hampshire Hwy 101E to Hampton Beach and return over the same route. Applicant intends to tack. Support: This is based on the termination of service by Michaud Bus Lines, Inc., Salem, MA 01970.

MC 163529 (Sub-1–1TA), filed August 26, 1982. Applicant: UNITED FOODS, INC., FREEZER QUEEN FOODS DIVISION, 975 Fuhrmann Boulevard, Buffalo, NY 14203. Representative: William J. Augello, Esq., Augello, Pezold & Hirschmann, P.C., 120 Main Street, P.O. Box Z, Huntington, NY 11743. *Contract carrier:* irregular routes: *Foodstuffs, beverages, candy, confections, raw materials and packaging materials,* between points in the U.S. under continuing contract(s) with Nabisco Brands, Inc. of E. Hanover, NJ. Supporting shipper: Nabisco Brands, Inc., East Hanover, NJ 07936.

The following applications were filed in Region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 136635 (Sub-4–27TA), filed August 27, 1982. Applicant: WHITEFORD TRUCK LINES, INC., P.O. Box 2769, South Bend, IN 46680. Representative: Norman R. Garvin, Scopelitis & Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204–3491. *Contract:* irregular; *Building Materials,* from Newark, OH, to Bloomington and Indianapolis, IN under continuing contract(s) with Rose & Walker, Inc. Applicant has an underlying ETA application which seeks 120 days operating authority. Supporting shipper: Rose & Walker, Inc., 300 Country Club Drive, Bloomington, IN 47401.

MC 141989 (Sub-4–2TA), filed August 27, 1982. Applicant: JERZAK TRUCKING, INC., Route 2, Box 202, Almond, WI 54909. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 ODANA Rd., Madison, WI 53719. *Salt in bulk in dump vehicles* between LaCrosse and Prairie du Chien, WI on the one hand and on the other hand, points in MN and IA. Supporting shippers: Domtar Industries, Inc., Sifto Salt Division, 4825 North Scott Street, Shiller Park, IL 60176; and Morton Salt, a Division of Norwich Products, Inc., 110., North Wacker Drive, Chicago, IL 60606; International Salt Company, Abington Executive Park, Clarks Summit, PA 18411.

MC 158458 (Sub-4–2TA), filed August 27, 1982. Applicant: R.B.R. TRUCKING, INC., 211 Kocher St., Rockton, IL 61072. Representative: Edward D. McNamara, Jr., Leslieann G. Maxey, 907 South fourth St., Springfield, IL 62703. *Contract* irregular; *Hydraulic turbine parts* between Winnebago County, IL, on the

one hand, and points in the U.S., on the other hand; and *commodities as are dealt in, or used by, manufacturers or distributors of vacuum furnace tanks and equipment* between Boone County, IL, on the one hand, and points in the U.S., on the other hand. Supporting shippers: Woodward Governor Company, 5001 North Second, Rockford, IL 61125 and Youngberg Welding, Inc., 6863 Indy Drive, Belvidere, IL 61008.

MC 163600 (Sub-4–1), filed August 27, 1982. Applicant: DON SLOAN d.b.a. DON SLOAN TRUCKING, 6466 Mc Cain Road, Spring Arbor, MI 49283. Representative: Hughan R.H. Smith, 26 Kenwood Place, Lawrence, MA. 01841. *Contract* irregular. Applicant seeks the following authority: *Motor Contract Carrier,* transportation of *Machinery, Metal and Steel Products, Oil Field Equipment, Lumber and Building Supplies,* between points in MI; IL; IN; OH: PA; MO; AR; TN; TX; LA; and KY., under continuing contract with: (1) Don Lee Supply, 2636 Walnut Hill Lane, Dallas, TX. 75229; (2) Arbor Stone Company, 6718 Spring Arbor Road, Spring Arbor, MI. 49283; (3) ERB Lumber Company, 375 S. Eaton Street, Birmingham, MI 48012.

The following applications were filed in Region 5. Send protests to: consumer Assistance Center, Interstate Commerce Commission, P.O. Box 17150, Fort Worth, TX 76102.

MC 79658 (Sub-5–5TA), filed August 30, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, Evansville, IN 47711. Representatives: Robert C. Mills, Michael L. Harvey, 1212 St. George Road, Evansville, IN 47711. Contract, irregular: *household goods between all points in the U.S. (except AK and HI) under continuing contract(s) with Atlantic Richfield Company, Los Angeles, CA.*

MC 135762 (Sub-5–13TA), filed August 30, 1982. Applicant: JOHN H. NEAL, INC. P.O. Box 3877, Fort Smith, AR 72913. Representative: Don A. Smith, P.O. Box 43, Fort Smith, AR 72902. *Contract;* Irregular: *General commodities (except Classes A and B explosives, commodities in bulk and household goods as defined by the Commission),* between points in the U.S. (except AK and HI) under a continuing contract with Bundy Corporation. Supporting shipper: Bundy Corporation, 100 South E Street, Fort Smith, AR 72901.

MC 142239 (Sub-5–2TA), filed August 31, 1982. Applicant: NEBRASKA COAST, INC., P.O. Box 110, Neola, IA 51559. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210b, Omaha, NE 68114. *Meats and packinghouse products,* from Omaha, NE to points in FL, GA, KY, TN, and VA. Supporting shipper: Beef Nebraska, Inc., 3301 "G" Street, Omaha, NE 68107.

MC 150783 (Sub-5–38TA), filed August 30, 1982. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: James H. Berry, P.O. Box 32, Wesley, AR 72773. *Residential and commercial roofing materials and material equipment and supplies used in the manufacture of such materials;* between the facilities of Tampko Asphalt Products, Inc. on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Tampko Asphalt Products, Inc., Joplin, MO.

MC 150783 (Sub-5–39TA), filed August 30, 1982. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72773. Representative: James H. Berry, P.O. Box 32, Wesley, AR 72773. *Aluminum windows and frames for Recreational vehicles and trailers, and material, equipment and supplies used in the manufacture and distribution of such commodities;* between points in Los Angeles, CA, Ferndale, MI, Cincinnati, OH and Ponca City, OK on the one hand, and, on the other points in the U.S. (except AK and HI). Supporting shipper: Herhr International, Los Angeles, CA.

MC 153962 (Sub-5–5 TA), filed August 30, 1982. Applicant: NEBRASKALAND CONTRACT CARRIERS, INC., P.O. Box 1190, Kearney, NE 68847. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Contract; irregular. *General commodities (except household goods, Classes A and B explosives and hazardous materials),* between points in the US, under a continuing contract(s) with Moose Creek. Supporting shipper: Moose Creek, Spokane, WA 99216.

MC 163372 (Sub-5–2 TA), filed August 31, 1982. Applicant: TRANS-CARRIERS, INC., 1013 Camelot Cove, West Memphis, AR 72301. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 999, Memphis, TN 38103. *Such commodities as are dealt in by manufacturers and distributors of pharmaceutical and medical supplies, foods, and products* between (a) North Cove, NC, and Memphis, TN, and its commercial zone on the one hand, and, on the other, points in the US in and east of ND, SD, NE, KS, OK, TX, and, on the other (b) between Memphis, TN, and its commercial zone and North Cove, NC, on the one hand, and, on the other, points in CA. Supporting shipper: Travenol Laboratories, Inc., 6301 North Lincoln Ave., Morton Grove, IL 60053.

MC 163438 (Sub-5–1 TA), filed August 30, 1982. Applicant: RAYFORD ROGERS, d.b.a. ROGERS FARMS, P.O. Box 248, Leola, AR 72084. Representative: JAMES M. DUCKETT, 221 W. 2nd, Suite 411, Little Rock, AR 72201. *Treated Poles,* from the facilities of Fordyce Wood Treaters, Inc., at Fordyce, AR, to points in TX, LA, KY, NM, OK, MS, AL, TN, IL, ID, KS, MO and IA. Supporting shipper: Fordyce Wood Treaters, Inc., P.O. Box 226, Fordyce, AR 71742.

MC 163503 (Sub-5–2 TA), filed August 30, 1982. Applicant NATIONAL FREIGHT SYSTEM, INC., 2306 Oak Lane, Suite 115, Grand Prairie, TX 75051. Representative: Stephen W. Mitchell, 2306 Oak Lane, Suite 115, Grand Prairie, TX 75051. *Printed matter and periodicals* from the facilities of Texas Color Printers, Inc. located in Dallas, TX to points in AZ, CA, WA, GA, PA, VA, NJ, NY, MI, KY, IL, TN, OH and MA. Supporting shipper(s): Texas Color Printers, Inc., 4800 Spring Valley Road, Dallas, TX 75240.

MC 163606 (Sub-5–1 TA), filed August 30, 1982. Applicant: LARRY D. STEFFENSMEIER, d.b.a. Steffy's Trucking, 1609 Elk St., Schuyler, NE 68661. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Hides and skins,* from the facilities of Spencer Foods, Inc. at or near Schuyler, NE and Spencer and Oakland, IA, to points in TX. Supporting shipper: Land O'Lakes, Inc., Spencer Beef Division, Schuyler, NE 68661.

The following applications were filed in Region 6.

Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 163515 (Sub-6–1TA), filed August 30, 1982. Applicant: CUSTOM CAR CARRIERS, a division of TRISECT TRANSPORTATION, INC., 1825 Westholme #4, Los Angeles, CA 90025. Representative: Frederick J. Coffman, P.O. Box 1455, Upland, CA 91786. *Antique classic, customized, modified, restored motor vehicles and repli-cars,* between points in Gardena, Beverly Hills, Santa Ana, Irvine, Costa Mesa, Santa Fe Springs, CA; Las Vegas, NV; Arlington, TX; Port Sanilac, MI; Providence, RI; Orlando, FL; Brooklyn and Baldwin, NY, and their commmercial zones on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. ETA for 120 days was filed. Supporting shippers: 7, can be reviewed in Regional Office.

MC 163661 (Sub-6–1TA), filed August 30, 1982. Applicant: DGM DISTRIBUTORS, INC., 3605 Arrusa St.,

San Diego, CA 92154. Representative: Miles L. Kavaller, 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212. *Oil products* in drums and cans, *bottled and canned fruit juices, mineral water, food products,* and *metal containers* between points in Los Angeles and Orange Counties, CA, on the one hand, and, on the other, the port of entry on the international boundary line between the U.S. and the Rep. of MX at San Ysidro, CA, for 270 days. Supporting shipper: There are 7 shippers. Their statements may be examined at the Regional Office listed.

MC 163490 (Sub-6–1TA), filed August 30, 1982. Applicant: BEST SEAFOODS, INC., d.b.a. THE EDWARD FINEMAN CO., 13215 Cambridge St., Santa Fe Springs, CA 90670. Representative: Kenneth A. Freedman, 1605 W. Olympic Blvd., 9th floor, Los Angeles, CA 90015. *Contract carrier, irregular routes, Meat, potatoes, and seafood products.* Between points in WA, ID, KS, AZ, NE, TX, OK, and CO, for 270 days. Supporting shipper: Saga Corp., One Saga Lane, Menlo Park, CA 94025 and G & G Oridyce Co., 1901 Violet St., Los Angeles, CA 90021.

MC 156936 (Sub-6–2TA), filed August 27, 1982. Applicant: MTA FREIGHT CO., INC., 19010 13th Pl. S., Bldg. #3, Seattle, WA 98148. Representative: Robert N. Munn, Suite 600, 2001 Western Ave., Seattle, WA 98121. *Contract carrier,* Irregular routes: *Wearing apparel (garments), on hangers or in cartons,* between points in WA and OR, for the account of LW & Associates, for 270 days. Supporting shipper: LW & Associates, 15088 N.E. 40th St., Redmond, WA 98052.

MC 144572 (Sub-6–42TA), filed August 27, 1982. Applicant: MONFORT TRANSPORTATION COMPANY, P.O. Box G, Greeley, CO 80632. Representative: John T. Wirth, 717—17th St., Suite 2600, Denver, CO 80202–3357. *Malt beverages,* from Buffalo, NY and Detroit, MI to points in CO, WI and WA, for 270 days. Supporting shipper: Labatt Importers, Inc., 3980 Sheridan Dr., Amherst, NY 14226.

MC 163654 (Sub-6–1TA), filed August 30, 1982. Applicant: WILLIAM R. GOWARD, d.b.a. WEPECO, 6114 Peabody St., Long Beach, CA 90808. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211. *Contract Carrier,* Irregular routes: (1) *tables and related products* from the facilities of Rol-Fol Table, Inc. and Rol-Fol Sales Co., Van Nuys, CA, to points in the U.S. (except AK and HI), under continuing contract(s) with Rol-Fol Table, Inc., and Rol-Fol Sales Co., of Van Nuys, CA; and (2) *bakery goods* from the facilities of Famous Amos Chocolate Chip Cookie Corp., Van Nuys, CA, to points in the U.S. (except AK and HI), and from points in NJ to the facilities of Famous Amos Chocolate Chip Cookie Corp. Van Nuys, CA, under continuing contract(s) with Famous Amos Chocolate Chip Cookie Corp. of Van Nuys, CA, for 270 days. SUPPORTING SHIPPERS: Rol-Fol Table, Inc, and Rol-Fol Sales Co., 14876 Raymer St., Van Nuys, CA 91405; and Famous Amos Chocolate Chip Cookie Corp., 14734 Calvert St., Van Nuys, CA 91411.

MC 149195 (Sub-6–17TA), filed September 2, 1982. Applicant: ARCADIAN MOTOR CARRIERS, 1100 Sierra St., Kingsburg, CA 93631. Representative: James F. Hauenstein, (same as applicant). *Contract carrier;* irregular route: *Brick handling machinery and equipment* between Paris, TN and points in the U.S. excluding AK and HI, for 270 days. Shipper: Lingl Corporation, P.O. Box 1059, Paris, TN 38242.

MC 146280 (Sub-6–1TA), filed September 2, 1982. Applicant: LeROY STOCKTON & THELMA STOCKTON d.b.a. APOLLO TRANSIT CO., 7919 Hummel Dr., Boise, ID 83709. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Passengers and baggage,* in charter and special operation, between Bellevue, ID and Jackpot, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Melba Gutches, Local Township, Bellevue Motel & Cafe, Bellevue, ID 83313.

MC 163693 (Sub-6–1TA), filed September 2, 1982. Applicant: A. J. GILBERT CONSTRUCTION CO., Box 5288, Bisbee, AZ 85603. Representative: Andrew J. Gilbert III, (same as applicant). *Contract carrier,* irregular route; *ores* and *minerals* between points in the U.S., under contract with Phelps Dodge Corporation, for 270 days. An underlying ETA application has been submitted seeking 120 days authority. Supporting shipper: Phelps Dodge Corporation, Phelps Dodge Tower, 2600 North Central Avenue, Phoenix, AZ 85004–3014.

MC 1515 (Sub-6–23TA), filed September 2, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: J.D. Kimmey (Same as Applicant). *Common carrier,* regular route; *passengers and their baggage and express and newpapers in the same vehicle with passengers:* (1) Between junction Wisconsin Highway 54 and Wisconsin Highway 13 and junction Wisconsin 54 and U.S. Highway 51: From junction Wisconsin Highway 54 and Wisconsin Highway 13 over Wisconsin Highway 54 to junction U.S. Highway 51 and return over the same route, serving all intermediate points. (2) Between junction Wisconsin Highway 13 and Wisconsin Highway 54 and junction Wisconsin Highway 13 and Wisconsin Highway 16: From junction Wisconsin Highway 13 and Wisconsin Highway 54 over Wisconsin Highway 13 to junction Wisconsin Highway 16 and return over the same route, serving all intermediate points. (3) Between junction Wisconsin Highway 29 and Wisconsin Highway 13 and Eau Claire, Wisconsin: From junction Wisconsin Highway 29 and Wisconsin Highway 13 over Wisconsin Highway 29 to junction U.S. Highway 53, thence over U.S. Highway 53 to Eau Claire, Wisconsin and return over the same route, serving all intermediate points for 180 days. Applicant intends to tack this authority with authority it presently holds in MC–1515. Supporting Shippers: There are 5 shippers. Their statements may be examined at the Regional Office listed above.

MC 163668 (Sub-6–1TA), filed September 1, 1982. Applicant: K D DELIVERY SYSTEM, 1725 West 1500 South, Salt Lake City, UT 84104. Representative: Eldon E. Bresee, 2881 East 3400 South, Salt Lake City, UT 84109. *Household products, food & related products, paper products, printed matter and such commodities as are dealt in or used by wholesale or retail food business houses,* except Classes A and B explosives, household goods and commodities in bulk, between points in UT for 270 days. Supporting shippers: Bantam Books, Inc. of Delaware, 665 5th Ave., NYC, NY 10103; S&W Fine Foods, Inc., 1730 South El Camino Real, San Mateo, CA 94402; American Home Products Corp., 685 Third Ave., NYC, NY 10017.

MC 138069 (Sub-6–10), filed September 2, 1982. Applicant: LUCIUS, INC., 8331 Pontiac St., Commerce City, CO 80022. Representative: Lester G. Huskey (same as applicant). *Contract Carrier,* Irregular Routes: *General Commodities (except household goods),* between points in the U.S., for the accounts of United Forwarding, Inc. and Navajo Shippers, Inc., for 270 days. Supporting shippers: United Forwarding, Inc., 7000 Building Suite 445, 7000 West Center Road, Omaha, NE 68106; Navajo Shippers, Inc., 5150 Brighton Blvd., Denver, CO 80216.

MC 160162 (Sub-6–2TA), filed September 2, 1982. Applicant: ALPHONSO BLACKWELL, d.b.a. MR. AL'S TRUCKING, 2432 N.W. 57th St.

Seattle, WA 98107. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton, WA 98055–3273. *Contract Carrier,* irregular routes: *General Commodities (except class A or B explosives, commodities in bulk or household goods as defined by the Commission)* between points in WA, OR, CA, ID, MT, CO, WY, NV, UT, AZ, NM, TX, OK, KS, restricted to shipments originating at or destined to CD, for the account of Arrow Transportation Systems, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Arrow Transportation Systems, Inc., 10844 E. Marginal Way, Seattle, WA 98168.

MC 149100 (Sub-6–13TA), filed September 3, 1982. Applicant: JIM PALMER TRUCKING (a corporation), 9730 Derby Drive, Missoula, MT 59801.. Representative: John T. Wirth, 717–17th St., Suite 2600, Denver, CO 80202–3357. *Contract carrier,* irregular routes: *Building materials,* from the facilities of General Tire & Rubber Company at Toledo, OH to points in the U.S. (except AK and HI), under continuing contract(s) with General Tire & Rubber Company, for 270 days. Supporting shipper: The General Tire & Rubber Company, #1 General St., Akron, OH 44329.

Mc. 146647 (Sub-6–1TA), filed September 2, 1982. Applicant: JIM STRATTON, d.b.a. THE STRATTON COMPANY, 201 2nd St., Kaycee, WY 82639. Representative: Eric A. Distad, P.O. Box 2314, Casper, WY 82602. *Contract carrier,* irregular route; *ores and minerals,* between points in the U.S. under continuing contract(s) with Black Hills Bentonite Company, Mills, WY, for 270 days. Supporting shipper: Black Hills Bentonite Co., P.O. Box 9, Mills, WY 82644.

MC 163089 (Sub-6–1TA), filed September 1, 1982. Applicant: EXECUTIVE TRANSPORT INC., d.b.a. THE PARTY LINER, 4512 87th Ave. W., Tacoma, WA 98466. Representative: John J. Nance (same as applicant). *Passengers and their baggage in the same vehicle, in charter operations,* beginning and ending at any point or points in King, Pierce, Snohomish, Kitsap, or Thurston Counties, WA on the one hand, and extending to points in any other state of the U.S. excluding AK and HI on the other hand, including the Ports of Entry on the international boundary between the U.S. and CD wherever located in the continental U.S., for 180 days. Spporting shippers: Travel World Inc., 3116 Judson St., Gig Harbor, WA 98335; Bainbridge Island Park and Recreation District, P.O.B. 10661, Bainbridge Island. WA 98110: R & R Travel, 10308 Montrose Ave., S.W., Tacoma, WA 98499.

MC 147885 (Sub-6–1TA), filed September 1, 1982. Applicant: MANUEL & AMY VEGA d.b.a. VEGA CONSTRUCTION AND TRUCKING, P.O. Box 1630, Elko, NV 89801. Representative: John R. Ross II, P.O. Box 635, Carson City, NV 89702. *Barite, sand, gravel, ore, aggregates, mining equipment, materials and supplies,* between points in Elko, Eureka, Humboldt, Lander, and White Pine Counties, NV, for 270 days. Supporting shipper: Chromalloy American Corp., P.O. Box 1003, Elko, NV 89801.

Agatha L Mergenovich,

Secretary.

[FR Doc. 82–25008 Filed 9–10–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 142]

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of petition for leave to intervene must be filed with the Commission within 30 days after the date of this **Federal Register** notice addressing specifically the issue(s) indicated as the purpose for republication.

MC 19105 (Sub-68) (republication); filed March 29, 1982, published in the **Federal Register** issue of April 16, 1982. Applicant: FORBES TRANSFER CO., INC., P.O. Box 3547, Wilson, NC 27893. Representative: Vance T. Forbes, Jr. (same address as applicant), (919) 237–3151. A Decision of the Commission, Review Board 2, decided July 16, 1982, and served July 27, 1982, finds that the performance by applicant of the service described herein to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives and household goods), between Birmingham, AL, Jacksonville, FL, Philadelphia, PA, Dallas, TX, New Orleans, LA, Baltimore, MD, Boston, MA, Detroit, MI, Milwaukee, WI, and Norfolk and Danville, VA, and points in Jefferson, Barbour, and Cleburne Counties, AL, Pulaski County, AR, Los Angeles and Imperial Counties, CA, Pueblo County, CO, Duval County, FL, De Kalb, Bibb, Jones, Rockdale, Baldwin, and Clayton Counties, GA, Latah County, ID, Henry, Cook, Grundy, and Perry Counties, IL, Lake, Wabash, and Martin Counties, IN, Cibola County, NM, Genesee and Rockland Counties, NY, Yancey, Mitchell, Cleveland, and Gaston, NC, Jackson, Ottawa, Stark, and Trumbull Counties, OH, Caddo and Blaine Counties, OK, Umatilla County, OR, Allegheny and Indiana Counties, PA, Obion County, TN, Navarro, Brazoria, Harris, Comal, Nolan, Hopkins, Rusk, Angelina, and Guadalupe Counties, TX, Webster and Des Moines Counties, IA, Crawford County, KS, Androcoggin County, ME, Iosco County, MI, Washington County, MS, Audrain, Clay, and Callaway Counties, MO, Fergus County, MT, Washoe and Pershing Counties, NV, Camden, Mercer, Hudson, Union, and Middlesex Counties, NJ, Sevier County, UT, Washington County, VA, Pierce County, WA, and Jefferson, Waukesha, and Walworth Counties, WI, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA; that applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect applicant's actual grant of authority.

MC 136635 (Sub-69) (republication), filed February 22, 1982, published in the **Federal Register** issue of March 10, 1982. Applicant: WHITEFORD TRUCK LINES, INC., 640 West Ireland Rd., South Bend, IN 46680. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345, (404) 321–1765. A Decision of the Commission, Review Board 3, decided July 16, 1982, and served August 3, 1982, finds that the performance by applicant of the service described herein to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers and container closures, between points in AL, CA, GA, IN, MN, MS, NH, NJ, NY, OH, OK, PA, and WV, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); that applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to broaden the territorial description.

By the Commission

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25012 Filed 9-10-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-255)]

Rail Carriers; Burlington Northern Railroad Co.; Exemption for Contract Tariff ICC-BN-C-0134 (Potash)

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, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a 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:

The 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.

(49 U.S.C. 10505)

Decided: September 7, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25016 Filed 9-10-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 64)]

Rail Carrier; Seaboard Coast Line Railroad Co.—Abandonment—in Bertie County, N.C.; Findings

The Commission has issued a certificate authorizing the Seaboard Coast Line Railroad Company to abandon its 5.25-mile rail line near Kelford, NC (milepost SAB 84.30) and Lewiston, NC (milepost SAB 89.55) in Bertie County, NC. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be resubmitted within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25010 Filed 9-10-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 251)]

Rail Carriers; Southern Pacific Transportation Co. Exemption for Contract Tariff ICC-SP-C-0126 (Canned Food)

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 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a 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:

The 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.

(49 U.S.C. 10505)

Decided: September 7, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25015 Filed 9-10-82; 8:45 am]

BILLING CODE 7035-01-M

[Amdt. No. 1 to Sixth Revised I.C.C. Order No. 80 Under Service Order No. 1344]

Rerouting Traffic; St. Louis Southwestern Railway Co.; Cadillac & Lake City Railway Co.; Chicago & North Western Transportation Co.; Iowa Railroad Co.; North Central Texas Railway Co.; Enid Central Railway Co.; South Central Arkansas Railway Co.; Okarche Central Railway Co., and North Central Oklahoma Railway, Inc.

Upon further consideration of Sixth Revised I.C.C. Order No. 80 and good cause appearing therefor:

It is ordered:

I.C.C. Order No. 80 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

* * * * *

(g) *Expiration date.* The order shall expire at 11:59 p.m., September 30, 1982, unless otherwise modified, amended or vacated.

Effective date. This order shall become effective at 11:59 p.m., August 31, 1982.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 31, 1982.
Interstate Commerce Commission.
J. Warren McFarland,
Agent.
[FR Doc. 82-25011 Filed 9-10-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-28 (Sub-4)]

Rail Carriers; Central of Georgia Railroad Co.; Abandonment—Between Goshen and Andalusia, AL; Findings

The Commission has found that the public convenience and necessity permit Central of Georgia Railroad Company to abandon its 39.3 mile line of railroad between Goshen (milepost S-390.0) and Andalusia (milepost S-429.3) in Pike, Crenshaw, and Covington Counties, AL. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be resubmitted within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,
Secretary.
[FR Doc. 82-25009 Filed 9-10-82; 8:45 am]
BILLING CODE 7035-01-M

[No. AB-1 (Sub-124)]

Rail Carriers; Chicago and North Western Transportation Company—Abandonment Between Onida and Gettysburg, SD; Findings

September 7, 1982.

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision dated September 7, 1982, a finding, which is administratively final, was made by the Administrative Law Judge stating that the public convenience and necessity permit the abandonment by Chicago and North Western Transportation Company of a segment of rail line extending from railroad milepost 95.5 near Onida to railroad milepost 74.1 near Gettysburg, a distance of 24.4 miles, in Sully and Potter Counties, SD, together with 1.7 miles of sidetrack. Abandonment is subject to the conditions for the protection of employees in *Oregon Short Line Railroad Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). Offers of financial assistance must be made within 10 days of the publication of this notice. Any person who made an offer of financial assistance prior to the publication of the notice must inform the carrier and the Commission of its continued interest or the offermay be considered to have lapsed. A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above-described finding, 30 days after publication of this notice, unless within 15 days from the date of publication, the Commission further finds:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Deputy Director, Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such a line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all of any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of any offer, and no request is made of the Commission to set conditions or amount of compensation, a certificate of abandonment will be issued no later than 50 days after notice is published. Upon notification to the Commission of execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 CFR 1121 as revised by Ex Parte No. 274 (Sub-No. 6), *Abandonment of Railroad Lines and Discontinuance of Service,* 365 I.C.C. 249 (1981), as published at 46 FR 45342 (September 11, 1981). All interested persons are advised to follow the instructions contained therein as well as the instructions in the above-referenced decision.

Agatha L. Mergenovich,
Secretary.
[FR DOC. 82-25007 Filed 9-10-82; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29792 (Sub-N1)]

Rail Carriers; Chicago and North Western Transportation Co.—Purchase (Portion)—Chicago, Rock Island and Pacific Railroad Company Debtor (William M. Gibbons, Trustee) and Peoria Terminal Co.; Decision

AGENCY: Interstate Commerce Commission.

ACTION: Application Accepted for Consideration.

SUMMARY: The Commission is accepting for consideration the application of the Chicago and North Western Transportation Company (CNW) to acquire and operate 6.5 miles of track from William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company, Debtor and its wholly owned subsidiary Peoria Terminal Co. (RI) between Peoria (Iowa Jct) and Pekin, IL. Included is assignment of RI's Trackage rights at Iowa Jct.

DATES: Verified statements supporting or opposing the application must be received at the Commission by September 20, 1982. Applicant's reply statements must be received by September 22, 1982.

ADDRESS: An original and 10 copies of all statements making reference to Finance Docket No. 29792 (Sub-No. 1) should be sent to: Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423. Attention: Rock Island Acquisition.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: CNW filed an application on September 2, 1982, under section 17(b) of the Milwaukee Railroad Restructuring Act (MRRA), 45 U.S.C. 915 and 49 CFR Part 1111 for authority to purchase 6.5 miles of RI track between Peoria and Pekin, IL, including RI trackage rights at Iowa Jct, IL subject to Toledo, Peoria and Western (TP&W) trackage rights.

CNW has been operating this segment since August 25, 1981, under Service Order No. 1473. A sale and purchase agreement was signed by CNW and the RI Trustee on September 1, 1982. No

governmental assistance is involved in this proposal.

In Finance Docket No. 29792, *Chicago And North Western Transportation Company-Petition For Waiver* (not printed) served January 26, 1982, the Commission found that the acquisition by CNW of a portion of the RI was not a major market extension.

Preliminary approval of the proposed purchase was granted by the Court overseeing RI's reorganization on August 9, 1982, in Order No. 492. The Court has directed the Commission to issue a decision on this application on or before October 1, 1982.

Comments on the proposal must be filed by September 20, 1982, with replies by applicant by September 22, 1982. A copy of comments should be served upon the Attorney General of the United States and the United States Secretary of Transportation, and upon Stuart F. Gassner, Esq., 165 North Canal Street, Chicago, IL 60606.

It is ordered:

1. The application in Finance Docket No. 29792 (Sub-No. 1) is accepted for consideration.

2. The parties shall comply with all provisions as stated above.

3. This decision is effective on September 13, 1982.

Dated: September 9, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25257 Filed 9-10-82; 10:54 am]

BILLING CODE 7035-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Emergency Core Cooling Systems; Date Change

The ACRS Subcommittee on Emergency Core Cooling Systems scheduled for September 16, 1982 has been changed to September 28, 1982, Room 1046, 1717 H Street, NW., Washington, DC.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Wednesday, September 1, 1982 (47 FR 38656).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., e.d.t.

Dated: September 8, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-25080 Filed 9-10-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Operations; Meeting

The ACRS Subcommittee on Reactor Operations will hold a meeting on September 29, 1982, Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee plans to discuss: (a) The pressure transients during shutdown at Turkey Point Unit 4 and other related incidents with the Staffs of the Offices of Analysis and Evaluation of Operational Data, Nuclear Reactor Regulation, Inspection and Enforcement, and Region II; (b) proposed rulemaking on 10 CFR 50.54, Proposed Rule to Clarify Applicability of License Conditions and Technical Specifications in an Emergency; and a discussion of suppression pool or containment sump water contamination with potential adverse effects on post-accident cooling pumps.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, 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 Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance 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 so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, September 29, 1982—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard K. Major (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., e.d.t.

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 Exemptions (3) and (4) to the Sunshine Act, 5 U.S.C. 552b(c) (3), (4).

Dated: September 8, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-25081 Filed 9-10-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Metal Components Working Group; Meeting

The ACRS Subcommittee on Metal Components Working Group will hold a meeting on September 30, 1982, Room 1167, 1717 H Street, NW, Washington, DC. The Subcommittee will hear and discuss with the NRC Staff's its interim position on pressurized thermal shock. The views of the industry and others on this matter will also be heard.

In accordance with the procedures outlined in the **Federal Register** on Sept. 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary, and 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 so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Thursday, September 30, 1982—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m. E.D.T.

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, and industrial security and/or Unclassified Safeguard information. The authority for such closure is Exemptions (3) and (4) to the Sunshine Act, 5, U.S.C. 552b(c)(3), (4).

Dated: September 8, 1982

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–25082 Filed 9–10–82; 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 Systems Integration and Instrumentation Control, September 30, 1982, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will discuss the CRBR plant protection and instrument and control systems.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, 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 as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, September 30, 1982—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with 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 been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., e.d.t.

Dated: September 8, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–25083 Filed 9–10–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–387]

Pennsylvania Power & Light Co. and Allegheny Electric Cooperative, Inc.; Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issed Amendment No. 1 to Facility Operating License No. NPF–14, issued to Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc., for Susquehanna Steam Electric Station, Unit 1 (the facility) located in Luzerne County, Pennsylvania. This amendment grants changes to Technical Specifications to delete observation well Number 2 from ultimate heat sink surveillance requirements, to correct a typographical error in the low pressure alarm setpoint for the condensate transfer pump, and to correct values on standby gas treatment flow rates provided for surveillance purposes and to clarify the volumes associated with the same surveillance test. This amendment is effective as of the date of issuance.

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 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) the application for the amendment dated August 18, 1982; August 23, 1982; September 1, 1982; and September 2, 1982; (2) Amendment No. 1 to License NPF–14 dated September 3, 1982; and (3) the Commission's evaluation dated September 3, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H. Street, NW., Washington, D.C. 20555, and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes–Barre, Pennsylvania 18701. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated At Bethesda, Maryland, this 3rd day of September 1982.

For the Nuclear Regulatory Commission.

L. L. Kintner,

Acting Branch Chief, Licensing Branch No. 1, Division of Licensing.

[FR. Doc. 82–25079 Filed 9–10–82; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF SCIENCE & TECHNOLOGY POLICY

Acid Rain Peer Review Panel Meeting

Pursuant ot the provisions of the Federal Advisory Committee Act (P.L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Acid Rain Peer Review Panel

Dates and times and locations:

Oct. 7, 1982: 9:00 a.m., Room 194, Old Executive Office Building, Washington, D.C.

Oct. 8, 1982: 9:00 a.m., room 194, Old Executive Office Building, Washington, D.C.

Type of meeting:
Part Open: Oct. 7, 1982, 11:00 a.m.–4:30 p.m.; Oct. 8, 1982, 9:00 a.m.–4:30 p.m.
Part Closed: Oct. 7, 1982, 9:00 a.m.–11:00 a.m.

Proposed agenda:
(1) Personnel Policies, Panel Staff Composition
(2) Review Charter and Terms of Reference
(3) Briefing on U.S.-Canadian Memorandum of Intent (MOI) on Transboundary Air Pollution
(4) Briefing on MOI working groups and how they functioned
(5) Briefing on reports of MOI working groups 1, 2, & 3B
(6) Briefing on Federal Interagency Task Force Research Plan
(7) Adoption of a work plan and individual panelist roles

Reason for closed meeting: Discussion of personnel policies and panel staff composition require discussion of internal personnel procedures of the Executive Office of the President and will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(2) and (6).

Public participation: Parts of the meeting, as indicated above, are open to the public. Due to limited meeting room capacity, individuals wishing to attend should contact Dr. John K. Robertson, Executive Secretary of the Acid Rain Peer Review Panel at (202) 395–7268 prior to 4:30 p.m. on October 6, 1982; written comments addressing the MOI working group reports under consideration and other issues in the Panel's charter should be submitted to the Panel by 15 November 1982 at the address below.

Contact: Dr. John K. Robertson, Executive Secretary, Acid Rain Peer Review Panel, Office of Science & Technology Policy, Room 5002, New Executive Office Building, 17th & Pennsylvania Avenue, NW., Washington, D.C. 20500.

Dated: September 8, 1982.

Jerry Jennings,

Executive Director, Office of Science and Technology Policy.

[FR Doc. 82–25019 Filed 9–8–82; 2:40 pm]

BILLING CODE 3170–01–M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer: Kohlberg, Kravis, Roberts and Co.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted Kohlberg, Kravis, Roberts and Company an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for exemption from this requirement was published on April 6, 1982 (47 FR 14817). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESS: The request for an exemption, the public comments on it and the PBGC decision on the request are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street, N.W., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (160) at the above address..

FOR FURTHER INFORMATION CONTACT: David Weingarten, Office of the Executive Director, Policy and Planning (140), 2020 K Street, N.W., Washington, D.C. 20006; (202) 254–4862.

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years after the sale. Another condition is that the sales agreement provide that the seller will be secondarily liable for its withdrawal liability if the purchaser withdraws within the first five plan years after the sale and fails to pay withdrawal liability.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow and sale-contract requirements of section 4204(a)(1)(B) and (C). Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (46 FR 46127, September 17, 1981), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

Section 4204(c) and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

Decision

On April 6, 1982 (47 FR 14817), PBGC published a request from Kohlberg, Kravis, Roberts and Company ("KKR") to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA with respect to eight multiemployer plans in connection with the purchase of substantially all of the assets of Fred Meyer, Inc. ("Fred Meyer") by FMI Acquisition Corporation ("Acquisition") and Fred Meyer Real Estate Properties, Ltd. ("Properties"). According to KKR's request for an exemption, Acquisition, a newly-formed corporation, acquired the operations of Fred Meyer, and Properties, a limited partnership, acquired the real estate and certain other fixed assets of Fred Meyer. Acquisition and Properties were organized by KKR, a private investment firm, for the purpose of acquiring Fred Meyer. Acquisition and Properties intend to continue to operate the business of Fred Meyer substantially as it was previously conducted, using the same management and employees. Fred Meyer has been liquidated, and Acquisition has changed its name to Fred Meyer, Inc.

The eight multiemployer plans with respect to which an exemption is requested are as follows: Oregon Hospitality Service Pension Trust (the "Hospitality Trust"), Bakery and Confectionary Union and Industry International Pension Fund, Oregon Federation of Butchers Pension Trust, Oregon Retail Employees Pension Trust, Western Conference of Teamsters Pension Fund, Clark County Employers and Retail Clerks Union, Local 942 Pension Trust, Retail Clerks Pension Trust (Washington) and Intermountain Retail Store Employees Pension Trust. As indicated in the April 6 **Federal Register** notice, PBGC takes no position as to whether there has been a complete or partial withdrawal with respect to each of those eight plans as a result of the sale of assets described above.

The estimated total amount of the seller's withdrawal liability for the eight

plans is $13,242,315.[1] Acquisition had net tangible assets of at least $48 million as of the date of the sale.

In response to the notice of pendency of the exemption, PBGC received comments from the Hospitality Trust and the United Food and Commercial Worker's Local No. 1105 ("Local 1105"), the labor organization sponsoring the Retail Clerks Pension Trust (Washington). Both comments objected to KKR's exemption request. Local 1105 objected to PBGC granting KKR an exemption on the ground that granting an exemption would significantly increase the risk of financial loss to the plans involved because of "* * * the huge indebtedness incurred by KKR to complete the purchase, the current state of the economy, and the absence of any assurance that there will be no withdrawal from the Trusts by (Acquisition) during the next five years * * *."

The Hospitality Trust objected to the exemption, contending that no exemption should be granted because: (1) The debt/equity ratio of Acquisition is substantially greater than the seller's debt/equity ratio, and "(s)uch a debt increase makes Acquisition a substantially less viable entity than the seller considering the cost of the debt and the current market for retail goods."; (2) the Hospitality Trust "* * * is experiencing a negative financial trend" based on a declining amount of employer contributions and a declining number of contributing employers, and the purchaser's bond or escrow increases in importance as the financial strength of a plan decreases; and (3) the business and management continuity of Acquisition is speculative pending the outcome of the litigation in state court in Oregon challenging the propriety of the Oregon Public Employees' Retirement System's ("PERS") investment in Acquisition (PERS has a 44.4 percent limited partnership interest in the limited partnership that owns 97 percent of Acquisition).

The Hospitality Trust also stated that granting the exemption might increase its risk of financial loss if Acquisition withdraws on July 31, 1982, the date on which the current collective bargaining agreement with Acquisition expires. The Hospitality Trust asserted that PBGC should not rule on the exemption request until it is known whether there will be a new collective bargaining agreement with Acquisition. In addition, the Hospitality Trust suggested that PBGC obtain updated facts, if reasonably convenient, if PBGC intends to rely on the factual representation made in the request.

In considering these comments, it is helpful first to examine the purpose of the section 4204(a)(1)(B) bond or escrow. The amount of the bond or escrow is approximately equal to the seller's annual contributions to the plan. As such, it provides some indication of the purchaser's ability to meet its ongoing financial obligations to the plan, and it also affords the plan protection in the event the purchaser fails to pay its contributions. The bond or escrow is not intented to ensure that the purchaser will not withdraw from the plan, or that the purchaser is as strong or stronger financially than the seller. Therefore, PBGC finds that the comments addressing the possibility of the purchaser's future withdrawal from the plan and the fact that the purchaser's debt/equity ratio is greater than the seller's are not germane to the decision on whether to waive the bond/escrow requirement.

Further, while the bond or escrow may be more important to a plan "experiencing a negative financial trend", in determining whether to waive this requirement, the test under § 2643.3(a) of PBGC's regulation is the risk of financial loss to the plan, *i.e.*, whether or not a loss may occur, and not the impact of a loss on a particular plan. Therefore, the focus is on the purchaser, not the plan.

PBGC believes a variance from the bond/escrow requirement of section 4204 (a)(1)(B) is justified where the purchaser is capable of meeting its obligations to the plan or plans at the time of the sale. A factor that would demonstrate this capability is the purchaser's ability to pay the withdrawal liability it would incur should it withdraw from the plan or plans. This ability can be measured by comparing the purchaser's net tangible assets to the purchaser's potential withdrawal liability.

When the purchaser is not a contributing employer under the plan prior to the sale, the purchaser's withdrawal liability cannot be computed. However, the seller's withdrawal liability as of the date of the sale can be used as an approximation of the purchaser's withdrawal liability immediately after the sale. Using this approach is protective of the plan, because, normally, the seller's withdrawal liability as of the date of the sale will be greater than the purchaser's. Under section 4204(b)(1) of ERISA, in computing the withdrawal liability of a purchaser under section 4204, the purchaser assumes the contribution record of the seller for the plan year in which the sale occurs and for the preceding four plan years. In this case, the total withdrawal liability of the seller for all eight plans is estimated to be $13,242,315.

Normally, where the purchaser is an existing company, its net tangible assets may be determined based on its audited financial statements as of the end of the fiscal year preceding the sale. However, in a case such as the present one, where the purchaser is established for the purposes of the acquisition, it is necessary to examine other financial information. In determining whether to grant the exemption to KKR, PBGC considered Acquisition's net tangible assests as of the date of the sale as represented by KKR and as evidenced by the pro forma capitalization of Acquisition, as of August 15, 1981, set forth in a Proxy Statement to shareholders of Fred Meyer, Inc. dated November 12, 1981 (at p. 31). PBGC agrees with the comments that the indebtedness incurred by Acquisition in connection with its purchase of Fred Meyer's assets is relevant in determining whether to grant KKR an exemption. Therefore, this indebtedness has been taken into account in computing Acquisition's net tangible assets.

Based on this information, Acquisition's net tangible assets were at least $48 million as of the date of the sale. This far exceeds the total potential withdrawal liability for all eight plans of $13,242,315, and therefore demonstrates Acquisition's ability to pay its liability in the event of a withdrawal.

The Challenge to PERS' investment in Acquisition, if successful, could result in a change in the ownership or management of Acquisition, as asserted in the comments. However, the possibility of such a change does not indicate that Acquisition is or may be in financial difficulty, thereby jeopardizing its ability to meet its financial obligations to the plan. Similarly, absent concrete evidence concerning the future financial prospects of a purchaser, PBGC will not attempt to predict the purchaser's future financial condition based on speculation concerning the economy, in general, or one sector of the economy.

Further, PBGC believes it would not be worthwhile, in this case, to require the submission of updated financial

[1] KKR's counsel has advised PBGC that the seller's liability with respect to the Western Conference of Teamsters Pension Fund was understated in the April 6 **Federal Register** notice, because the liability figure was based only on the parent corporation. That notice stated that the seller's liability to the Fund is $4,663,723. PBGC is now advised that the liability for Fred Meyer, Inc. and all of its subsidiaries is $6,680,029.

information concerning the purchaser. Acquisition's net tangible assets far exceed its withdrawal liability. In view of the short time since the sale (December 11, 1981), it is unlikely that more recent financial information on Acquisition would be significantly more reliable than or different from the information previously submitted.

Finally, Local 1105 and the Hospitality Trust also objected to PBGC granting an exemption in this case because the seller has requested waivers of the seller's bond or escrow under section 4204(a)(3) of the Act in connection with its liquidation. As stated by Local 1105 "* * * if the PBGC grants the purchaser's request, (the plans) that have waived or may waive the seller's bond/escrow requirement will be left with only a lawsuit without the security of the bond or escrow deposit to recover any withdrawal libility in the event the purchaser subsequently withdraws."

The purchaser's bond/escrow under section 4204(a)(1)(B) and the seller's bond/escrow under section 4204(a)(3) are required in different circumstances and serve different purposes. The seller's bond/escrow is required upon liquidation of the seller or distribution of substantially all of the seller's assets. The amount of the bond/escrow is the full withdrawal libility the seller would have had but for section 4204, and is realized upon in the event that the seller's secondary liability under section 4204 accrues. It is the responsibility of the plan sponsor to determine whether to waive the seller's bond/escrow in a particular case.

In contrast, as discussed above, the purchaser's bond/escrow is in an amount approximately equal to the seller's annual contribution to the plan, and would not provide full protection to a plan in the event of the purchaser's subsequent default or withdrawal within five years after the sale. PBGC's decision to grant an exemption from the purchaser's bond/escrow requirement is independent of a plan's decision whether to waive the seller's bond/escrow, pursuant to section 4224 of the Act.

PBGC's Multiemployer Bulletin No. 2, issued July 1, 1981, contains examples of situations in which a plan sponsor may find it appropriate to waive the seller's bond/escrow. It does not require waiver of the seller's bond/escrow in any situation. If any of the eight plans involved in the instant matter decide it is appropriate to waive the requirement under section 4204(a)(3) that Fred Meyer, Inc. post a bond or deposit an amount in escrow, the bond/escrow may be waived; a plan that wants the additional protection afforded by the seller's bond/escrow need not waive this requirement.

Based on the facts of this case and the representations and statements made in connection with the request for exemption, and after consideration of the objections raised by Local 1105 and the Hospitality Trust, PBGC has determined that an exemption under section 4204(c) would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the eight plans for which an exemption is requested. Therefore, PBGC hereby grants KKR's request for an exemption from the bond/escrow requirement. The granting of an exemption or variance from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the plan sponsor of each of the plans.

Issued at Washington, D.C. on this 30th day of August, 1982.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-24923 Filed 9-10-82; 8:45 am]

BILLING CODE 7708-01-M

Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer Who Contributes to a Multiemployer Plan: Flushing Shirt Manufacturing Co., Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted Flushing Shirt Manufacturing Company, Inc. an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for exemption from this requirement was published on May 12, 1982 (47 FR 20412). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESS: The request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street, N.W., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (160) at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), 2020 K Street, N.W., Washington, D.C. 20006; (202) 254-4862.

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B). Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (46 FR 46127, September 17, 1981), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

Section 4204(c) and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

Decision

On May 12, 1982 (47 FR 20412), the PBGC published a notice of the pendency of a request from Flushing Shirt Manufacturing Company, Inc. ("New Flushing") to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA, in connection with the purchase by New Flushing on November 30, 1981 of the operating assets of Flushing Shirt Manufacturing Company, Inc. ("FSMC"). No comments were received in response to the notice.

FSMC contributed to the Amalgamated Cotton Garment & Allied Industries Fund (the "Fund"). According

to New Flushing's request for an exemption, New Flushing has agreed to contribute to the Fund for substantially the same number of contribution base units for which FSMC had an obligation to contribute.

Prior to the sale, FSMC's potential withdrawal liability to the Fund had been calculated to be $503,048.26. The amount of the bond or escrow required under section 4204(a)(1)(B) is $154,482.08 (the contributions required to be made for the plan year ending December 31, 1980).

New Flushing is a member of a controlled group of corporations known as TFB Holding Corporation ("TFB"). TFB was formed on January 30, 1981. TFB's audited consolidated financial statement for calendar year 1981 shows net income of approximately $2.1 million and net tangible assets as of December 31, 1981 of approximately $1.7 million.

Based on the facts of this case and the representations and statements made in connection with the request for exemption, PBGC has determined that an exemption from the bond/escrow requirement would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the plan. Therefore, PBGC hereby grants New Flushing's request for an exemption from the bond/escrow requirement. The granting of an exemption or variance from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the plan sponsor.

Issued at Washington, D.C. on this 27th day of August, 1982.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-24924 Filed 9-10-82; 8:45 am]

BILLING CODE 7708-01-M

Exemption From Bond/Escrow and Sale-Contract Requirements Relating to Sale of Assets by an Employer: Tribune Company and its Wholly Owned Subsidiary, Chicago National League Ball Club, Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted the Tribune Company and its wholly owned subsidiary, Chicago National League Ball Club, Inc., an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for exemption from this requirement was published on July 6, 1982 (47 FR 29424). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESS: The request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street, N.W., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (160) at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), 2020 K Street, N.W., Washington, D.C. 20006; (202) 254-4862.

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B). Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (46 FR 46127, September 17, 1981), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

Section 4204(c) and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

Decision

On July 6, 1982 (47 FR 29424), the PBGC published a notice of the pendency of a request from the Tribune Company and its wholly owned subsidiary, Chicago National League Ball Club, Inc., ("Tribune") for an exemption from the requirement of section 4204(a)(1)(B) of ERISA. Tribune had purchased the assets of the Chicago National League Ball Club (the "Club"). No comments were received in response to the notice.

The Club was a participating employer in the Major League Baseball Players Benefit Plan (the "Plan"), which is established and maintained pursuant to a collective bargaining agreement between the 26 professional major league baseball teams and the Major League Baseball Players Association.

The major league clubs have established the Major League's Central Fund (the "Central Fund") pursuant to the "Major League Agreement in a re Major League's Central Fund." Under this Agreement, the revenues to fund the Plan for all participating employers are received by the Office of the Commissioner of Baseball and are then remitted on behalf of the clubs in satisfaction of their pension liability arising under the Plan's funding agreement. In addition, other expenditures on behalf of all 26 clubs are made from the Central Fund. The monies in the Central Fund are derived directly from gate receipts from All-Star games and radio and television rights to certain other events.

The major league clubs are currently obligated to contribute the sum of $15,500,000 per year to cover both pension and welfare benefits; approximately $13 million of which is remitted to the pension plan for the current plan year. Each major league club is responsible for 1/26 of that amount. In 1980, the Central fund paid $500,000 as pension contributions to the Plan on behalf of the Club.

Payment of employer contributions is made directly to the Plan from the Central Fund and the revenue of the Fund comes directly from certain gate receipts and radio and television rights. A change in team ownership has no direct effect on the Plan's funding and does not create any risk to the Plan that there will be difficulty in collecting contributions.

Based on the facts of this case and the representations and statements made in connection with request for exemption,

PBGC has determined that an exemption under section 4204(c) is warranted, in that it would more effectively or equitably carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the plan. Therefore, PBGC hereby grants the Tribune's request for exemption from the bond/escrow requirement. The granting of an exemption or variance from the requirement of section 4204(a)(1)(B) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the plan sponsor.

Issued at Washington, D.C., on this 30th day of August, 1982.

Edwin M. Jones,

Executive Director Pension Benefit Guranty Corporation.

[FR Doc. 82-24925 Filed 9-10-82, 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12628; 812-5243; 812-5241]

American Express Tax-Exempt Money Fund; Filings of Applications for Orders Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Sections 2(a)(41) and 12(d)(3) of the Act and Rules 2a-4 and 22c-1 Thereunder

September 2, 1982.

Notice is hereby given that American Express Tax-Exempt Money fund ("Applicant"), One Boston Place, Boston Massachusetts 02106, registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified, management investment company, filed an application on July 20, 1982, and amendment thereto on August 25, 1982, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to value its portfolio securities using the amortized cost method of valuation, and filed a second application on July 20, 1982, seeking an order of the Commission, pursuant to Section 6(c) of the Act, exempting it from the provisions of Section 12(d)(3) of the Act to the extent necessary to permit it to acquire rights to sell its portfolio securities to brokers or dealers, and from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit the Fund to value the rights acquired in the manner described in the application. All interested persons are referred to the applications on file with the Commission for statements of the representations contained therein, which are summarized below.

Applicant states that it is organized as a business trust under the laws of the Commonwealth of Massachusetts. Applicant represents that it is a "money market" fund that seeks to maximize current income to the extent consistent with preservation of capital and the maintenance of liquidity by investing primarily in securities commonly termed "Municipal Obligations," the income from which is exempt from Federal income taxation. Applicant further represents that the Municipal Obligations that it purchases will be of high quality and will have short-term maturities. Specific Municipal Obligations that Applicant will invest in include: (1) Municipal Bonds with remaining maturities of one year or less that are rated Aaa or Aa at the date of purchase by Moody's Investors Service, Inc. ("Moody's") or AAA or AA by Standard and Poor's Corporation ("S&P") or, if not rated, are of comparable quality as determined by the Trustees of the Applicant (the "Trustees"); (2) Municipal Commercial Paper that is rated Prime-1 by Moody's or A-1+ or A-1 by S&P at the date of purchase or, if not rated, is of comparable quality as determined by the Trustees; and (3) Municipal Notes with remaining maturities of one year or less that are rated MIG-1 or MIG-2 at the date of purchase by Moody's or, if not rated, are of comparable quality as determined by the Trustees.

Municipal Notes that Applicant may purchase include variable rate demand notes. Such variable rate demand notes will be payable on not more than seven calendar days' notice. Interest rates of the notes will be adjustable at intervals of up to one year. Applicant represents that the maturities of such variable rate obligations will be determined in accordance with the procedures set forth in Proposed Rule 2a-7 under the Act (Investment Company Act Release No. 12,206, February 1, 1982) or if the rule should ultimately be adopted, in accordance with the procedures set forth in the rule as adopted.

Applicant states that generally it will attempt to invest 100%, and will at a minimum invest 80%, of its total assets in Municipal Obligations. Applicant represents that because its purpose is to provide income exempt from Federal income taxes, it will invest in taxable obligations only if and when the Trustees believe it would be in the best interests of Applicant's shareholders to do so. Situations in which Applicant may invest up to 20% of its total assets in taxable securities include: (1) Pending investment of proceeds of sales of its shares or sales of portfolio securities, (2) pending settlement of purchases of portfolio securities, and (3) when Applicant is attempting to maintain liquidity for the purpose of meeting anticipated redemptions. Applicant may temporarily invest more than 20% in taxable securities to maintain a "defensive" posture when, in the opinion of Applicant's investment adviser, it is advisable to do so because of adverse market conditions affecting the market for Municipal Obligations.

Applicant states that the kinds of taxable securities in which Applicant may invest are limited to the following short-term, fixed-income securities: (1) Obligations of the United States Government or its agencies, instrumentalities or authorities; (2) commercial paper rated Prime-1 by Moody's or A-1+ or A-1 by S&P; (3) certificates of deposit of domestic banks with assets of $1 billion or more; and (4) repurchase agreements with respect to any securities that Applicant is permitted to own.

Applicant states that it may purchase securities on a "when-issued" basis and may enter into repurchase agreements with respect to its portfolio securities. Applicant represents that it will not invest in a repurchase agreement maturing in more than seven days if any such investment together with illiquid securities held by Applicant would exceed 10% of Applicant's total assets.

Applicant states that the Trustees believe that the investors for which Applicant is designed will require not only an assurance of a constant net asset value per share but also the ability to receive next-day redemption proceeds. Applicant states that in order to provide its investors with the ability to receive next-day redemption proceeds, it must obtain the cash needed to meet net redemptions within one business day after receipt of redemption requests. Such cash must be obtained from maturing portfolio securities or settlements arranged within one business day on sales of securities. Applicant asserts that unless prior arrangements assuring immediate liquidity have been made, the negotiation of next-day settlements on sales of Applicant's portfolio securities within the brief time available frequently would be impossible or could result in its receiving a less favorable executive price on a sale notwithstanding that the securities sold

have a short remaining maturity. Applicant states that the investment techniques used by taxable money market funds to obtain liquidity are not viable options for it because their implementation would be prohibitively expensive or would produce taxable income.

Applicant proposes to improve its portfolio liquidity by assuring next-day settlements on portfolio sales through the acquisition of "stand-by commitments." Applicant describes a stand-by commitment as a right granted by a broker, dealer or other financial institution to an investment company upon a purchase of a Municipal Obligation entitling the investment company to sell the same principal amount of such securities back to the seller, at the company's option, at a specified price. Applicant states that its investment policies will permit the acquisition of stand-by commitments solely to facilitate portfolio liquidity, and that the acquisition or exercisability of a stand-by commitment will not affect the valuation or maturity of Applicant's underlying portfolio of Municipal Obligations, which will continue to be valued in accordance with the amortized cost method.

Applicant states that the stand-by commitments will have the following features: (1) They will be in writing and will be physically held by Applicant's custodian; (2) they may be exercisable by Applicant at any time prior to the underlying security's maturity; (3) Applicant's rights to exercise them will be unconditional and unqualified; (4) they will be entered into only with dealers, banks and broker-dealers who in Applicant's investment adviser's opinion present a minimal risk of default; (5) although they will not be transferable, Municipal Obligations purchased subject to such commitments could be sold to a third party at any time, though the commitment was outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the Municipal Obligations that are subject to the commitment (excluding any accured interest that Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount, during the period Applicant owned the Municipal Obligations, plus (ii) all interest accrued on the securities since the last interest payment date during the period the Municipal Obligations were owned by Applicant. Applicant further states that because it will value Municipal Obligations on an amortized cost basis, the amount payable under a stand-by commitment will be substantially the same as the value assigned by Applicant to the underlying securities. Moreover, Applicant submits that there is little risk of an event occurring that would make amortized cost valuation of Applicant's portfolio securities inappropriate. Applicant represents that in the unlikely event that the market or fair value of securities in its portfolio were not substantially equivalent to their amortized cost value, the Trustees may determine that the securities should be valued on the basis of available market information. Applicant represents that it expects to refrain from exercising the stand-by commitments in such a situation to avoid imposing a loss on a dealer and jeopardizing Applicant's business relationship with that dealer.

According to the application, Applicant expects that stand-by commitments generally will be available without the payment of any direct or indirect consideration. Applicant states that, if the Trustees believe it to be necessary or advisable, Applicant will pay for stand-by commitments, either separately in cash or by paying a higher price for portfolio securities that are acquired subject to the commitment. As stated by Applicant, as a matter of policy, the total amount "paid" in either manner for outstanding stand-by commitments held in its portfolio will not exceed ½ of 1% of the value of its total assets calculated immediately after any stand-by commitment is acquired.

Applicant states that it will be difficult to evaluate the likelihood of use or the potential benefit of a stand-by commitment. Therefore, Applicant states that the Trustees believe that the value of a stand-by commitment is zero, regardless of whether any direct or indirect consideration is paid. When Applicant has paid for a stand-by commitment, its cost will be reflected as unrealized depreciation for the period during which the commitment is held. In addition, Applicant states that for purposes of complying with the conditions of the amortized cost order it has requested, requiring that the dollar-weighted average maturity of Applicant's portfolio not exceed 120 days, the maturity of a portfolio security shall not be considered shortened or otherwise affected by the acquisition of a stand-by commitment.

Applicant states that it has not sought a favorable ruling from the Internal Revenue Service ("IRS") with respect to stand-by commitments. Applicant states that it will apply to the IRS for a ruling or seek an opinion of counsel that interest on Municipal Obligations subject to stand-by commitments will be tax-exempt. Applicant states that in the absence of a favorable tax ruling or opinion of counsel, Applicant will not engage in the purchase of securities subject to stand-by commitments.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, air value as determined in good faith by the board of directors. Rule 22c-1 under the Act provides, in part, that no registered investment company or principal underwriter therefor, issuing any redeemable security, shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a-4 adopted the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption, and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the investment company. The Commission has expressed its view that, among other things: (1) Rule 2a-4 under the Act requires that portfolio instruments of money market funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a money market fund to value its portfolio instruments on an amortized cost basis. (Investment Company Act Release No. 9786, May 31, 1977).

Section 12(d)(3) of the Act, in relevant part, prohibits any registered investment company from purchasing or otherwise acquiring any security issued by or any other interest in the business of any person who is a broker, dealer, is engaged in the business of underwriting, or is an investment adviser.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any

provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant submits that the proposed acquisition of stand-by commitments will not affect the calculation of its net asset value per share and will not pose new investment risks, but rather will improve its liquidity and ability to pay redemption proceeds promptly. Furthermore, Applicant states that the acquisition of stand-by commitments will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business, nor require it to evaluate the credit of dealers in determining its net asset value. Applicant asserts that the relationship between it and a dealer will be comparable to a fully collateralized broker-dealer repurchase agreement or security loan. In this regard, Applicant states that although the failure of a broker or dealer to fulfill its obligation under a standy commitment could result in a loss to it, this risk of loss is not different quantitatively from the risk of loss faced by any investment company that is holding securities pending settlement after having agreed to sell the securities to a broker or dealer in the ordinary course of business. Finally, Applicant states that it will not acquire stand-by commitments to promote reciprocal practices, to encourage the sale of its shares or to obtain research services.

Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In supervising Applicant's operation and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the Trustees undertake—as a particular responsibility within the overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Trustees shall be the following:

(a) Review by the Trustees as they deem appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations, from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds one-half of one percent, the Trustees will promptly consider what action, if any, should be initiated; and

(c) Where the Trustees believe the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, they shall take such action as they deem appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above. Applicant will also record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place), a written record of the Trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of meetings of the Trustees. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments that the Trustees determine present minimal credit risks, and that are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Trustees.

6. Applicant will include in each quarterly report as an attachment to Form N–1Q, a statement indicating whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Applicant submits that the granting of its requested exemptive orders is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 27, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on either or both of the applications accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, orders disposing of the applications herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the Trustees in the exercise of their discretion to be appropriate indicators of value which may include, among other things: (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] Should the disposition of a portfolio instrument result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant, in fulfilling this condition, will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-25051 Filed 9-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22626; 70-6775/September 2, 1982]

Arkansas Power and Light Co. and Southwestern Electric Power Co.; Proposed Sale of Transmission Line to Non-Associate Company

Arkansas Power and Light Company ("AP&L"), P.O. Box 551, First National Bank Building, Little Rock, Arkansas 72203, a public-utility subsidary of Middle South Utilities, Inc., a registered holding company, and Southwestern Electric Power Company ("SWEPCO"), P.O. Box 21106, 428 Travis Street, Shreveport, Lousisiana 71156, a public-utility subsidary company of Central and South West Corporation, also a registered holding company, have filed an application-declaration with this Commission pursuant to Sections 9(a), 10, and 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44 promulgated thereunder.

AP&L and SWEPCO each own a portion of a 138 kilovolt transmission line in southwestern Arkansas known as the Jones Mills/Ashdown 138 KV transmission line (the "Jones Mill Line"). SWEPCO proposed to acquire from AP&L, and AP&L proposes to sell to SWEPCO, approximately 25 miles of the Jones Mills Line, running from structure No. 690 near Mineral Springs, Arkansas, to structure No. 466, near Murfreesboro, Arkansas. This 25-mile segment would run to the eastern edge of SWEPCO's service territory. AP&L and SWEPCO have agreed to a price of $150,000. The original cost of this portion of the transmission line is $288,354.68. Due to the extended life of the transmission line, it has a depreciated original cost of zero dollars. AP&L and SWEPCO believe that the proposed $150,000 price fairly represents the respective benefits realized by each of them in the sale. It is stated that these facilities are not presently needed by AP&L to service its customers.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by September 28, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-25056 Filed 9-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18946; File No. SR-NSCC-82-19]

Filing and Immediate Effectiveness of Proposed Rule Change by the National Securities Clearing Corp.

Correction

In FR Doc. 82-22671 appearing on page 36326 in the issue of Thursday, August 19, 1982, the "File No." in the heading should have read as set forth above.

BILLING CODE 1505-01-M

[Release No. 12625; 812-5252/September 1, 1982]

Hollywood Associates Limited Partnership; Filing of Application Pursuant to Section 6(c) of the Act for Exemption From All Provisions of the Act

Notice is hereby given that Hollywood Associates Limited Partnership ("Applicant"), 205 Church Street, P.O. Box 1936, New Haven, Connecticut 06509, a Connecticut limited partnership, filed an application on July 21, 1982, and amendments thereto on August 17 and 30, 1982, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), for an order exempting Applicant from all provisions of the Act and the rules and regulations thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that it was formed to participate with Warner Bros. Distributing Corporation ("Warner") in Warner Bros. Hollywood Distributing Company, a California limited partnership (the "Venture"), which has acquired the right from Warner to distribute and exploit certain feature-length motion pictures in the continental United States in certain media for a limited time. Applicant further represents that Howard R. Schuster and Schuster Hollywood, Inc., are the general partners of Applicant ("General Partners").

Applicant states that it intends to offer a minimum of 25,000 and a maximum of 50,000 units of limited partnership interest (the "Units") to the public at a price of $1,000 per Unit through Thomson McKinnon Securities Inc. ("Thomson McKinnon"). Applicant states further that it will contribute the net proceeds of the offering and the capital contributions from the General Partners ("Picture Funds") to acquire its interest in the Venture and that the balance of the proceeds from the offering will be applied to organization and syndication expenses in connection with the offering and management fees of the General Partners. Applicant submits that an affiliate of Warner will lend to Applicant an amount approximately equal to the costs of the offering and Applicant will contribute those proceeds to the Venture.

Applicant asserts that the Venture intends to expend the total amount contributed to it by Applicant to advertise, promote and exploit the pictures Firefox, Best Friends, Blade Runner, Night Shift, Independence Day, The World According to Garp, Five Days in Summer and Love Child (the "Pictures"). Applicant states that four of the Pictures have been released as of August 11, 1982, and the other Pictures are scheduled to be released in 1982. Applicant represents that it will also participate in the distribution of Superman II which is scheduled for re-release in the fall of 1982 and Superman III which is scheduled for release in 1983.

Warner, as the general partner of the Venture, will make arrangements with exhibitors for the exhibition of the Pictures. The initial release of a film will generally occur through theatrical exhibition in the United States. Affiliates of Warner will arrange and pay for the manufacture of prints of the Pictures and the Venture will deliver prints to theatres. When a Picture is exhibited, the exhibitors will pay license fees to the Venture on a percentage, modified percentage or flat rental basis or variations of these formulations.

Applicant states that it is entitled to receive 99% of certain cash distributions to be made by the Venture out of Gross Receipts, as defined in the Distribution

Agreement between Warner and the Venture dated as of July 1, 1982 (the "Distribution Agreement"), derived from the distribution of the Pictures in the continental United States. Applicant states, however, that the amounts of such cash distributions for each Picture will be calculated by reference to the greater of a specified percentage of worldwide Adjusted Gross Receipts (as defined in the Distribution Agreement) or a specified percentage of Net Profits (as defined in the Distribution Agreement). The percentage of worldwide Adjusted Gross Receipts or Net Profits used to determine Applicant's distribution from the Venture is based upon the allocation of Picture Funds to each Picture. In this regard, Applicant states that twenty-five percent of the Picture Funds will be allocated to Superman III and Applicant will be entitled to cash distributions reflecting such allocation as determined by a prescribed formula.

Applicant represents that all items of income, gain, loss, deduction and credit of Applicant with respect to each calendar year shall be allocated 1% to the General Partners and 99% to the Limited Partners until each Limited Partner shall have received distributions out of all cash received by Applicant from any source, less certain fees and expenses, equal in the aggregate to the original amount of such Limited Partner's capital contribution (the "Recovery Amount"). Thereafter, the General Partners shall be allocated, and shall receive cash distributions, in amounts equal to up to 7% of all items of income, gain, loss, deduction and credit. Subsequent to receipt of the Recovery Amount, according to the application, a minimum of 93% of all items of income, gain, loss, deduction and credit and distributable cash will be allocated to and distributed to the Limited Partners. Applicant states that it will be entitled within ninety days after December 31, 1986, the date on which the Venture's distribution rights terminate, to an additional cash distribution from amounts retained by the Venture for each Picture and Superman III in an amount to be negotiated in good faith by Applicant and Warner.

Applicant states that Warner will be paid a yearly license fee by the Venture. Applicant further states that the General Partners will be reimbursed for all expenses incurred in connection with organizing Applicant and negotiating the terms of the Amended and Restated Agreement of Limited Partnership of Applicant ("Partnership Agreement"), the Amended and Restated Agreement of Limited Partnership of the Venture and the Distribution Agreement and to defray certain of their expenses incurred on behalf of Applicant including salaries of personnel, administrative expenses, and legal fees, all of which are estimated to be between approximately $1,402,525 and $1,840,000. According to the application, the General Partners will also be entitled to a management fee of between $900,000 and $1,665,000 as compensation for their services in organizing Applicant and the Venture, depending on the number of Units sold. The application further indictes that the General Partners will also be entitled to a management fee payable in four equal annual installments commencing in 1983 of between $210,000 and $332,500 per year, depending on the number of Units sold, for services rendered to Applicant, which fees will be paid out of the distributions made to the Partnership by the Venture. Applicant represents that the management fees payable to the General Partners are less as a percentage of the total proceeds derived from the offering than the management fees paid to Mr. Schuster and his affiliated companies in connection with the nineteen private limited partnerships formed since 1974 in which Mr. Schuster acted as promoter, general partner, organizer or participant. Such management fees were negotiated on an arms length basis by the General Partners and Thomson McKinnon.

The application states than an investor in Applicant must purchase a minimum of five Units and no person may become a Limited Partner of Applicant unless he obtains the consent of Thomson McKinnon and the General Partners. According to the application, each subscriber must represent, by executing a subscription agreement, that he understands that the investment is speculative and involves a high degree of risk and that the Units cannot be easily liquidated. Applicant has adopted, as a general investor suitability standard, the requirement that each subscriber for Units have a net worth (exclusive of home, furnishings and automobiles) of at least $100,000, or have a net worth (exclusive of home, furnishings and automobiles) of at least $50,000 and have had during his last tax year, or estimates that he will have during his current tax year, taxable income, some portion of which was or will be subject to federal income tax at a rate of 50%, without regard to his investment in Applicant.

Section 3(a)(1) of the Act defines an investment company as an issuer which is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities. Section 3(a)(3) of the Act defines an investment company as an issuer which is engaged or proposes to be engaged in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities, as defined in Section 3(a), having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Applicant admits that it may be characterized as an investment company under Sections 3(a)(1) and 3(a)(3) of the Act.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that it is part of a unique business arrangement of a type that Congress did not intend to be regulated pursuant to the Act. Unlike securities held by traditionsl investment companies, it is asserted that Applicant's interest in the Venture will not be liquid, mobile and readily negotiable. It is further asserted that, in fact, Applicant's interest cannot be sold for at least one year from the date of the completion of the offering and if it is sold, the proceeds derived from the sale will be distributed to Applicant's Limited Partners and not reinvested, and Applicant will be wound-up and dissolved. In addition, it is contended that, unlike traditional investment companies, Applicant will have no discretion with regard to investing the net proceeds raised in the offering and will not be able to make any other investments. The use and application of the proceeds derived from the offering and the proceeds to be derived from the business of the Venture or from the sale of the Applicant's interest in the Venture have been set by the agreements executed upon the formation of Applicant and the Venture. Finally, it is submitted that Applicant will participate in the business of distributing motion pictures in addition to holding its interest in the Venture.

Applicant contends that investors in Applicant will be amply protected without application of the provisions of the Act to Applicant by: (a) Full disclosure in the registration statement of all aspects of their investment; (b) suitability standards for prospective investors established by Applicant; (c) limitation on the discretion of the General Partners; (d) rights of Limited Partners provided under the Partnership Agreement and Connecticut law; and (e) reporting requirements imposed on the general partners of the Venture and Applicant.

Applicant also submits that the exemption requested pursuant to Section 6(c) of the Act will be consistent with the purposes and policies underlying the Act and that the exemption of Applicant from the provisions of the Act is necessary and appropriate in the public interest. The application of the requirements of the Act to Applicant would, it is asserted, be burdensome and unnecessary and, in fact, would result in the withdrawal of the offering and investors would be denied an opportunity, subject to the risk of loss, to derive an economic benefit by investing in the motion picture business.

Notice is further given that any interested person may, not later than September 24, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof or such service (by affidavit or, in the case of an attorny-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–25054 Filed 9–10–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12634; 812–4958]

Liquidity Management Group—Short Term Trust; Filing of an Application for an Order Pursuant to Section 6(c) of the Act Granting Exemption From the Provisions of Rules 2a–4 and 22c–1 Under the Act

September 3, 1982.

Notice is hereby given that Liquidity Management Group—Short Term Trust ("Applicant"), 3390 West 86th Street, Suite G–1 Indianapolis, Indiana 46268, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on August 20, 1981, and amendments thereto on May 7, 1982, and July 19, 1982, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Rules 2a–4 and 22c–1 under the Act to the extent necessary to permit Applicant to compute its net asset value per unit, for the purposes of effecting sales, redemptions and repurchases of its units, to the nearest one cent on a unit value of one dollar. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organzed under the laws of the State of Indiana on June 10, 1981, and its Registration Statement under the Securities Act of 1933 was declared effective on August 19, 1981.

Applicant states that it is a "money market fund" with the investment objective of preserving capital, maintaining liquidity and earning the highest possible current income consistent with the foregoing objective by investing only in those assets which qualify as short-term liquid assets under the regulations of the Federal Home Loan Bank system ("Eligible Investments"). Under regulations currently in effect, Eligible Investments consist of (i) time deposits in a Federal Home Loan Bank, the Bank for Savings and Loan Associations, Chicago, Illinois or the Savings Banks Trust Company, New York, (ii) obligations maturing in 12 months or less issued by the United States Government, (iii) obligations maturing in 12 months or less issued or fully guaranteed as to principal and interest by a Federal Home Loan Bank, The Federal National Mortgage Association, The Government National Mortgage Association, a Bank for Cooperatives, including the Central Bank for Cooperatives, a Federal Land Bank, A Federal Intermediate Credit Bank, the Tennessee Valley Authority, The Export-Import Bank of the United States, The Commodity Credit Corporation or the Federal Financing Bank, (iv) certain time and savings deposits in a bank insured by the Federal Deposit Insurance Corporation ("FDIC Insurance Bank"), including loans of unsecured days funds ("Federal Funds") which if negotiable will mature in six months or less, (v) bankers' acceptances of an FDIC Insured Bank which will mature in six months or less, and (vi) general obligations issued by a public housing agency of any state, territory or possession of the United States, or any political subdivision thereof, maturing in six months or less, and having the full faith and credit of the United States. The Trust may also enter into repurchase and reverse repurchase agreements and portfolio lending transactions with respect to Eligible Investments and may sell Federal Funds to Insured Banks. Applicant states that in the event these regulations are amended, it may invest in any other investments designated as Eligible Investments by such amendments if the Trustees determine that such additional investments present similar credit risks and are of comparable quality as those currently eligible as investments. With respect to portfolio lending transactions, the Applicant states that: (i) It will not enter into any security lending agreement with a duration greater than one year; (ii) any security received as collateral which has a maturity in excess of one year will not be included as part of the portfolio either at the time of the loan or if the loan is in default; and (iii) in determining to lend securities to a particular broker, dealer or financial institution, the Applicant will have the investment adviser consider all relevant factors and circumstances, including the creditworthiness of that particular broker, dealer or financial institution.

Rule 22c–1 under the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an

order to purchase or to sell such security. Rule 2a–4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets, fair value as determined in good faith by the board of directors of the registered company.

In Investment Company Act Release No. 9786 ("IC–9786") the Commission issued an interpretation of Rule 2a–4 express its view that (1) it is inconsistent with the provisions of Rule 2a–4 for money market funds to value their assets on an amortized cost basis except with respect to portfolio securities with remaining maturities of 60 days or less and provided that such valuation method is determined to be appropriate by each respective fund's board of directors, and (2) it is inconsistent with the provisions of Rule 2a–4 for money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00 ("Penny rounding"), because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" such funds' proper portfolio valuation as required by Rule 2a–4. On the basis of the foregoing, Applicant states that, without an exemption from the provisions of Rules 2a–4 and 22c–1 under the Act, Applicant may be prohibited from determining its net asset value by using the penny rounding method.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and the provisions of the Act.

Applicant submits that the issuance of the requested order of the Commission is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act inasmuch as the rounding of its net asset value per unit to the nearest $.01 on a $1.00 price will allow Applicant to maintain a constant net asset value per unit under most circumstances. Applicant further submits that a stable net asset value will be crucial to its institutional unitholders who will use the units for their regulatory and statutory short-term liquidity reserves. If the Trust must value its units to one-tenth of 1%, as required by IC–9786, variations in the unit price will be accentuated, resulting in unfair treatment to Applicant's unitholders. Applicant also states that adherence by it to the conditions set forth below should substantially reduce the likelihood of any significant variation from a constant unit price and dilution of the assets of incoming and outgoing unitholders.

Appliant agrees that the following conditions may be imposed in any order granting the requested exemptions:

1. In supervising the Trust's operations and delegating special responsibilities involving portfolio management to the Trust's investment advised, the Trustees undertake—as a particular responsibility within the overall duty of care owed to unitholders—to establish procedures designed to assure to the extent reasonably practicable, taking into account current market conditions affecting the trust's investment objectives, that the price per unit of the Trust's Units of Beneficial Interest as computed for the purpose of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from one dollar.

2. The Trust will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per unit and will not:

(i) Purchase an instrument with a remaining maturity of greater than one year, or

(ii) Maintain a dollar-weighted average portfolio maturity in excess of 120 days.

3. The Trust's purchase of portfolio instruments, will be limited to those denominated as Eligible Investments, described under "Investment Program" in its application. In addition, the Trust's investments in repurchase agreements will relate to otherwise Eligible Investments and will be limited to transactions believed by the Trust's investment adviser to involve minimal risks.

Notice is hereby given that any interested person may, not later than September 28, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date, unless the Commission thereafter order a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–25046 Filed 9–10–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19034; SR–MSTC–82–12/ September 3, 1982]

Midwest Securities Trust Company ("MSTC"); Order Approving Proposed Rule Change

On June 14, 1981, MSTC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b–4 thereunder, a proposed rule change that would enable MSTC participants to submit a money adjustment ticket in order to charge the position of the initiating participant and credit the position of the receiving participant for any reason that results from, or is in conjunction with, transactions in securities.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by publication of a Commission Release (Securities Exchange Act Release No. 18889, July 14, 1982) and by publication in the Federal Register (47 FR 33346, August 2, 1982). No letters of comment were received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-25047 Filed 9-10-82; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Key Pharmaceuticals, Inc.
Common Stock, $.25 Par Value (File No. 7-6307)
TIE/Communications, Inc.
Common Stock, $5 Par Value (File No. 7-6308)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 27, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

September 3, 1982.

[FR Doc. 82-25050 Filed 9-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12629; 812-5246/September 2, 1982]

Mutual Investing Foundation and Heritage Securities, Inc.; Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting Proposed Transactions From Section 22(d) of the Act and Rule 22d-1 Thereunder

Notice is hereby given that Mutual Investment Foundation ("MIF"), One Nationwide Plaza, Columbus, OH 43216, registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, managment investment company, and Heritage Securities, Inc. ("Heritage"), MIF's principal underwriter, distributor and investment adviser (collectively with MIF, "Applicants"), filed an application on July 16, 1982, for an order pursuant to Section 6(c) of the Act, exempting certain transactions from the provisions of Secton 22(d) of the Act and Rule 22d-1 thereunder to the extent necessary to permit sales of classes of shares presently offered by MIF, and of those classes which may in the future be offered by MIF, at net asset value without a sales charge to present and former directors, officers, and employees of Nationwide Mutual Insurance Company and its affiliated companies ("Nationwide Group") on terms and in the manner described below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that MIF is a common law trust which issues several classes of shares. These classes engage in continuous offerings to the public pursuant to effective registration statements under the Securities Act of 1933, and consist of the following: MIF/Nationwide Fund, MIF/Nationwide Growth Fund, MIF/Nationwide Bond Fund, and MIF/Nationwide Money Market Fund (collectively, the "Funds"). Shares of each class are distributed by Heritage at public offering prices for initial investments equal to net asset value per share plus a sales charge.

The application states that the entire sales force of Heritage is comprised of licensed insurance agents of the companies making up the Nationwide Group. Commissions paid to those agents from insurance premiums containing a sales charge are designed to compensate the agent for the effort that he has put forth in making the customer contact.

Heritage is a wholly owned subsidiary of Nationwide Corporation, an incorporated insurance and financial services holding company. Applicants represent that the insurance companies, affiliates, and subsidiaries comprising the Nationwide Group have stiven to create a network of multi-line agents licensed and qualified to provide a wide range of insurance and related financial planning products and services to their customers.

The application states that the following companies comprise the Nationwide Group of companies: Nationwide Mutual Insurance Company, Nationwide Mutual Fire Insurance Company, Nationwide Life Insurance Company, Nationwide General Insurance Company, Nationwide Property and Casualty Insurance Company, Nationwide Variable Life Insurance Company, Michigan Life Insurance Company, West Coast Life Insurance Company, Gulf Atlantic Life Insurance Company, National Casualty Company, and other insurance and noninsurance companies which are subsidiaries of or otherwise affiliated with Nationwide Mutual Insurance Company and Nationwide Mutual Fire Insurance Company. The intercorporate ownership of the Nationwide Group of companies is such that Nationwide Mutual Fire Insurance Company and Nationwide Mutual Insurance Company are the ultimate controlling persons of the companies within the Nationwide Group.

Applicants propose to permit directors and officers, and full-time employees who have acted as such for not less than 90 days, and retired directors, officers and employees (collectively, "Affiliated Employees") of the Nationwide Group to purchase on their own behalf, and on behalf of a spouse or their children under the age of 21 years, shares of the Funds or of any other class of shares which may in the future be offered by MIF, for initial and subsequent investment, at net asset value detemined in accordance with Rule 22c-1 under the Act without the imposition of a sales charge as otherwise applied pursuant to the prospectuses of the Funds. Purchases on behalf of a spouse or child will be eligible for purchase at net asset value only of that purchase is directed by the Affiliated Employee.

Applicants assert that any such sales will be made only upon the written assurance of the Affiliated Employee that the purchase is being made for the purpose of investment and that the shares will not be resold except to MIF. In the event of the death of a shareholder, his legal representative, legatee or beneficiary will be permitted to continue to hold such shares subject to the same restriction that they will not be resold except to MIF.

Applicants state that all Affiliated Employees will receive, at least annually, notice from their employers concerning the availability of shares of the Funds at net asset value without a sales charge. This notice, which will be furnished at the expense of their employers, will describe the Funds and their individual investment objectives, indicate that investments would be at the net asset value without a sales charge, and detail the various ways in which investments could be made. This notice would also indicate that additional information concerning the Funds could be obtained from Heritage and would inform employees of the availability of prospectuses of the Funds from Heritage.

Section 22(d) of the Act provides, as here pertinent, that no registered investment company shall sell any redeemable security issued by it to any person except at a current public offering price described in the prospectus, and that if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except at a current public offering price described in the prospectus. Rule 22d–1 exempts certain transactions in redeemable securities and permits elimination of the sales load charged upon the sale of shares under certain circumstances. Applicants state that while Rule 22d–1(i) provides an exemption from Section 22(d) of the Act and permit sales without any sales charge to certain employees of affiliated persons of the Funds, this exemption is not available to Affiliated Employees who are employed in positions which do not directly provide investment advice to, or assist in the distribution of, the various classes of shares of MIF.

Applicants submit that the sale of shares of the Funds at net value to Affiliated Employees may conflict with the provisions of Section 22(d) of the Act and Rule 22d–1 thereunder. Nevertheless, Applicants assert that investment by Affiliated Employees in shares of the Funds at net asset value pursuant to a uniform offer described in the prospectus of the Funds would not be inconsistent with the purposes underlying Section 22(d) of the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or any rule under the Act if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that the proposed sale to Affiliated Employees would result in substantial economies in sales efforts and sales-related expense as compared with other sales. Affiliated Employees have a basic understanding of the nature of an investment in an investment company as well as general familiarity with, and a significant degree of loyalty to the Funds as affiliates of the Nationwide Group. Applicants submit that the affiliation of the various entities in the Nationwide Group is the basis for a unique relationship of these entities to the Funds and that substantial equities exist in favor of the classes of persons described above since the customary selling expenses would not be incurred by the Funds or the distributor in connection with these sales.

Notice is further given that any interested person may, not later than September 27, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attoney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–25049 Filed 9–10–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19032; SR–PSE–82–9 September 2, 1982]

Pacific Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 27, 1982, the Pacific Stock Exchange, Inc. ("PSE") 618 South Spring Street, Los Angeles, CA 90014, filed with the Securities and Exchange Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The PSE proposes to amend PSE Rule II, Section 3(f) to incorporate the specialist's duties to engage in a course of conduct which includes dealings for his own account that are reasonably calculated to contribute to the maintenance of price continuity with reasonable depth and to minimize the effects of a temporary disparity between supply and demand or a temporary distortion of the price relationship between the PSE and other markets. On May 17, 1982, the Commission, among other things, approved an amendment to PSE Rule II, Section 3(f) that PSE stated was intended to conform that rule to the requirements of Rule 11b–1(a)(2)(ii) of the Act, 17 CFR 240.11b–1(a)(2)(ii).[1] In its May 17, 1982 approval order, the Commission specifically stated that further amendments to PSE's rules, providing greater specificity in the description of the "affirmative obligations" of PSE specialists, would be necessary. This rule change is designed to accomplish that result. The exchange states that the statutory basis for the proposed rule change is section (6) of

[1] Securities Exchange Act Release No. 18748, May 17, 1982, 47 FR 22626, May 25, 1982. In its filing in connection with the May rule changes the the exchange indicated that its rules already conform to the other subparagraphs of Rule 11b–1.

the Act, in general, and Section (6)(b)(1), in particular.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–PSE–82–9.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be avialable for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to and, in particular, the requirements of Sections 6 and 11 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of pubication of notice of filing thereof, in that it is necessary in order to conform PSE's rules with the requirements of Rule 11b–1 under the Act. The Commission notes that the PSE proposed rule change is substantially identical to a Philadelphia Stock Exchange, Inc. ("Phlx") proposed rule change recently approved by the Commission that was intended to conform the Phlx rules with the requirements of Rule 11b–1 under the Act.[2] No comments were received in response to the publication of notice of that proposed rule change.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

[2] Securities Exchange Act Release No. 18448, January 28, 1982, 47 FR 5392 February 4, 1982.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82 25052 Filed 9-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19036; SR–PSE–82–8/ September 3, 1982]

Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

The Pacific Stock Exchange, Inc. ("PSE"), 301 Pine Street, San Francisco, CA 94104, submitted on June 7, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to amend Sections 49(d) and 57(h) of PSE Rule VI, and add Floor Procedure Advice G–5. The proposed rule change would amend the definition of the term "combination order" and, under specific circumstances, allow a combination order to take priority over bids or offers in the public limit order book. The proposal also includes a new Floor Procedure Advice outlining the proper trading procedures for spread, straddle and combination orders and establishing the priority system to be followed in executing such orders. The proposed rule change is intended to facilitate conversions and reverse conversions.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18846A/July 28, 1982) and by publication in the **Federal Register** (47 FR 33821, August 4, 1982). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–25055 Filed 9–10–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12633; 813–52/September 3, 1982]

PB–SB 1982 Investment Partnership I and PB–SB Investments Inc.; Filing of Application Pursuant to Section 6(b) of the Act for Exemption From All Provisions of the Act or, Alternatively, From Sections 10 (a), (b) and (f), 14(a), 15(a), 16(a), 17 (a), (d), and (g), 18(i), 23(c), 30 (a), (b), and (d), and 32(a), and Pursuant to Section 45(a) of the Act For Confidential Treatment

Notice is hereby given that PB–SB 1982 Investment Partnership I ("Initial Partnership"), One New York Plaza, New York, New York 10004, registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified management investment company, and PB–SB Investments Inc., the general partner of the Initial Partnership ("General Partner") (the Initial Partnership and the General Partner are referred to together hereinafter as "Applicants"), filed an application on April 3, 1982, and an amendment thereto on July 20, 1982, pursuant to Section 6(b) of the Act for an order exempting the Initial Partnership and such other limited partnerships participation in which may be offered to the same or a class of persons similar to that which invest in the Initial Partnership ("Subsequent Partnerships") (the Initial Partnerships and the Subsequent Partnerships are referred to hereinafter collectively as "Partnerships"), for all provisions of the Act or, alternatively, from Sections 10(a), 10(b), 10(f), 14(a), 15(a), 16(a), 17(a), 17(d), 17(g), 18(i), 23(c), 30(a), 30(b), 30(d), and 32(a) of the Act. Applicants further request an order pursuant to Section 45(a) of the Act granting confidential treatment to any periodic reports filed with the Commission under Section 30 of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Initial Partnership was organized as a limited partnership under the laws of the State of New York under an agreement of limited partnership dated April 7, 1982, and amended July 15, 1982. It is further stated that the organization of the Initial Partnership was initiated by employees of Salomon Brothers Inc., a Delaware corporation ("Salomon"), and its parent, Phibro-Salomon Inc. ("Phibro"), a Delaware corporation. Applicants state that the Initial Partnership is one of a series of investment limited partnerships which Phibro proposes to establish in

order to enable certain officers and other employees of Phibro, its subsidiaries and their successors in interest (collectively, the "Employers") to pool their investment resources and to receive the benefit of certain real estate investment opportunities which come to the attention of the General Partner without the necessity of each investor indentifying and analyzing the investment merits of such opportunities.

Applicants state that the primary investment objective of the Initial Partnership is long-term capital appreciation. It is further stated that the Initial Partnership will participate only in investments entered into or identified in calendar year 1982 and in certain investments closely related thereto or generated therefrom. Applicants state that subsequent Partnerships will similarly be limited to real estate investments entered into or identified in successive years and certain investments closely related thereto.

Applicants further state that management of the Partnerships will be exclusively vested in the General Partner, an indirect wholly-owned subsidiary of Phibro. It is further stated that all directors, officers and employees of the General Partner will be employees of the Employers and may also, but need not, be limited partners of the Partnerships, the initial directors and officers all being Salomon employees. Applicants represent that the General Partner will manage the Partnerships and will be responsible for the direction of the Partnerships' activities and day-to-day operations, and will make all investment decisions for the Partnership. It is stated that the General Partner will research and evaluate potential investment opportunities, monitor existing investments and make all buy and sell decisions. Applicants also state that no compensation or fees will be paid to the General Partner for its services as General Partner other than reimbursement for reasonable and necessary out-of-pocket expenses incurred during the course of conducting Partnership business. Applicants state, as well, that the General Partner will not charge the Partnerships any brokerage fees, commissions, or similar charges in connection with any investments effectuated by the General Partner.

It is stated that participation in the Partnerships will be limited to current or former employees of the Employers who meet the criteria set forth from time to time by the Employers, in their sole discretion, for eligibility to become limited partners in the Partnerships ("Limited Partners"), and members of the immediate families of such employees, and any entities beneficially owned by such employees or by members of their respective immediate families (any of the foregoing being hereinafter sometimes referred to as an "Eligible Person").

Applicants further state that Limited Partners will be permitted to invest a portion of their income according to appropriate limitations depending upon income levels determined by the Employers. Initially, it is stated, each employee of an Employer (except foreign nationals) with an income from its respective Employer or, in the case of Salomon, its predecessor, Salomon Brothers of at least $150,000 in the preceding year (or, in the case of the Initial Partnership only, the current year if such income is greater than that of the preceding year), and who is an "accredited investor" within the meaning of Regulation D promulgated under the Securities Act of 1933 would be entitled to make a minimum aggregate investment of $10,000 including any investment in a similar limited partnership formed for the purpose of making oil and gas investments, and would be permitted to make a maximum aggregate investment of 20% of such income. Applicants state further that to the extent that investment opportunities of the Partnerships exceed the amounts invested within the foregoing limits, each Limited Partner would be able to invest additional funds in an amount up to 100 percent of his outside income in the preceding year. In addition, Applicants state that each employee with income from his respective Employer of $250,000 or more may commit to make contributions to Subsequent Partnerships for up to five years, which commitment would be binding upon him and would entitle him to participate in Subsequent Partnerships regardless of his future employment status. It is stated that the General Partner for each Partnership will specify the amount of the initial contributions to be made by each Limited Partner of such Partnership (in proportion to the respective maximum capital contributions designated by such Limited Partner) and will request additional capital as needed (in similar proportion).

Applicants represent that the General Partner will contribute to the Initial Partnership in cash 1% of the total capital of the Initial Partnership and will consequently be entitled to 15 of the profits and be responsible for 1% of the losses of the Initial Partnership. It is stated that in the event that a Partnership becomes obligated to provide funds in respect of an investment in an amount greater than that available to it through contributions or financially advantageous borrowings, the General Partner may in accordance with the provisions of the applicable agreement provide the required funds in the form of a capital contribution and become a Limited Partner to the extent thereof.

Applicants represent that the General Partner will send to each Limited Partner as soon as practicable after the end of each Partnership year (i) a statement of such Limited Partner's capital account as of the end of such Partnership year, setting forth in reasonable detail the calculation thereof, (ii) an audited balance sheet of the Partnership as of the end of such Partnership year, (iii) an audited profit and loss statement of the Partnership for such Partnership year, (iv) an audited statement of charges in financial position of the Partnership for such Partnership year, setting forth the source and application of funds, (v) a statement identifying and setting forth the General Partner's estimate (which estimate may be based upon or supplemented by independent appraisals) of the fair market value of the properties of the Partnership and (vi) a statement setting forth the partnership interest of each Partner and the distributable cash as of the end of such Partnership year. In addition, it is stated that the General Partner will transmit to each Partner as soon as practicable after the end of each Partnership year a report prepared or reviewed by the Partnership's accountants setting forth such information in respect of such Partner's allocation of profits and losses in respect of such Partnership year as shall be required for income tax purposes.

Applicants further represent that each Limited Partner will have access to the books of account of the Partnerships and any reports received by the General Partner or the Partnerships with respect to any investment of the Partnerships.

Section 2(a)(13) of the Act provides that, "Employees' securities company" means any investment company or similar issuer all of the outstanding securities of which (other than short-term paper) are beneficially owned (A) by the employees or persons on retainer of a single employer or of two or more employers each of which is an affiliated company of the other, (B) by former employees of such employer or employers, (C) by members of the immediate family of such employees, persons on retainer, or former employees, (D) by any two or more of the foregoing classes of persons, or (E)

by such employer or employers together with any one or more of the foregoing classes of persons." Section 6(b) of the Act provides that, "Upon application by any employees' security (sic) company, the Commission shall by order exempt such company from the provisions of the Act and of the rules thereunder, if and to the extent that such exemption is consistent with the protection of investors. In determining the provisions to which such an order shall apply, the Commission shall give due weight, among other things, to the form of organization and the capital structure of such company, the persons by whom its voting securities, evidences of indebtedness, and other securities are owned and controlled, the prices at which securities issued by such company are sold and the sales load thereon, the disposition of the proceeds of such sales, the character of the securities in which such proceeds are invested, and any relationship between such company and the issuer of any such security."

Applicants assert that the Partnerships come within the definition of an "employees' securities company" set forth in Section 2(a)(13) of the Act and should, as such, be exempted from all provisions of the Act. Specifically, applicants assert that the substantial community of economic and other interests present among the Limited Partners, of the Partnership owing to their status as current or former employees of the Employers, members of their families or entities beneficially owned solely by such employees, in conjunction with the absence of a broad public group of investors, obviates the need for the protections provided by the Act. It is further noted that the proposed investment operations to be conducted by the Partnerships were conceived and organized by the persons who will be investing in the Partnerships, and will not be investments which are promoted by persons outside the Employers' organizations seeking to profit from fees for investment advice or from the distribution of securities. Applicants also note that no sales load will be charged to the Limited Partners, by the Partnerships, and that the General Partner will not receive any compensation from the Partnerships or their Limited Partners. Applicants contend, moreover, that certain aspects of compliance with the Act's provisions are potentially burdensome and unnecessary, and that compliance with the Act would, in general, make the limited partnership form non-viable, thus denying participants the "pass through" of tax benefits without which many of the contemplated investments would not be feasible, and preventing the Partnerships from participating in those investment opportunities with which the Employers have had the most experience.

Based upon the foregoing, Applicants request that the Commission issue an order pursuant to Section 6(b) of the Act exempting the Partnerships from all provisions of the Act. In the alternative, Applicants request that an order be issued pursuant to Section 6(b) of the Act exempting it, to the extent noted below, from the following specific provisions of the Act: (a) Section 10(a) of the Act provides that no registered investment company shall have a board of directors more than 60 percent of the members of which are interested persons of such registed company. Applicants request an exemption from Section 10(a) to permit the Partnerships to designate as the sole General Partner a subsidiary of Phibro and to permit all of the directors and officers of the General Partner to be persons who are employees of an Employer; (b) Section 10(b)(1) of the Act provides that no registered investment company shall employ as regular broker any director, officer, or employee of such registered company, or any person of which any such director, officer, or employee is an affiliated person, unless a majority of the board of directors of such registered company shall be persons who are not such brokers or affiliated persons of any of such brokers. Section 10(b)(2) of the Act further makes it unlawful for a registered investment company to use as a principal underwriter of securities issued by it any director, officer, or employee of such registered company or any person of which any such director, officer, or employee is an interested person, unless a majority of the board of directors of such registered company shall be persons who are not such principal underwriters or interested persons of any of such principal underwriters. Applicants request an exemption from Section 10(b) of the Act to permit the Partnerships to employ Salomon as broker and principal underwriter; (c) Section 10(f) of the Act provides, in relevant part, that no registered investment company shall knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security (except a security of which such company is the issuer) a principal underwriter of which is an officer, director, member of an advisory board, investment adviser, or employee of such registered company, or is a person of which any such officer, director, member of an advisory board, investment adviser, or employee is an affiliated person. Applicants request an exemption from this provision on the grounds that the community of interest which exists among the General Partner and the Limited Partners renders the protections which 10(f) of the Act was intended to provide irrelevant to the Partnership; (d) Section 14(a) of the Act provides, in pertinent part, that no registered investment company shall make an initial public offering of its securities unless it has a net worth of $100,000. Applicants request an exemption from Section 14(a) to the extent necessary to permit the Partnerships to offer Partnerships interests to Eligible Persons prior to the time a Partnership has a net worth of $100,000; (e) Section 15(a) of the Act provides, among other things, that no person shall act as an investment adviser of a registered investment company except pursuant to a written contract which has been approved by a majority of the outstanding voting securities of such registered investment company and which may be terminated at any time by the board of directors of such investment company, or by vote of a majority of the outstanding voting securities of such company. Applicants request an exemption from Section 15(a) of the Act to permit employees of the Employers from time to time to analyze and review investments of the Partnerships without a written contract which has been approved by the Limited Partners. Applicants state that the Employers will not be separately compensated for such activities. Applicants assert, moreover, that a written advisory contract for the Partnerships is not necessary because all investment decisions on behalf of the Partnerships will be made by the General Partner, which will not be compensated therefor; (f) Section 16(a) of the Act provides, among other things, that no person shall serve as a director of a registered investment company unless elected to that office by the holders of the outstanding voting securities of such company at an annual or special meeting duly called for such purpose. Applicants request an exemption from Section 16(a) of the Act to permit the Employers to appoint and replace directors of the General Partner without the vote of the Limited Partners. It is stated that since officers and directors of the General Partner must be current employees of an Employer, this exemption is necessary to maintain the requisite community of interest within the Partnerships; (g) Section 17(a) of the Act, in pertinent part, prohibits an

affiliated person of a registered investment company, or any affiliated person of such affiliated person, acting as principal, from knowingly purchasing or selling any security or other property from or to such registered company, subject to certain exceptions. Applicants request an exemption from Section 17(a) of the Act to the extent necessary to permit each Partnership to participate in investments in respect of which the General Partner or an Employer has furnished for the purpose of making the opportunity to participate in such investment available to such Partnership, prior to the formation of such Partnership or prior to the time such Partnership has sufficient funds available for such purpose, deposits, funding guarantees, or similar assurances which may be returned or released upon entry of such Partnership into such investment, or the furnishing by the Partnership of funds or other consideration in connection therewith. Applicants state that the provision of such interim financing would, in certain cases, be necessary in order to make available to the Partnership particularly attractive investment opportunities and, for that reason, would constitute a substantial benefit to the Partnership and the Limited Partners. It is further stated that although the participation by a Partnership in such interim financing arrangements as proposed could result in the return of property to or a release of an obligation owing by the General Partner or an Employer, the deposit of such property would have been made, or the undertaking of such obligation would have been effectuated for the benefit of the Partnership and the Limited Partners in order to permit such participation, and not for the benefit of the General Partner or such Employer; (h) Section 17(d) of the Act and Rule 17d–1 thereunder provide, in pertinent part, that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such affiliated person, acting as principal, to participate in or effect any transaction in connection with any joint enterprise or other joint arrangement unless an application regarding such joint enterprise or arrangement has been filed with the Commission and an order granting such application has been issued. Applicants request an exemption from Section 17(d) of the Act, and Rule 17d–1 thereunder, to the extent necessary to permit each Partnership to engage in transactions in which an affiliated person of any Partnership may also be participants without filing an application with the Commission. Applicants state that compliance with Section 17(d), and Rule 17d–1 thereunder, might require the Partnerships to refrain from certain transactions in which (1) certain Limited Partners or affiliated persons of an Employer, or (2) certain persons who may be affiliated persons of a Partnership solely by reason of prior or contemporaneous participation with such or another Partnership in a common investment are also participants. Applicants assert, moreover, that because of the number and sophistication of the prospective Limited Partners of the Partnerships, strict compliance with Section 17(d) and Rule 17d–1 of the Act may cause the Partnerships to be precluded from participating in many attractive investment opportunities simply because a Limited Partner or other affiliated person of the applicable Partnership also had, or contemplated making, a similar investment. It is further stated that attractive investment opportunities of the types considered by the Partnerships often require that each participant make available to the investment venture funds in amounts substantially greater than may be available to the Partnership alone and thus, in certain instances, the only way in which the Partnership may be able to take advantage of such opportunities would be as a participant together with one or more Employers or other affiliated persons. Therefore, Applicants request exemptions from Section 17(d) of the Act upon the undertakings that (1) in the case of investments in which persons who may be affiliated persons of a Partnership solely by reason of prior or contemporaneous participation with such or another Partnership in a common investment are also participants, the terms of such investments shall be arrived at on an arm's length basis and such persons shall have no interest in, or directly or indirectly control, be controlled by, or be under common control with, any person having an interest in a Partnership, and (2) in the case of all other investments in which affiliated persons are also participants, no such investments by a Partnership shall be on a basis different from or less advantageous than that of any such other participant. Applicants state that the exemptions requested shall not apply to transactions in which any director, officer, or employee of the General Partner is a participant. Furthermore, Applicants represent that an Employer or General Partner will make joint investments with a Partnership only in cases in which the participation by an Employer or the General Partner is necessary to enable the Partnership to meet minimum funding requirements of a particular investment vehicle. Otherwise, it is indicated, the joint investment participation by an Employer or the General Partner will be limited to the interim financing arrangements described hereinabove. In addition, it is stated that the General Partner specifically represents and concedes that it is subject to Sections 36, 57(f)(3) and 57(h) of the Act and will, at all times, comply with the requirements of those sections. Finally, it is represented that officers and directors of the General Partner will review each investment situation in which an affiliated person is concurrently participating and make a determination that any such investment by an affiliated person would not disadvantage the Partnership in the making of such investment, maintaining its investment position, or disposing of such position. Applicants state that in this regard it should be noted that resolutions of the Board of Directors of the General Partner and the books and records of the Partnership will be available for inspection by Limited Partners; (i) Section 17(g) of the Act and Rule 17g–1(d) thereunder require, as relevant here, that the fidelity bond protecting investors of a registered management investment company against larceny and embezzlement by its officers and employees be approved by a majority of the board of directors who are not "interested persons" of the investment company. Applicants seek an exemption from Section 17(g) of the Act to the extent necessary to permit the Partnerships to comply with Rule 17g–1 without the necessity of having a majority of the board of directors of the General Partner which are not "interested persons" take such action and make such approvals as set forth in the rule. Except as stated above, the Partnerships intend otherwise to comply with the remaining requirements of Rule 17g–1; (j) Section 18(i) of the Act provides, in pertinent part, that every share of stock issued by a registered management company shall be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants request an exemption from Section 18(i) of the Act to the extent necessary to permit the Partnerships to issue limited partnership interests which have only such rights to vote with respect to the management of a Partnership as are provided for in the applicable partnership agreement; (k) Section 23(c)(3) of the Act permits a closed-end investment company to

purchase its own securities under such circumstances as the Commission may permit by rules and regulations or orders for the protection of investors in order to ensure that such purchases are made in a manner or on a basis which does not unfairly discriminate against any holder of the class or classes of securities to be purchased. Rule 23c–1(a) under the Act recites the conditions under which a registered closed-end company may purchase for cash securities of which it is the issuer other than on a securities exchange or pursuant to tenders. Applicants seek an exemption from Section 23(c)(3) to permit it to repurchase limited partnership interests in a Partnership at the request of the holders of a majority in interest of partnership interests following a termination of employment with an Employer, retirement, death, or disability. Applicants assert that the Partnerships would not be able to satisfy the condition set forth in Rule 23c–1(a)(4) because in each repurchase the seller of the limited partnership interest (i.e., the Limited Partner) would be an affiliated person of the Partnership; (1) Sections 30(a), 30(b) of the Act and the rules thereunder generally require that registered investment companies prepare and file with the Commission and prepare and mail to their shareholders certain periodic reports and financial statements. Applicants seek exemptions from Sections 30(a), (b) and (d) of the Act to the extent necessary to exempt the Partnerships from the requirement of filing quarterly and annual reports with the Commission, and to permit the Partnerships to provide such reports to the Limited Partners as are prescribed by the partnership agreements rather than the semiannual reports specified by Section 30(d). Applicants represent that the forms prescribed by Sections 30(a) and (b) for reports filed with the Commission have little relevance in light of the Partnerships' structure. Applicants state that the pertinent information contained in such Commission filings must, pursuant to the terms of the partnership agreements, be provided to the Limited Partners, the only class of investors with a significant interest in such disclosures. It is asserted that in view of the community of interest among all parties involved in a Partnership and the fact that Partnership interests are not available to the public, but only to a specific group of persons, the protection afforded by Sections 30(a) and (b), *i.e.*, public dissemination of information to ensure orderly markets and equality of information among members of the public, is not relevant to the Partnerships or their operations. It is further stated that the information which the General Partner is required to provide to Limited Partners under the partnership agreements will correlate with the actual structure and operations of the Partnerships to a substantially greater extent than would the semi-annual reports called for by Section 30(d) of the Act.

Applicants further request that to the extent that the Partnerships will be required to file reports with the Commission under Section 30 of the Act, such filings be granted confidential treatment under Section 45(a) of the Act, which provides, in pertinent part, that information filed with the Commission shall be made available to the public, unless and except insofar as the Commission by order upon application, finds that public disclosure is neither necessary nor appropriate in the public interest or for the protection of investors. Applicants assert that confidential treatment is being sought because the investment situations in which the Partnerships propose to invest might not be generally available to the public and if disclosed to the public may create an impression or expectation not warranted in Salomon's or Phibro's industry. It is also stated that because there is to be no public trading in Partnership interests, and the only persons possibly interested in such information will have all such data sent directly to them, the granting of confidential treatment would be consistent with the protection of investors and the purposes fairly intended by the Act; (m) Section 32 of the Act provides, among other things, that the selection of independent public accounts must be ratified by the shareholders of the investment company. Applicants request an exemption from Section 32(a) of the Act to permit the General Partner to select independent certified public accountants for the Partnerships without submitting such selection to the Limited Partners for ratification or rejection. It is stated that the partnership agreements do not permit such participation by Limited Partners in management of the Partnerships, and that annual financial statements will, in any case, be certified by independent accountants.

Applicants assert that the foregoing exemptions are necessary or relevant to the operations of the Partnerships as an investment program uniquely adapted to the needs of officers and employees of the Employers. It is further asserted that the exemptions requested are necessary to control the investment activities of the Partnerships, to ensure that the community of interest among all participants is maintained and to operate the Partnerships as contemplated. Applicants respectfully submit that the protections afforded by the provisions of the Act from which exemptions have been requested are not necessary, appropriate, or consistent with the protection of investors in view of the substantial community of interest among all participants. Accordingly, Applicants submit that an order pursuant to Section 6(b) of of the Act, exempting the Partnerships, to the extent requested herein, from the provisions of Sections 10(a), (b) and (f), 14(a), 15(a), 16(a), 17(a), (d), and (g), 18(i), 23(c), 30(a), (b) and (d), and 32(a) of the Act, and an order granting confidential treatment pursuant to Section 45(a) of the Act would be consistent with protection of investors.

Notice is hereby given that any interested person may, not later than September 28, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–25048 Filed 9–10–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22624; 70-6775/September 2, 1982]

Southern Electric Generating Co.; Proposed Issuance and Sale of Notes

Southern Electric Generating Company ("SEGCO"), 600 North 18th Street, Birmingham, Alabama 35291, an electric utility subsidiary of The Southern Company, a registered holding company, has filed an application with this Commission pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act").

SEGCO is a subsidiary of Alabama Power Company ("Alabama") and Georgia Power Company ("Georgia"), each of which own 50 percent of SEGCO's outstanding common stock. Alabama and Georgia are, in turn, wholly-owned subsidiaries of The Southern Company.

SEGCO owns Units 1 through 4 of the Ernest C. Gaston Steam Plant ("Plant Gaston") near Wilsonville, Alabama, supplying electric power under a long-term contract (the "Power Contract") to Alabama and Georgia. Between now and 1990, the year in which all of SEGCO's first mortgage bonds will have been retired, SEGCO must make capital improvements to Plant Gaston, and the cost of these improvements, together with other obligations of SEGCO, will exceed the amount of funds available to SEGCO under the Power Contract. To fund these further costs between now and 1990, SEGCO proposes to issue and sell its notes to banks or other lenders from time to time on or prior to December 31, 1984. The maximum aggregate principal amount of borrowings at any one time outstanding shall not exceed $30,000,000. The notes will mature in not more than 10 years after the date of issue and will be prepayable, in whole or in part, without penalty or premium. It is stated that each note will bear interest at an effective rate per annum in effect at the lenders customary for companies similar to SEGCO, which, at current market conditions, would approximate 15 percent.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by September 28, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-25057 Filed 9-10-82; 8:45 am]

BILLING CODE 8010-10-M

[Release No. 12627; 812-5296/September 2, 1982]

The Travelers Insurance Co., the Travelers Fund B for Variable Annuities and the Travelers Fund B-1 for Variable Annuities; Application for an Order Pursuant to Section 6(c) of the Investment Company Act of 1940 Granting Exemptions From the Provisions of Sections 27(c)(2) and 26(a)(2)(C) of the Act

Notice is hereby given that the Travelers Insurance Company ("The Travelers"), The Travelers Fund B for Variable Annuities ("Account B"), and The Travelers Fund B-1 for Variable Annuities ("Account B-1"), referred to collectively herein as "Applicants", filed an application on August 30, 1982, for an Order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), granting exemptions from the provisions of Sections 27(c)(2) and 26(a)(2)(C) of the Act, to the extent indicated below, in connection with Applicants' offering of certain variable annuity contracts ("Contracts"). All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

Accounts B and B-1 are separate accounts of The Travelers, registered as diversified, open-end management investment companies under the Act. Applicants state that Contracts offered through Accounts B and B-1 are designed for use by individuals in retirement plans which do not qualify for special federal income tax treatment under provisions of the Internal Revenue Code ("nonqualified" plans). The principal underwriter of the Contracts is The Travelers. The Travelers is also responsible for all administration of the Contracts and of Accounts B and B-1.

Prior to the date annuity payments begin, The Travelers deducts a semi-annual charge of $4.50 from the value of each Contract to reimburse The Travelers for administrative expenses. Applicants represent that this charge, which cannot be increased during the duration of the Contract, will reimburse The Travelers only for its actual expenses associated with administering the Contracts. The charge is deducted from the value of each Contract, upon June 30 and December 31 of each contract year, by cancelling accumulation units under each Account on a *pro rata* basis. The administrative charge is prorated for the first contract year from the date of issue to the next date of assessment of the charge. If the Contract is surrendered for its cash value, the annuitant dies, or annuity payments begin, the charge is prorated from the last prior date of assessment of the charge. No administrative charge is assessed after annuity payments begin.

There are other fees and charges related to the Contracts, with respect to which certain exemptive relief was granted in Investment Company Act Releases Nos. 5459 (August 9, 1968) and 9153 (February 11, 1976).

Section 6(c)

Section 6(c) of the act authorizes the Commission to exempt any person, security or transaction, from the provisions of the Act and rules promulgated thereunder, if and to the extent, that such exemption is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request exemptions pursuant to Section 6(c) from certain provisions of the Act as summarized below.

Sections 27(c)(2) and 26(a)

Section 27(c)(2), in relevant part, prohibits the issuer of a periodic payment plan certificate and any depositor or underwriter for such issuer from selling such certificate unless the proceeds of all payments (other than any sales load) are deposited with a qualified bank acting as trustee or custodian, and held under an agreement containing, in substance, the provisions required by Section 26(a)(2) and 26(a)(3).

Section 26(a) requires that such an agreement must provide, *inter alia*, that the bank (i) shall have possession of all property of the unit investment trust and segregate and hold the same in trust subject only to the charges and collections specifically allowed under clauses (A), (B), and (C) of such Section until distribution to the security holders of the trust; (ii) shall not resign until the trust has been liquidated or a successor

has been appointed; (iii) may collect from the income and, if necessary, from the corpus of the trust such fees for services provided for in the agreement; (iv) shall not be allowed as an expense any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself.

Applicants request an exemption pursuant to Section 6(c) of the Act from the operation of the provisions of Sections 27(c)(2) and 26(a)(2)(C) to the extent necessary to permit the assessment of the administrative charge with respect to the Contracts subsequent to the effective date of any Order granted in response to the application.

Notice is further given that any interested person may, not later than September 27, 1982 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon applicants at the address stated above. Proof of such service (by affidavit, or in the case of attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following September 27, 1982 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–25052 Filed 9–10–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12638; 812–5033]

SAFECO Life Insurance Co. et al.; Filing of Application

September 3, 1982.

In the matter of SAFECO Life Insurance Company, SAFECO Variable Account A and SAFECO Securities, Inc., SAFECO Plaza, Seattle, Washington 98185 [812–5033]

Notice is hereby given that SAFECO Life Insurance Company ("Company"), a stock life insurance company organized under the laws of Washington, SAFECO Variable Account A ("Variable Account A"), a separate account of the company registered under the Investment Company Act of 1940 ("Act") as a management investment company, and SAFECO Securities, Inc. (collectively "Applicants"), filed an application on December 2, 1981 and amendments thereto on May 7, 1982, July 20, 1982 and August 18, 1982 for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicants from provisions of Sections 26(a) and 27(c)(2) of the Act to the extent necessary to permit the transactions described in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that: (i) The Variable Account was established to act as the funding entity for the individual single purchase payment deferred variable annuity contracts; (ii) the Company will deduct an acquisition processing fee of 0.5% from each purchase payment; (iii) the Company will also deduct a sales charge of 1.5% from each purchase payment; (iv) a withdrawal processing fee of $10.00 will be assessed if the contract is withdrawn for all or any portion of the contract value prior to the time stated in the agreed upon settlement option; (v) a mortality risk premium will be charged against the Variable Account and deducted on a daily basis which is equal on an annual basis to 0.75% of the average daily net asset value of the Variable Account; (vi) SAFECO Asset Management will be paid an annual fee of $25,000.00 for its services as investment adviser; (vii) the Company will deduct an annual fee of $30.00 per contract year for management and administrative services; (viii) the total amount of sales charges (which include both the initial charges and the acquisition processing fee) will not exceed 9% of purchase payments; and (ix) Investors Fiduciary Trust Company will hold all the securities and cash of the Variable Account in accordance with Sections 26(a) and 27(c)(2) of the Act.

Applicants request that the Commission enter an order exempting them from provisions of Sections 26(a) and 27(c)(2) to the extent necessary to permit the deduction of (1) the administrative and management fees, (2) the mortality risk premium, (3) the investment advisory fee, (4) the withdrawal processing fee and (5) depending on the requirements of a particular state, either (a) to permit the deduction from purchase payments when made and payment of applicable annuity premium taxes to such state by the Company or (b) to permit the deduction of such taxes by the Company from contract values and the payment of such taxes to such state at the time when an annuity is effected.

Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested party may, not later than September 28, 1982 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following September 28, 1982 unless the Commission thereafter orders a hearing upon request or upon the Commission's motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-25068 Filed 9-10-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region IV Advisory Council Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Columbia, will hold a public meeting at 9:30 a.m. on Tuesday, October 5, 1982, at the Carolina Inn, 937 Assembly Street, Columbia, South Carolina, to discuss such matters as may be presented by members, staff of the Small Business Administration, and others attending.

For further information, write or call John C. Patrick, Jr., District Director, U.S. Small Business Administration, 1835 Assembly Street, Room 358, Columbia, South Carolina 29201—(803) 765-5373.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 2, 1982.

[FR Doc. 82-25063 Filed 9-10-82; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 02/02-5444]

A & M Capital Corp.; Application for License To Operate as a Small Business Investment Company

An application for a License to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended, (15 U.S.C. 661 *et seq.*) has been filed by A & M Capital Corp. (A & M Capital), 3240 Riverdale Avenue, Bronx, New York 10463, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1982).

The officers, directors and stockholders are as follows:

Antonio Tusaneza, 15 Glenbrook Avenue, Yonkers, New York 10708; President, Director; 50% Stockholder

Michael Caplan, 45 East 89th Street, New York, New York; Vice President, Director; 50% Stockholder

The applicant, a New York corporation, will begin operations with $501,000 paid-in capital and paid-in surplus. A & M Capital will conduct its activities principally in the State of New York.

The applicant intends to provide assistance to qualified socially or economically disadvantaged small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is hereby given that any person may not later than September 27, 1982 submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: September 1, 1982

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc 82-25064 Filed 9-10-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0398]

Columbia Pictures Capital Corporation; Surrender of License

Notice is hereby given that, pursuant to Section 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (§107.105 13 CFR (1982)), Columbia Pictures Capital Corporation (CPC), 711 Fifth Avenue, New York, New York 10022, incorporated under the laws of the State of New York, has surrendered its license No. 02/02-0398 originally issued by SBA on October 22, 1980.

CPC has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of CPC is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

Dated: September 2, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-25065 Filed 9-10-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2061]

Georgia; Declaration of Disaster Loan Area

Dade County in the State of Georgia constitutes a disaster area as a result of damage caused by flooding which occurred on August 17, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 1, 1982, and for economic injury until the close of business on June 2, 1983, at the address listed below: U.S. Small Business Administration Disaster Area 2 Office, Richard Russell Federal Building, 75 Spring Street, SW., Suite 822, Atlanta, Georgia 30303 or other locally announced locations.

Interest rates for applicants filing for assistance are:

	Percent
Homeowners with credit available elsewhere	14⅜
Homeowners without credit available elsewhere	7⅜
Businesses with credit available elsewhere	14
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11½

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

Dated: September 2, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-25062 Filed 9-10-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2063]

Missouri; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the counties of Cass, Clay and Jackson, and the adjacent county of Platte, Missouri, constitute a disaster area because of damage resulting from severe storms and flooding beginning on August 12, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 25, 1982, and for economic injury until the close of business on May 26, 1983, at the address listed below:

U.S. Small Business Administration, 12 Grand Building, 5th Floor, 1150 Grand Avenue, Kansas City, Missouri 64106.

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are:

	Percent
Homeowners with credit available elsewhere	14⅞
Homeowners without credit available elsewhere	7⅞
Businesses with credit available elsewhere	15
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11⅛

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: September 2, 1982

James C. Sanders,

Administrator.

[FR Doc. 82–25061 Filed 9–10–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice CM–8/551]

Advisory Committee to the United States National Section of the Inter-American Tropical Tuna Commission; Meeting

Notice is hereby given, pursuant to the provisions of Pub. L. 92–463, that a meeting of the Advisory Committee to the United States National Section of the Inter-American Tropical Tuna Commission will be held on September 28, 1982 from 9:00 A.M. to 11:30 A.M. and from 1:00 P.M. to 5:00 P.M., in the auditorium of the Southwest Fisheries Center of the National Marine Fisheries Service at 8604 La Jolla Shores Drive, La Jolla, California.

The morning meeting will be open to the public and the public may participate in the discussions subject to the instructions of the Committee Chairman. Subjects to be discussed include an evaluation of the 1982 fishery experience, a preliminary outlook for the 1983 fishery and U.S. views on the overall quota and other aspect of the management program.

The Advisary Committee will meet in closed session on the afternoon of September 28, 1982. At this session documents classified in accordance with Executive Order 12356 of June 28, 1978 will be circulated and discussed and matters will be considered which the public interest requires be withheld from disclosure. Accordingly, the determination has been made to close this session pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. I, S10(d) and 5 U.S.C. 5526 (c)(1) and (c)(9).

Requests for further information on the meeting should be directed to Brian Hallman, OES/OFA, Room 5806, Department of State. He may be reached by telephone on (202) 632–1073.

Dated: September 1, 1982.

Theodore G. Kronmiller,

Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc. 82–25076 Filed 9–10–82; 8:45 am]

BILLING CODE 4710–09–M

[Public Notice CM–8/552]

Advisory Committee to the United States National Section of the International Commission for the Conservation of Atlantic Tunas; Meeting

Notice is hereby given, pursuant to the provisions of Pub. L. 92–463, that a meeting of the Advisory Committee to the United States National Section of the International Commission for the Conservation of Atlantic Tunas will be held on October 5, 1982, from 9:30 a.m. to 5:00 p.m., and on October 6, 1982, from 9:30 a.m. to 12:00 p.m. and from 1:30 p.m. to 5:00 p.m. at the Woodward Room of the National Wildlife Federation, 1412 16th Street, N.W., Washington, D.C.

The October 5 meeting and the morning session of the October 6 meeting will be open to the public, and the public may participate in the discussions subject to instructions of the Committee Chairman. Subjects to be discussed include: Report of the Standing Committee on Research and Statistics (SCRS) Officers meeting and Subcommittee on Skipjack Tuna Meeting; Review of Status of Stocks and Research Concerning Yellowfin, Skipjack, Albacore, and Bigeye Tunas; Review of Status of Stocks and Research Concerning Atlantic Bluefin Tuna; Review of Concerning Billfish; Report of Bluefin Tuna Fishery Conducted in the U.S. Zone and in the Canadian Zone; and estimates of the Japanese Harvest of Tunas and Bill fish in the Atlantic U.S. FCZ.

The Advisory Committee will meet in closed session on the afternoon of October 6, 1982. At this session documents classified in accordance with Executive Order 12356 of April 2, 1982 will be circulated and discussed and matters will be considered which the public interest requires be withheld from disclosure. Accordingly the determination has been made to close this session pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. I, S10(d) and 5 U.S.C. 552b (c)(1) and (c)(9).

Requests for further information on the October 6 meeting should be directed to Barbara Rothschild, Office Of International Fisheries Affairs, National Marine Fisheries Service, Department of Commerce. She may be reached by telephone on (202) 634–7303.

Dated: September 1, 1982.

Theodore G. Kronmiller,

Deputy Assistant, Secretary for Oceans and Fisheries Affairs.

[FR Doc. 82–25077 Filed 9–10–82; 8:45 am]

BILLING CODE 4710–09–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods; Public Meeting

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the venue and proposed agenda for a public meeting which will review the recent activities of the MTB relating to the development of interntional standards for the transport of dangerous goods.

DATE: October 14, 1982, 9:30 a.m. to 4:00 p.m.

ADDRESS: Room 6200, Nassif Building, 400 7th Street S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Edward A. Altemos, International Standards Coordinator, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590 (202) 426–0656.

SUPPLEMENTARY INFORMATION: Particular topics to be reviewed at this meeting will include:

1. Results of the August 1982 meeting of the Group of Rapporteurs of the United Nations Committee of Experts on the Transport of Dangerous Goods.

2. Results of the August 1982 meeting of the Group of Experts on Explosives of the United Nations Committee of Experts on the Transport of Dangerous Goods.

3. Status of the development of the International Civil Aviation Organization's (ICAO) dangerous goods regulations and results of the July working group meeting of the ICAO Dangerous Goods Panel.

Interested persons are invited to attend and participate in this meeting. Persons planning to attend the meeting are cautioned that this meeting is intended only to review the most recent activities and decisions of international organizations governing the transport of dangerous goods. Therefore, it is recommended attendees be familiar with these organizations, their functions and the standards issued by them.

Issued in Washington, D.C. on September 7, 1982.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-24911 Filed 9-10-82; 8:45 am]

BILLING CODE 4910-60-M

Urban Mass Transportation Administration

Intent to Prepare an Environmental Impact Statement on a Proposed Multimodal Transportation Terminal in San Jose, California

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice to Prepare Environmental Impact Statement.

SUMMARY: The Urban Mass Transportation Administration (UMTA) and the California Department of Transportation (CALTRANS) are jointly undertaking the preparation of an Environmental Impact Statement (EIS) for a proposed multimodal transportation terminal in San Jose, California. The EIS is being prepared in conformance with 40 CFR Part 1500, Council on Environmental Quality, Regulations for Implementing the Procedural Requirements of the National Environmental Policy Act of 1969 as amended 49 CFR Part 622, Federal Highway Administration and Urban Mass Transportation Administration, Environmental Impact and Related Procedures and the State of California Environmental Policy Act.

FOR FURTHER INFORMATION CONTACT: Mr. Edward L. Thomas, Community Planner, UMTA Region IX Office, 2 Embarcadero Center, Suite 620, San Francisco, California 94111 or at (415) 556-9368.

SUPPLEMENTARY INFORMATION:

Project Description

The proposed project is located in the County of Santa Clara, City of San Jose. Two sites are being investigated: 1) An area surrounding the existing Southern Pacific Railroad Station on Cahill Street and 2) a nearly vacant parcel of land near North First and Bassett Streets.

The multimodal terminal would provide improved access for transfers between the Southern Pacific/Caltrans Peninsula commuter rail service (CAL-TRAIN), AMTRAK rail service, intercity and transit buses, autos, and the proposed Guadalupe Corridor light rail transit project.

Alternatives

Four alternatives are under consideration including the "no-action" alternative. One alternative will provide a new joint use multimodal terminal at Bassett Street interfacing AMTRAK and CAL-TRAIN operations with light rail transit and non-rail modes of transit—bus, taxi, auto, and bicycle. Passenger rail service at the existing Cahill Street terminal would be abandoned. Another alternative would upgrade the existing terminal located at Cahill Street for expanded CAL-TRAIN operations with non-rail modes. A third alternative would provide a new terminal and infrastructure at Bassett Street as above except that AMTRAK operations would continue at the existing Cahill Street station. Under the "no-action" alternative the existing Cahill Street station would be maintained as necessary to keep it operational for existing and expanded AMTRAK and CAL-TRAIN passenger services. It is anticipated that the total number of CAL-TRAIN trains will increase to 60 by 1990 (an increase of 14 trains over existing service) regardless of whether the Cahill station remains unchanged or is upgraded as above. Work at the Bassett Street site will involve the Guadalupe River and development under the proposed Guadalupe Parkway connection (State Route 87).

Probable Environmental Effects

All of the action alternatives could result in displacement of a number of businesses, increased traffic and noise in the vicinity of the alternative sites, and visual effects of new structures. In addition, the two alternaitives involving a terminal at Bassett Street could result in the displacement of up to six residences. Implementation of the project will improve public mobility and the transportation system to a greater extent than the "no-action" alternative which will result in an expansion in CAL-TRAIN service and improvements to the Cahill station necessary to accommodate such expansion. The project could accelerate conversion of established land use activities of adjacent areas to current planning policy, as well as alter the neighborhood social structure including property valuation and ethnic groups.

Scoping Meeting

UMTA is also sponsoring a scoping meeting for the preparation of the EIS. The scope of the EIS work will be discussed.

The specific topics will include the need for the action, range of alternatives, and probable environmental impacts and their estimating procedures. The scoping meeting is scheduled for September 22, 1982, 9:30 a.m. at 2 Embarcadero Center, Room 520, San Francisco, California 94111.

Issued on September 8, 1982.

Robert H. McManus,

Associate Administrator for Grants Management, UGM-1.

[FR Doc. 82-25073 Filed 9-10-82; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Fiscal Service

Prompt Payment Interest Rate

Pursuant to section 2(b)(1) of Pub. L. 97-177, dated May 21, 1982, the Secretary of the Treasury is responsible for computing and publishing the interest rate to be used in cases under the Prompt Payment Act.

Therefore, notice is hereby given that, pursuant to section 12 of the Contract Disputes Act of 1978 (41 USC 611) the Secretary of the Treasury has determined that the rate of interest applicable, for the purposes of section 2(b)(1), for the period beginning October 1, 1982, and ending on December 31, 1982, is 15½ per centum per annum.

Dated: September 3, 1982.

Paul Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82-25006 Filed 9-10-82; 8:45 am]

BILLING CODE 4810-35-M

Office of Revenue Sharing

Final Date of Adjustment Demands and Close of Data Definitions

AGENCY: Office of Revenue Sharing, Treasury.

ACTION: Data and allocation notice.

SUMMARY: This notice announces that on September 30, 1982 the General Revenue Sharing allocations to eligible governments for Entitlement Period Twelve will become final, unless a demand for adjustment has been received by September 30, 1982, and that the data definitions will become final for Entitlement Period 14.

DATE: September 30, 1982 effective date.

FOR FURTHER INFORMATION CONTACT: Matthew Butler, Manager, Data and Demography Division, Office of Revenue Sharing. 2401 E Street, NW., Washington, D.C. 20226; telephone (202) 634–5166.

SUPPLEMENTARY INFORMATION: Section 102(b) of the State and Local Fiscal Assistance Act of 1972, as amended by section 6(e)(2) of the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94–488; 90 Stat. 2347; 31 U.S.C. 1221) provides that for entitlement periods beginning after December 31, 1976, no adjustment shall be made in a government's payments for an entitlement period, unless a demand for adjustment has been made by the recipient government or the Secretary of the Treasury within one year after the end of that entitlement period. A demand by the Director or Deputy Director of the Office of Revenue Sharing is treated as a demand for adjustment by the Secretary.

Therefore, the allocations to recipient governments for Entitlement period 12 (October 1, 1980—September 30, 1981) will become final, unless a government or the Secretary of the Treasury has a demand for adjustment pending with the Office of Revenue Sharing on September 30, 1982. A demand accompanied by adequate supporting documentation pending at the close of business on the September 30, 1982 deadline will be researched and a written decision on the data challenge will be rendered. Any government which receives a data change as a result of an adjustment demand will be eligible for an adjustment to its allocation, and will be notified of any adjustment amount at the completion of the adjustment process.

In accordance with § 51.23(a) of the revenue sharing regulations, the Office of Revenue Sharing also announces that the data definitions upon which the allocations are based for Entitlement Period 14 (October 1, 1982—September 30, 1983) will become final on September 30, 1982. These data definitions were published in the **Federal Register** on April 9, 1982 (47 FR 15480).

According to § 51.23(b) of the revenue sharing regulations, the data definitions include the provisions of section 109(e)(2)(B) of the Revenue Sharing Act (31 U.S.C. 1228(e)(2)(B)), the so-called "Memphis Rule." This provision allows the Governor of a State to certify for the computation of local tax effort, that certain county sales taxes are eligible to be credited to local governments in the county. That certification must be received by the Office of Revenue Sharing on or before September 30, 1982 to be effective for Entitlement Period 14.

This notice is issued under the authority of the State and Local Fiscal Assistance Act of 1972, as amended (31 U.S.C. 1221 *et seq.*) and Treasury Department Order No. 224, January 26, 1973 (33 FR 3342) as amended by Treasury Department Order No. 242, Revision No. 1, May 17, 1977.

Dated: September 7, 1982.

Kent A. Peterson,

Acting Director, Office of Revenue Sharing.

[FR Doc. 82-25001 Filed 9-10-82; 8:45 am]

BILLING CODE 4810-28-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Concerning Quota for U.S. Imports of Coffee From Nonmembers of the International Coffee Agreement

The International Coffee Organization (ICO) has advised that the U.S. non-member import quota on coffee imported into the United States from non-ICO members for the period October 1, 1982–September 30, 1983, is 109,150 bags of 60 kilos each. The Commissioner of Customs has been directed to implement the U.S. non-member import limitation as provided for in section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) and Executive Order 12297 of March 12, 1981.

William E. Brock,

United States Trade Representative.

[FR Doc. 82-25003 Filed 9-10-82; 8:45 am]

BILLING CODE 3190-01-M

Trade Policy Staff Committee; Additional Articles Being Considered For Possible Temporary Duty Modification.

Summary: This Publication Gives Notice of Additional Articles Which May be Considered for Temporary Modification.

I. Articles Which May Be Considered in Trade Negotiations

In conforming with section 131(a) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2151(a)), notice is hereby given of the United States continuing participation in international trade negotiations, and of additional articles which may, during such negotiations, be considered for temporary reduction of United States duties under the authority contained in section 123 of the Act (19 U.S.C. 2133).

(A) *Trade Negotiations:* It is intended that the authority conferred by section 123 of the Trade Act will be employed to conclude bilateral trade agreements granting new temporary concessions as compensation for United States actions pursuant to Article XIX of the General Agreement on Tariffs and Trade (GATT).

(B) *Lists of Articles Which May Be Considered in Trade Negotiations:* The articles listed in the Annex to this notice will be considered for temporary reduction of the existing duties to the extent permitted by section 123 of the Trade Act. The term "existing" as used in this notice is defined in section 601 (7) of the Trade Act (19 U.S.C. 2481 (7)). The articles are identified by reference to five-digit or seven-digit item numbers of the Tariff Schedules of the United States Annotated (TSUS A) (19 U.S.C. 1202) and consist of all articles in such listed item numbers except as limited by footnote descriptions. The Tariff Schedules of the United States Annotated (1982) is for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402 and is also available from the U.S. Customs Service or the Department of Commerce. A list giving informal abbreviated descriptions of the articles is available from the Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, Executive Office of the President, Winder Building, 600–17th Street, NW., Room 500, Washington, D.C. 20506. Articles included in this notice may be reserved from negotiations or may be subject to smaller tariff reductions than those authorized by section 123 of the Trade Act.

II. Supplemental Notices

From time to time as may be appropriate, other notices may be published for the purposes of informing the public of proposed actions under the Trade Act not announced in this notice.

III. Public Hearings

Section 133 of the Trade Act (19 U.S.C. 2153) requires that the President afford an opportunity for any interested person to present his views concerning any United States tariff concession on any article on a list published pursuant to section 131 or any matter relevant to proposed trade agreements. The time and place of these hearings, to be held by the Office of the United States Trade Representative through the Trade Policy Staff Committee, in accordance with section 133 of the Trade Act, will be announced in the near future.

IV. Advice of the International Trade Commission

On behalf of the President and in accordance with section 131 (a) of the Trade Act, the International Trade Commission is being furnished with the list of articles published in this notice for the purpose of securing from the Commission its advice on the probable economic effect on United States industries producing like or directly competitive articles and on consumers of the reduction of United States duties by the maximum amount permissible, unless otherwise indicated, under section 123 of the Trade Act.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

Annex

TSUS(A) ITEM	
111.56	167.50 (pt)+
121.61	220.20
141.60	220.50
141.76	426.76
141.92	466.15
152.05	534.11
610.8013	692.3207
610.8015	692.3282
618.2520	745.45
674.3267	

+ Sangria only.

[FR Doc. 82-25027 Filed 9-10-82; 8:45 am]

BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 177
Monday, September 13, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Items
Commodity Futures Trading Commission	1, 2
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Interstate Commerce Commission	6
Overseas Private Investment Corporation	7
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Synthetic Fuels Corporation	9

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, September 24, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION:
Jane Stuckey, 254-6314.

[S-1294-82 Filed 9-8-82; 4:31 pm]
BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, September 14, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C. fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

MidAmerica Commodity Exchange Silver Designation
Minimum Financial and Related Reporting Requirements for Futures Commission Merchants

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1295-82 Filed 9-8-82; 4:31 pm]
BILLING CODE 6351-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, September 15, 1982.

LOCATION: Third floor hearing room, 1111 18th Street, N.W., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Section 6(b) CPSA Proposed Rules*
The Commission will consider a proposed rule which would establish the Commission policy and procedure for the public disclosure of information under Section 6(b) of the Consumer Product Safety Act.
2. *NEISS Data—Compliance Utilization*
The staff will brief the Commission on the use for compliance purposes of data gathered through the National Electronic Injury Surveillance System.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Avenue, Bethesda, MD 20207; Telephone (301) 492-6800.

[S-1298-82 Filed 9-9-82; 2:12 pm]
BILLING CODE 6355-01-M

4

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

TIME AND DATE: 2 p.m., September 17, 1982.

PLACE: Cash Room, Department of the Treasury (Use Pennsylvania Avenue Entrance), Pennsylvania Avenue between 15th Street and East Executive Avenue, Washington, D.C. 20220.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. State Exemptions from Deposit Interest Rate Ceilings.
2. Brokers' Fees for Deposit Accounts.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the DIDC offices at the Department of the Treasury, and copies may be purchased for $5.00 per cassette by calling (202) 566-5152 or by writing to: Depository Institutions Deregulation Committee, Department of the Treasury, Room 1058 MT, Washington, D.C. 20220.

For further information about the DIDC and the September 17 meeting, please call (202) 566-3734.

Dated: September 9, 1982.
Gordon Eastburn, Policy Director.

[S-1297-82 Filed 9-9-82; 12:59 pm]
BILLING CODE 4810-25-M

5

FEDERAL ENERGY REGULATORY COMMISSION

September 8, 1982.

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: 10 a.m., September 15, 1982.

PLACE: Room 9306, 825 North Capitol Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—756th Meeting, September 15, 1982, Regular Meeting (10 a.m.)

CAP-1. Docket Nos. QF82-161-000, QF82-161-001, QF82-166-000 and QF82-166-001, Energenics Systems, Inc., small power production and cogeneration facilities—qualifying status
CAP-2. Project No. 6273-000, Western Hydro Electric, Inc.
CAP-3. Docket No. E-6454-000, City of Centralia
CAP-4. Project No. 5965-003, Firmin O. Gotzinger
CAP-5. Project No. 4189-001, Consolidated Hydroelectric, Inc.; Project No. 4833-000, City of Rohnert Park; Project No. 4873-000, Modesto Irrigation District
CAP-6. Project No. 3654-001, Pacific Hydro, Inc., and City of Tenino; Project No. 4441-000, Pacific Power & Light Co.; Project No. 4702-000, City of Centralia, Washington
CAP-7. Project No. 6156-001, Milton M. Zack and Morris Zack
CAP-8. 4705-001, John J. Hockberger, Sr.; Project No. 3737-000, Mitchell Energy Co., Inc.; Project No. 4650-001, City of Ammon, Idaho
CAP-9. Project No. 3747-002, Borough of Central City, Pa.
CAP-10. Project No. 4356-001, Long Lake Energy Corp.; Project No. 5236-000, Essex County Industrial Development Agency; Project No. 5752-000, New York State

Department of Environmental Conservation; Project Nos. 5760–001 and 5762–002, International Paper Co.

CAP–11. Project No. 2971–001, Allegheny Electric Cooperative, Inc.; Project No. 2988–000, Ohio Edison Co.; Project No. 3219–000, Duquesne Light Co.; Project No. 3490–000, Potter Township, Pennsylvania

CAP–12. Project No. 2709–005, Monongahela Power Co.; the Potomac Edison Co. and West Penn Power Co.

CAP–13. Project No. 289–002, Louisville Gas & Electric Co.

CAP–14. Project Nos. 6175–001, 6206–001, 6245–001 and 6246–001, Lester Kelley, Vernon Ravenscroft, and Helen Chenoweth

CAP–15. Project No. 5217–000, Niagara Mohawk Power Corp.

CAP–16. Project No. 3612–000, Brasfield Development, Ltd.; Project No. 4179–000, Appomattox River Water Authority

CAP–17. Project No. 5436–001, Lawrence J. McMurtrey and Jay R. Bingham

CAP–18. Project No. 3662–000, Continental Hydro Corp.; Project No. 3669–000, Mithcell Energy Co., Inc.; Project No. 4120–000, Saranac Energy Corp.; Project No. 4613–000, City of Rochester, New York; Project No. 4614–000, Mohawk Energy Corp.; Project No. 4615–000, Village of Arcade, New York

CAP–19. Project No. 5280–000, Eastern Sierra Energy Development; Project No. 5381–000, Modesto Irrigation District; Project No. 6188–000, Camille E. Held, Walton B. Held, A. W. Stuart Trust, W. Titus Nelson and Dale E. Grenoble

CAP–20. Project No. 344–001, Southern California Edison Co.

CAP–21. Project No. 4245–000, City of Bedford, et al.; Project No. 3421–000, Eastern States Energy Resources, Inc., and County of Bath, Kentucky; Project No. 3538–000, Saranac Energy Corp.; Project No. 3645–000, East Kentucky Power Cooperative

CAP–22. Project No. 3613–000, Coon Rapids Development, Ltd.; Project No. 4389–001, City of Anoka, Minnesota; Project No. 4401–000, Hennepin County Park Reserve District

CAP–23. Project No. 4069–001, Shoshone Irrigation District

CAP–24. Docket No. ER82–683–000, Connecticut Light & Power Co.

CAP–25. Docket No. ER82–700–000, Bangor Hydro-Electric Co.

CAP–26. Docket No. ER82–704–000, Central Louisiana Electric Co.

CAP–27. Docket No. ER82–708–000, West Texas Utilities Co.

CAP–28. Docket No. ER82–673–000, Kentucky Utilities Co.

CAP–29. Docket No. ER82–689–000, Gulf Power Co.

CAP–30 Docket No. ER82–701–000, Florida Power Corp.

CAP–31. Docket Nos. ER82–670–000, ER82–555–000, ER82–556–000, ER82–557–000, ER82–558–000 and ER82–559–000, Michigan Power Co.

CAP–32. Docket Nos. ER82–677–000 and ER82–680–000, Oklahoma Gas & Electric Co.; Docket Nos. ER82–678–000 and ER82–679–000, Middle South Services, Inc.; Docket No. ER82–681–000, Public Service Co. of Oklahoma; Docket No. ER82–682–000, Gulf States Utilities Co.

CAP–33. Docket No. ER82–576–000, Energy Conversions of America, Inc.

CAP–34. Omitted.

CAP–35. Docket No. ER82–448–000, Puget Sound Power & Light Co.; Docket Nos. ER82–462–000 and ER82–539–000, Portland General Electric Co.; Docket Nos. ER82–471–000, ER82–473–000, ER82–533–000, ER82–549–000, ER82–568–000, ER82–578–000 and ER82–671–000, ER82–688–000, Pacific Power & Light Co.; Docket Nos. ER82–618–000, ER82–622–000 and ER82–661–000, Idaho Power Co.

CAP–36. Docket Nos. ER77–578–000 and ER80–259–000, Kansas Gas & Electric Co.

CAP–37. Docket No. ER82–454–000, Black Hills Power & Light Co.

CAP–38. Docket Nos. ER79–126–001, 002, 003 and 004, Arizona Public Service Co.

CAP–39. Docket Nos. ER76–828–002, 003, 004 and 005, Nantahala Power & Light Co.; Docket Nos. ER78–18–002, 003, 004 and 005, Town of Highlands, North Carolina, et al., v. Nantahala Power & Light Co.

CAP–40. Docket No. EL82–16–000, Commonwealth Edison Co.

CAP–41. Docket No. E9578–005, Texas Power & Light Co.

CAP–42. Docket No. ER82–411–000, Central Vermont Public Service Corp.

CAP–43. Docket No. ER80–592–000, et al., Allegheny Power System, et al.; Docket Nos. ER80–598–000, ER80–599–000, ER80–638–000, ER80–718–000 and ER81–320–000, Iowa-Illinois Gas & Electric Co.

CAP–44. Docket Nos. ER81–188–000 and ER82–155–000, Central Maine Power Co.

CAP–45. Docket No. ER81–517–000, Wisconsin Electric Power Co.

CAP–46. Docket No. ER81–426–000, El Paso Electric Co.

CAP–47. Docket Nos. ER81–653–000 and ER82–193–000, Northern States Power Co. (Wisconsin)

CAP–48. Docket Nos. ER80–181–000 and ER81–311–000, Northern States Power Co. (Wisconsin)

CAP–49. Docket No. ER82–67–002, Wisconsin Public Service Corp.

CAP–50. Docket No. ER82–18–000, Cities of Campbell and Thayer, Missouri

CAP–51. Project No. 6359–000, Southern California Edison Co.

CAP–52. Project No. 4575–000, Crown Zellerbach Corp.; Project No. 5202–000, Public Utility District No. 1 of Jefferson County, Washington; Project No. 5459–002, City of Port Townsend, Washington

CAP–53. Project No. 6151–000, Rainsong Co.

Consent Miscellaneous Agenda

CAM–1. Docket No. RM80–42–002, tax normalization for certain items reflecting timing differences in the recognition of expenses or revenues for ratemaking and income tax purposes; Docket No. R–424–000, accounting for premium, discount and expense of issue, gains and losses on refunding and reacquisition of long-term debt, and interperiod allocation of income taxes; Docket No. R–446–000, amendment of the uniform systems of accounts for classes A, B and C public utilities and licensees and natural gas companies: Deferred income taxes

CAM–2. Docket No. RM79–76–122 (Colorado—25), high-cost gas produced from tight formations

CAM–3. Docket No. RA82–2–000, J. E. Dewitt, Inc.

CAM–4. Docket No. RO82–79–000, Imperial Refineries Corp.

CAM–5. Docket Nos. RA81–47–000 and RA82–1–000 (consolidated), Plateau, Inc.

CAM–6. Docket No. SA80–59–002, Southern Natural Gas Co.

Consent Gas Agenda

CAG–1. Docket No. TA82–2–15–000, Mid Louisiana Gas Co.

CAG–2. Docket No. RP82–120–000, Columbia Gas Transmission Corp.; Docket No. RP82–119–000, Columbia Gulf Transmission Co.

CAG–3. Docket No. RP82–114–000, Cities Service Gas Co.

CAG–4. Docket Nos. TA81–1–29–002 and TA81–2–29–001, Transcontinental Gas Pipe Line Corp.

CAG–5. Docket No. TA82–2–21–000 (PGA82–2, IPR82–2 and AP82–2), Columbia Gas Transmission Corp.

CAG–6. Docket No. TA82–2–22–000 (PGA82–2, IPR82–2 and RD&D82–2), Consolidated Gas Supply Corp.

CAG–7. Docket No. TA82–2–28–000, Panhandle Eastern Pipe Line Co.

CAG–8. Omitted

CAG–9. Docket No. RP78–20–000, Columbia Gas Transmission Corp.

CAG–10. Docket No. RP81–71–000, Montana-Dakota Utilities Co.

CAG–11. Docket Nos. RP81–7–000 and RP81–84–000, Florida Gas Transmission Co.

CAG–12. Docket No. OR78–1–018, Trans Alaska Pipeline System

CAG–13. Docket No. CI82–293–001,Sun Exploration & Production Co.; Docket No. CI67–1602–001, Energy Reserves Group, Inc., et al.; Docket No. CI82–308–001, Pogo Producing Co.; Docket No. CI82–280–001, Amoco Production Co.; Docket No. CI82–285–001, Zapata Exploration Co.; Docket No. CI82–305–001, the Louisiana Land & Exploration Co.; Docket No. CI82–310–001, Aminoil USA, Inc.; Docket No. CI82–309–001, Amerada Hess Corp.

CAG–14. Docket Nos. RI72–32–001 and 002, disputed zone offshore Louisiana

CAG–15. Docket No. RI77–26–001, J & J Enterprises, Inc., et al.

CAG–16. Docket No. ST80–336–001, Sugar Bowl Gas Corp.

CAG–17. Docket No. ST82–287–000, Mississippi Fuel Co.

CAG–18. Docket No. CP81–535–002, Texas Eastern Transmission Corp.

CAG–19. Docket No. CP80–587–000, Montana-Dakota Utilities Co.

CAG–20. Docket No. CP82–217–000, Michigan Wisconsin Pipe Line Co.

CAG–21. Docket No. CP82–75–000, Northern Utilities, Inc.

CAG–22. Docket No. CP82–351–000, Southern Natural Gas Co.

CAG–23. Docket Nos. CP80–135–007 and CP82–145–000, Northern Natural Gas Co., Division of Internorth, Inc.; Docket No. CP82–180–000, Northern Border Pipeline Co.

CAG–24. Docket No. CP81–516–000, Montana-Dakota Utilities Co.
CAG–25. Docket No. CP82–231–000, Western Gas Interstate Co.
CAG–26. Docket No. CP81–40–001, Michigan Wisconsin Pipe Line Co. and Transcontinental Gas Pipe Line Corp.
CAG–27. Docket No. CP82–346–000, Arkansas Louisiana Gas Co.
CAG–28. Docket No. CP82–288–000, Michigan Wisconsin Pipe Line Co. and Michigan Consolidated Gas Co.
CAG–29. Docket No. RP74–14–018, Texas Eastern Transmission Corp.

I. Licensed Project Matters

P–1. Docket No. EL78–24–001 (Phase I), Municipal Electric Utilities Association of the State of New York v. Power Authority of the State of New York; Docket No. EL78–37–001 (Phase I), Village of Ilion, New York v. Power Authority of the State of New York
P–2. Docket No. EL82–25–000, Review of Municipal Hydropower Development

II. Electric Rate Matters

ER–1. Docket No. ER80–313–001, Public Service Co. of New Mexico
ER–2. Docket No. ER80–214–000, Pacific Gas & Electric Co.
ER–3. Docket No. ER80–717–000, Connecticut Yankee Power Co.
ER–4. Docket Nos. E–9002–002 and ER76–122–001, Commonwealth Edison Co.
ER–5. Docket No. ER82–544–000, Southern Company Services, Inc.

Miscellaneous Agenda

M–1. Omitted
M–2. Reserved
M–3. Reserved
M–4. Docket No. RM82–5–000, revision of annual report of carriers by pipeline: Form P
M–5. Docket No. GP80–43–001, Northern Natural Gas Co.
M–6. Docket No. RO81–68–000, James Murphy d.b.a. A's Auto Safety Service
M–7. Docket No. GP82–27–000, Amoco Production Co.
M–8. Omitted
M–9. Docket No. GP82–2–000, Goldking Production Co.

Gas Agenda

I. Pipeline Rate Matters

RP–1. Docket No. OR81–5–000, Enterprise Products Co. v. Santa Fe Pipeline Co.

II. Producer Matters

CI–1. Docket No. CI75–201–002, Atlantic Richfield Co.; Docket No. CI75–529–002, The Altex, Corp.; Docket No. CI75–530–002, Jewel Osborn, now Storey; Docket No. CI75–531–002, W. B. Osborn Jr. Executor of the Estate of W. B. Osborn, deceased; Docket No. CI75–532–002, Charlotte Osborn Barrett; Docket No. CI75–533–002, Betty Osborn Biedenharn; Docket No. CI75–534–002, W. B. Osborn, Jr.; Docket No. CI75–557–002, Stentex, Inc., Yegua-Stillwell Corp., H. J. Mosser, Central Producers, Inc., W. H. Doran Jr. and Corpus Christi Management Co.
CI–2. Omitted

III. Pipeline Certificate Matters

CP–1. Docket No. CP80–520–003, Natural Gas Pipeline Co. of America; Docket No. CP81–361–000, Northern Natural Gas Co.; Docket No. ST81–315–000, United Texas Transmission Co.; Docket No. ST81–314–000, Channel Industries Gas Co.
CP–2. Docket No. CP81–99–000, Transwestern Pipeline Co.
CP–3. Docket No. CP81–174–002, Colorado Interstate Gas Co.
CP–4. Docket No. CP80–435–000, Alaskan Northwest Natural Gas Transportation Co.; Docket No. CP78–123–000, et al., Northwest Alaskan Pipeline Co.

Kenneth F. Plumb,

Secretary.

[S–1300–82 Filed 9–9–82; 3:57 pm]

BILLING CODE 6717–01–M

6

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 10 a.m., Friday, October 29, 1982.

PLACE: Hearing Room A, Interstate Commerce Commission Building, 12th and Constitution Avenue, N.W., Washington, D.C. 20423

MATTER TO BE CONSIDERED: The Commission recently voted to allow an electronic tariff filing demonstration to be conducted at an open Commission meeting on Friday, October 29, 1982. The demonstration will run approximately 90 minutes.

The demonstration will be presented by representatives of the Transportation Data Coordinating Committee and will generally follow the format and substance of an earlier demonstration before the Federal Maritime Commission.

The demonstration will focus on the state of the art in electronic data interchange, with particular emphasis on electronic tariff compilation and filing. The Commission is experiencing substantial increases in the number of tariffs filed with it by regulated carriers—a requirement of law. Accordingly, the Commission will observe this demonstration in the context of the shape of things to come.

CONTACT PERSONS FOR MORE INFORMATION: Anyone planning to attend should notify Carolyn Powell, Room 2104, Office of the Secretary of the Commission in writing as soon as possible. Due to space limitations in the Hearing Room, attendance will be permitted in accordance with order in which notices were received. Following the close of business October 1, 1982, a determination will be made as to the order of receipt of notices and those permitted to attend will be notified by the Office of the Secretary. Members of the press should reserve space by calling the Office of Public Affairs (202) 275–7252. No service list will be released by the Secretary.

[S–1302–82 Filed 9–9–82; 4:16 pm]

BILLING CODE 7035–01–M

7

OVERSEAS PRIVATE INVESTMENT CORPORATION

Meeting of the Board of Directors

TIME AND DATE: Meeting of the OPIC Board of Directors: Tuesday, September 21, 1982 at 9 a.m. (closed portion); 10 a.m. (open portion).

PLACE: Offices of the Corporation, seventh floor board room, 1129 20th Street N.W., Washington, D.C.

STATUS: The first part of the meeting from 9 a.m. to 10 a.m. will be closed to the public. The open portion of the meeting will start at 10 a.m.

MATTERS TO BE CONSIDERED: Closed to the public: 9 a.m. to 10 a.m.:

1. Contractors Program—Investment Guaranties of Letters of Credit for Small Contractors.
2. Finance Project in African Country.
3. Finance Project in South American Country.
4. Finance Project in African Country.
5. Finance Project in African Country.
6. Insurance Project in Middle East Country.
7. Authorization for Allocation of Retained Earnings.

Open to the public: 10 a.m.:

1. Approval of Vice President for Marketing: John Foote.
2. Financial Statements for the Ten Months Ended July 31, 1982; and For the Eleven Months Ended August 31, 1982.

CONTACT PERSON FOR INFORMATION: Information with regard to this meeting may be obtained from the Secretary of the Corporation at (202) 653–2925.

September 9, 1982.

Elizabeth A. Burton,

Corporate Secretary.

[S–1299–82 Filed 9–9–82; 3:53 pm]

BILLING CODE 3210–01–M

8

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

TIME AND DATE: September 16, 1982 at 8:30 a.m.

PLACE: Jorgenson's Holiday Motel, 1714 Eleventh Avenue, Helena, Montana.

MATTERS TO BE CONSIDERED:

- Presentation of Draft Fish and Wildlife Program.
- Presentation on Economic/Demographic Assumptions.

• Incorporating Environmental Costs into Resources Ranking.

CONTACT PERSON FOR MORE INFORMATION: Ms. Bess Wong (503) 222–5161.

Edward Sheets,

Executive Director.

[S–1296–82 Filed 9–9–82; 12:42 pm]

BILLING CODE 0000–00–M

9

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

TIME AND DATE: 9:30 a.m., September 17, 1982.

PLACE: Key Bridge Marriott Hotel, Rosslyn, Virginia.

SUMMARY: interested members of the public are invited to attend and observe a meeting of the Board of Directors of the United States Synthetic Fuels Corporation to be held at the time, date and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1) and Section 4 of the Corporation's Statement of Policy on Public Access to Board Meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting pursuant to Article II Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and Sections 4 and 5 of the said policy.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Prior Meeting.
2. Amendment of By-Laws to Establish Office of Executive Vice President and Provide for Annual Election of Officers.
3. Management Report.
4. Report on Environmental and Socioeconomic Matters.
5. Consideration of First and Second Solicitation Projects.

In addition, the Board of Directors will consider such other matters as may be properly brought before the meeting.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Office of General Counsel (202) 822–6336.

Synthetic Fuels Corporation.

Edward E. Noble,

Chairman of the Board.

September 9, 1982.

[S–1301–82 Filed 9–9–82; 4:01 pm]

BILLING CODE 0000–00–M

federal register

Monday
September 13, 1982

Part II

Department of the Interior

Fish and Wildlife Service

National Wildlife Refuges; Hunting

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

National Wildlife Refuges; Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Interim special regulations; request for comment.

SUMMARY: It has been determined that the opening to hunting of certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes interim special regulations effective immediately for the hunting seasons for certain migratory birds, upland game, and big game species. Nevertheless, in recognition of the general policy of the Department of the Interior to allow for public participation in the rulemaking process to the maximum extent practicable, the Fish and Wildlife Service would like to solicit public comment on these interim regulations. Any such comments received will be taken into consideration before the Fish and Wildlife Service issues permanent final regulations.

DATES: Comments on this interim rule must be submitted on or before November 12, 1982.

ADDRESSES: Send comments to Director, U.S. Fish and Wildlife Service (RF), 18th and C Streets, NW., Washington, D.C. 20240. The addresses and telephone numbers of the Regional Directors and Refuge Managers can be found in the Supplementary Information section of this document.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Gillett, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (telephone 202–343–4791).

SUPPLEMENTARY INFORMATION: The addresses and telephone numbers of the Regional Directors and Refuge Managers are as follows:

Region 1—California, Hawaii, Idaho, Nevada, Oregon, and Washington

Richard J. Myshak, Regional Director, Lloyd 500 Building, Suite 1692, 500 NE Multnomah Street, Portland, Oregon 97232, Telephone: (503) 231–6118

Region 2—Arizona, New Mexico, Oklahoma, and Texas

Michael J. Spear, Regional Director, Box 1306, Albuquerque, New Mexico 87103, Telephone: (505) 766–2321

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin

Harvey K. Nelson, Regional Director, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111, Telephone: (612) 725–3563

Region 4—Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Puerto Rico, and Tennessee

James W. Pulliam, Jr., Regional Director, Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, Georgia 30303, Telephone: (404) 221–3588

Region 5—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia

Howard N. Larsen, Regional Director, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158, Telephone: (617) 965–5100

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming

Galen Buterbaugh, Regional Director, Box 25486, Denver Federal Center, Denver, Colorado 80225, Telephone: (303) 234–2209

Don Temple, Refuge Manager, Eufaula National Wildlife Refuge, Route 2, Box 97–B, Eufaula, AL 36027, Telephone: (205) 687–4065

James R. Fisher, Refuge Manager, Cabeza Prieta National Wildlife Refuge, P.O. Box 418, Ajo, AZ 85321, Telephone: (602) 387–6483

Tyrus W. Berry, Refuge Manager, Havasu National Wildlife Refuge, P.O. Box A, Needles, CA 92363, Telephone: (714) 326–3853

Thomas Z. Atkeson, Blowing Wind Cave National Wildlife Refuge, Wheeler National Wildlife Refuge, P.O. Box 1643, Decatur, AL 35602, Telephone: (205) 353–7243

Wesley V. Martin, Refuge Manager, Cibola National Wildlife Refuge, P.O. Box AP, Blythe, CA 92225, Telephone: (714) 922–2129

Bill Behrends, Refuge Manager, Imperial National Wildlife Refuge, P.O. Box 2217, Martinez Lake, AZ 85364, Telephone: (602) 783–3400

Milton K. Haderlie, Refuge Manager, Kofa National Wildlife Refuge, P.O. Box 1032, Yuma, AZ 85364, Telephone: (602) 783–7861

Robert J. Bridges, Refuge Manager, Felsenthal National Wildlife Refuge, Overflow National Wildlife Refuge, P.O. Box 279, Crossett, AR 71635, Telephone: (501) 364–8700

Michael Riley, Refuge Manager, Wapanocca National Wildlife Refuge, P.O. Box 279, Turrell, AR 72384, Telephone: (501) 343–2595

Thomas J. Charmley, Refuge Manager, Kern National Wildlife Refuge, P.O. Box 219, Delano, CA 93216, Telephone: (805) 725–2767

Edward C. Bloom, Refuge Manager, Modoc National Wildlife Refuge, P.O. Box 1610, Alturas, CA 96101, Telephone: (916) 233–3572

Laurence N. Dean, Refuge Manager, Salton Sea National Wildlife Refuge, P.O. Box 120, Calipatria, CA 92233, Telephone: (714) 348–2323

Gary R. Zahm, Refuge Manager, Kesterson National Wildlife Refuge, Merced National Wildlife Refuge, San Luis National Wildlife Refuge, P.O. Box 2176, Los Banos, CA 93635, Telephone: (209) 826–3508

Edward Collinsworth, Refuge Manager, Chassahowitzka National Wildlife Refuge, Route 2, Box 44, Homosassa, FL 32646, Telephone: (904) 382–2201

Marvin L. Nichols, Refuge Manager, Big Lake National Wildlife Refuge, P.O. Box 67, Manila, AR 72442, Telephone: (501) 564–2429

Cecil E. McMullan, Refuge Manager, Holla Bend National Wildlife Refuge, P.O. Box 1043, Russellville, AR 72801, Telephone: (501) 968–2800

Raymond R. McMaster, Refuge Manager, White River National Wildlife Refuge, 704 Jefferson Street, Box 308, De Witt, AR 72042, Telephone: (501) 946–1468

Robert C. Fields, Refuge Manager, Clear Lake National Wildlife Refuge, Klamath Forest National Wildlife Refuge, Lower Klamath National Wildlife Refuge, Tule Lake National Wildlife Refuge, Upper Klamath National Wildlife Refuge, Route 1, Box 74, Tulelake, CA 96134, Telephone: (916) 667–2231

Edward J. Collins, Refuge Manager, Colusa National Wildlife Refuge, Delevan National Wildlife Refuge, Sacramento National Wildlife Refuge, Sutter National Wildlife Refuge, Route 1, Box 311, Willows, CA 95988, Telephone: (916) 934–2801

Don R. Perkuchin, Refuge Manager, Bombay Hook National Wildlife Refuge, Route 1, Box 147, Smyrna, DE 19977, Telephone: (302) 653–9345

George F. O'Shea, Asst. Refuge Manager, Prime Hook National Wildlife Refuge, Route 1, Box 195,

Milton, DE 19968, Telephone: (302) 684–8419
M. Bruce Blihovde, Refuge Manager, Lake Woodruff National Wildlife Refuge, P.O. Box 488, DeLeon Springs, FL 32028, Telephone: (904) 985–4673
Stephen R. Vehrs, Refuge Manager, Merritt Island National Wildlife Refuge, P.O. Box 6504, Titusville, FL 32780, Telephone: (305) 867–4820
Martin D. Perry, Refuge Manager, St. Vincent National Wildlife Refuge, P.O. Box 447, Apalachicola, FL 32320,Telephone: (904) 653–8808
John P. Davis, Refuge Manager, Blackbeard Island National Wildlife Refuge, Harris Neck National Wildlife Refuge, Savannah National Wildlife Refuge, Wassaw National Wildlife Refuge, P.O. Box 8487, Savannah, GA 31402, Telephone: (912) 232–4321
Ronnie L. Shell, Refuge Manager, Piedmont National Wildlife Refuge, Round Oak, GA 31038, Telephone: (912) 986–5441
Larry D. Napier, Refuge Manager, Kootenai National Wildlife Refuge, Star Route 1, Box 160, Bonners Ferry, ID 83805, Telephone: (208) 267–3888
Russell R. Hoffman, Refuge Manager, Deer Flat National Wildlife Refuge, P.O. Box 448, Nampa, ID 83651, Telephone: (208) 467–9278
Wayne D. Adams, Refuge Manager, Crab Orchard National Wildlife Refuge, P.O. Box J, Carterville, IL 62918, Telephone: (618) 997–3344
Charles E. Scheffe, Refuge Manager, Muscatatuck National Wildlife Refuge, P.O. Box 631, Seymour, IN 47274, Telephone: (812) 522–4352
Keith S. Hansen, Refuge Manager, Kirwin National Wildlife Refuge, Kirwin, KS 67644, Telephone: (913) 543–6673
Joe D. White, Refuge Manager, St. Marks National Wildlife Refuge, P.O. Box 68, St. Marks, FL 32355, Telephone: (904) 925–6424
Burkett S. Neely, Refuge Manager, Loxahatchee National Wildlife Refuge, Route 1, Box 278, Boynton Beach, FL 33437, Telephone: (305) 732–3684
John R. Eadie, Refuge Manager, Okefenokee National Wildlife Refuge, P.O. Box 117, Waycross, GA 31501, Telephone: (912) 283–2580
Charles S. Peck, Jr., Refuge Manager, Bear Lake National Wildlife Refuge, Camas National Wildlife Refuge, Grays Lake National Wildlife Refuge, Minidoka National Wildlife Refuge, 510 Yellowstone Avenue, P.O. Box R, Pocatello, ID 83201, Telephone: (208) 236–6833
Thomas S. Sanford, Refuge Manager, Chautauqua National Wildlife Refuge, Route 2, Havana, IL 62644, Telephone: (309) 535–2290
Robert H. Stratton, Jr., Refuge Manager, Mark Twain National Wildlife Refuge, 311 North 5th St., Suite 100, Great River Plaza, Quincy, IL 62301, Telephone: (217) 224–8580
George E. Gage, Refuge Manager, De Soto National Wildlife Refuge, Route 1, Box 114, Missouri Valley, IA 51555, Telephone: (712) 642–4121
Charles R. Darling, Refuge Manager, Quivira National Wildlife Refuge, P.O. Box G, Stafford, KS 67578, Telephone: (316) 486–2393
Stephen K. Joyner, Refuge Manager, Catahoula National Wildlife Refuge, P.O. Drawer LL, Jena, LA 71342, Telephone: (318) 992–5261
Bobby W. Brown, Refuge Manager, Lacassine National Wildlife Refuge, Route 1, Box 186, Lake Arthur, LA 70549, Telephone: (318) 774–2750
John R. Walther, Refuge Manager, Sabine National Wildlife Refuge, MRH 107, Hackberry, LA 70645, Telephone: (318) 762–4620
Douglas M. Mullen, Refuge Manager, Moosehorn National Wildlife Refuge, P.O. Box X, Calais, ME 04619, Telephone: (207) 454–3521
David L. Beall, Refuge Manager, Oxbow National Wildlife Refuge, Weir Hill Road, Sudbury, MA 01776, Telephone: (617) 443–4661
Donald Frickie, Refuge Manager, Seney National Wildlife Refuge, Seney, MI 49883, Telephone: (906) 586–9851
Joseph Kotok, Refuge Manager, Agassiz National Wildlife Refuge, Middle River, MN 56737, Telephone: (218) 449–4115
David E. Heffernan, Refuge Manager, Rice Lake National Wildlife Refuge, Route 2, McGregor, MN 55760, Telephone: (218) 768–2402
Omer N. Swenson, Refuge Manager, Tamarac National Wildlife Refuge, Rural Route, Rochert, MN 56578, Telephone: (218) 847–2641
Daniel W. Doshier, Refuge Manager, D'Arbonne National Wildlife Refuge, Upper Ouachita National Wildlife Refuge, P.O. Box 3065, Monroe, LA 71201, Telephone: (318) 325–1735
George W. Gavutis, Refuge Manager, Parker River National Wildlife Refuge, Northern Blvd., Plum Island, Newburyport, MA 01950, Telephone: (617) 465–5753
Maurice Mills, Jr., Asst. Refuge Manager, Rachel Carson National Wildlife Refuge, Route 2, Box 98, Wells, ME 04090, Telephone: (207) 646–9226
Paul Daly, Refuge Manager, Eastern Neck National Wildlife Refuge, Route 2, Box 225, Rock Hall, MD 21661, Telephone: (301) 639–7056
Joe W. Hardy, Refuge Manager, Shiawassee National Wildlife Refuge, 6975 Mower Road, Route 1, Saginaw, MI 48601, Telephone: (517) 777–5930
James Heinecke, Refuge Manager, Big Stone National Wildlife Refuge, 25 NW 2nd Street, Ortonville, MN 56278, Telephone: (612) 839–3700
Ronald V. Papike, Refuge Manager, Sherburne National Wildlife Refuge, Route 2, Zimmerman, MN 55398, Telephone: (612) 389–3323
Gerald L. Clawson, Refuge Manager, Mingo National Wildlife Refuge, Route 1, Box 103, Puxico, MO 63960, Telephone: (314) 222–3589
John Toll, Refuge Manager, Swan Lake National Wildlife Refuge, P.O. Box 68, Sumner, MO 64681, Telephone: (816) 856–3323
George Chandler, Refuge Manager, Hillside National Wildlife Refuge, Mathews Brake National Wildlife Refuge, Morgan Brake National Wildlife Refuge, Panther Swamp National Wildlife Refuge, P.O. Box 107, Yazoo City, MS 39194, Telephone: (601) 746–8511
Jimmy Tisdale, Refuge Manager, Noxubee National Wildlife Refuge, Route 1, Box 142, Brooksville, MS 39739, Telephone: (601) 323–5548
Bill Grabill, Refuge Manager, Bogue Chitto National Wildlife Refuge, Delta National Wildlife Refuge, Mississippi Sandhill Crane National Wildlife Refuge, P.O. Box 699, Gautier, MS 39553, Telephone: (601) 497–6322
Ralph F. Fries, Refuge Manager, Charles M. Russell National Wildlife Refuge, UL Bend National Wildlife Refuge, P.O. Box 110, Lewistown, MT 59457, Telephone: (406) 538–8706
Robert C. Twist, Refuge Manager, Lee Metcalf National Wildlife Refuge, P.O. Box 257, Stevensville, MT 59870, Telephone: (406) 777–5552
Anthony Leger, Asst. Refuge Manager, Barnegat National Wildlife Refuge, P.O. Box 544, 686 East Bay Avenue, Barnegat, NJ 08005, Telephone: (609) 698–1387
John L. Fillio, Refuge Manager, Great Swamp National Wildlife Refuge, RD 1, Box 148, Basking Ridge, NJ 07920, Telephone: (201) 647–1222
John H. Kiger, Refuge Manager, Sevilleta National Wildlife Refuge, San Acacia, NM 87831, Telephone: (505) 864–4021
Tim Wilkins, Refuge Manager, Yazoo National Wildlife Refuge, Route 1, Box 286, Hollandale, MS 38748, Telephone: (601) 839–2638
Robert L. Pearson, Refuge Manager, Benton Lake National Wildlife Refuge, P.O. Box 450, Black Eagle, MT 59414, Telephone: (406) 727–7400
Forrest W. Cameron, Refuge Manager, Ruby Lake National Wildlife Refuge, Ruby Valley, NV 89833, Telephone: (702) 779–2237

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Stephen S. Berlinger, Refuge Manager, Las Vegas National Wildlife Refuge, Route 1, Box 399, Las Vegas, NM 87701, Telephone: (505) 425–3581

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Jerry L. Holloman, Refuge Manager, Pee Dee National Wildlife Refuge, P.O. Box 780, Wadesboro, NC 28170, Telephone: (704) 694–4424

Steven W. Frick, Refuge Manager, Cedar Island National Wildlife Refuge, Mattamuskeet National Wildlife Refuge, Swanquarter National Wildlife Refuge, Route 1, Box N–2, Swanquarter, NC 27885, Telephone: (919) 926–4021

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Ronald D. Shupe, Refuge Manager, Audubon National Wildlife Refuge, Rural Route 1, Coleharbor, ND 58531 Telephone: (701) 442–5474

Karen A. Smith, Refuge Manager, Lostwood National Wildlife Refuge, Rural Route 2, Kenmare, ND 58746, Telephone: (701) 848–2722

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Peter T. Smith, Refuge Manager, Long Lake National Wildlife Refuge, Moffit, ND 58560, Telephone: (701) 387–4397

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David G. Potter, Refuge Manager, Tewaukon National Wildlife Refuge, Rural Route 1, Cayuga, ND 58013, Telephone: (701) 724–3598

Ronald S. Sullivan, Refuge Manager, Salt Plains National Wildlife Refuge, Route 1, Box 76, Jet, OK 73749, Telephone: (405) 626–4794

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John R. Akin, Refuge Manager, Sequoyah National Wildlife Refuge, Route 1, Box 18A, Vian, OK 74962, Telephone: (918) 773–5251

Marvin R. Kaschke, Refuge Manager, Hart Mountain National Antelope Refuge, Sheldon National Wildlife Refuge, P.O. Box 111, Room 308, U.S. Post Office Building, Lakeview, OR 97630, Telephone: (503) 947–3315

Palmer Sekora, Refuge Manager, Ankeny National Wildlife Refuge, Baskett Slough National Wildlife Refuge, William L. Finley National Wildlife Refuge, Route 2, Box 208, Corvallis, OR 97333, Telephone: (503) 757–7236

Marvin T. Hurdle, Refuge Manager, Carolina Sandhills National Wildlife Refuge, Route 2, Box 130, McBee, SC 29101, Telephone: (803) 335–8401

Rolf H. Kraft, Refuge Manager, Lacreek National Wildlife Refuge, South Rural Route, Martin, SD 57551, Telephone: (605) 685–6508

Wendell E. Crews, Refuge Manager, Lake Isom National Wildlife Refuge, Reelfoot National Wildlife Refuge, P.O. Box 98, Samburg, TN 38254, Telephone: (901) 538–2481

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Joseph P. Mazzoni, Refuge Manager, Malheur National Wildlife Refuge, P.O. Box 113, Burns, OR 97720, Telephone: (503) 493–2323

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William J. McCoy, Jr., Refuge Manager, Erie National Wildlife Refuge, RD 1, Wood Duck Lane, Guy Mills, PA 16327, Telephone: (814) 789–3585

George R. Garris, Refuge Manager, Cape Romain National Wildlife Refuge, Route 1, Box 191, Awendaw, SC 29429, Telephone: (803) 928–3368

Paul E. Ferguson, Refuge Manager, Santee National Wildlife Refuge, Route 2, Box 66, Summerton, SC 29148, Telephone: (803) 478–2217

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Leon Rhodes, Acting Refuge Manager, Tennessee National Wildlife Refuge, P.O. Box 849, Paris, TN 38242, Telephone: (901) 642–2091

E. Frank Johnson, Refuge Manager, Aransas National Wildlife Refuge, P.O. Box 100, Austwell, TX 77950, Telephone: (512) 286–3559

Ronald G. Bisbee, Refuge Manager, Brazoria National Wildlife Refuge, San Bernard National Wildlife Refuge, P.O. Box 1088, Angleton, TX 77515, Telephone: (713) 849–6062

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James M. Carroll, Jr., Refuge Manager, Necedah National Wildlife Refuge, Star Route West, Box 386, Necedah, WI 54646, Telephone: (608) 565–2551

The addresses above are alphabetized by State. Some refuges are located in more than one State but are listed only in the State where the principal refuge office is located. Similarly, a few refuges are administered through a refuge office in an adjacent State. Those refuges are listed under the State where the principal office is located.

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General

These special regulations, which are effective immediately, depart from past practice in that they provide for a comment period and that it is the Fish and Wildlife Service's intent to make these regulations permanent. In a forthcoming rulemaking action, the Service intends to issue final revisions to Title 50, Code of Federal Regulations, to reflect the permanent nature of these regulations.

In 50 CFR 32.11, 32.21, and 32.31, the Service has established lists of refuges which have been opened to the hunting of migratory game birds, upland game, and big game, respectively. This rule contains special hunting regulations which are more restrictive than those set by the States on certain refuge areas. On those refuges listed as open areas in 50 CFR 32.11, 32.21, and 32.31 which are not listed in this rulemaking, hunting of game is permitted in accordance with the provisions of Title 50, CFR, and appropriate State regulations, unless any or all forms of hunting on all or any part of individual refuge areas is temporarily suspended in accordance with 50 CFR 32.1.

Conformance With Statutory Authorities

In accordance with Section 4(d)(1)(A) of the National Wildlife Refuge System Administration Act, the Secretary is authorized under such regulations as he may prescribe to permit the use of any area within the system for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access whenever he determines that such uses are compatible with the major purposes for which such areas were established: Provided, that not to exceed 40 percent at any one time of any area that has been or hereafter may be acquired, reserved, or set apart as an inviolate sanctuary for migratory birds, under any law, proclamation, Executive Order, or public land order may be administered by the Secretary as an area within which the taking of migratory game birds may be permitted under such regulations as he may prescribe unless the Secretary finds that the taking of any species of migratory game birds in more than 40 percent of such areas would be beneficial to the species.

In addition, the Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer the refuge areas within the National Wildlife Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, The Refuge Recreation Act requires; "that such recreational use[s] will not interfere with the primary purposes for which the areas were established, and that funds are available for the development, operation, and maintenance of these permitted forms of recreation."

Almost all of the refuges which have been opened to the taking of migratory birds were originally established as inviolate sanctuaries for migratory birds. At the time that these refuges were initially opened to the taking of migratory birds by amending the list of open areas in 50 CFR 32.11, a determination was made that such use was compatible with the major purposes for which such areas were established. In regard to the 40 percent provisions of the National Wildlife Refuge System Administration Act, these regulations would not authorize the taking of migratory game birds in more than 40 percent of any area.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations. Further, the special regulations contained in this rulemaking will govern the hunting of migratory game birds, upland game, or big game on certain refuge areas in a manner that will insure that these uses will be compatible with the principles of sound wildlife management and will otherwise be in the public interest.

Special circumstances are involved in the promulgation of this rulemaking which require that the special regulations be effective upon publication. Many of the States have already formalized their hunting seasons. To the extent that these States have already set their hunting seasons which anticipate the adoption of these proposals, we must move speedily with this rulemaking action. To do otherwise will result in unnecessary confusion of the public on the status of these refuge hunts.

These rules specify the conditions under which hunting can be permitted on units of the National Wildlife Refuge System and are effective as interim rules upon publication. Nevertheless, the policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. In the promulgation of special regulations for hunting on refuge areas, consideration is given to the best biological data currently available. Generally, this information is not fully available until just before the opening of the hunting seasons. Inasmuch as the Service establishes the frameworks for migratory bird hunting and defers to the States in regard to seasons, etc., for

upland game and big game, there is inadequate time for public review of these regulations prior to their promulgation. In view of the rapidly approaching seasons there is an immediate need to place these regulations in effect. To delay the effective date would result in confusion to the public, and the absence of special regulations during the early stages of the hunting seasons would be contrary to the public interest, hunter safety, and wildlife conservation. Accordingly, interested persons may submit written comments, suggestions, or objections regarding these interim rules. All relevant comments will be considered by the Department prior to the issuance of a final rule. The Department of the Interior has concluded that "good cause" exists within the meaning of 5 U.S.C. 553(d)(3) and (b)(B) of the Administrative Procedure Act to make these regulations effective upon publication in the **Federal Register** prior to the receipt of public comment.

Information Collection

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (Pub. L. 96–511). These requirements are presently approved by the Office of Management and Budget under the OMB approval numbers cited:

Type of information collection	OMB approval No.
Hunter surveys	1018–0044
Special Use Permits	1018–0046
Hunter reservation/application/blind assignment	1018–0047
Weapon Qualification	1018–0050

These regulations impose no new reporting or recordkeeping requirements that must be cleared by the Office of Management and Budget. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information will be used to award benefits. Response is mandatory to obtain a benefit.

NEPA Consideration

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" [FES 76–59] was filed with the Council on Environmental Quality on November 12, 1976, and a notice of availability was published in the **Federal Register** on November 19, 1976 (41 FR 51131). In addition, environmental assessments have been prepared on all new hunting programs instituted since the preparation of the Final Environmental Statement. In accordance with Appendix 1.4 of Part 516 of the Departmental Manual as revised on June 22, 1982 (47 FR 28841), these special regulations involve only minor changes in the amounts of public use and are in conformance with existing management plans and procedures.

These special regulations for public use of Service-managed lands maintain essentially the permitted level of use and do not continue a level of use that has resulted in adverse environmental effects and are therefore categorically excluded from the requirement of the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969.

Other Determinations

In accordance with the Determination of Effects of Rules approved on August 18, 1981, on substantially similar special regulations governing hunting and sport fishing on individual units of the National Wildlife Refuge System, the Department of the Interior has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291 (46 FR 13193), and that the rulemaking would not have a "significant economic effect on a substantial number of small entities" within the meaning of the Regulatory Flexibility Act (Pub. L. 96–354). This determination is based on the fact that the annual gross effect of the rule on the economy is less than $100 million, that the rule will not result in major increases in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, nor is the rule likely to result in significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation will have a positive secondary effect on local filling stations, sporting goods stores, providers of meals, and overnight accommodations. This rule will impose no costs on small entities; the exact number and the amount of business that will result from this refuge-related recreation is unknown.

The aggregate effect is a positive economic effect on a number of small entities. The number of small entities affected is unknown, but the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue pre-existing uses of refuge areas indicates that they will not be significant. A final updated Determination of Effects will be prepared prior to the publication of the final rule.

List of Subjects in 50 CFR Part 32

Hunting, National wildlife refuge system, Wildlife refuges.

PART 32—HUNTING

A list of special conditions applying to individual refuge hunts and a map of the hunt area(s) are available at refuge headquarters. In instances where permits may be required or additional restrictions may be in effect, prospective hunters should contact the refuge manager for further information. Generally, portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Hunting is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 32, State regulations, and the following special regulations. Accordingly 50 CFR Part 32 is amended by issuing §§ 32.12, 32.22, and 32.32 which are not codified and a new Subpart D which will be carried in the CFR as shown below:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

ALABAMA

Eufaula National Wildlife Refuge

(a) Hunting of ducks and coots is permitted during all or part of the State season in designated areas of the refuge, subject to the following conditions:

(1) The refuge will set hunting hours.

(2) Shooting is not permitted outside designated blind zone.

(3) Hunters may be required to check in and out.

(4) Permits may be required.

(5) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(6) Hunters under 16 years of age must be under the supervision of an adult.

(7) Checking of bagged game may be required.

(b) Hunting of mourning doves is permittd during all or part of the State season in designated areas of the refuge, subject to the following conditions:

(1) The refuge will set hunting hours.

(2) Hunters may be required to check in and out.

(3) Hunters under 16 years of age must be under the supervision of an adult.

ARIZONA AND CALIFORNIA

Cibola National Wildlife Refuge

Hunting of mourning and white-winged doves, ducks, coots, gallinules, and geese is permitted on designated areas of the refuge subject to the following special conditions:

(a) Hunting is prohibited within 50 yards of any road or levee or within 250 yards of any farm worker.

(b) Pits or permanent blinds may not be constructed.

(c) Neither hunters nor dogs may enter closed areas to retrieve game.

(d) Special use permits can be obtained from refuge headquarters in Blythe, California, and are required for all hunting guides.

(e) No goose decoy shall exceed 44 inches in body length.

Havasu National Wildlife Refuge

Hunting of mourning and white-winged doves, ducks, coots, gallinules, geese, and common snip is permitted subject to the following special conditions:

(a) Doves.

(1) Pintail Slough (all refuge lands north of the north dike) will be open for dove hunting during the September season only, and only on Fridays, Saturdays, and Sundays.

(2) Bill Williams Unit will be open to dove hunting only on lands south of the Planet Ranch Road.

(3) Neither hunters nor dogs may enter areas closed to hunting to retrieve game.

(b) Waterfowl, coots and gallinules at Pintail Slough.

(1) Duck hunters are required to submit pre-season applications for assigned hunting dates. Consult the refuge manager for hunt details. Hunt applications are available at the refuge office.

(2) Goose blinds are on an assigned basis, however, goose hunters may apply on the day they wish to hunt.

(3) Hunting is permitted on Fridays, Saturdays, and Sundays only.

(4) Hunting is permitted from ½-hour before sunrise to 11 a.m.

(5) Duck hunters are limited to 25 shotgun shells in their possession. Goose hunters are limited to 10 shotgun shells in their possession.

(6) Decoys and materials brought in to the refuge for blind construction must be removed at the end of each day's hunt.

(7) Pits and permanent blinds are prohibited.

Imperial National Wildlife Refuge

Hunting of mourning and white-winged doves, ducks, coots, gallinules, geese, and common snipe is permitted on designated areas of the refuge subject to the following special condition: Pits and permanent blinds are prohibited.

ARKANSAS

Felsenthal National Wildlife Refuge

Hunting of ducks, coots, and woodcock is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) The refuge will set hunting hours.

(b) Only portable blinds are permitted for hunting waterfowl and they must be removed each day.

(c) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(d) Hunters under 16 years of age must be under the supervision of an adult.

Holla National Wildlife Refuge

Hunting of mourning doves is permitted during all or part of the State season on designated areas of the refuge subject to the following condition: Hunters under 16 years of age must be under the supervision of an adult.

Overflow National Wildlife Refuge

Hunting of ducks, coots, and woodcock is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) The refuge will set hunting hours.

(b) Only portable blinds are permitted for waterfowl hunting and they must be removed each day.

(c) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(d) Hunters under 16 years of age must be under the supervision of an adult.

White River National Wildlife Refuge

Hunting of ducks, coots, snipe, woodcock, and doves is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) The refuge will set hunting hours.

(b) The construction of blinds is not permitted.

(c) Decoys may not be left overnight.

(d) The maximum outboard motor size allowed is 10 horsepower.

(e) Only the possession and use of steel shot will be permitted.

(f) Hunters under 16 years of age must be under the supervision of an adult.

CALIFORNIA

Clear Lake National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, gallinules, and common snipe is permitted on designated areas of the refuge subject to the following special condition: Air-thrust and inboard water-thrust boats are prohibited.

Colusa National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, gallinules, and common snipe is permitted on designated areas of the refuge. No additional special conditions in effect.

Delevan National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, gallinules, and common snipe is permitted on designated areas of the refuge. No additional special conditions in effect.

Kern National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, and gallinules is permitted on designated areas of the refuge subject to the following special conditions:

(a) All hunters assigned to the spaced blind unit must remain within 100 feet of the numbered steel post (blind site), except when pursuing cripples, placing decoys, or traveling to and from the parking area.

(b) Hunters assigned to the spaced blind unit must travel to and from parking areas and blind sites with firearms unloaded.

(c) Hunters must park in assigned parking areas.

Kesterson National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, gallinules, and common snipe is permitted on designated areas of the refuge. No additional special conditions in effect.

Lower Klamath National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, gallinules, and common snipe is permitted on designated areas of the refuge subject to the following special conditions:

(a) During the first two (2) days of the waterfowl season all hunters 16 years of age or older must have in their possession a valid entry permit, issued to them through an advance registration drawing, for the controlled hunting unit in which they are hunting. Hunters under the age of 16 and hunting in a controlled unit must be accompanied by an adult with a valid entry permit.

(b) Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except unloaded firearms may be taken through these zones when necessary to reach or leave the hunting areas. Decoys may not be set in retrieving zones.

(c) Air-thrust and inboard water-thrust boats are prohibited.

(d) Waterfowl, coot, gallinule, and snipe shooting hours end at 1:00 p.m. daily on all California portions of the refuge.

Modoc National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, gallinules, and common snipe is permitted on designated areas of the refuge subject to the following special conditions:

(a) First weekend only, entry permits are required to enter the hunting area for every individual with the exception of persons under 16 years of age.

(b) After the first weekend, hunting is permitted on Tuesdays, Thursdays, and Saturdays only during authorized seasons.

(c) In the designated spaced blind area, hunters must remain within 50 feet of the established blind stake.

Sacramento National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, gallinules, and common snipe is permitted on designated areas of the refuge subject to the following special conditions:

(a) Hunters assigned to the spaced blind unit are restricted to their assigned blind except for retrieving downed birds, placing decoys, or traveling to and from the parking area.

(b) Hunters may shoot from assigned blinds only, except that hunters may shoot to retrieve crippled birds.

(c) Snipe hunting is not permitted in the spaced blind unit.

(d) Firearms must be unloaded while being transported between parking areas and blind sites.

Salton Sea National Wildlife Refuge

Hunting of geese, ducks (including Mergansers), coots, and gallinules is permitted subject to the following special conditions:

(a) Hunters using the Union Tract must use goose decoys.

(b) Hunters must hunt from assigned blinds or stakes, except that hunters may shoot to retrieve crippled birds.

San Luis National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, gallinules, and common snipe is permitted on designated areas of the refuge. No additional special conditions in effect.

Sutter National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, gallinules, and common snipe is permitted on designated areas of the refuge. No additional special conditions in effect.

Tule Lake National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, gallinules, and common snipe is permitted subject to the following conditions:

(a) During the first two (2) days of the waterfowl season all hunters 16 years of age or older must have in their possession a valid entry permit, issued to them through an advance registration drawing, for the controlled hunting unit in which they are hunting. Hunters under the age of 16 and hunting in a controlled unit must be accompanied by an adult with a valid entry permit.

(b) Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except, unloaded firearms may be taken through these zones when necessary to reach or leave the hunting areas. Decoys may not be set in retrieving zones.

(c) Air-thrust and inboard water-thrust boats are prohibited.

(d) Waterfowl, coot, gallinule, and snipe shooting hours end at 1:00 p.m. daily.

(e) In designated spaced blind areas, hunters may not possess any loaded fire-arm further than 100 feet from the established blind stakes. Hunters will select blind sites by lottery at the beginning of each days hunt. Hunters may shoot only from within their assigned blind sites.

DELAWARE

Bombay Hook National Wildlife Refuge

(a) Public hunting of ducks, geese, and coots is permitted on areas designated by signs as open to hunting including the South Waterfowl Area, the West Waterfowl Hunting Area, the Young Waterfowlers Area, and the South Upland Hunting Area. Hunting shall be in accordance with all State and Federal regulations covering the hunting of ducks, geese, and coots subject to the following special conditions:

(1) Hunting is permitted on the West Waterfowl Hunting Area from ½ hour before sunrise to 12:00 noon local standard time, Tuesdays, Thursdays, and Saturdays (except the first Saturday of the State shotgun deer season), during the goose season.

(2) Hunting in the South and West Waterfowl Areas and Young Waterfowlers Area shall be only from existing numbered blinds. The possession of an uncased gun or shooting while outside of a blind is prohibited on these areas except when in active pursuit of crippled waterfowl. In such cases the hunter may fire at only the crippled bird.

(3) Hunting is permitted in the South Waterfowl Hunting Area only on Monday, Wednesday, Friday, and Saturday, during the State duck hunting season.

(4) The necessary permit to enter the South Waterfowl Hunting Area will be issued each hunting day by a ticket-lottery system at 1½ hours before legal shooting time at the checking station at Port Mahon. Hunters arriving after the lottery will be issued permits on a first-come, first-serve basis. Permits will be surrendered at the checking station within ½ hour after sunset. The necessary permit to enter the West Waterfowl Hunting Area may be obtained by applying to the refuge manager for advance reservation. The permits for advance reservations will be cancelled if the holder is not present one (1) hour prior to the start of legal shooting time on the date of his reservation. These forfeited permits and permits not reserved by advance reservation will be awarded to other hunters by lottery on the morning of the hunt. All hunters will check out through the headquarters checking station prior to leaving the refuge.

(5) Each hunting permittee using the West Waterfowl Hunting Area will pay a recreation fee of $10 prior to entrance into the hunting area. A recreation fee of $2 per hunter will be charged on the South Waterfowl Hunting Area prior to entrance into the hunting area. Non-ambulatory individuals using the Young Waterfowl Hunting Area will pay a recreation fee of $5 per blind prior to entrance into the hunting area.

(6) Not more than four (4) persons may occupy a blind at any one time on the West Waterfowl Hunting Area nor more than three (3) on the South Waterfowl Hunting Area.

(7) The Young Waterfowlers Area will be open from ½ hour before sunrise to 12:00 noon local standard time on Saturdays and holidays to young hunters who present evidence of having completed the prescribed training program. Two (2) youths, accompanied by an instructor who may not possess ammunition or possess or discharge a firearm, may use one blind. Two (2) blinds within the Young Waterfowlers Area will also be utilized on Tuesdays by non-ambulatory individuals and on those Saturdays when not used by Young Waterfowlers. These individuals will be selected in cooperation with the Delaware Division of Vocational Rehabilitation. Two (2) hunters accompanied by an assistant who may not possess ammunition or possess or discharge a firearm, may use each blind.

(8) Only shells containing steel shot may be used or in possession while hunting waterfowl. No hunter may have in their possession or use in one day more than 12 shells on the West Waterfowl Hunting Area or 15 shells on the Young Waterfowlers Hunting Area.

(b) Public hunting of rails and galinules, mourning doves, woodcock, crows, and common snipe on the South Upland Hunting Area is permitted during the regular State seasons.

Prime Hook National Wildlife Refuge

(a) Public hunting of ducks, geese, and coots is permitted on the Waterfowl Hunting Area subject to the following special conditions:

(1) Permits will be issued by a lottery basis in accordance with State regulations. Hunters not selected in the lottery will be issued permits on a first-come, first-serve basis until 3:00 p.m. Permits must be turned in at the check station within one hour after sunset. When leaving a blind unoccupied for any reason, the permit must be turned in and a new permit must be secured at the check station before hunting is resumed.

(2) Hunting shall be only from blinds at locations designated by refuge personnel. The possession of an uncased gun or discharging a firearm while outside of a blind is prohibited except when in pursuit of crippled waterfowl. Three (3) hunters per blind are permitted.

(3) The area is open each Monday, Wednesday, Friday, and Saturday throughout the duck hunting season.

(4) Access to the waterfowl hunting area will be at designated boat access points.

(5) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(b) Public hunting of mourning doves, common snipe, and woodcock is permitted only on the 2,185-acre North Hunting Area.

(c) Field possession of waterfowl or coots is prohibited on the North Hunting Area.

FLORIDA

Chassahowitzka National Wildlife Refuge

Hunting of ducks and coots is permitted in designated areas during all or part of the State season subject to the following special conditions:

(a) Air thrust boats are prohibited.

(b) Only the possession and use of steel shot will be permitted.

Loxahatchee National Wildlife Refuge

Hunting of ducks and coots is permitted in designated areas during all or part of the State season subject to the following conditions:

(a) Hunters may enter the refuge only at designated points.

(b) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(c) Permits may be required.

Merritt Island National Wildlife Refuge

Hunting of ducks and coots is permitted on designated areas during all or part of the State season subject to the following conditions:

(a) The refuge will set hunting hours.

(b) Proof of completion of a certified hunter safety training course may be required.

(c) A permit may be required.

(d) Air thrust boats are prohibited.

(e) Only shells containing steel shot may be used and in possession while hunting waterfowl.

GEORGIA

Eufaula National Wildlife Refuge

Hunting of ducks and coots is permitted during the State season designated areas of the refuge subject to the following conditions:

(a) the refuge will set hunting hours.

(b) Shooting is not permitted outside designated blind zone.

(c) Hunters may be required to check in and out.

(d) Permits may be required.

(e) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(f) Hunters under 16 years of age must be under the supervision of an adult.

(g) Checking of bagged game may be required.

Savannah National Wildlife Refuge

Hunting of ducks, coots, and snipe is permitted in designated areas during all or part of the State season subject to the following conditions:

(a) The refuge will set hunting and access hours.

(b) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(c) Hunters under 16 years of age must be under the supervision of an adult.

IDAHO

Bear Lake National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, and common snipe is permitted on designated areas of the refuge subject to the following special condition: Air-thrust boats are prohibited.

Camas National Wildlife Refuge

Hunting of geese, ducks, (including mergansers), coots, and common snipe is permitted on designated areas of the refuge. No additional special conditions are in effect.

Deer Flat National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, common snipe, and doves is permitted on designated areas of the refuge subject to the following special conditions:

(a) Only ducks (including mergansers) and coots may be hunted on the Lake Lowell sector. The Snake River sector is open to the migratory game species noted above.

(b) The construction and use of permanent hunting blinds are prohibited. Hunters may use portable blinds and temporary blinds constructed of natural materials.

Grays Lake National Wildlife Refuge

Hunting of geese, ducks (including mergansers) and coots is permitted on designated areas of the refuge subject to the following special conditions:

(a) Air-thrust boats are prohibited.

(b) Entry to the hunting area is limited to foot travel only.

Kootenai National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, and common snipe is permitted on designated areas of the refuge subject to the following special conditions:

(a) Hunting is permitted on Saturdays, Sundays, Tuesdays, and Thursdays.

(b) Hunters are limited to the use and/or possession of no more than twenty-five (25) shells per day.

(c) Hunters may enter the posted retrieving zone for purposes of retrieving downed birds or traveling to or from the hunting area, but all firearms must be unloaded in this area.

Minidoka National Wildlife Refuge

Hunting of geese, ducks (including mergansers) and coots is permitted on designated areas of the refuge. No additional special conditions are in effect.

IOWA

De Soto National Wildlife Refuge

Migratory game bird hunting will be permitted only on 174 acres of refuge land adjacent to U.S. Highway 30 by refuge permit only. The hunting season will be from November 1 each year through the closing date of the waterfowl season set by the Iowa Conservation Commission subject to the following special conditions:

(a) Shooting hours will start consistent with State regulations and will close at 12:00 noon daily.

(b) Only ducks, geese, and coots may be taken.

(c) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(d) A maximum of 25 shells per hunter will be allowed per day.

Mark Twain National Wildlife Refuge

Public hunting of migratory game birds is permitted on the Louisa Unit in areas designated by signs, comprising 1,760 acres on the Big Timber Division and Turkey and Otter Islands, subject to the following special conditions: Only temporary wood or brush blinds shall be permitted; no blinds shall be locked or otherwise sealed against public entry. Blinds shall be open to the public on a first-come, first-serve basis if not occupied 30 minutes after the start of legal shooting hours.

ILLINOIS

Chautauqua National Wildlife Refuge

Public hunting of migratory game birds is permitted only on the area designated by signs, comprising 745 acres, subject to the following special conditions:

(a) Only temporary structures or blinds of native materials shall be permitted.

(b) Hunting is permitted only outside the main dike in the Liverpool Lake section and north of the entrance to the north ditch (Goofy Ridge Ditch).

(c) Retrieval zone is limited to the river side of the main dike.

Crab Orchard National Wildlife Refuge

Public hunting of migratory game birds is permitted on areas comprising 23,000 acres, designated as Areas I and III, subject to the following special conditions:

(a) Only portable or temporary blinds may be used for hunting and these must be removed or dismantled at the end of the day's hunt. Blinds and pits beyond the shoreline of refuge waters are not permitted.

(b) Only shells containing steel shot may be used and in possession while hunting.

(c) During the goose season, on Grassy, Orchard, Sawmill and Turkey Islands, hunters may hunt only from blinds provided by the refuge. Only hunters occupying these blinds are allowed on these islands during the goose hunting season.

(d) Waterfowl hunting is permitted on the controlled areas of Grassy Point, Carterville Public, and Greenbriar Road areas from sunrise to 12:00 noon daily during the goose season. Goose hunting on these areas is permitted only from existing refuge established blinds. This includes lake shorelines.

KANSAS

Kirwin National Wildlife Refuge

Hunting of ducks, geese, and coot is permitted on designated areas of the refuge subject to the following condition: Pit blinds may not be constructed or used.

LOUISIANA

Bogue Chitto National Wildlife Refuge

Hunting of ducks and woodcock is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) The refuge will set hunting hours.

(b) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(c) Hunters under 16 years of age must be under the supervision of an adult.

(d) Weapons restrictions may apply.

D'Arbonne National Wildlife Refuge

Hunting of ducks and coots is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(b) Boats, blinds, and decoys may not be left on the refuge overnight.

(c) Hunters under 16 years of age must be under the supervision of an adult.

(d) Permits may be required.

Lacassine National Wildlife Refuge

Hunting of ducks, geese, and coots is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) The refuge will set entrance and hunting hours.

(b) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(c) Only blinds of native vegetation and temporary blinds that are removed each day are permitted.

(d) No decoys may be left in the hunting area overnight.

(e) No boats may be left on the refuge earlier than one week prior to the opening of the hunting season. Air thrust boats or all terrain vehicles are not allowed.

(f) Hunters under 16 years of age must be under the supervision of an adult.

Sabine National Wildlife Refuge

Hunting of ducks, geese, and coots is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) The refuge will set entrance and hunting hours.

(b) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(c) Temporary blinds made of native vegetation may be constructed or portable blinds may be carried in and out for each hunt.

(d) Decoys must be removed after each hunt.

(e) Furbearing animals or trapping equipment in the hunting area shall not be molested or disturbed by hunters.

(f) Check in/out of both hunter and bagged birds may be required.

(g) Hunters under 16 years of age must be under the supervision of an adult.

Upper Ouachita National Wildlife Refuge

Hunting of ducks, coots, and woodcock is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(b) Hunters under 16 years of age must be under the supervision of an adult.

(c) Boats, blinds, and decoys may not be left on the refuge overnight.

(d) Permits may be required.

MAINE

Rachel Carson National Wildlife Refuge

Public hunting of waterfowl is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 895 acres, and known as the Brave Boat Harbor Hunting Area, Lower Wells Hunting Area, and Upper Wells Hunting Area, are shown on maps available at refuge headquarters. Public hunting of woodcock is permitted on the Lower Wells Hunting Area only. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of waterfowl subject to the following special conditions:

(a) Hunters will be required to have taken and passed the refuge open book Hunters Qualification Examination prior to hunting on the refuge. These hunters must have a valid Certification Card with them while hunting on the refuge and must display it upon request.

(b) The number of hunters will be limited to 12 each day on the Brave Boat Harbor Area; 30 each day on the Lower Wells Area; and 10 each day on the Upper Wells Area. Participation will be on a first-come, first-serve basis.

(c) Hunters on all three (3) areas may not fire or possess more than 25 shot shells per day.

(d) Sea ducks may be hunted only when their open season coincides with the regular waterfowl season.

MASSACHUSETTS

Oxbow National Wildlife Refuge

Public hunting of woodcock and snipe is permitted on the areas designated by signs as open to hunting. These open areas, comprising 600 acres, are shown on maps available at Refuge Headquarters, Sudbury, Massachusetts. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of migratory game birds subject to the following special conditions:

(a) Possession of slugs or buckshot is prohibited.

(b) Possession of a weapon other than a shotgun is prohibited.

(c) Vehicles are restricted to the designated parking at the south end of the refuge accessible from the Still River Depot Road. Entry by routes other than by the county road, Still River Depot Road, is prohibited.

Parker River National Wildlife Refuge

Public hunting of waterfowl and coots is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 1,805 acres, and known as the Pine Island Hunting Area (Area A), Parker River Hunting Area (Area B), Nelson's Island Hunting Area (Area C), and the Youth Hunting Area (Area D), are delineated on maps available at refuge headquarters. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of waterfowl and coots subject to the following special conditions:

(a) Hunters will be required to have taken and passed the refuge open book Waterfowl Hunters Qualification Examination prior to hunting on the refuge. These hunters must have a valid certification card with them while hunting on the refuge. Hunters who are convicted of a violation of regulations are subject to having their examination certification card revoked.

(b) The number of hunters on the Pine Island Area will be limited to 75 each day; Parker River Area, 25 each day; and the Nelson's Island Area, 50 each day. Participation will be on a first-come, first-serve basis. Hunters using Area B must set out waterfowl decoys and waterfowl may only be hunted within 50 yards of these decoys.

(c) Hunters on all three (3) areas are limited to 15 shot shells per day. Only shells containing steel shot may be used and in possession while hunting waterfowl.

(d) The Youth Hunting Area will be open during the regular State waterfowl season for Young Waterfowl trainees on selected days, except Sundays.

(e) Boat access is prohibited on Area C and required on Area A. Boats may be launched or landed only during the open season on waterfowl and by persons authorized to participate in refuge hunting programs. Access to Area B is permitted by foot from the refuge parking lot off Marsh Avenue or via boat from the refuge launching ramp on Plum Island, or from off-refuge sites. Access to Area C must be from the refuge parking lot on Stackyard Road.

MICHIGAN

Seney National Wildlife Refuge

Public hunting of woodcock and Wilson's Snipe (Jacksnipe) is permitted on 33,525 acres of the refuge designated as Area B from the start of the State season through November 12 annually.

Shiawassee National Wildlife Refuge

(a) Public hunting of geese is permitted on 1,100 acres of Federal lands administered by Shiawassee Refuge. The refuge participates in a goose harvest quota established by the State of Michigan for the Saginaw County Goose Management Area of which the refuge is a part. If the quota is reached, the goose season will be closed early. A refuge permit is required.

(b) State Administered Hunt on Federal Lands: Public hunting of ducks and geese is permitted on 215 acres of refuge land administered by the State of Michigan and requires a State permit.

MINNESOTA

Sherburne National Wildlife Refuge

Public hunting of ducks, coots, rails, woodcock, and Wilson's snipe is permitted during the seasons as established by the State of Minnesota. The area open includes 9,900 acres and is designated as Area B on the refuge hunting map. The following special conditions apply:

(a) Field possession of migratory birds is prohibited in areas of the refuge closed to migratory bird hunting.

(b) Only non-motorized boats can be used and must be launched at designated access sites.

(c) Boats and decoys must be removed from the refuge at the end of each day.

(d) Blinds must be removed at the end of each day except for blinds made entirely of marsh vegetation.

Tamarac National Wildlife Refuge

Public hunting of ducks, geese, and coots only is permitted in the area designated by signs as "Public Hunting Area" in accordance with State seasons.

MISSISSIPPI

Hillside National Wildlife Refuge

Hunting of ducks, coots, snipe, woodcock, and mourning doves is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) The refuge will set hunting hours.

(b) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(c) Hunters under 16 years of age must be under the supervision of an adult.

Mathews Brake National Wildlife Refuge

Hunting of ducks, coots, woodcock, and snipe is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) The refuge will set hunting hours.

(b) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(c) Hunters under 16 years of age must be under the supervision of an adult.

Morgan Brake National Wildlife Refuge

Hunting of ducks and coots is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) The refuge will set hunting hours.

(b) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(c) Hunters under 16 years of age must be under the supervision of an adult.

Noxubee National Wildlife Refuge

Hunting of ducks and coots is permitted during all or part of the State season in designated areas of the refuge subject to the following special conditions:

(a) The refuge will set hunting hours.

(b) The construction of blinds is not permitted.

(c) Only shells containing steel shot may be used and in possession while hunting waterfowl. A limit of 16 shells per hunter is in effect.

(d) Hunters may be required to check in/out.

(e) A permit may be required.

(f) Hunters under 16 years of age must be under the supervision of an adult.

Panther Swamp National Wildlife Refuge

Hunting of ducks, coots, snipe, and woodcock is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) The refuge will set hunting hours.

(b) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(c) Hunters under 16 years of age must be under the supervision of an adult.

Yazoo National Wildlife Refuge

Hunting of mourning doves is permitted during all or part of the State season in designated areas of the refuge according to the following conditions:

(a) The refuge will set hunting hours.

(b) Hunters under 16 years of age must be under the supervision of an adult.

MISSOURI

Mingo National Wildlife Refuge

Public hunting of waterfowl is permitted on designated areas comprised of 2,000 acres. Each hunter must be selected by a State drawing and obtain a State permit prior to hunting.

Swan Lake National Wildlife Refuge

Public hunting of geese is permitted on designated areas comprised of 2,500 acres. A State permit is required for entry to the hunting area.

MONTANA

Benton Lake National Wildlife Refuge

Hunting of ducks, geese, and coot is permitted on designated areas of the refuge subject to the following special condition: Only non-motorized boats may be used.

Lee Metcalf National Wildlife Refuge

Hunting of ducks, geese, and coot is permitted subject to the following special conditions:

(a) The number of shells is limited to three (3) shells per duck of the daily limit.

(b) Shooting is permitted only from or within ten (10) feet of designated blinds.

NEVADA

Pahranagat National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, gallinules, common snipe, and doves is permitted on designated areas of the refuge subject to the following special conditions:

(a) Only boats and other flotation devices without motors are permitted on the refuge hunting area during the migratory waterfowl hunting season.

(b) Special dove hunting regulations are in effect opening day through the following Monday. All dove hunters, 14 years of age or older, must have a refuge permit during this period.

Ruby Lake National Wildlife Refuge

Hunting of Canada geese, ducks (including mergansers), coots, gallinules, and common snipe is permitted on designated areas of the refuge. No additional special conditions are in effect.

NEW JERSEY

Barnegat National Wildlife Refuge

Public hunting of rails, gallinules, waterfowl, and coots is permitted during established State and Federal seasons on only those areas designated by signs as open to hunting. These open areas are delineated on maps available at Refuge Headquarters. Hunting shall be in accordance with State and Federal regulations covering the hunting of migratory game birds subject to the following special conditions:

(a) During the general waterfowl season (ducks, brant, and geese), a Federal permit will be required on opening days, Saturdays, and holidays, from shooting time until 12:00 noon. After 12:00 noon sites and units will be distributed on a first-come, first-serve basis.

(b) In Hunting Area A, hunting must take place from designated units with each unit limited to a maximum of four (4) hunters. In Area B, hunting must take place from designated sites over decoys with each site limited to a maximum of four (4) hunters. A minimum of one dozen decoys per site is required.

(c) No permanent blinds or pit blinds may be constructed.

(d) Only shells containing steel shot may be used and in possession while hunting waterfowl. A shell limit of 25 rounds per hunter per day is in effect.

(e) On the opening day of the second split season, from shooting time until 12:00 noon, Area B will be reserved for certified young waterfowlers program trainees. After 12:00 noon, sites will be open on a first-come, first-serve basis.

Brigantine National Wildlife Refuge

Public hunting of rails, gallinules, waterfowl, and coots, is permitted during established State and Federal seasons on those areas designated by signs as open to hunting. These open areas are delineated as Hunting Units 1, 2, and 3, on maps available at Refuge Headquarters. Hunting shall be in accordance with State and Federal regulations covering the hunting of migratory game birds subject to the following special conditions:

(a) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(b) Hunting on Unit 3 during the waterfowl season is open to the public during the first half of the split season and following the second Saturday of the second half of the split season. Unit 3 is restricted to Certified Young Waterfowlers Program Trainees from the opening day of the second half of the split season through the second Saturday of the second half of the split season.

NEW MEXICO

Bitter Lake National Wildlife Refuge

Hunting of ducks, coots, geese, mourning dove, and lesser sandhill cranes is permitted on designated areas of the refuge subject to the following special conditions:

(a) During the waterfowl season, only shells containing steel shot may be used and in possession while hunting on the South Refuge Unit (Area C).

(b) Up to two (2) dogs per hunter are permitted for the purpose of hunting and retrieving game.

(c) Pits and permanent blinds are prohibited. Hunters may not have possessory rights to any blind. All materials brought onto the refuge for blind construction must be removed at the end of each day's hunt.

Bosque del Apache National Wildlife Refuge

Hunting of mourning and white-winged doves and snow, blue, and Ross' geese is permitted on designated areas of the refuge subject to the following special conditions:

(a) Doves. The refuge is open for public access ½ hour before sunrise to ½ hour after sunset.

(b) Snow, blue, and Ross' geese.

(1) Hunters are required to apply by pre-season applications for specific hunting dates. Consult the refuge manager for hunt details. Applications are available from the refuge manager, the Regional Director, or from the New Mexico Department of Game and Fish, Villagra Building, Santa Fe, New Mexico 87501. Completed applications must be received at the Bosque del Apache Refuge office by 10:00 a.m., October 1.

(2) Successful applicants and those wishing to hunt on a standby basis are required to undergo and successfully complete a U.S. Fish and Wildlife Service migratory bird identification and hunter training program prior to the hunt. Hunters who successfully completed the test the previous year need not retake the course.

(i) A special recreational user fee is required.

(ii) Shooting hours are from sunrise to 11:00 a.m. local time.

(iii) Only shells containing steel shot may be used and in possession while hunting. Hunters will be limited to ten (10) shells in the goose hunt area.

(iv) Only snow goose decoys are permitted.

Las Vegas National Wildlife Refuge

Hunting of mourning doves and Canada geese is permitted on designated areas of the refuge subject to the following special conditions:

(a) Doves.

(1) A free permit is required and is available at the refuge office.

(2) Parking is permitted only in designated areas.

(3) No shooting is permitted within 50 yards of any road.

(b) Canada geese.

(1) An advance permit is required. Permit applications are available from the refuge office.

(2) Only shells containing steel shot may be used and in possession while hunting. Hunters are limited to no more than six (6) shells.

Sevilleta National Wildlife Refuge

Hunting of mourning and white-winged doves, ducks, geese, and coots is permitted on designated areas of the refuge subject to the following special conditions:

(a) Hunters must park in designated parking areas.

(b) Pits and permanent blinds are prohibited.

(c) Hunters may not enter closed areas to retrieve birds.

(d) During the waterfowl season, only shells containing steel shot may be used and possessed while hunting waterfowl.

NEW YORK

Iroquois National Wildlife Refuge

Public hunting of migratory game birds is permitted in designated areas. Hunting shall be subject to the following special conditions:

(a) Waterfowl.

(1) Waterfowl hunting is by permit only.

(2) Hunting is permitted on Tuesday, Thursday, and Saturday.

(3) Permits must be issued in advance for opening day and the first two (2) Saturdays. On other hunt days permits are issued on the basis of a daily drawing held prior to legal opening time.

(4) All hunting ends each day at 12:00 noon local time. All hunters must check out and present harvested game at the permit station on Lewiston Road, not later than 1:00 p.m. local time.

(5) No loaded guns are permitted beyond a 50-foot radius of the hunting stand marker and no more than two (2) hunters are permitted to each stand.

(6) Hunters, including participants in the Young Waterfowlers Program, will be limited to 15 shells not larger than #1. Only shells containing steel shot may be used and in possession while hunting waterfowl.

(7) A hunter who leaves his/her stand must have permission from official personnel to return.

(8) No person shall use or hunt from a boat.

(9) A minimum of six (6) decoys will be used at each stand. The decoys will be furnished by the hunter(s).

(b) Hunting of woodcock and crow is permitted during the regular State open seasons, except that no hunting is allowed during the period March 1 through September 30, inclusive, or on areas designated as closed.

Montezuma National Wildlife Refuge

Public hunting of migratory waterfowl is permitted during the regular State season on the areas designated by signs as open to waterfowl hunting. The waterfowl hunting area known as the Tschache Pool is comprised of 1,340 acres. Hunting shall be subject to the following special conditions:

(a) Hunting is permitted on Tuesdays, Thursdays, and Saturdays.

(b) Only shells containing steel shot may be used and in possession while hunting waterfowl. Hunters will be limited to 15 steel shot shells each, with shot size no larger than #1 fine shot.

(c) Telephone reservations will be accepted at the refuge check station between the hours of 8:00 a.m. and 12:00 noon local time on the hunt days. Successful applicants must appear in person at the refuge waterfowl check station prior to ½ hour before legal shooting time on the date reserved. Unreserved and forfeited permits will be awarded by a drawing on the morning of the hunt to hunters without reservations.

(d) The first Sunday of the season will be reserved for the Young Waterfowlers Training Program hunt. If numbers warrant, additional Sundays will be set aside.

(e) A person with reservations may bring no more that one companion.

(f) All hunting ends each hunting day at 12:00 noon local time, and all hunters must check out at the waterfowl check station no later than 1:00 p.m. local time.

NORTH CAROLINA

Cedar Island National Wildlife Refuge

Hunting of waterfowl is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(b) Only temporary blinds that are removed daily are permitted.

(c) Hunters under 16 years of age must be under the supervision of an adult.

Mattamuskeet National Wildlife Refuge

Hunting of ducks and coots is permitted in designated areas during all or part of the State waterfowl season subject to the following conditions:

(a) A refuge permit may be required.

(b) Each hunting party will pay a user fee.

(c) Hunters may be required to check in/out.

(d) The refuge will set hunting hours.

(e) Hunting is restricted to assigned blinds, with only cripples shot from outside the blind.

(f) Only shells containing steel shot may be used and in possession while hunting waterfowl. A limit of 15 shells per hunter is in effect.

(g) Hunters under 16 years of age must be under the supervision of an adult.

Swanquarter National Wildlife Refuge

Waterfowl hunting will be permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Only the possession and use of steel shot shells will be permitted.

(b) Only temporary blinds that are removed daily are permitted.

(c) Hunters under 16 years of age must be under the supervision of an adult.

OHIO

Ottawa National Wildlife Refuge

Public hunting of Canada, snow (including blue color phase) and white-fronted geese is permitted on designated areas which are comprised of 640 acres. A State permit is required and State seasons will be in effect.

OKLAHOMA

Sequoyah National Wildlife Refuge

Hunting of waterfowl is permitted on designated areas of the refuge subject to the following special conditions:

(a) Firearms are prohibited in areas not posted as open to public hunting, except the Kerr-McClellan Navigation Channel, where firearms must be cased or broken down.

(b) All vehicles must be parked in designated parking areas as shown on maps which are available at refuge headquarters and at leaflet boxes throughout the public hunting areas.

(c) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(d) Hunters under 16 years of age must be under the supervision of an adult.

Tishomingo National Wildlife Refuge

Hunting of mourning doves and waterfowl is permitted subject to the following special conditions:

(a) The area to be hunted is the Tishomingo Wildlife Management Area.

(b) Hunters, upon entering and leaving the hunting area, shall report at designated checking stations.

(c) Ducks and coots may be hunted only in Zone 1.

(d) Geese may be hunted only in Zone 2 and only from the goose blinds provided.

(e) No more than 25 shells may be used by or in the possession of any duck hunter.

(f) No more than six (6) shotgun shells may be used by or in the possession of any goose hunter.

(g) Duck hunters who hunt on Reeves Ravine, Lost Lake, and Bobcat Gulch are required to use a boat or hunt with a retrieving dog to aid in retrieval of downed birds.

(h) Hunters under 16 years of age must be under the supervision of an adult.

OREGON

Ankeny National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, common snipe, pigeons, and doves is permitted on designated areas of the refuge subject to the following special conditions:

(a) Dove and pigeon hunters must check in and out of the refuge by use of self-service permits.

(b) An advance hunting reservation/permit is required for waterfowl, coot, and snipe.

(c) Waterfowl, coot, and snipe hunting is limited to Wednesdays, Saturdays, and Sundays until 12:00 noon.

(d) Waterfowl, coot, and snipe hunters may not use or possess more than twenty (20) shells per day. Only shells containing steel shot may be used and in possession while hunting waterfowl.

Baskett Slough National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, and common snipe is permitted on designated areas of the refuge subject to the following special conditions:

(a) Hunting by permit only on Wednesdays, Saturdays, and Sundays until 12:00 noon.

(b) Hunter may not use or possess more than 20 shells per day. Only shells containing steel shot may be used and in possession while hunting waterfowl.

Cold Springs National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, and common snipe is permitted on designated areas of the refuge. No additional special conditions are in effect.

Deer Flat National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, common snipe, and doves is permitted on the Snake River sector subject to the following special conditions:

(a) The construction and use of permanent hunting blinds are prohibited. Hunters may use portable blinds and temporary blinds constructed of natural materials.

(b) Hunting is on a first-come, first-serve basis.

Klamath Forest National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, and common snipe is permitted on designated areas of the refuge subject to the following special condition: Air-thrust and inboard water-thrust boats are prohibited.

Lewis and Clark National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, and common snipe is permitted on designated areas of the refuge. No additional special conditions are in effect.

Lower Klamath National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, and common snipe is permitted on designated areas of the refuge subject to the following special conditions:

(a) Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except unloaded firearms may be taken through these zones to reach or leave the hunting areas. Decoys may not be set in retrieving zones.

(b) Air-thrust and inboard water-thrust boats are prohibited.

McKay Creek National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, and common snipe is permitted on designated areas of the refuge subject to the following special conditions:

(a) Hunting only on Wednesdays, Saturdays, Sundays, and State holidays.

(b) Permits required for opening weekend.

Umatilla National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots and common snipe is permitted on designated areas of the refuge subject to the following special conditions:

(a) Hunting by permit only on Wednesdays, Saturdays, Sundays, and State holidays except December 25 (Christmas Day).

(b) Only shells containing steel shot may be used and in possession while hunting waterfowl.

Upper Klamath National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, and common snipe is permitted on designated areas of the refuge subject to the following special condition: Air-thrust and inboard water-thrust boats are prohibited.

William L. Finley National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, common snipe, pigeons, and doves is permitted on designated areas of the refuge subject to the following special conditions:

(a) Dove and pigeon hunters must check in and out of the refuge by use of self-service permits.

(b) An advance hunting reservation/permit is required for waterfowl, coot, and snipe.

(c) Waterfowl, coot, and snipe hunting is limited to Wednesdays, Saturdays, and Sundays until 12:00 noon.

(d) Waterfowl, coot and snipe hunters may not use or possess more than twenty (20) shells per day. Only shells containing steel shot may be used and in possession while hunting waterfowl.

PENNSYLVANIA

Erie National Wildlife Refuge

Public hunting of migratory game birds, including crow, is permitted on designated areas during the regular State migratory bird season subject to the following special conditions: Field possession of migratory game birds is prohibited in areas of the refuge closed to migratory game bird hunting.

SOUTH CAROLINA

Cape Romain National Wildlife Refuge

Hunting of rail is permitted during all or part of the State season on designated areas of the refuge subject to the following condition: Hunters under 14 years of age must be under the supervision of an adult.

Carolina Sandhills National Wildlife Refuge

Hunting of mourning doves and woodcocks is permitted in designated areas during all or part of the State season subject to the following conditions:

(a) Hunters under 16 years of age must be under the supervision of an adult.

(b) No parking on paved highway rights-of-way.

Savannah National Wildlife Refuge

Hunting of ducks, coots, and snipe is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) The refuge will set hunting and access hours.

(b) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(c) Hunters under 16 years of age must be under the supervision of an adult.

TENNESSEE

Lower Hatchie National Wildlife Refuge

Hunting of migratory birds is permitted in designated areas during the migratory bird seasons subject to the following conditions:

(a) Blinds and decoys must be removed each day.

(b) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(c) Hunters under 16 years of age must be under the supervision of an adult.

TEXAS

Anahuac National Wildlife Refuge

Hunting of ducks, geese, and coots is permitted subject to the following special conditions:

(a) The 1,508-acre refuge unit located south of Onion Bayou will be open to public waterfowl hunting each day of the regular waterfowl and special teal season as established by State regulations.

(b) The 8,208-acre refuge unit north of Onion Bayou, formerly known as the Barrow Ranch, will be open to public waterfowl hunting on each Sunday, Tuesday, Thursday, and Saturday, except Thanksgiving and Christmas, of the regular waterfowl hunting season as established by State regulations. Each Tuesday and Thursday hunting will be on a first-come, first-serve basis, with no permit required. Each Saturday and Sunday hunting will require a permit which will be issued by the refuge manager.

(c) Hunting hours will be from ½ hour before sunrise until 12:00 noon, except during the early teal season when shooting hours will be sunrise until 12:00 noon.

(d) Access to the hunting area is only by foot or boat. No airboats or marsh buggies are permitted on the refuge.

(e) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(f) Hunters under 16 years of age must be under the supervision of an adult.

Aransas National Wildlife Refuge

Hunting of ducks, geese, and mourning doves is permitted on the Matagorda Island Unit subject to the following special conditions:

(a) Taking of snow geese is prohibited.

(b) Hunting hours are from ½ hour before sunrise until 12:00 noon.

(c)Waterfowl hunters must be at Matagorda Island docks by 5:00 a.m., at which time a drawing will be held for blind

selection. Hunters must hunt only from assigned blinds.

(d) Mourning dove hunting is permitted only during the first period of the South Zone mourning dove season.

(e) All hunters arriving at the Matagorda Island docks must register with refuge personnel prior to any hunt.

(f) Refuge transportation on the island will be provided to and from Matagorda Island dock and the hunt areas.

(g) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(h) Hunters under 16 years of age must be under the supervision of an adult.

Brazoria National Wildlife Refuge

Hunting of ducks, geese, and coots is permitted on designated areas of the refuge subject to the following special conditions:

(a) Access to the hunting areas must be entirely over public water routes.

(b) Pits and permanent blinds are prohibited.

(c) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(d) Hunters under 18 years of age must be accompanied by an individual 18 years of age or older.

Hagerman National Wildlife Refuge

Hunting of mourning doves is permitted subject to the following special conditions:

(a) The open season for hunting mourning doves on the refuge is restricted to the first four (4) weeks of the State season for the North Zone in the area designated by the refuge manager.

(b) Hunters under 16 years of age must be under the supervision of an adult.

McFaddin National Wildlife Refuge

Hunting of ducks, geese, and coots is permitted subject to the following special conditions:

(a) The designated hunting area will be open to hunting each Sunday, Tuesday, Thursday, and Saturday of the regular duck season, except that the refuge will be closed on Christmas Day.

(b) Hunting hours are from ½ hour before sunrise until 12:00 noon daily.

(c) Access to the refuge is by foot, boat, or airboats with engines of ten (10) horsepower or less.

(d) No marsh buggies or all-terrain vehicles are permitted in the refuge marsh.

(e) Pits and permanent blinds are prohibited.

(f) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(g) Hunters under 16 years of age must be under the supervision of an adult.

San Bernard National Wildlife Refuge

Hunting of ducks, geese, and coots is permitted subject to the following special conditions:

(a) The waterfowl hunting area on the refuge is divided into two parts: Special Permit Waterfowl Hunting area (SPWH area) and Free Waterfowl Hunting area (also locally known as the Cedar Lakes and the Smith Marsh tracts).

(b) A refuge permit will be required for participation in the SPWH area.

(c) Hunting days for the SPWH area will be Saturdays, Mondays, and Wednesdays during the regular waterfowl season only, except December 25.

(d) Hunters will stop hunting and shooting at 10:00 a.m. local time in the SPWH area and return to a hunt check station to fill out a hunter questionnaire.

(e) The Free Waterfowl Hunting areas are open to waterfowl hunting during the regular waterfowl season (except December 25) and to the hunting of teal ducks during the early teal season.

(f) Pits and permanent blinds are prohibited.

(g) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(h) Hunters under 16 years of age must be under the supervision of an adult.

Texas Point National Wildlife Refuge

Hunting of ducks, geese, and coots is permitted on designated areas of the refuge subject to the following special conditions:

(a) The refuge will be open to hunting each Monday, Wednesday, and Saturday of the early teal and regular duck season. The refuge will not be open during the goose-only seasons or on Christmas Day.

(b) Hunting hours are from ½ hour before sunrise until 12:00 noon each day of the hunt.

(c) Access to the refuge is by foot, boat, or airboats with engines of ten (10) horsepower or less.

(d) No marsh buggies or all-terrain vehicles are permitted in the refuge marsh or grasslands.

(e) Pits and permanent blinds are prohibited.

(f) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(g) Hunters under 16 years of age must be under the supervision of an adult.

UTAH

Bear River Migratory Bird Refuge

Hunting of migratory waterfowl is permitted on designated areas of the refuge subject to the following special condition: Only shells containing steel shot may be used and in possession while hunting waterfowl.

VERMONT

Missisquoi National Wildlife Refuge

The public hunting of migratory game birds is permitted only on designated areas in accordance with all applicable Federal and State regulations covering the hunting of migratory game birds and the following special conditions:

(a) On those areas open to the public hunting of migratory game birds for which a permit is not required, stake blinds may be constructed in accordance with State regulations. Blinds must be removed by May 15.

(b) The portion of the refuge, known as the Webb Marsh, which includes Long Marsh Bay and channel, Brush Creek, and Metcalfe Island, will be reserved for young waterfowl hunters only. Hunting by youths is permitted on Saturdays and Sundays from the beginning of the State waterfowl hunting season through the first five (5) weekends. Shooting is permitted from designated blinds from legal shooting time until 11 a.m. Youth waterfowl hunters will be limited to the use and possession of 25 shot shells each.

(c) That portion of the refuge known as Patrick Marsh-Charcoal Creek (southwest of Route 78 only) will be a controlled hunting area by only special use permit. Hunting areas will be zoned in Patrick Marsh and Charcoal Creek to Winter's north boundary. The remainder of the creek in public ownership will be closed. Hunting will be on Tuesdays, Thursdays, and Saturday only. Shooting will be from legal shooting time until 11:00 a.m. Two (2) parties will be permitted to hunt Patrick Marsh and four (4) parties to hunt Charcoal Creek. A party consists of not more than two (2) hunters and both must hunt together in one location. A boat is required. Decoys are required. Hunting must be within fifty (50) feet of the decoys. Jump shooting and permanent blinds are not permitted. No person shall use or have in his possession more than 15 shells.

WASHINGTON

Columbia National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, and common snipe, is permitted on designated areas of the refuge subject to the following special conditions:

(a) In Marsh Unit I hunting by permit only on Wednesdays, Saturdays, and Sundays until 12:00 noon; after 12:00 noon on those days no permit is required.

(b) In Farm Unit 226–227 hunting by permit only is allowed on Wednesdays, Saturdays, and Sundays.

Columbian White-Tailed Deer National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, and common snipe, is permitted on designated areas of the refuge. No additional special conditions are in effect.

Conboy Lake National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, common snipe, pigeons, and doves is permitted on designated areas of the refuge. No additional special conditions are in effect.

McNary National Wildlife Refuge

Hunting of geese, ducks (including mergansers), and coots is permitted on designated areas of the refuge subject to the following special conditions:

(a) Hunting is permitted on Wednesdays, Saturdays, Sundays and Thanksgiving on McNary Division.

(b) Hunters on McNary Division must park in designated sites, hunt from designated sites in same zones, and require advance reservations to hunt Fields 5 and 6.

(c) On Hanford Islands Division, only the five (5) most upstream islands are open to hunting.

Ridgefield National Wildlife Refuge

Hunting of geese, ducks (including mergansers), and coots is permitted on

designated areas of the refuge subject to the following special conditions:

(a) Hunting only by permit every other day during the regular waterfowl season.

(b) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(c) Hunters may not use or possess more than 25 shells per day.

Toppenish National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, and common snipe is permitted on designated areas of the refuge subject to the following special condition: Hunters using the Pumphouse and Robbins roads areas must register at respective parking areas.

Umatilla National Wildlife Refuge

Hunting of geese, ducks (including mergansers), coots, and common snipe is permitted on designated areas of the refuge subject to the following special conditions:

(a) Hunting permitted only on Wednesdays, Fridays, Saturdays, Sundays, and State Holidays.

(b) Waterfowl hunting parties are required to space themselves a minimum of 200 yards apart.

(c) Hunters may not use or possess more than 25 shells per day.

Willapa National Wildlife Refuge

Hunting of geese, ducks (including mergansers), and coots is permitted on the Lewis, Riekkola, and Leadbetter Point Units subject to the following special conditions:

(a) Hunter registration is required.

(b) Riekkola Unit hunted only on Wednesdays and Saturdays and a recreation user fee of $5.00 per hunter is collected prior to entrance into the hunting area.

(c) Leadbetter Point is the only unit open to brant hunting after the close of the general season.

IOWA, ILLINOIS, MINNESOTA, WISCONSIN

Upper Mississippi River Wild Life and Fish Refuge

Public hunting of migratory game birds is permitted where designated by "Public Hunting Area" signs subject to the following special conditions:

(a) Only shells containing steel shot may be used and in possession while hunting waterfowl.

(b) The Illinois portion of the refuge is open for teal hunting as provided by Illinois State teal regulations. Hunters may hunt during the special teal season from other than established waterfowl hunting blinds or small boats.

(c) The hunting of migratory waterfowl in Potters Marsh, Pool 13 requires a Refuge Blind Permit. Applications and further information are available from the Refuge Manager, Upper Mississippi River Wild Life and Fish Refuge, Savanna District, Post Office Building, Savanna, Illinois 61074.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

ALABAMA

Blowing Wind Cave National Wildlife Refuge

Hunting of upland game is permitted on designated areas of the refuge subject to the following condition: The refuge is cooperatively managed as part of the Sauty Wildlife Management Area. State regulations apply entirely to this area.

Wheeler National Wildlife Refuge

Hunting of squirrels, rabbits, raccoon, opossum, and beaver is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Permits may be required.

(b) Hunters under 16 years of age must be under the supervision of an adult.

ARIZONA

Kofa National Wildlife Refuge

Hunting of quail, cottontail rabbits, coyotes, foxes, and bobcats is permitted subject to the following special conditions:

(a) Quail and cottontail rabbits may be hunted only with shotguns.

(b) Coyotes, fox, and bobcat hunting is permitted from the opening day of the State quail season through February 28, except as provided in item c, below.

(c) The refuge is closed to the taking of coyotes, fox, and bobcat during deer season, except that deer hunters with valid Unit 45A, 45B, and 45C, deer permits may take these predators until a deer is taken.

(d) Rimfire firearms are prohibited.

(e) The possession of any firearm containing shells in the magazine or chamber and/or uncased in any vehicle is prohibited.

(f) The area known as Crystal Hill Campground is closed to hunting.

ARIZONA AND CALIFORNIA

Cibola National Wildlife Refuge

Hunting of quail, cottontail rabbits is permitted subject to the following special conditions:

(a) Hunting is prohibited within 50 yards of any road or levee or within 250 yards, of any farm worker.

(b) Handguns and .22 caliber rimfire rifles are prohibited.

Havasu National Wildlife Refuge

Hunting of quail, cottontail rabbits, and jackrabbits is permitted subject to the following special conditions:

(a) Shotguns only are permitted.

(b) Pintail Slough (all refuge lands north of the north dike and west of Highway 95) is closed to quail hunting.

(c) Pintail Slough is open for cottontail rabbits and jackrabbits only on Fridays, Saturdays, and Sundays and only during September.

(d) The open portion of the Bill Williams Unit consists of all refuge lands south of the Planet Ranch Road.

Imperial National Wildlife Refuge

Hunting of quail and cottontail rabbits is permitted subject to the following special condition: Shotguns only are permitted.

ARKANSAS

Big Lake National Wildlife Refuge

Hunting of squirrels, rabbits, raccoons, opossum, and beaver is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Hunters under 16 years of age must be under the supervision of an adult.

(b) A permit may be required.

Felsenthal National Wildlife Refuge

Hunting of squirrel, raccoon, opossum, rabbit, quail, and beaver is permitted during all or part of the State season on designated areas of the refuge, subject to the following conditions:

(a) The refuge will set hunting hours.

(b) Hunters under 16 years of age must be under the supervision of an adult.

Holla Bend National Wildlife Refuge

Hunting of raccoons and opossum is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Bag limit may differ from that set by the State.

(b) The refuge will set hunting hours.

(c) Hunters may be required to check in/out of the refuge.

(d) Hunters under 16 years of age must be under the supervision of an adult.

Overflow National Wildlife Refuge

Hunting of squirrel, rabbit, quail, racooon, opossum, and beaver is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) The refuge will set hunting hours.

(b) Hunters under 16 years of age must be under the supervision of an adult.

Wapanocca National Wildlife Refuge

Hunting of squirrel, rabbit, raccoon, opossum, and beaver is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Hunters under 16 years of age must be under the supervision of an audit.

(b) The refuge will set hunting hours.

(c) Permits may be required.

White River National Wildlife Refuge

Hunting of squirrel, rabbit, raccoon, opossum, and beaver is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) The refuge will set hunting hours.

(b) Permits may be required.

(c) Weapon restrictions may apply.

(d) Hunters under 16 years of age must be under the supervision of an adult.

CALIFORNIA

Colusa National Wildlife Refuge

Hunting of only ring-necked pheasants is permitted. No additional special conditions in effect.

Delevan National Wildlife Refuge

Hunting of only ring-necked pheasants is permitted. No additional special conditions in effect.

Kern National Wildlife Refuge

Hunting of only ring-necked pheasants is permitted subject to the following special condition: No pheasant hunting is permitted in the spaced blind unit.

Lower Klamath National Wildlife Refuge

Hunting of only ring-necked pheasants is permitted subject to the following special conditions: In the controlled pheasant hunting area, entry permits are required throughout the pheasant season for all hunters 16 years of age or older. Hunters under the age of 16 and hunting the controlled area must be accompanied by a properly permitted adult. Advance reservations are required for the first two (2) days of the hunt.

Merced National Wildlife Refuge

Hunting of only ring-necked pheasants is permitted. No additional special conditions are in effect.

Sacramento National Wildlife Refuge

Hunting of only ring-necked pheasants is permitted subject to the following special conditions: A special one-day only pheasant hunt will be permitted in the spaced blind unit on the first Monday after the opening of the State pheasant hunting season. The free roaming unit is open to pheasant hunting in accordance with State regulations.

San Luis National Wildlife Refuge

Hunting of only ring-necked pheasants is permitted. No additional special conditions in effect.

Sutter National Wildlife Refuge

Hunting of only ring-necked pheasants is permitted. No additional special conditions in effect.

Tule Lake National Wildlife Refuge

Hunting of only ring-necked pheasants is permitted subject to the following special conditions:

(a) In the controlled pheasant hunting area, entry permits are required throughout the pheasant season for all hunters 16 years of age or older. Hunters under the age of 16 and hunting in the controlled area must be accompanied by a properly permitted adult. Advance reservations are required for the first two (2) days of the hunt.

(b) Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except that unloaded firearms may be taken through these zones when necessary to reach or leave the hunting areas.

DELAWARE

Bombay Hook National Wildlife Refuge

Public hunting of upland game on the 169-acre South Upland Hunting Area is permitted during the regular State season in accordance with Federal and State regulations covering upland game hunting.

Prime Hook National Wildlife Refuge

Public hunting of upland game is permitted only on the 2,185-acre North Hunting Area in accordance with State regulations covering the hunting of upland game subject to the following conditions:

(a) Hunting hours will be from ½ hour before sunrise to ½ hour after sunset.

(b) Practice and target shooting is prohibited.

FLORIDA

St. Marks National Wildlife Refuge

Hunting of squirrels, rabbits, and raccoons is permitted in designated areas during all or part of the State season subject to the following conditions:

(a) Access is through designated points only.

(b) The State of Florida cooperatively administers 600 acres of the refuge as part of the Aucilla Wildlife Management Area. All the rules and regulations of the Aucilla Wildlife Management Area apply to this 600 acres.

(c) Hunters under 16 years of age must be under the supervision of an adult.

GEORGIA

Piedmont National Wildlife Refuge

Hunting of quail, squirrel, and rabbits is permitted in designated areas of the refuge during all or part of the State season subject to the following conditions:

(a) Permits may be required.

(b) Hunters under 16 years of age must be under the supervision of an adult.

IDAHO

Bear Lake National Wildlife Refuge

Hunting of partridge, grouse, and rabbits is permitted. No additional special conditions are in effect.

Camas National Wildlife Refuge

Hunting of pheasants and grouse is permitted. No additional special conditions are in effect.

Deer Flat National Wildlife Refuge

Hunting of pheasants, quail, partridge, and rabbits is permitted on the Lake Lowell and Snake River sectors subject to the following special condition:

(a) Hunting of pheasants, quail, and partridge only is permitted on the Lake Lowell sector in accordance with State seasons and bag limits only during the prescribed migratory waterfowl hunting season.

(b) Shooting hours will be the same as those for waterfowl.

Kootenai National Wildlife Refuge

Hunting of ruffed, spruce, and blue grouse is permitted subject to the following special condition: Only that portion of the refuge west of the West Side Road is open to upland game hunting.

Minidoka National Wildlife Refuge

Hunting of pheasants, partridge, and rabbits is permitted subject to the following special condition: Upland game may be hunted on the public hunting area only during the migratory waterfowl season.

ILLINOIS

Crab Orchard National Wildlife Refuge

Public hunting of upland game is permitted during the dates specified by the State of Illinois for the upland game season. During the goose hunting season, hunting of upland game is prohibited from sunrise to 12:00 noon in the refuge controlled goose hunting areas.

Upper Mississippi Wild Life and Fish Refuge

Hunting of black, gray, and fox squirrels is permitted on the Gardner Division of the Clarence Cannon unit of the refuge in designated areas in accordance with the State seasons and will close on October 15. A refuge squirrel hunting permit is required.

INDIANA

Muscatatuck National Wildlife Refuge

Public hunting of rabbit and quail is permitted on 1,338 acres of the refuge designated by signs as open to hunting in accordance with State seasons.

IOWA

Mark Twain National Wildlife Refuge

Squirrel hunting is permitted on the Keithsburg Division, Big Timber Division, Turkey and Otter Islands in areas designated by signs subject to the following conditions:

(a) On the Keithsburg Division, the hunting season will start with the State season and close on October 15 annually.

(b) On the remainder of the hunting area, the season will be concurrent with the State season.

(c) Dogs may not be used to hunt, pursue, or retrieve squirrels.

KANSAS

Quivira National Wildlife Refuge

Hunting of upland game is permitted subject to the following special conditions:

(a) Squirrel and rabbits may be hunted only from September 1 to the close of the State waterfowl season or upland game bird season, whichever is latest.

(b) Rifled weapons are not permitted.

KENTUCKY AND TENNESSEE

Reelfoot National Wildlife Refuge

Hunting of squirrel and raccoon is permitted in designated areas during all or part of the State season subject to the following conditions:

(a) Hunting hours may be set by the refuge.

(b) Bag limits may be less than that set by the State.

(c) Hunters under 16 years of age must be under the supervision of an adult.

(a) A permit may be required.

(b) Hunters under 16 years of age must be under the supervision of an adult.

MASSACHUSETTS

Oxbow National Wildlife Refuge

Public hunting of upland birds and small game is permitted on a designated area in accordance with all applicable State and Federal regulations covering the hunting of upland game subject to the following special conditions:

(a) Possession of slugs or buckshot is prohibited.

(b) Possession of a weapon other than a shotgun is prohibited.

(c) Vehicles are restricted to the designated parking area at the south end of the refuge accessible from the Still River Depot Road. Entry by routes other than by the county road, Still River Depot Road, is prohibited.

MICHIGAN

Seney National Wildlife Refuge

Public hunting of ruffed grouse and snowshoe hare is permitted subject to the following special conditions:

(a) Ruffed grouse hunting is permitted only on Area B from the opening of the State season through November 12 annually.

(b) Snowshoe hare hunting (Gun and Archery) is permitted on Area B from the opening of the State season through November 12 annually, and on 85,200 acres of the refuge designated as Areas A and B from December 1 through the end of February annually.

LOUISIANA

Bogue Chitto National Wildlife Refuge

Hunting of squirrel, rabbit, raccoon, and opossum is permitted during all or part of the State season in designated areas of the refuge subject to the following condition: Hunters under 16 years of age must be under the supervision of an adult.

Catahoula National Wildlife Refuge

Hunting of squirrels and rabbits is permitted during all or part of the State season in designated areas of the refuge subject to the following condition: Hunters under 16 years of age must be under the supervision of an adult.

D'Arbonne National Wildlife Refuge

Hunting of squirrel, rabbit, quail, raccoon, and opossum is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) A permit may be required.

(b) Hunters under 16 years of age must be under the supervision of an adult.

Delta National Wildlife Refuge

Hunting of rabbits is permitted during all or part of the State season in designated areas subject to the following conditions:

(a) Hunters under 16 years of age must be under the supervision of an adult.

(b) Weapon restrictions may apply.

Upper Ouachita National Wildlife Refuge

Hunting of squirrel, rabbit, quail, raccoon, and opossum is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

MINNESOTA

Big Stone National Wildlife Refuge

Public hunting of gray partridge, cottontail rabbit, gray and fox squirrel, and ring-necked pheasant only is permitted on areas posted as "Public Hunting Area" in accordance with State seasons.

Rice Lake National Wildlife Refuge

Public hunting of ruffed grouse, spruce grouse, gray and fox squirrel, cottontail rabbit, and snowshoe hare is permitted during the seasons for these species as established by the State of Minnesota. The open area is comprised of about 2,000 acres and is posted as "Public Hunting Area."

Sherburne National Wildlife Refuge

Public hunting of ruffed grouse, ring-necked pheasant, gray and fox squirrel, snowshoe hare, cottontail rabbit, and jackrabbit only is permitted during the seasons for these species as established by the State of Minnesota on a 21,000-acre area designated as Areas A and B.

Tamarac National Wildlife Refuge

(a) Public hunting of ruffed grouse, gray and fox squirrels, cottontail, jackrabbit, and snowshoe hare only is permitted in areas designated by "Public Hunting Area" signs and/or delineated on maps available at the refuge headquarters.

(b) One area includes the portion of the refuge south of the Governors Consent Line and the other includes the portion of the refuge north of Ogemash and Teacracker Trails and delineated on refuge maps.

(c) Hunting shall be in accordance with all applicable State and/or White Earth Indian Reservation regulations. Refuge season dates will coincide with State season dates. The hunting of other upland species that may be authorized by Minnesota State or White Earth Indian Reservation regulations is prohibited.

MISSISSIPPI

Hillside National Wildlife Refuge

Hunting of rabbits, squirrels, quail, raccoon, opossum, and beaver is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) The refuge will set hunt hours.

(b) Hunters under 16 years of age must be under the supervision of an adult.

Mathews Brake National Wildlife Refuge

Hunting of rabbits, squirrels, quail, raccoon, opossum, and beaver is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) The refuge will set hunt hours.

(b) Hunters under 16 years of age must be under the supervision of an adult.

Morgan Brake National Wildlife Refuge

Hunting of squirrels, rabbits, raccoon, opossum, and beaver is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) The refuge will set hunt hours.

(b) Hunters under 16 years of age must be under the supervision of an adult.

Noxubee National Wildlife Refuge

Hunting of squirrel, rabbit, quail, raccoon, opossum, and beaver is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) Hunters under 16 years of age must be under the supervision of an adult.

(b) Bag limits may be less than that set by the State.

(c) The refuge may set hunt hours.

Panther Swamp National Wildlife Refuge

Hunting of rabbits squirrels, quail, raccoon, opossum, and beaver is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) The refuge will set hunt hours.

(b) Hunters under 16 years of age must be under the supervision of an adult.

Yazoo National Wildlife Refuge

Hunting of squirrels, rabbits, raccoon, and opossum is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) Permits may be required.

(b) Hunters under 16 years of age must be under the supervision of an adult.

(c) The refuge may set hunt hours.

MISSOURI

Mingo National Wildlife Refuge

Squirrel hunting, spring firearm turkey hunting, and fall archery turkey hunting are permitted on designated areas which are comprised of 6,500 acres subject to the following conditions:

(a) The open season for hunting squirrels on the refuge will be from the opening of the State season through September 30 annually.

(b) All hunters must register when entering the refuge.

MONTANA

Benton Lake National Wildlife Refuge

Hunting of upland game birds, turkeys, and coyotes is permitted subject to the following special conditions:

(a) Coyote hunting is permitted only from the first day of the State-wide rifle antelope season to the following February 5.

(b) Coyote hunting hours are from ½ hour before sunrise to ½ hour after sunset.

Charles M. Russell National Wildlife Refuge

Coyote hunting is permitted subject to the following special conditions:

(a) Hunting is permitted only from the first day of the State-wide rifle antelope season to the following February 5.

(b) Hours are from ½ hour before sunrise to ½ hours after sunset.

UL Bend National Wildlife Refuge

Coyote hunting is permitted subject to the following special conditions:

(a) Hunting is permitted only from the first day of the State-wide rifle antelope season to the following February 5.

(b) Hours are from ½ hour before sunrise to ½ hour after sunset.

NEVADA

Pahranagat National Wildlife Refuge

Hunting of pheasants, quail, grouse, partridge, and rabbits is permitted subject to the following special condition: Jack rabbits

can only be hunted during the regular State season for cottontails.

Sheldon National Wildlife Refuge

Hunting of quail, grouse, and partridge is permitted. No additional special conditions are in effect.

NEW MEXICO

Bitter Lake National Wildlife Refuge

Hunting of quail, ring-necked and white-winged pheasants, and cottontail rabbits is permitted subject to the following special conditions: Only steel shot shells may be used and/or possessed in the South Unit (Area C) during any waterfowl season.

Bosque del Apache National Wildlife Refuge

Hunting of quail and rabbits is permitted subject to the following special conditions:

(a) The refuge is open from ½ hour before sunrise to ½ hour after sunset.

(b) Rabbits may be hunted from September 1 to January 31 only.

NEW YORK

Iroquois National Wildlife Refuge

Public hunting of upland game birds and small game mammals, including opossums, red squirrels, raccoon, and woodchucks is permitted during the respective State seasons except that no hunting is allowed during the period March 1 through September 30, inclusive, or on areas designated by signs as closed in accordance with the following special condition: A permit is required for night hunting of raccoon.

Montezuma National Wildlife Refuge

(a) The public hunting of gray squirrels, cottontail rabbits, raccoons, and foxes is permitted commencing the third Sunday in December and continuing through the regular State season except on areas designated by signs as closed.

(b) A permit is required for night hunting of raccoon. The number of permits issued for night hunting of raccoon shall be limited to five (5). Hunting shall be in accordance with all State regulations governing the hunting of the above mammals.

NORTH DAKOTA

Arrowwood National Wildlife Refuge

Hunting of upland game birds is permitted on designated areas of the refuge during the State designated late season.

J. Clark Salyer National Wildlife Refuge

Hunting of upland game birds is permitted subject to the following special conditions:

(a) Nine (9) designated public hunting areas are open to the hunting of all upland game birds during the regular State seasons.

(b) In addition, grouse and partridge hunting is permitted on that portion of the refuge south of the Upham-Willow City road during the entire State season.

(c) Pheasant, grouse, and partridge hunting is permitted on the entire refuge following the deer firearms season.

Lake Alice National Wildlife Refuge

Hunting of upland game birds is permitted subject to the following special condition: Pheasant hunting will be permitted only during the State early pheasant hunting season.

Lostwood National Wildlife Refuge

Hunting of upland game birds is permitted subject to the following special conditions:

(a) Hunting of grouse and partridge is closed on that portion of the refuge south of Highway 50 during the deer firearms season.

(b) Grouse and partridge hunting is permitted north of Highway 50, only after the close of the deer firearms season.

(c) The refuge is closed to the hunting of pheasants.

Tewaukon National Wildlife Refuge

Hunting of only pheasants is permitted subject to the following special conditions:

(a) The season opens the Saturday following the close of the firearms deer season.

(b) Hunting only is permitted on that portion of the refuge west of County Road No. 12.

OKLAHOMA

Sequoyah National Wildlife Refuge

Hunting of squirrels, quail, and rabbits is permitted subject to the following special conditions:

(a) Hunting seasons are as follows:

(1) Squirrels: September 1 through January 1.

(2) Quail and rabbits: Respective State-wide opening date through the last day of the regular waterfowl season.

(b) Only shotguns, without slug ammunition, or longbows and arrows are permitted.

(c) Firearms and/or archery equipment are prohibited in areas not posted as open to public hunting, except the Kerr-McClellan Navigation Channel where equipment must be cased or broken down.

(d) All vehicles must be parked in designated parking areas.

Tishomingo National Wildlife Refuge

Hunting of squirrels, quail, turkeys, and rabbits is permitted subject to the following special conditions:

(a) Hunting is permitted only on the Tishomingo Wildlife Management Unit of the refuge.

(b) No upland game hunting is permitted in the goose hunting zone during the goose hunting season.

(c) Hunters entering and leaving the hunting area shall report at designated checking stations and shall furnish, upon request, information pertaining to their hunting activities.

(d) No vehicular access will be allowed after the close of the waterfowl season—access will be walk-in only.

(e) Hunters under 16 years of age must be under the supervision of an adult.

Washita National Wildlife Refuge

Hunting of quail and rabbits is permitted subject to the following special conditions:

(a) Rabbit hunting is permitted only during the State quail season and only on State quail days.

(b) Shotguns or bows and arrows only are permitted.

(c) Hunters under 16 years of age must be under the supervision of an adult.

OREGON

Ankeny National Wildlife Refuge

Hunting of pheasants and quail is permitted subject to the following special conditions:

(a) Hunting is permitted through October 31.

(b) Hunters must check in and out by use of self-service permits (the total number of permits issued each day may be limited).

Baskett Slough National Wildlife Refuge

Hunting of pheasants and quail is permitted subject to the following special conditions:

(a) Hunting is permitted through October 31.

(b) Hunters must check in and out by use of self-service permits (the total number of permits issued each day may be limited).

Cold Springs National Wildlife Refuge

Hunting of pheasants, quail, partridge, and rabbits is permitted subject to the following special condition: Upland game birds and rabbits may be hunted by shotgun only concurrent with the State waterfowl season.

Hart Mountain National Antelope Refuge

Hunting of partridge and quail is permitted. No additional special conditions are in effect.

Lower Klamath National Wildlife Refuge

Hunting of pheasants only is permitted subject to the following special condition: Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except unloaded firearms may be taken through these zones when necessary to reach or leave the hunting areas.

Malheur National Wildlife Refuge

Hunting of pheasants, quail, partridge, coyotes, and rabbits is permitted subject to the following special conditions:

(a) Pheasant, quail, partridge, and rabbit hunting is permitted during the last nine (9) days of the State pheasant season in designated zones of the Blitzen Valley east of Highway 205 and on Malheur Lake during the waterfowl hunting season; these species can be hunted in accordance with State regulations in the Blitzen Valley west of Highway 205.

(b) Coyote and rabbit hunting is permitted September 1 to January 31 west of Highway 205.

McKay Creek National Wildlife Refuge

Hunting of pheasants, quail, partridge, and rabbits is permitted subject to the following special conditions:

(a) Upland game birds and rabbits may be hunted by shotgun only concurrent with the State waterfowl season.

(b) Hunting is permitted only on Wednesdays, Saturdays, Sundays, and State holidays.

(c) Hunting permits are required for both days on opening weekend.

Umatilla National Wildlife Refuge

Hunting of pheasants, quail, partridge, and rabbits is permitted subject to the following special conditions:

(a) Upland game birds and rabbits may be hunted by shotgun only concurrent with the State waterfowl season.

(b) Hunting permitted from 12:00 noon on Wednesdays, Saturdays, Sundays, and State holidays, except December 25.

(c) Hunting permit required for both days on opening weekend.

William L. Finley National Wildlife Refuge

Hunting of pheasants and quail is permitted subject to the following special conditions:

(a) Hunting is permitted through October 31.

(b) Hunters must check in and out by use of self-service permits (the total number of permits issued each day may be limited).

PENNSYLVANIA

Erie National Wildlife Refuge

Public hunting of rabbits, woodchucks, raccoons, squirrels, grouse, quail, pheasants, skunks, opossums, and foxes, is permitted during the regular State small game and furbearer seasons on portions of Erie Refuge. Hunting shall be subject to the following special conditions:

(a) Hunting of fox and raccoon is permitted only on portions of the refuge located north of Route 27.

(b) All fox and raccoon hunters must have a permit in their possession when hunting on the refuge.

SOUTH CAROLINA

Cape Romain National Wildlife Refuge

Hunting of squirrels and raccoons is permitted in designated areas during all or part of the State season subject to the following conditions:

(a) Weapon restrictions may apply.

(b) Permits may be required.

(c) Hunters under 16 years of age must be under the supervision of an adult.

SOUTH DAKOTA

Lacreek National Wildlife Refuge

Hunting of cock pheasants and sharp-tailed grouse is permitted subject to the following special conditions:

(a) The opening day for sharp-tailed grouse shall coincide with the opening day for pheasants.

(b) The shooting hours for pheasants and sharp-tailed grouse shall be 12:00 noon until sunset.

(c) Hunters must check in/out each day.

(d) A special daily permit is required.

(e) Hunting with the aid of a motor vehicle is prohibited. No person may discharge a firearm within ½ mile of any motor vehicle available for their transportation unless that vehicle is parked in a designated parking area.

TENNESSEE

Hatchie National Wildlife Refuge

Hunting of squirrel, rabbit, quail, raccoon, and opossum is permitted in designated areas during all or part of the State season subject to the following conditions:

(a) Hunting hours will be set by the refuge.

(b) Hunters under 16 years of age must be under the supervision of an adult.

Lake Isom National Wildlife Refuge

Hunting of squirrel and raccoon is permitted in designated areas during all or part of the State season subject to the following conditions:

(a) Hunting hours will be set by the refuge.

(b) Bag limits may be less than that set by the State.

(c) Hunters under 16 years of age must be under the supervision of an adult.

Lower Hatchie National Wildlife Refuge

Hunting of upland game species is permitted in designated areas during all or part of the State season in accordance with State laws.

Tennessee National Wildlife Refuge

Hunting of squirrel and raccoon is permitted in designated areas during all or part of the State season subject to the following conditions:

(a) Hunting hours will be set by the refuge.

(b) Permits may be required.

(c) Hunters under 16 years of age must be under the supervision of an adult.

TEXAS

Aransas National Wildlife Refuge

Hunting of quail is permitted on the Matagorda Island Unit subject to the following special conditions:

(a) Quail hunting will be allowed the last two (2) weeks of the regular State season.

(b) Shotguns only will be allowed for quail hunting.

(c) Hunting hours will be from 8:00 a.m. until 4:00 p.m. throughout the designated season.

(d) All hunters must report to the Matagorda Island docks for briefing on endangered species and hunter conduct. Hunters will be transported to or from the hunting area at 8:00 a.m., 12:00 noon, and 4:00 p.m. only.

(e) Hunters under 16 years of age must be under the supervision of an adult.

Hagerman National Wildlife Refuge

Hunting of squirrels and rabbits is permitted subject to the following special conditions:

(a) Squirrels and rabbits may be taken from September 1 through September 30.

(b) Shotguns only may be used.

(c) Hunting of squirrels and rabbits is restricted to the dove hunting area as shown on the dove hunting map.

(d) Hunters must check in and check out of the hunting area and must supply information about their hunt upon request.

(e) Hunters under 16 years of age must be under the supervision of an adult.

UTAH

Ouray National Wildlife Refuge

Hunting of upland game is permitted subject to the following special condition: Lands leased from the Ute Indian Tribe may only be hunted with a Tribal Hunting License.

VERMONT

Missisquoi National Wildlife Refuge

The public hunting of upland game is permitted only on designated areas. Hunting shall be in accordance with all applicable State regulations covering the hunting of upland game subject to the following special condition: Rifles may not be used on that portion of the refuge lying east of the Missisquoi River.

WASHINGTON

Columbia National Wildlife Refuge

Hunting of pheasants, quail, partridge, and rabbits is permitted subject to the following special conditions:

(a) Upland game birds and rabbits may only be hunted during State seasons running concurrently with the waterfowl season.

(b) Hunting by shotgun and archery only.

Conboy Lake National Wildlife Refuge

Hunting of pheasants, quail, partridge, and rabbits is permitted subject to the following special condition: Upland game birds and rabbits may only be hunted during State seasons running concurrently with the waterfowl season.

McNary National Wildlife Refuge

Hunting of pheasants only is permitted on the McNary Division subject to the following special conditions:

(a) Hunting only on Wednesdays, Saturdays, Sundays, and State Holidays during the first half of State split season or through November 6, whichever is earlier.

(b) Parking is restricted to designated areas.

Toppenish National Wildlife Refuge

Hunting of pheasants, quail, partridge, and rabbits is permitted subject to the following special condition: Upland game birds and rabbits may only be hunted during State seasons running concurrently with the waterfowl season.

Umatilla National Wildlife Refuge

Hunting of pheasants, quail, partridge, and rabbits is permitted subject to the following special regulations:

(a) Hunting by shotgun only.

(b) Hunters may not use or possess more than 25 shells per day.

(c) Hunting permitted on Wednesdays, Fridays, Saturdays, Sundays, and all State Holidays.

(d) Upland game birds and rabbits may only be hunted during State seasons running concurrently with the waterfowl season.

Willapa National Wildlife Refuge

Archery hunting of blue and ruffed grouse is permitted by permit only on the Long Island Unit.

WISCONSIN

Horicon National Wildlife Refuge

Public hunting of only ring-necked pheasant and cottontail rabbit is permitted in a 16,000-acre designated area concurrent with the opening day of the season established by the State of Wisconsin. Closing date for these

species on the refuge will correspond to the closing date of State firearms deer season.

Necedah National Wildlife Refuge

Portions of the refuge are open to spring turkey hunting by permit in accordance with Wisconsin State regulations.

IOWA, ILLINOIS, MINNESOTA, WISCONSIN

Upper Mississippi River Wild Life and Fish Refuge

The public hunting of upland game is permitted on the areas designated by signs as "Public Hunting Area" in accordance with the following special conditions:

(a) Restricted hunting of upland game is permitted on the areas designated by signs as "Area Closed," except that the Goose Island Closed Area in Pool 8 is closed at all times to hunting.

(b) Hunting on designated "Public Hunting Area" is permitted concurrent with the applicable State seasons during the period from the first day of the earliest fall State game bird or game animal season for that area until the end of the applicable State season, or until the next succeeding March 1, whichever occurs first.

(c) Hunting of wild turkey is permitted on the designated "Public Hunting Area" during established State turkey seasons, including dates later than March 1, in accordance with State regulations.

(d) Hunting is permitted concurrent with applicable State seasons during the period from the first day after the close of the last hunting season for ducks for that area, until the end of the applicable State seasons, or until the next succeeding March 1, whichever comes first.

(e) The use of artificial lights while taking raccoons is permitted in accordance with existing State regulations.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

ALABAMA

Eufaula National Wildlife Refuge

Hunting of white-tailed deer is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(b) Checking of bagged game may be required.

(c) Hunters under 16 years of age must be under the supervision of an adult.

(d) Weapon restrictions may apply.

Wheeler National Wildlife Refuge

Hunting of white-tailed deer and feral hogs is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Permits may be required.

(b) Hunters under 16 years of age must be under the supervision of an adult.

(c) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(d) weapon restrictions may apply.

ARIZONA

Cabeza Prieta National Wildlife Refuge

Hunting of desert bighorn sheep is permitted subject to the following special conditions:

(a) Hunters must obtain an entry permit from the refuge office in Ajo, Arizona, prior to entering the refuge because of military gunnery activity in the area.

(b) The possession of any uncased firearm and/or any firearm containing a shell in the magazine and/or chamber within any vehicle is prohibited.

Havasu National Wildlife Refuge

Hunting of desert bighorn sheep is permitted subject to the following special conditions:

(a) The Bill Williams Unit is open to hunting only south of the Planet Ranch Road in Unit 44A.

(b) The possession of any uncased firearm and/or any firearm containing a shell in the magazine and/or chamber within any vehicle is prohibited.

Kofa National Wildlife Refuge

Hunting of mule deer and desert bighorn sheep is permitted subject to the following special condition: The possession of any uncased firearm and/or any firearm containing a shell in the magazine and/or chamber within any vehicle is prohibited.

ARIZONA AND CALIFORNIA

Cibola National Wildlife Refuge

Hunting of mule deer is permitted subject to the following special conditions:

(a) Hunting is prohibited within 50 yards of any road or levee or within 250 yards of any farm worker.

(b) Zones I and III (Arizona) are closed to hunting.

(c) Handguns and .22 caliber rimfire rifles are prohibited.

(d) Bucks only may be taken.

(e) The possession of any uncased firearm and/or any firearm containing a shell in the magazine and/or chamber within any vehicle is prohibited.

ARKANSAS

Big Lake National Wildlife Refuge

Hunting of white-tailed deer is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(b) Hunters under 16 years of age must be under the supervision of an adult.

(c) Weapon restrictions may apply.

Felsenthal National Wildlife Refuge

Hunting of white-tailed deer and feral hogs is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(b) Bag limits may differ from that set by the State.

(c) Hunters under 16 years of age must be under the supervision of an adult.

Holla Bend National Wildlife Refuge

Hunting of white-tailed deer and turkey is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Bag limits may be less than that set by the State.

(b) Refuge check in/out may be required.

(c) Weapon restrictions may apply.

(d) Hunters under 16 years of age must be under the supervision of an adult.

(e) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

Overflow National Wildlife Refuge

Hunting of white-tailed deer and feral hogs is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(b) Bag limits may differ from that set by the State.

(c) Hunters under 16 years of age must be under the supervision of an adult.

White River National Wildlife Refuge

Hunting of white-tailed deer and turkey is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Bag limits may differ from that set by the State.

(b) Checking of bagged game may be required.

(c) Hunters under 16 years of age must be under the supervision of an adult.

(d) Permits may be required.

(e) No loaded firearms are allowed on campgrounds or roadways.

(f) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(g) Weapon restrictions may apply.

CALIFORNIA

Clear Lake National Wildlife Refuge

Hunting of only pronghorn antelope is permitted in the controlled "U" Unit subject to the following special conditions:

(a) The unit is only open to hunting during the first two (2) weekends of the State season.

(b) Only five (5) hunters will be allowed on the unit at any time on a first-come, first-serve basis.

(c) Access to the unit is permitted only through the gate located on Clear Lake Road and motor vehicle use is permitted only on designated routes.

(d) The hunt will be terminated after the unit quota is filled, even though the State season may still be open.

DELAWARE

Bombay Hook National Wildlife Refuge

Public hunting of deer is permitted only on designated areas in accordance with all State regulations subject to the following conditions:

(a) Archery. Hunting by bow and arrow on the regular Deer Hunting Area is permitted during the first five (5) Saturdays of the season. Hunting by bow and arrow on the South Upland Hunting Area is permitted during the entire season.

(b) Shotgun. Hunting with shotguns on the regular Deer Hunting Area is permitted only on the first Friday, Saturday, Monday, and Wednesday of the State shotgun deer season. Hunting with shotguns on the South Upland Hunting Area is permitted during the entire State season. Hunting with shotguns by non-ambulatory individuals on a portion of the Regular Deer Hunting Area is permitted on the first Tuesday of the State season.

(c) Primitive Firearms. Hunting with primitive firearms on the Regular Deer Hunting Area is permitted only on dates to be announced by the Refuge Manager. Hunting with primitive firearms on the South Upland Hunting Area is permitted during the entire State season.

(d) Hunter Qualification Requirements. All deer hunters are required to demonstrate archery and firearms proficiency; regional testing requirements are available from the refuge manager. Qualification tests are required every three (3) years to maintain a valid qualification card. Tests must be completed and passed with the weapon which the individual uses during the hunt.

(e) Permit Requirements. All deer hunters, regardless of type of weapon, are required to obtain a daily permit prior to hunting on the Regular Deer Hunting Area. Daily permits are not required on the South Upland Area. Procedures for obtaining daily permits are as follows:

(1) Archery. Permits are issued at the Dutch Neck Gate Refuge Entrance on a first-come, first-serve basis one hour before shooting time on the days of the hunt. The maximum number of hunters admitted to the Regular Deer Hunting Area at any one time will be 80.

(2) Shotgun.

(i) Permits are obtained by applying to the Refuge Manager in writing for an advance reservation. Successful applicants are selected by public lottery. Individuals who have been selected for the advance reservation must appear at the refuge headquarters prior to one hour before legal shooting time on the day of the hunt to be issued a permit. Failure to appear will result in forfeiture of the reservation. Forfeited permits and permits not reserved by advance reservations will be awarded to standby hunters by lottery one hour before the start of legal shooting time. The maximum number of hunters admitted to the Regular Deer Hunting Area at any one time will be 50.

(ii) Non-ambulatory shotgun hunters utilizing the Regular Deer Hunting Area will be limited to individuals who are restricted to wheelchairs or crutches. The maximum number of hunters admitted for the non-ambulatory hunt at one time will be ten (10).

(3) Primitive Weapons. Permits are issued at the Dutch Neck Gate Refuge Entrance on a first-come, first-serve basis one hour before shooting time on the days of the hunt. The maximum number of hunters admitted to the Deer Hunting Area at any one time will be 50.

(f) No nailed deer stands, platforms, ladders, or blinds, are permitted. Tree stands must be of a portable, temporary design, and be completely removed after use.

(g) Target practice or the test firing of any weapon is not permitted.

Prime Hook National Wildlife Refuge

Public hunting of deer is permitted only on the 2,185-acre North Hunting Area in accordance with all State regulations subject to the following conditions:

(a) No nailed deer stands, platforms, ladders, or blinds, are permitted. Tree stands must be of a portable, temporary design, and be completely removed after use.

(b) Archery Hunt.

(1) Seasonal permits are required for the North Hunting Area and will be issued at the refuge office Mondays through Fridays between 7:30 a.m. and 4:00 p.m. Permits may also be requested by mail. Those permits must be returned to the refuge office by the end of the deer hunting season.

(2) No archery hunting is permitted during the State primitive firearms season.

(c) Firearms Hunt.

(1) Permits are required for all deer hunting. These permits are available free of charge and will be issued by mail to successful applicants selected by a preseason drawing.

(2) The number of shotgun hunters admitted to the open area will be restricted to 25 preselected hunters per day.

(3) Permits must be returned to the refuge office within five (5) days of the closure of the deer hunting season.

(d) Hunter qualification requirements. All deer hunters are required to demonstrate archery and firearms proficiency; regional testing requirements are available from the refuge manager. Qualification tests are required every three (3) years to maintain a valid qualification card. Tests must be completed and passed with the weapon the individual uses during the hunt.

FLORIDA

Lake Woodruff National Wildlife Refuge

Hunting of white-tailed deer and feral hogs is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) Bag limits may differ from that set by the State.

(b) Permits may be required.

(c) Hunting hours will be set by the refuge.

(d) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(e) Hunters under 16 years of age must be under the supervision of an adult.

(f) During gun hunts, all hunters must wear at least 500 square inches of flourescent orange outer garments on the upper body.

(g) Weapon restrictions may apply.

(h) Stand restrictions may be in effect.

St. Marks National Wildlife Refuge

Hunting of white-tailed deer, turkeys, and feral hogs is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) Bag limits may differ from those set by the State.

(b) Weapon restrictions may apply.

(c) All deer hunters must wear at least 500 square inches of fluorescent orange outer garments on the upper body.

(d) Permits may be required.

(e) Access points may be specified.

(f) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(g) Hunters under 16 years of age must be under the supervision of an adult.

(h) A portion of the refuge is cooperatively administered as part of the Aucilla Wildlife Management Area. State regulations apply entirely to this area.

St. Vincent National Wildlife Refuge

Hunting of white-tailed deer, turkeys, and feral hogs is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) Bag limits may differ from that set by the State.

(b) Permits may be required.

(c) Refuge check in and out may be required.

(d) Hunting hours will be set by the refuge.

(e) All hunters must wear at least 500 square inches of fluorscent orange outer garments on the upper body.

(f) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(g) Stand restrictions may be in effect.

(h) Hunters under 16 years of age must be under the supervision of an adult.

(i) Weapon restrictions may apply.

GEORGIA

Blackbeard Island National Wildlife Refuge

Hunting of white-tailed deer is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Permits may be required.

(b) Bag limits may differ from that set by the State.

(c) The refuge may set hunting and access hours.

(d) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(e) Stand restrictions may be in effect.

(f) Hunters under 16 years of age must be under the supervision of an adult.

(g) Weapon restrictions may apply.

Harris Neck National Wildlife Refuge

Hunting of white-tailed deer is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Permits may be required.

(b) Bag limits may differ from that set by the State.

(c) The refuge may set hunting hours.

(d) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(e) Stand restrictions may be in effect.

(f) Hunters under 16 years of age must be under the supervision of an adult.

(g) Weapon restrictions may apply.

Okefenokee National Wildlife Refuge

Hunting of white-tailed deer is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) Bag limits may differ from that set by the State.

(b) Permits may be required.

(c) Hunt hours will be set by the refuge.

(d) Weapon restrictions may apply.

(e) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(f) Stand restrictions may be in effect.

(g) Hunters under 16 years of age must be under the supervision of an adult.

Piedmont National Wildlife Refuge

Hunting of white-tailed deer and turkey is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) Permits may be required.

(b) Bag limits may differ from that set by the State.

(c) Hunters under 16 years of age must be under the supervision of an adult, and children under the age of 12 are not allowed to hunt.

(d) Weapon restrictions may apply.

(e) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

Savannah National Wildlife Refuge

Hunting of feral hogs is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Weapon restrictions may apply.

(b) Hunters must wear at least 500 square inches of fluorescent orange outer garments on the upper body.

(c) Permits may be required.

(d) The refuge may set hunting hours.

(e) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(f) Hunters under 16 years of age must be under the supervision of an adult.

Wassaw National Wildlife Refuge

Hunting of white-tailed deer is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Permits may be required.

(b) Bag limits may differ from that set by the State.

(c) The refuge may set hunting hours.

(d) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(e) Stand restrictions may be in effect.

(f) Hunters under 16 years of age must be under the supervision of an adult.

(g) Weapon restrictions may apply.

IDAHO

Deer Flat National Wildlife Refuge

Hunting of only deer is permitted on the Snake River Sector. No additional special conditions are in effect.

Kootenai National Wildlife Refuge

Hunting of deer, elk, black bear, moose, and mountain lion is permitted subject to the following special condition: Only that portion of the refuge west of the West Side Road is open to big game hunting.

ILLINOIS

Crab Orchard National Wildlife Refuge

Public hunting of white-tailed deer concurrent with State shotgun and bow and arrow seasons is permitted in accordance with the following condition: Each hunter must possess a special permit issued by the Illinois Department of Conservation showing the three-day season he/she is to hunt.

Mark Twain National Wildlife Refuge

Hunting of white-tailed deer with a shotgun is permitted on the Gardner Division in a 4,831-acre designated area in accordance with the following special conditions:

(a) The hunting season will be the November portion of the Illinois shotgun season. Shooting hours are from 6:30 a.m. to 3:00 p.m. (CST).

(b) A valid State-issued shotgun deer permit with Mark Twain Refuge designated on it will be required.

IOWA

DeSoto National Wildlife Refuge

Archery hunting of deer will be permitted only on a 600-acre area located in the southeast portion of the refuge during State seasons in accordance with the following special conditions:

(a) Portable blinds and ladders will be permitted. No permanent tree blinds or stands may be built, nor may any nails, wire, or other foreign material be used in any manner. All portable blinds must be removed by the close of the season.

(b) No firearms are permitted on the area.

(c) A valid Iowa Bow Hunting Permit will be required for entry.

Mark Twain National Wildlife Refuge

Hunting of white-tailed deer is permitted on the Big Timber Division and Turkey and Otter Islands in designated areas during the State season subject to the following special condition: Dogs may not be used to hunt deer.

LOUISIANA

Bogue Chitto National Wildlife Refuge

Hunting of white-tailed deer, unmarked feral hogs, and turkey is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Bag limits may differ from that set by the State.

(b) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(c) Hunters under 16 years of age must be under the supervision of an adult.

Catahoula National Wildlife Refuge

Hunting of white-tailed deer and unmarked feral hogs is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(b) Hunters under 16 years of age must be under the supervision of an adult.

(c) Bag limits may differ from that set by the State.

(d) Weapon restrictions may apply.

D'Arbonne National Wildlife Refuge

Hunting of white-tailed deer and feral hogs is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions.

(a) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(b) Hunters under 16 years of age must be under the supervision of an adult.

(c) Bag limits may differ from that set by the State.

(d) Permits may be required.

Upper Ouachita National Wildlife Refuge

Hunting of white-tailed deer and feral hogs is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(b) Hunters under 16 years of age must be under the supervision of an adult.

(c) Bag limits may differ from that set by the State.

(d) Permits may be required.

MAINE

Moosehorn National Wildlife Refuge

Public hunting of deer is permitted in designated areas in accordance with applicable State regulations and the following special conditions:

(a) All deer hunters will be required to have in their possession an annual permit.

(b) All deer bagged on the refuge must be checked at refuge deer check stations.

Rachel Carson National Wildlife Refuge

Public hunting of white-tailed deer is only permitted on the Brave Boat Harbor Hunting Area, Lower Wells Hunting Area, and Upper Wells Hunting Area in accordance with all applicable State regulations subject to the following conditions:

(a) Hunters will be required to have taken and passed the refuge open book Hunters Qualification Examination prior to hunting on the refuge. These hunters must have a valid Certification Card with them while hunting on the refuge and must display it on request.

(b) Weapons will be limited to shotguns, muzzleloading rifles, compound and long bows and arrows on the Brave Boat Harbor and Upper Wells Hunting Areas. Archery will be the only method permitted for the taking of deer in the Lower Wells Hunting Area. Possession of rifles and handguns is prohibited.

(c) The number of hunters will be limited to 12 each day on the Brave Boat Harbor Hunting Area; 30 on the Lower Wells Hunting Area; and 10 on the Upper Wells Hunting Area. Participation will be on a first-come, first-serve basis.

MARYLAND

Eastern Neck National Wildlife Refuge

Public hunting of white-tailed deer is permitted in a 1,996-acre designated area in

accordance with State regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(a) White-tailed deer may be taken from sunrise to sunset during refuge seasons.

(b) Bag limits: One deer, either sex.

(c) All participants in the deer hunt must check in and out at the refuge check station before entering or leaving the refuge. All deer killed must be presented for examination at the refuge check station on the day killed.

(d) All hunters must be checked in by no later than 8:00 a.m. of the morning they are to hunt. Failure to do so will constitute a no show and a standby hunter will be assigned. No hunter may enter the refuge earlier than ½ hour before sunrise and must check out no later than one hour after sunset.

(e) Possession of loaded firearms, including arrows notched in bows, is not permitted on county blacktop roads, in parking areas, in or on vehicles, and before shooting hours.

(f) All hunters must enter and leave only by State Road 445. Entry by boat is not permitted.

(g) During all refuge hunts, hunters must furnish and wear, so as to be readily noticeable, daylight fluorescent orange caps or hats and a minimum of 400-square inches of flourescent orange material worn on the chest and the back above the waistline.

(h) Hunters under 18 years of age must be accompanied by a hunting, permit holding adult.

(i) Contained fire cooking devices will be permitted within fifty (50) feet of legally parked vehicles and in the Bogle's Wharf and Ingleside Recreation areas.

(j) Hunter qualification requirements. All deer hunters are required to demonstrate archery and firearms proficiency; regional testing requirements are available from the refuge manager. Qualification tests are required every three (3) years to maintain a valid qualification card. Tests must be completed and passed with the weapon which the individual uses during the hunt. All firearms, ammunition, load sizes, and arrows must be legal for the taking of deer in the State of Maryland and the bows and firearms used to hunt must be the same as those used to qualify.

(k) All arrows in the possession of archery hunters must have the hunter's full name and address legibly and permanently affixed with indelible ink, paint, or etched into the arrow shaft.

(l) A Federal hunt permit will be required of all participants in the deer hunts. Permits will be issued in advance of the season to hunters selected by lottery. Permits will be limited to 115 per day for gun hunts; 150 for archery hunts; and 30 for the non-ambulatory hunt (15 for non-ambulatory hunters and 15 for their helpers). All participants of the non-ambulatory hunt will be subject to State regulations governing such hunting.

(m) The permit must be returned to the refuge at checkout or, in the case of persons unable to hunt on the day selected, the permit must be returned prior to December 31. Non-compliance with this and other regulations will subject the hunter to regular penalties and, in addition, will be grounds for non-selection in future hunts.

(n) Hunters who have a valid refuge hunting permit will be allowed to scout the refuge during periods of time established by the refuge manager. Hunters exercising this privilege will display their current refuge permit on the dashboard of their car.

(o) Only blinds, platforms, or scaffolds that are erected and removed each day of the hunt may be used.

(p) Target practice or the test firing of any weapon is not permitted.

MICHIGAN

Seney National Wildlife Refuge

Public hunting of deer and bear is permitted subject to the following special conditions:

(a) Deer may be taken by bow and arrow on 33,525 acres of the refuge designated as Area B, from the opening of the State season through November 12 annually and on 85,200 acres of the refuge designated as Areas A and B from December 1 through the end of the State archery deer season.

(b) Deer may be taken by gun in Areas A and B (85,200 acres) during the State gun-deer season.

(c) Deer may be taken by muzzle-loading rifles during the State muzzle loader deer season on 85,200 acres of the refuge designated Areas A and B.

(d) Bear may be taken by gun or bow and arrow only in Area B (33,525 acres) during the State bear season. The use of dogs or bait to take bears on the refuge is prohibited.

Shiawassee National Wildlife Refuge

Public hunting of white-tailed deer is permitted in accordance with the following special conditions:

(a) Gun deer hunting is permitted on the entire refuge area on the dates in the Michigan Department of Natural Resources regulations for the Saginaw County Deer Research Zone in which the refuge is located.

(b) Archery deer hunting is permitted on the entire refuge area during the month of December. No archery deer hunting will be permitted on the 1,500 acre portion of refuge land north of the Shiawassee River during the period when muzzleloader deer hunters are permitted in that area.

(c) All hunters must possess a valid refuge permit.

MINNESOTA

Agassiz National Wildlife Refuge

Public hunting of white-tailed deer and moose is permitted in accordance with the following special conditions:

(a) Public hunting of white-tailed deer is allowed except in areas marked by "Area Closed" signs concurrent with State seasons.

(b) Public hunting of moose will be allowed only by State permit except in areas marked by "Area Closed" signs.

Big Stone National Wildlife Refuge

Public hunting of white-tailed deer is permitted on areas posted as "Public Hunting Area" subject to the following conditions:

(a) Archery deer hunting is permitted concurrent with the appropriate State season.

(b) Shotgun deer hunting is permitted concurrent with the appropriate State season.

(c) Muzzleloader deer hunting is permitted concurrent with appropriate State season.

(d) Construction or use of permanent blinds or platforms is prohibited. Portable blinds and platforms may not be left on the refuge overnight.

Rice Lake National Wildlife Refuge

(a) Public hunting of white-tailed deer is permitted with firearms during a portion of the State firearms deer season.

(b) A State permit will be required to enter and hunt on the refuge.

Sherburne National Wildlife Refuge

Public hunting of white-tailed deer is permitted subject to the following conditions:

(a) Archery hunting of deer is permitted in Areas A and B (21,000 acres) during the established State season.

(b) The taking of antlered bucks by shotgun is permitted in Areas A and B (21,000 acres) during the established State season.

(c) The taking of deer of either sex by shotgun is permitted in Areas A, B, and C during the special State season. A permit is required to hunt on the refuge during this season.

(d) Construction or use of permanent blinds or platforms is prohibited. Portable blinds or platforms may not be left on the refuge overnight.

Tamarac National Wildlife Refuge

Public hunting of white-tailed deer by archery or legal firearms will be permitted in accordance with State seasons for the area and applicable State and/or White Earth Reservation regulations.

MISSISSIPPI

Hillside National Wildlife Refuge

Hunting of white-tailed deer is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(b) Hunters under 16 years of age must be under the supervision of an adult.

(c) Weapon restrictions may apply.

Mathews Brake National Wildlife Refuge

Hunting of white-tailed deer is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(b) Hunters under 16 years of age must be under the supervision of an adult.

(c) Weapon restrictions may apply.

Morgan Brake National Wildlife Refuge

Hunting of white-tailed deer is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(b) Hunters under 16 years of age must be under the supervision of an adult.

(c) Weapon restrictions may apply.

Noxubee National Wildlife Refuge

Hunting of white-tailed deer and turkey is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Bag limits may differ from that set by the State.

(b) Bagged game may be required to be checked.

(c) Permits may be required.

(d) Hunters under 16 years of age must be under the supervision of an adult.

(e) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(f) Weapon restrictions may apply.

Panther Swamp National Wildlife Refuge

Hunting of white-tailed deer and turkey is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(b) Hunters under 16 years of age must be under the supervision of an adult.

(c) Weapon restrictions may apply.

Yazoo National Wildlife Refuge

Hunting of white-tailed deer and turkey is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Permits may be required.

(b) Hunters under 16 years of age must be under the supervision of an adult.

(c) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(d) Weapon restrictions may apply.

(e) Checking of bagged game may be required.

(f) Refuge check in/out may be required.

MISSOURI

Mingo National Wildlife Refuge

Archery deer hunting with bow and arrow is permitted on designated areas subject to the following special conditions:

(a) Hunters must register upon entering the refuge.

(b) Hunting from permanent tree stands is prohibited. A permanent stand (including steps) is one that is connected to the tree by nails, screws, bolts, etc.

Swan Lake National Wildlife Refuge

(a) The use of primitive weapons for deer hunting is permitted on designated areas which are comprised of 3,550 acres.

(b) A State issued Managed Deer Hunt Permit is required for entry to the hunting area.

NEBRASKA

DeSoto National Wildlife Refuge

(a) Archery hunting of deer will be permitted only on an area which is comprised of 765 acres located west of the Missouri River during State seasons in accordance with the following special conditions:

(1) A valid Nebraska Bow Hunting Permit will be required for entry.

(2) Portable blinds and ladders will be permitted. No permanent tree blinds or stands may be built, nor may any nails, wire, or other foreign material be used in any manner. All portable blinds must be removed by the close of the season.

(3) No firearms are permitted on the area.

(b) Muzzleloader hunting of deer will be permitted on an area which is comprised of 3,350 acres located in the central portion of the refuge during State seasons in accordance with the following special conditions:

(1) A Special Permit issued by the Nebraska Game and Parks Commission will be required for entry.

(2) Discharging firearms from or across all roads open to vehicle traffic, including adjacent rights-of-way, is prohibited.

(3) Entry to the open area will be permitted one hour before shooting hours. All permit holders and vehicles must be out of the designated hunting area no later than one hour after sunset.

(4) Portable blinds and ladders will be permitted. No permanent blinds or stands may be built, nor may any nails, wire, or other foreign materials be used. All portable blinds must be removed by the close of the season.

NEVADA

Desert National Wildlife Refuge

Hunting of only bighorn sheep is permitted during the State season on designated areas of the refuge.

Sheldon National Wildlife Refuge

Hunting of deer and antelope is permitted during the State season on designated areas of the refuge.

NEW JERSEY

Great Swamp National Wildlife Refuge

Public hunting of deer of either sex with shotguns is permitted, except on areas designated by signs as closed, in accordance with the following special conditions:

(a) Deer may be taken throughout the hunt between the hours of 7:00 a.m. EST and 5:00 p.m. EST. Participation will be limited to the 600 hunter permittees randomly selected for the special Great Swamp Refuge hunt. Only 250 hunters will be allowed at any given time on each day during the hunt period. Armbands and parking area permits will be issued and must be displayed. Armbands and permits must be surrendered prior to departure from the refuge. Hunters must furnish and wear a minimum of 200-square inches of blaze or hunter orange in accordance with State requirements. All deer taken must be checked out at the refuge check station. Vehicles are restricted to public roads and areas designated by parking permits.

(b) A shotgun not smaller than 12 gauge will be permitted for hunting deer. Buckshot not smaller than #4 nor larger than #000 will be permitted in possession during the hunt. Target practice or test firing is not permitted. Guns must be unloaded when in areas posted as closed. Baiting or hunting with the aid of bait is prohibited.

(c) The refuge will be closed to the general public during hunting periods.

NEW MEXICO

Bitter Lake National Wildlife Refuge

Hunting of mule deer is permitted subject to applicable State and Federal regulations.

Bosque del Apache National Wildlife Refuge

The refuge is open to public access for the hunting of mule deer from ½ hour before sunrise to ½ hour after sunset.

NEW YORK

Iroquois National Wildlife Refuge

Public hunting of deer is permitted during the regular State open seasons except in areas designated by signs as closed.

Montezuma National Wildlife Refuge

Archery hunting for deer on portions of the Montezuma Refuge is permitted from the first weekday of November and extends through the last day of the designated State gun season for deer in this zone in accordance with the following special conditions:

(a) Hunting is permitted Monday through Friday.

(b) Only longbows and compound bows may be used; gun hunting and firearms possession is prohibited.

(c) During the period from the first weekday in November until the start of the State shotgun season for deer, archers may take deer of either sex on the refuge.

(d) Upon commencement of the State shotgun season for deer in this zone, only legally antlered deer may be taken on the refuge unless the archer possesses a valid party permit for Deer Management Unit 86.

(e) Archery season will open in the Tschache Pool area on the first weekday following the close of the refuge waterfowl season. The Tschache Pool area includes all sections north of the New York State Thruway I–90, and west of New York State Route 89, from the point where Route 89 crosses over the Thruway in a northerly direction.

(f) Areas closed to archery hunting include open water and posted closed areas.

(g) Hunters must check their deer at refuge subheadquarters.

NORTH CAROLINA

MacKay Island National Wildlife Refuge

Public hunting of white-tailed deer is permitted on designated areas subject to the following special conditions:

(a) White-tailed deer may be taken during the open seasons.

(b) Bag limits: One (1) deer per day, either sex.

(c) Weapons:

(1) Archery: Long-bow, recurve, and compound bows. All arrows in possession of hunters must be permanently marked with hunter's name.

(2) Shotguns: Shotguns must be 20 gauge or larger. Rifled slugs or buckshot may be used.

(d) A refuge hunt permit will be required of all participants. All hunters will be charged a $10 special recreation permit fee. Permits will be issued in advance of the season to hunters selected in a drawing to be held at the refuge office on Knotts Island. Permits are nontransferable and will be limited to 25 per

day for the archery hunt and 20 per day for the shotgun hunts.

(e) All hunters will be assigned to designated stands on the morning of each day's hunt, with stand selection made by hunters in the order in which they were selected in the drawing. Two (2) out of the total stands will be developed to accommodate non-ambulatory hunters and will be automatically assigned to such hunters if they are selected in the drawing. Gun hunters will be required to remain within 50 feet of their stands until they have completed hunting. Bow hunters must remain within 50 feet of their stands from sunrise to 10:00 a.m. after which they may hunt anywhere in the area open to hunting.

(f) All permitted hunters must check in at the refuge shop by two (2) hours before sunrise for stand selection, collection of a $10 fee, and hunt orientation. Available permits not filled by the drawing or resulting from failure of permittees to show up will be issued to standby hunters selected by a special drawing, with the order of selection of remaining stands based on order of selection in this drawing.

(g) Transportation to the hunt area will be by refuge vehicle, except in the case of non-ambulatory permittees who will be allowed to take their own vehicles to the hunt area. Pick-up trips will be made through the hunt area by refuge vehicle at 10:00 a.m., noon, 4:00 p.m., and 15 minutes after sunset. All hunters will be required to leave the hunt area no later than the last pick up each day.

(h) All hunters will be required to wear a minimum of 400-square inches of daylight fluorescent orange material on the head, chest, and back at all times.

(i) Scouting will be permitted on the hunt area. During the scouting periods, no motorized vehicles will be permitted on MacKay Island Road beyond the gate which is located 1.6 miles west of State Route 615.

(j) Loaded firearms are permitted only while on assigned stands.

(k) Portable tree stands that cause no damage to trees will be permitted.

(l) All deer taken during the hunts are to be checked at the refuge shop. Crippled deer are to be reported to the refuge staff as soon as possible. Deer may be field dressed in the hunt area, but not at the check station.

Pee Dee National Wildlife Refuge

Hunting of white-tailed deer is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) The bag limit may differ from that set by the State.

(b) Permits may be required.

(c) All hunters must wear at least 500 square inches of daylight fluorescent orange material on outer garments above the waist.

(d) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(e) Hunters under 16 years of age must be under the supervision of an adult.

(f) Weapon restrictions may apply.

Pungo National Wildlife Refuge

Hunting of white-tailed deer is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) The bag limit may differ from that set by the State.

(b) Checking of bagged game may be required.

(c) Permits may be required.

(d) During gun hunts, all hunters must wear at least 500 square inches of fluorescent orange material on outer garments above the waist.

(e) Hunters under 16 years of age must be under the supervision of an adult.

(f) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(g) Weapon restrictions may apply.

NORTH DAKOTA

Arrowwood National Wildlife Refuge

Archery deer hunting and firearms deer hunting are permitted subject to the following special conditions:

(a) Archery deer hunting is closed from the day before the waterfowl hunting season until the day following the firearms deer season.

(b) Special refuge hunting permits are required the first 2½ days of the firearms season.

(c) Fox may be taken by deer license holders during the firearm deer season.

Audubon National Wildlife Refuge

Archery deer hunting and firearms deer hunting are permitted subject to the following special conditions:

(a) Archery deer hunting is closed until the day following the firearms deer season.

(b) Special refuge hunting permits are required the first 2½ days of the firearms season.

(c) All islands in Lake Audubon within the refuge are closed to the taking of deer during the firearms season.

Chase Lake National Wildlife Refuge

Archery deer hunting and firearms deer hunting are permitted subject to the following special condition: Archery deer hunting is closed from the day before the waterfowl hunting season until the day following the firearms deer season.

Des Lacs National Wildlife Refuge

Archery deer hunting and firearms deer hunting are permitted subject to the following special condition: Archery hunting is closed from the day before the waterfowl hunting season until the day following the State firearms deer season.

J. Clark Salyer National Wildlife Refuge

Archery deer hunting and firearms deer hunting are permitted subject to the following special conditions:

(a) Archery deer hunting is closed during the waterfowl hunting season on all portions of the refuge except that area south of the Upham-Willow City Road.

(b) Special refuge hunting permits are required for the first 2½ days of the firearms deer season.

Lake Alice National Wildlife Refuge

Archery deer hunting and firearms deer hunting are permitted subject to the following special conditions:

(a) Archery hunting is closed from the day before the waterfowl hunting season until the day following the State firearms deer season.

(b) The special archery hunting unit, including access roads and parking areas, is closed to all entry during the waterfowl hunting season.

(c) Firearms hunting is permitted only on the general public hunting unit.

Lake Zahl National Wildlife Refuge

Archery deer hunting is permitted subject to the following special condition: Archery deer hunting is closed from the day before the waterfowl hunting season until the day following the State firearms deer season.

Long Lake National Wildlife Refuge

Archery deer hunting and firearms deer hunting are permitted subject to the following special condition: Archery deer hunting is closed from the day before the waterfowl hunting season until the day following the firearms deer season.

Lostwood National Wildlife Refuge

Archery deer hunting and firearms deer hunting are permitted subject to the following special condition: Archery hunting is closed from the day before the waterfowl hunting season until the day following the State firearms deer season.

Slade National Wildlife Refuge

Archery deer hunting and firearms deer hunting are permitted subject to the following special condition: Archery deer hunting is closed from the day before the waterfowl hunting season until the day following the firearms deer season.

Tewaukon National Wildlife Refuge

Archery deer hunting is permitted subject to the following special condition: Archery hunting is closed until the day following the State firearms deer season.

Upper Souris National Wildlife Refuge

Archery deer hunting and firearms deer hunting are permitted subject to the following special condition: Archery deer hunting is closed from the day before waterfowl hunting season until the day following the firearms deer season.

OKLAHOMA

Salt Plains National Wildlife Refuge

Hunting of white-tailed deer is permitted in accordance with the following special conditions:

(a) Specific hunting dates will be set by the refuge.

(b) Hunting permits are required for each hunt.

(1) Archery: Two (2) two-day hunt periods in late October/early November.

(2) Muzzle-loading rifles: One (1) two-day hunt period mid-November.

This hunt is limited to only flintlock rifles, 40-caliber or larger.

(3) Regular rifles: Three (3) two-day hunt periods within the established State season in November.

(c) Participants will be selected by the Oklahoma Department of Wildlife Conservation through its application special permit system.

(d) Permitted hunters must check in at the refuge office prior to entering the assigned hunting area and must check out at the refuge office upon leaving the area.

(e) Shooting hours on the refuge will end each day at sunset.

(f) Hunters under 16 years of age must be under the supervision of an adult.

Tishomingo National Wildlife Refuge

Hunting of white-tailed deer is permitted on the Tishomingo National Wildlife Management Unit (WMU) and the Delta Unit in accordance with the following special conditions:

(a) The open season for archery deer hunting on the Tishomingo WMU corresponds with the general State archery season, except that the deer season is closed during the goose hunting season in the goose hunting zone.

(b) Bonus deer gun hunts may be held on either or both units of the refuge subject to State regulations. Contact the refuge manager for specific hunt dates and information.

(c) The Tishomingo WMU will be closed to all other public use on dates that the unit is open for deer gun hunting.

(d) Legal game for all gun hunts will be "bucks only."

(e) Gun deer hunting during the bonus hunts on both units will be by permit awarded by public drawing conducted by the Oklahoma Department of Wildlife Conservation.

(f) No alternates will be drawn; no unused permits will be reissued.

(g) Hunters, upon entering and leaving the hunting areas, will report to a designated check station.

(h) Hunters, under 16 years of age must be under the supervision of an adult.

Wichita Mountains Wildlife Refuge

Hunting of elk is permitted subject to the following special conditions:

(a) Several three (3) day hunt periods will be established from late November until mid-December, as listed in State regulations. Each hunt will end at 12 noon on the third day.

(b) All hunts will be by permit awarded by public drawing conducted by the Oklahoma Department of Wildlife Conservation.

(c) Except as provided in special conditions, the applicable portions of the Quanah-Elk Mountain Unit will be closed to all public use except elk hunting during the hunt period.

(d) Authorized hunters may retain approved unloaded hunting rifles and camp overnight, in authorized camp areas only, during the period when the Quanah-Elk Mountain Unit is closed to all other public use. Such camping hunters may be accompanied by, not to exceed, one camping companion who will be confined to the authorized camp area or refuge headquarters during the hunt period unless authorized to assist with the removal of game by the refuge manager or his agent.

OREGON

Hart Mountain National Antelope Refuge

Hunting of deer, antelope, and bighorn sheep is permitted in accordance with State regulations on designated areas.

Malheur National Wildlife Refuge

Hunting of deer and antelope is permitted in accordance with State regulations on designated areas.

William L. Finley National Wildlife Refuge

Hunting of deer only is permitted subject to the following special conditions:

(a) Shotgun and archery hunting only.

(b) Hunters must check in and out by use of self-service permits.

PENNSYLVANIA

Erie National Wildlife Refuge

Public hunting of deer is permitted during the regular State deer seasons in designated areas subject to the following special conditions:

(a) Hunters must notify the refuge headquarters within 48 hours after harvesting a deer.

(b) Hunters are prohibited from engaging in target practice or random shooting; constructing or using permanent blinds, platforms, or scaffolds; or consuming alcoholic beverages.

SOUTH CAROLINA

Cape Romain National Wildlife Refuge

Hunting of white-tailed deer is permitted during all or part of the State season in designated areas of the refuge, subject to the following conditions:

(a) The bag limit may differ from that set by the State.

(b) The refuge may set access and hunting hours.

(c) Hunters under 16 years of age must be under the supervision of an adult.

(d) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(e) Weapon restrictions may apply.

Carolina Sandhills National Wildlife Refuge

Hunting of white-tailed deer is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) The bag limit may differ from that set by the State.

(b) Checking of bagged game may be required.

(c) Parking adjacent to paved State highways is prohibited.

(d) Hunters under 16 years of age must be under the supervision of an adult.

(e) During gun hunts, all hunters must wear at least 500 square inches of fluorescent orange outer garments on the upper body.

(f) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(g) Weapon restrictions may apply.

Pinckney Island National Wildlife Refuge

Hunting of white-tailed deer is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Bag limits may differ from that set by the State.

(b) Weapon restrictions may apply.

(c) Permits may be required.

(d) Check in and out may be required.

(e) Hunt hours will be set by the refuge.

(f) During gun hunts, all hunters must wear at least 500 square inches of fluorescent orange outer garments on the upper body.

(g) Hunters under 16 years of age must be under the supervision of an adult.

(h) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(i) Stand restrictions may be in effect.

Santee National Wildlife Refuge

Hunting of white-tailed deer is permitted during all or part of the State season in designated areas of the refuge subject to the following conditions:

(a) Bag limits may differ from that set by the State.

(b) Weapon restrictions may apply.

(c) The refuge may limit access to the hunt areas.

(d) Hunters under 16 years of age must be under the supervision of an adult.

(e) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(f) During gun hunts, all hunters must wear at least 500 square inches of fluorescent orange outer clothing on the upper body.

SOUTH DAKOTA

Lacreek National Wildlife Refuge

Hunting of white-tailed deer is permitted subject to the following special conditions:

(a) Deer Hunting Hours: One-half hour before sunrise until 11:00 a.m.

(b) Camping: Camping is permitted on the Little White River Recreation Area.

(c) Hunter Access Roads: Open for vehicle access from 11:00 a.m. until sunset only.

(d) Vehicle Use: Hunting with the aid of a motor vehicle is prohibited. No person may discharge a firearm, or cast an arrow, within one-half mile of any motor vehicle available for his transportation unless that vehicle is parked in a designated parking area.

(e) Tagging: Deer must be tagged immediately. Hunters with filled licenses may not carry weapons in the field.

(f) Deer Retrieval Hours: One-half hour before sunrise until 12:00 noon. After 12:00 noon, advise refuge officer.

TENNESSEE

Hatchie National Wildlife Refuge

Hunting of white-tailed deer is permitted during specified periods in designated areas of the refuge subject to the following conditions:

(a) Permits may be required.

(b) Bag limits may differ from that set by the State.

(c) Hunters under 16 years of age must be under the supervision of an adult.

(d) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(e) Weapon restrictions may apply.

Lower Hatchie National Wildlife Refuge

Hunting of white-tailed deer, hogs, and turkeys is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Hunters under the age of 16 must be under the supervision of an adult.

(b) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

Tennessee National Wildlife Refuge

Hunting of white-tailed deer is permitted during all or part of the State season on designated areas of the refuge subject to the following conditions:

(a) Bag limits may differ from that set by the State.

(b) Driving of deer will be prohibited.

(c) Hunters under 16 years of age must be under the supervision of an adult.

(d) A refuge permit may be required.

(e) The refuge will set access and hunting hours.

(f) Refuge check in/out may be required.

(g) Hunting from a tree in which a metal object has been driven to support a hunter is prohibited.

(h) Weapon restrictions may apply.

TEXAS

Aransas National Wildlife Refuge

Hunting of white-tailed deer and feral hogs is permitted subject to the following special conditions:

(a) Archery hunting of deer and feral hogs is permitted in September and October. Check with the refuge manager for specific hunting dates.

(b) Limits are three (3) deer per hunter. There is no limit on the number of feral hogs that may be taken.

(c) All hunters must check in and out of the hunt area at the refuge entrance on Texas Farm Road 2040.

(d) Camping is prohibited on the refuge.

(e) No deer may be removed from the refuge without a metal transportation seal being attached to the carcass by a refuge officer.

(f) Hunters under 16 years of age must be under the supervision of an adult.

Laguna Atascosa National Wildlife Refuge

Hunting of white-tailed deer and feral hogs is permitted subject to the following special conditions:

(a) Archery hunt:

(1) Refuge permits are required. Hunting will be permitted in mid-October. Check with refuge manager for specific hunt dates and permit applications.

(2) Hunting hours are ½ hour before sunrise to 2:00 p.m.

(3) Hunting is permitted only from portable stands, blinds, or by stalking.

(b) Firearms hunt:

(1) Hunting will be permitted in early December. Check with the refuge manager for specific hunting dates and permit applications.

(2) Hunting hours are ½ hour before sunrise until ½ hour after sunset.

(3) Hunters will be selected by a drawing held prior to the hunt. Permits issued are non-transferable.

(4) Hunters must stay in assigned unit and/or stand.

(5) Hunters must attend a briefing prior to the hunt.

(6) All gun hunters will wear international orange caps and vests.

(7) Handguns and .22 caliber rimfire rifles are prohibited.

(c) During each hunt, the bag limit is two (2) deer. Quotas by sex and age class will be established by the refuge manager. There is no limit on the number of feral hogs that may be taken.

(d) All game taken must be checked out at the refuge hunter check station.

(e) Hunters under 16 years of age must be under the supervision of an adult.

UTAH

Ouray National Wildlife Refuge

Hunting of deer is permitted subject to the following special conditions: Hunting on lands leased from the Ute Indian Tribe east of Green River, as posted by the Ute Tribe, is restricted to enrolled Tribal members.

VERMONT

Missisquoi National Wildlife Refuge

The public hunting of deer is permitted only on designated areas in accordance with all applicable State regulations and the following special condition: Only shotguns may be used on that part of the refuge east of the Missisquoi River.

VIRGINIA

Chincoteague National Wildlife Refuge

Public hunting of deer is by special permit on designated areas subject to the following special conditions:

(a) Special Recreation Permits: All hunters must possess a $10 special recreation permit.

(b) Species to be taken: Sika and white-tailed deer.

(c) Bag limits: One (1) per day of any species, age, and sex. Three (3) per license year. If a hunter takes three (3) deer, at least one deer must be an antlerless deer. In the firearms hunt, if two (2) hunters use the same unit, the total aggregate limit is four (4) deer.

(d) Season: The archery hunt will coincide with the State archery season. The firearms hunt will occur within the State season, but will be restricted as stated in hunter permits. All arrows in the possession of archery hunters must have the hunter's full name and address legibly and permanently affixed with indelible ink, paint, or etched into the arrow shaft.

(e) Hunting equipment: All forms of equipment authorized by State law are permitted, except that shotguns must fire a single projectile and all firearms must be modified to hold only one round.

(f) Dogs are prohibited.

(g) Hunting hours: Same as State hunting hours. All hunters must be checked out of the hunting area within two (2) hours after the close of legal hunting hours.

(h) Loaded firearms or nocked arrows are permitted only within designated hunt areas during hunt hours. Firearms in vehicles must be cased or disassembled. Shooting from or across roads that are open to vehicles is prohibited.

(i) Hunters under 16 years of age must be under the supervision of an adult.

(j) Check Station: All hunters must sign in and out of the hunting area, enter and exit by designed route, and check deer at the refuge check station.

(k) Protective Clothing: All persons in the hunt area are required to wear a minimum of 400 total square inches of a safety flourescent colored material, distributed evenly between the front and back surfaces.

Presquile National Wildlife Refuge

Public hunting of white-tailed deer is permitted on the refuge except within 200 yards of all buildings in accordance with all State regulations subject to the following special conditions:

(a) A Federal permit will be required at no charge to the applicant. Bow hunter applicants who provide proof of having successfully completed the International Bowhunter Education Program and the archery qualification test will be automatically issued a permit. Gun hunter applicants who provide proof of having passed a State approved hunter safety course will also be automatically issued a permit. The permits remaining will be issued to hunters selected from a public drawing.

(b) Only white-tailed deer may be taken from ½ hour before sunrise to ½ hour after sunset during designated refuge seasons.

(c) Bag limits: One deer per day, either sex.

(d) All hunters must be checked in by 5:45 a.m. DST (4:45 EST). Hunters must enter the refuge on the ferry at 6 a.m. DST (5 a.m. EST). Those hunters who have been assigned a swamp stand will enter the refuge by boat with engines no larger than 10 hp. All boat occupants must wear a life jacket. Before leaving the refuge, hunters must be checked out by a refuge official either at the official checking station at the refuge headquarters or at the boat launch area on the mainland.

(e) Possession of firearms on the refuge during the bow and arrow hunts is prohibited.

(f) All arrows in the possession of each hunter must be marked with the stand number issued to the hunter.

(g) Only buckshot is permitted during the shotgun hunts.

(h) Each hunter will be assigned a stand corresponding to his permit number. Shotgun hunters will remain on their assigned stand throughout the day's hunt. Bow hunters will remain on their assigned stand from ½ hour before sunrise to 10:00 a.m. From 10:00 a.m. to ½ hour after sunset, they may hunt anywhere within the open area. Hunters must wear, so as to be readily visible, a minimum of 400 square inches of fluorescent orange material on the chest and on the back above the waistline. Gun hunters must wear fluorescent orange at all times; bow hunters must wear fluorescent orange when going to and from their stand and when hunting away from their stand.

(i) All hunters under 18 years of age must be accompanied by and under the immediate supervision of an adult.

(j) Scouting will be permitted. The refuge ferry will take passengers to the island at 8:00 a.m. DST and return to the mainland at 10:00

a.m. and 12:00 noon on days designated by the refuge manager.

WASHINGTON

Columbia National Wildlife Refuge

Shotgun and archery hunting only of deer is permitted in accordance with State regulations on designated areas.

Little Pend Oreille National Wildlife Refuge

Hunting of big game is permitted in accordance with State regulations.

Umatilla National Wildlife Refuge

Hunting of only deer is permitted using shotgun hunting only on Wednesdays, Fridays, Saturdays, Sundays, and State Holidays.

Willapa National Wildlife Refuge

Archery hunting of only deer and elk is permitted by permit on the Long Island Unit.

WISCONSIN

Horicon National Wildlife Refuge

(a) The hunting of white-tailed deer is concurrent with the State season for the early archery and shotgun seasons on 16,000 acres.

(b) Construction or use of permanent blinds or platforms is prohibited.

Necedah National Wildlife Refuge

Public hunting of white-tailed deer is permitted subject to the following conditions:

(a) Archery hunting is permitted during the State early bow season in Area 1.

(b) Gun hunting is permitted during the State season on Areas 1 and 2.

(c) Archery hunting is permitted during the State late bow season on Areas 1 and 2.

(d) Construction or use of permanent blinds or platforms is prohibited. Portable blinds and platforms may not be left on the refuge overnight.

(e) Discharging a firearm from, across, down, or alongside roads or trails is prohibited.

IOWA, ILLINOIS, MINNESOTA, WISCONSIN

Upper Mississippi River Wild Life and Fish Refuge

(a) The public hunting of white-tailed deer by firearm and archery is permitted on areas designated "Public Hunting Area" concurrent with applicable State seasons.

(b) Firearm and archery hunting on areas designated as "Area Closed" is permitted, but only during the period from the first day after the close of the last hunting season for ducks until the end of the applicable State seasons.

(c) Construction or use of permanent blinds, platforms, or scaffolds is prohibited.

Subpart D—Information Collection

§ 32.41 Approved information collection requirements.

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (Public Law 96–511). These requirements are presently approved by the Office of Management and Budget under the OMB approval numbers cited:

Type of information collection	OMB approval No.
Hunter surveys	1018–0044
Special use permits	1018–0046
Hunter reservation/application/blind assignment	1018–0047
Weapon qualification	1018–0050

These regulations impose no new reporting or recordkeeping requirements that must be cleared by the Office of Management and Budget. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information will be used to award benefits. Response is mandatory to obtain a benefit.

(16 U.S.C. 460k, 668dd; 44 U.S.C. 3501 *et seq.*)

Dated: August 18, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82–24876 Filed 9–10–82; 8:45 am]

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Monday
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Part III

Department of the Interior

Bureau of Indian Affairs

Grant Programs; Proposed Regulations

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 271

Grants Under Indian Self Determination Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is proposing to amend its regulations to provide for the use of grants or cooperative agreements rather than contracts to administer the operation of Bureau programs by tribal governments and tribal organizations, to provide for changes in the administrative proceses, and to remove administrative language not necessary in the regulations. The Federal Grant and Cooperative Agreement Act requires that grants or cooperative agreements be used to administer programs in which the relationship between the Federal Agency and the recipient is one of assistance. It is expected that use of an assistance agreement and changes in administrative processes will improve the quality of program services.

DATE: Comments must be received on or before November 12, 1982.

ADDRESS: Written comments should be addressed to the Assistant Secretary, Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Dale Heald, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone number (202) 343–4796.

SUPPLEMENTARY INFORMATION: This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Effective March 30, 1982, Parts 271–277 of Subchapter Y, Chapter 1, Title 25 of the Code of Federal Regulations were redesignated as Subchapter M. The final rule-making document will reflect these changes.

The Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224 (41 U.S.C. 501 et seq.), standardized the usage of legal instruments reflecting Federal assistance and procurement relationships by establishing government-wide criteria for selection of either a procurement contract, a grant agreement or a cooperative agreement on the basis of the relationship to be established between the Federal government and the recipient. It provides that a contract be used only when the principal purpose of the relationship is the acquisition of property or services for the direct benefit or use of the Federal government. When the principal purpose of the relationship is for the transfer of something of value, such as money, property or services, to the recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, Federal assistance instruments are to be used. Where substantial Federal involvement is anticipated during performance, the appropriate Federal assistance instrument is a cooperative agreement; when no such involvement is anticipated, the appropriate instrument is a grant. The Act authorized and directed each agency to use the type of legal instrument as required by the Act notwithstanding any other provision of law. The Bureau of Indian Affairs has determined that, pursuant to Pub. L. 95–224, a contract is no longer the proper instrument for implementing Title I of Pub. L. 93–638. The Bureau of Indian Affairs has further determined that a grant instrument best reflects the relationship with tribal governments in most instances. Accordingly, these regulations are being revised to provide for use of grants and under specified circumstances cooperative agreements instead of contracts. This is a technical change in form; substantive rights and obligations under Pub. L. 93–638 are not being altered by this law. Therefore, general changes are proposed including nomenclature changes which have been made throughout the regulatory text to provide for the use of grants in lieu of contracts.

Other revisions are being made independent of the changes required by Pub. L. 95–224. Changes have been made to increase the responsibilities of the Agency and Area office officials. Time frames and responsibilities for processing applications have been changed to permit more decision making at field offices and to reduce the time required for approval and award. Provisions for declining to grant and for appealing adverse decisions have been changed by expanding the range of appealable items. Administrative language unnecessary to the regulatory text has been removed. Major specific changes are addressed below.

Section 271.1 has been revised to remove reference to Section 104 grants which are addressed in Part 272 and to cite Public Law 95–224 as the authority for use of assistance agreements.

Section 271.2 contains revised definitions for Commissioner, Area Director and Agency Superintendent, consistent with changes in the Bureau's organizational structure. Definitions have been added for contract, Education Line Officers, grant, and cooperative agreement at § 271.2(e), (j), (p) and (q) respectively.

A new paragraph has been added at § 271.4(h) affirming supremacy of the Act in any conflict between the Act and these or other regulations. Paragraphs (f), (g) and (h) have been removed. Architectural and engineer services have been removed at § 271.12(a)(6) from the list of programs which tribal organizations may operate under a Bureau award.

A new § 271.16 contains information on preparation and submission of a grant application.

Section 271.15 is retitled and redesignated as § 271.20. It has been revised to require a personnel system and management systems that meet the standards of Part 276.

A new § 271.23, Cooperative Agreements, is added to provide for their use under specified conditions.

Section 271.32 is amended to include forest development programs and preparation of range management plans as grantable programs, and to remove timber stand improvement projects and range management plans from the text.

Section 271.34 is retitled and amended to place declination authority with the Area Director.

A new section is added, § 271.41, Uniform administrative requirements and cost principles, which provides for special grant terms of award under specified conditions.

Section 271.55 is retitled as § 271.42 and revised to clarify procedures for use of savings under a grant.

Section 271.74 is redesignated as § 271.54 and amended to provide sixty (60) days for a grantee to take corrective action when the Bureau has given notice of intent to terminate a grant. Mismanagement which results in termination for cause is considered to be gross negligence or mismanagement of a grant.

Subpart E, Contract Revision or Amendment is removed. A new Section, Grant revision or amendment, has been added at § 271.26. Subpart F, Retrocession and Reassumption is amended and redesignated as Subpart E.

The information collection requirement(s) contained in §§ 271.3, 271.13 through 271.17, 271.22, 271.24, 271.25, 271.33, 271.42, 271.44, 271.50 through 271.53 and 271.60 through 271.63

will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

Subpart G is redesignated as Subpart F and revised to include all decisions affecting an application or a grant as appealable actions.

A new Subpart G is added to establish requirements for new school starts and program expansions and reference to these additional criteria is included in § 273.12 and § 273.20.

The policy of the Bureau of Indian Affairs is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule.

The Bureau of Indian Affairs has determined that this document is not a major rule under the criteria established by Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act.

The primary author of this document is Dale Heald, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20245.

List of Subjects in 25 CFR Part 271

Administrative practices, Government contracts, Indians.

It is proposed to amend 25 CFR Part 271 as follows:

PART 271—GRANTS UNDER INDIAN SELF-DETERMINATION ACT

1. Part 271 retitled as "Grants Under Indian Self-Determination Act."

2. Subpart A of the Table of Contents is amended by adding a new § 271.5, *Information Collection.*

3. Subpart B of the Table of Contents is retitled and amended by retitling § 271.12, § 271.15 and § 271.18 through § 271.25; by redesignating § 271.16 and § 271.17 as § 271.14 and § 271.13; by adding new §§ 271.16, 271.17 and 271.26, and by removing § 271.27 and § 271.28. As revised the table of contents for Subpart B reads as follows:

* * * * *

Subpart B—Application and Award Process

Sec.
271.11 Eligible applicants.
271.12 Grantable programs.
271.13 Pre-Application technical assistance.
271.14 Access to Bureau records.
271.15 Tribal resolutions.
271.16 Preparation of initial grant applications.
271.17 Term of grant.
271.18 Notification of receipt.
271.19 Initial review and declination.
271.20 Criteria for declining a grant.
271.21 Approval and award.
271.22 Continuation grants.
271.23 Cooperative agreements.
271.24 Technical assistance after declination.
271.25 Failure of Agency or Area office to act.
271.26 Grant Revision or Amendment.

4. Subpart C of the Table of Contents is amended by retitling § 271.32 and § 271.34, to read as follows:

Subpart C—Additional Requirements for Trust Responsibilities

* * * * *

271.32 Grantable functions or programs.

* * * * *

271.34 Criteria for declining a grant.

5. Subpart D of the Table of Contents is retiltled as General Grant Requirements and is revised to read as follows:

Subpart D—General Grant Requirements

271.41 Uniform administrative requirements and cost principles.
271.42 Savings.
271.43 Direct and Indirect costs.
271.44 Use of government property.

6. Subpart E, Contract Revision or Amendment, of the Table of Contents is removed; Subpart F, Retrocession and Reassumption, is redesignated as Subpart E and new sections are added to read as follows:

Subpart E—Retrocession and Reassumption

271.50 Recordkeeping to facilitate retrocession and reassumption.
271.51 Retrocession.
271.52 Full retrocession procedures.
271.53 Tribal assumption of retroceded grant.
271.54 Reassumption.
271.55 Bureau operation of retroceded, reassumed or cancelled for cause grants.
271.56 Personnel for retroceded programs.
271.57 Close out of grants.

7. Subpart G, Hearings and Appeals, is redesignated as Subpart F and new sections are added to read as follows:

Subpart F—Hearings and Appeals

271.60 Processing of Appeals.
271.61 Informal hearing.
271.62 Formal hearing.
271.63 Appeals from decision or action by Commissioner.

8. A new Subpart G is added, Additional Requirements for New School Starts and Program Expansions, and new sections are added to read as follows:

Subpart G—Additional Requirements for New School Starts and Program Expansions

Sec.
271.71 Applicability.
271.72 Grantable functions or programs.
271.73 Additional criteria for approval of program expansions and start-up of new schools.
271.74 Content of application.
271.75 Application procedures.

9. The Authority paragraph is amended by adding Pub. L. 95–224, (41 U.S.C. 501 et seq.), so as revised it reads:

Authority: Sec. 102, Pub. L. 93–638, 88 Stat. 2203, 2206 (25 U.S.C. 450f); Pub L. 95–224, (41 U.S.C. 501 et seq.).

Subpart A—General Provisions

10. Section 271.1 is amended by revising paragraphs (a), (b) and (d) to read as follows:

§ 271.1 Purpose and scope.

(a) The purpose of the regulations in this part is to set forth the procedures and requirements for the application, award and administration of grants under Section 102 of the Indian Self-Determination Act (Title I, Pub. L. 93–638, 88 Stat. 2203).

(b) These regulations are revused to conform to Section 5 of the Federal Grant and Cooperative Agreement Act (Pub. L. 95–224, 92 Stat. 3), which requires that the legal instrument for delivery of Federal assistance be an assistance agreement. The Bureau of Indian Affairs has decided that, for the purpose of Section 102 of Pub. L. 93–638, a grant is the appropriate assistance instrument in most instances.

* * * * *

(d) Nothing in these regulations shall be construed to mandate a tribe to apply for a grant or grants with the Bureau to plan, conduct, and administer all or parts of any Bureau program. Such applications under these regulations are strictly voluntary.

11. Section 271.2 is amended by revising paragraphs (b) and (u); by removing paragraphs (d), (j), (k) and (q); by adding new definitions at (e), (j), (p) and (q); by revising and redesignating (e) and (n) as (d) and (m); and by redesignating (l), (m), (o), and (p) as (k), (l), (n) and (o), to read as follows:

§ 271.2 Definitions.

* * * * *

(b) "Area Director" means the official in charge of a Bureau of Indian Affairs Area Office except that the term means Area Education Program Administrator with regard to education programs and functions under Area office supervision, and the term means Agency Superintendent for Education where the

functional supervision is retained at the Agency level.

* * * * *

(d) "Commissioner" means the operational head of the Bureau of Indian Affairs, under the direction and supervision of the Assistant Secretary—Indian Affairs, who is responsible for the direction of day-to-day operations of the Bureau of Indian Affairs, except that the term means the Director, Office of Indian Education Programs, with regard to education programs and functions.

(e) "Contract" means and instrument of award used whenever the principal purpose of the relationship between the Agency and its awardee is the acquisition by purchase, lease, or barter of property or services for the direct benefit or use by the government.

* * * * *

(j) "Education Line Officer" means the Agency Superintendent for Education, or Area Education Program Administrator when a Superintendent for Education is not assigned at the Agency or the grant serves tribes from more than one Agency.

* * * * *

(m) "Superintendent" means the official in charge of a Bureau of Indian Affairs' Agency office except that the term means the Agency Superintendent for Education, with regard to education programs and functions.

* * * * *

(p) "Grant" means an instrument of award, in whcih substantial involvement is not anticipated, establishing a relationship for the transfer of money, property or services or anything of value to the recipient to accomplish a public purpose of support or stimulation.

(q) "Cooperative Agreement" means an instrument of award establishing a relationship for the transfer of money, property, or services or anything of value to the recipient to accomplish a public purpose of support or stimulation wherein the grantor anticipates substantial involvement.

* * * * *

(u) "Assistant Secretary—Indian Affairs" means the Assistant Secretary—Indian Affairs who discharges the authority and responsibility of the Secretary for activities pertaining to Indians and Indian Affairs, or his/her authorized representative.

12. Section 271.3 is amended by revising paragraph (a) to read as follows:

§ 271.3 Revision or amendment of regulations.

* * * * *

(a) Consult with Indian tribes and national and regional Indian organizations to the extent practicable and consider their views in preparing the proposed revision or amendment.

* * * * *

13. Section 271.4 is amended by revising paragraphs (d) and (e); by removing paragraphs (f), (g) and (h); by adding a new paragraph (f); by revising and redesignating § 271.15(e) as § 271.4(g); and by adding new paragraphs (h) and (i) to read as follows:

§ 271.4 Statement of policy.

* * * * *

(d) It is the policy of the Bureau to continually encourage Indian tribes to become increasingly knowledgeable about Bureau programs and the opportunities Indian tribes have regarding them; however, it is the policy of the Bureau to regard self-determination as including the option of an Indian tribe to not request grants.

(e) It is the policy of the Bureau not to impose sanctions on Indian tribes with regard to whether or not they choose to apply for grants; however, the special resources made available to facilitate the efforts of those Indian tribes which do wish to receive grants should be made known to all tribes, as should the current realities of funding and Federal personnel limitations.

(f) It is the policy of the Bureau to award funds for direct and indirect costs for grants awarded under this part.

(g) Tribes, or tribal organizations acting under delegated authority pursuant to the tribal governing body's request (resolution) for an initial grant, may request from the Commissioner a waiver under 25 CFR 1.2 of any regulations in this chapter.

(h) In any conflict between the Act and these or other regulations, the Act shall prevail.

(i) The Commissioner may waive any provisions of grant laws or regulations which he determines are not appropriate for the purposes of the grant involved or are inconsistent with the provisions of the Act.

14. A new § 271.5, Information Collection is added and reserved as follows:

§ 271.5 Information Collection. [Reserved]

Subpart B—Application and Award Process

15. Section 271.11 is revised to read as follows:

§ 271.11 Eligible applicants.

Any tribal organization is eligible to apply for a grant or grants from the Bureau to plan, conduct and administer all or parts of Bureau programs under Section 102 of the Act. Before the Bureau can enter into a grant with a tribal organization, however, it must be requested to do so by the Indian tribe or tribes to be served by the grant in accordance with § 271.15.

16. Section 271.12 is retitled and amended by revising the introductory text of (a), (a)(1), (a)(3) through (a)(5) and (b) and by removing (a)(6) to read as follows:

§ 271.12 Grantable programs.

(a) Tribal organizations are entitled to receive grants from the Bureau to plan, conduct, redesign and administer all or parts of any program which the Bureau is authorized to administer for the benefit of Indians an for which funds have been appropriated and are available. All or parts of a program include:

(1) Any part of a Bureau program which is divisible from the remainder of the program so long as the grant does not significantly reduce benefits to Indians served by the non-granted part(s) of the program. To the extent that it is within the Bureau's existing authority, however, and the program or part thereof involves only one tribe and one Bureau Agency or Area office, the benefits provided to Indians by the non-granted part(s) of the program may be reduced at the request of the tribe. When the program or part thereof serves more than one tribe, the benefits provided by the non-granted part(s) of the program may be reduced when all of the tribes served consent by resolution to a reduction.

* * * * *

(3) Programs or parts of programs or services that are authorized but not currently operated or provided by the Bureau. Additional criteria for grantable new school starts and program expansions are given in § 271.71 through § 271.75.

(4) Operation of or services provided by previously private schools. Additional criteria for grantable new school starts and program expansions are given in § 271.71 through § 271.75.

(5) Alteration and reapair of Bureau property in direct support of a granted program. Individual construction and design projects are not grantable under Title I of the Act.

(b) Paragraph (a) of this section also applies to trust resources programs or portions thereof. Additional criteria for grantable trust resources programs, or portions thereof, are given in § 271.32.

§ 271.17 [Redesignated as 271.13 and Revised]

17. Existing § 271.13 is removed. Section 271.17 is redesignated as § 271.13 and revised to read as follows:

§ 271.13 Pre-Application technical assistance.

(a) The Bureau will provide technical assistance to a prospective grant applicant to assist it in the preparation of the formal application. A written notice of intent to apply for a grant and request for technical assistance must be submitted to the appropriate Bureau officer at least 45 days before the anticipated date of submission of the formal, completed application in accordance with § 271.16. Technical assistance shall include but not be limited to the following:

(1) Determining the appropriateness and feasibility of a grant.

(2) Providing information including program requirements and available funding resources of the program as currently operated by the Bureau.

(3) Developing an effective program design and plan of operation.

(4) Preparing technical parts of the grant application.

(b) The Bureau shall seek to make technical assistance available to tribes and tribal organizations from any available resource to the extent that funds and manpower are available.

§ 271.16 [Redesignated as 271.14 and Amended]

18. Existing § 271.14 is removed. Section 271.16 is redesignated as § 271.14 and amended by revising the introductory text of (a), (a)(4), (b)(2), (b)(3) and (c) to read as follows:

§ 271.14 Access to Bureau records.

(a) Upon the request of a tribal organization, the Superintendent or Area Director shall make available any information requested and such other information as the tribal organization may need to prepare a grant application or carry out a grant. Tribal organizations, other than the governing body of an Indian tribe (except when operating under a grant authorized under the Act), shall seek such information through the tribes' chairman or other official(s) designated by the tribal governing body, unless the tribal resolution under § 271.15 or subsequent resolution sets forth another procedure. Requests for information are subject only to the limits of the Freedom of Information Act (5 U.S.C. 552) as amended by the Act of November 21, 1974 (Pub. L. 95–502, 88 Stat. 1561), the Privacy Act (5 U.S.C. 552a) and other applicable laws. Information to be made available shall include, but not be limited to:

* * * * *

(4) Data on the amount of funds which have been provided for the direct operation of the specific program(s) or portions thereof by the Bureau during the past fiscal year and proposed grant period;

* * * * *

(b)(2) If the tribal grantee needs a reasonable volume of identifiable Bureau records, the Bureau will furnish the copies to the tribal organization.

(3) Where a large volume of records are needed and copying is not practical or feasible, the records may be physically located at the grant site provided that a Bureau official is designated by the Commissioner or Area Director as custodian of the records.

(c) Failure of the Bureau to provide such access may be appealed under the provisions set out in § 271.60.

19. A new § 271.15 is added to read as follows:

§ 271.15 Tribal resolutions.

(a) Before the Bureau can enter into a grant with a tribe or tribal organization, it must be requested to do so by the tribe(s) to be served under the grant by a resolution from the (each) tribal governing body or tribes.

(b) The tribal governing body's resolution shall include the following:

(1) When the tribal organization is the tribal governing body:

(i) A brief description of the program(s) which the tribal governing body wishes granted.

(ii) The tribal official authorized to negotiate the grant(s) and any amendments thereto.

(iii) The tribal official authorized to execute the grant(s) and any amendments thereto.

(iv) The duration of the authorities granted by the resolution.

(v) The extent and procedure, if any, for review of the grant(s) and any amendments thereto by the tribal governing body before execution.

(vi) The proposed term of the grant.

(vii) The proposed starting date for the grant.

(2) When the tribal organization is other than the tribal governing body:

(i) The name of the tribal organization.

(ii) A brief description of the program(s) which the tribal organization wishes granted.

(iii) The extent and procedure for review by the tribal governing body of the grant and any amendments thereto prior to execution by the tribal organization.

(iv) The tribal office or official to which the Bureau should send copies of grant documents and correspondence.

(v) The proposed term of the grant.

(vi) The proposed starting date for the grant.

(vii) Any delegations of authority and any limitations on authorities granted the tribal organizations.

20. A new § 271.16, Preparation of Initial Grant Applications, is added to read as follows:

§ 271.16 Preparation of initial grant applications.

(a) An application for a grant under this part must be submitted at least 60 days before the grant's proposed starting date. However, when the proposed grant may result in the displacement of Bureau personnel, the application must be submitted to the appropriate Bureau official at least 120 days before the grant's proposed starting date to facilitate compliance with Office of Personnel Management requirements which apply to separation and/or reassignment of Federal employees. The receiving official shall notify the Area Personnel Officer, on the day the application is received, if there is a possibility of displacement of personnel. If these required actions can be completed in less than 120 days, the grant may begin at an earlier date.

(b) Initial and continuation applications shall be submitted to the Bureau as follows:

(1) To the Superintendent or to the appropriate Education Line Officer when the tribe(s) or Indians to be served by the grant are within the jurisdiction of that Agency office.

(2) To the Area Director when the tribe(s) or Indians to be served are within the jurisdiction of more than one Agency office but under the same Bureau Area Office.

(3) To the Commissioner when the tribe(s) or Indians to be served are within the jurisdiction of more than one Area office.

(c) Application for an initial grant under this part shall be prepared in accordance with § 276.16.

(d) Part IV of the application form, SF–424 Federal Assistance, shall list Bureau equipment, facilities, and buildings needed to carry out the grant. Bureau programs or portions of programs which the tribal organization wishes to operate shall be described and a plan shall be included for operating the program(s). The plan shall describe the services to be provided under the grant and the organization, methods and procedures to be used to

accomplish delivery of services. It shall include but not be limited to:

(1) A description of the personnel system and position descriptions for key personnel.

(2) A staffing plan, including extent, if any, that Bureau personnel may be utilized. (See Part 275 of this chapter for staffing options the applicant may wish to consider.)

(3) The evaluation criteria and control systems that the tribal organization will use to measure progress and accomplishment and to assure that the quality and quantity of actual performance conforms to the requirements of the plans.

(e) A copy of the tribal organization's travel policy shall be submitted for evaluation as described in § 276.17.

21. A new § 271.17, Term of grant, is added to read as follows:

§ 271.17 Term of grant.

(a) The term of a grant under this part shall not exceed one (1) year except that grants may be approved for a term of up to three (3) years, subject to availability of funds, under the following circumstances:

(1) The services provided under the grant can be reasonably expected to be continuing in nature and, as a result, a longer grant term would be advantageous.

(2) The Indian tribe(s) to be served by the grant request(s) that the term be more than one (1) year.

(b) Grants approved for a term of more than one (1) year shall be renegotiated annually to reflect factors, including, but not limited to, cost increases beyond the control of the tribal grantee. Proposed changes in the services provided under the grant which reflect changes in program emphasis may be considered during the annual renegotiation if the changes fall within the general scope of the grant. Such changes may be initated by either the tribal contractor or the Bureau but must be agreed to by both.

22. Section § 271.18 is retitled and revised to read as follows:

§ 271.18 Notification of receipt.

(a) Within five days after receiving a completed initial or continuation application the receiving official shall transmit notification to the tribal organization (unless restricted by the tribal resolution under § 271.15 or subsequent resolutions) and tribal governing body(ies) in writing of the receipt of the application. Incomplete applications will not be accepted for processing.

23. Section § 271.19 is retitled and revised to read as follows:

§ 271.19 Initial review and declination.

(a) The receiving official shall immediately take action to:

(1) Approve the formal tribal application, or

(2) Make recommendations to the applicant for changes to produce an application that can be approved.

(b) If, within fifteen (15) days, the receiving official cannot approve the application, the official shall so notify the tribe and forward the application to the Area Director with a recommendation for denial, if declination issues are involved.

(c) If within fifteen (15) days the Area Director cannot approve the application, he/she must decline the application and so notify the tribe. The notice shall be in writing and shall contain:

(1) Identification of the specific reasons that the grant cannot be entered into.

(2) Specific recommendations on actions required by the applicant to overcome the deficiencies and a description of the nature, scope and source of the technical assistance which will be available to overcome the deficiencies.

(d) The above [time frames] shall be within the sixty (60) day period prescribed by § 271.21.

(e) The applicant (unless restricted by the tribal resolution under § 271.15(b)(2) or subsequent resolutions) or the tribal governing body may appeal the Area Director's decision.

24. Section 271.20 is removed. Paragraphs (a) through (d) and (f) of § 271.15 are redesignated as § 271.20, retitled and revised to read as follows:

§ 271.20 Criteria for declining a grant.

(a) A grant may not be declined because of an objection that could be overcome through the grant. The Area Director may decline to award a grant only for the specific causes given in paragraph (b) of this section. The Area Director shall demonstrate, through substantial evidence, that one of the specific grounds for declination exists and that, therefore, the application must be declined.

(b) The Area Director may decline to award a grant when:

(1) Funds are not available to fund the grant. (When an application is declined on these grounds the Area Director shall notify the tribe in writing of the facts and circumstances leading to the decision.)

(2) The services to be provided to the intended Indian beneficiaries of the particular program or function to be granted will not be satisfactory. In an evaluation:

(i) It will be presumed by the Bureau that the program plan and budget set forth by the tribal organization provides a basis for the delivery of satisfactory services to the Indian people unless it can be demonstrated by the Bureau that the program will yield results which may be harmful to the welfare of the Indian people to be served.

(ii) The service to be provided shall be deemed satisfactory if the applicant has established procedures to assure that services and assistance shall be provided to the Indians affected by the grant in a fair and uniform manner. Such procedures shall include eligibility criteria for a tribal member to receive services; recordkeeping adequate to verify the fairness and uniformity of services in case of formal complaints; and adequate complaint procedure available to all Indians affected; and those rights the individual will retain following the complaint.

(3) Adequate protection of trust resources is not assured. Criteria for determining if there is adequate protection of trust resources are listed in § 271.34.

(4) The proposed project or function to be granted cannot be properly completed or maintained by the proposed grant.

(5) The application is not within the purview of § 271.1(a).

(6) The additional requirements for new school starts and program expansions in Subpart G have not been met.

(c) In arriving at the finding, the Area Director shall consider whether the tribal organization would be deficient in performance under the grant with respect to the factors listed in this paragraph.

(1) *Equipment, buildings and facilities.* The same standards with regard to buildings, facilities, or equipment shall be applied to tribal organizations that have been previously applied to the Bureau. As provided in § 271.44, the Bureau shall make available the use of all equipment which has been allocated to the operation of the program by the Bureau in the past, unless the Bureau proves the provision of the equipment will seriously interfere with its ability to provide services to Indian people in non-granted programs. Where equipment is shared by the programs to be granted and other non-granted programs, equipment-sharing or other suitable arrangements shall be stated in the grant agreement.

(2) *Bookkeeping and accounting procedures.* It must be demonstrated by the Bureau that the tribal organization which will undertake the grant does not

have an adequate accounting and bookkeeping capability.

(3) *Substantive knowledge of the program.* In an evaluation:

(i) Where the tribal organization applying for a grant is the tribal governing body and the program or function to be granted is a tribal governmental function, there shall be an absolute presumption that the tribal governing body has substantive knowledge of the program or function.

(ii) Where the tribal organization applying for the grant is not the tribal governing body or the program or function is not a tribal governmental function, the tribal organization shall be presumed to have substantive knowledge of the program if the tribal organization meets one or more of the following conditions:

(A) The tribal organization has adequately managed a similar program before through a grant or contract.

(B) The tribal organization which is to manage the project possesses by virtue of its knowledge and/or experience substantive knowledge of the program.

(C) The tribal organization has been a consumer of such services in the past and thus has developed an understanding of the issues involved with the program sufficient to enable it to effectively carry out the grant operations; and, the tribal organization can secure through the resources of Bureau staff or other resources, the training in the particular subject area which will develop its substantive knowledge of the program.

(4) *Community Support.* The tribal governing body's resolution under § 271.15 shall be presumed to demonstrate community support for the proposed grant. Unless it can be demonstrated by substantial evidence that there is a lack of Indian community support for the grant, and the lack of support will result in unsatisfactory service, inadequate protection of trust resources or impossibility of service maintenance, the tribal governing body's resolution shall be deemed conclusive. Those asserting that there is a lack of Indian community support for a proposed grant must demonstrate that they have exhausted their tribal remedies before the matter will be considered by the Bureau. In any event, there will be no finding by the Bureau of a lack of Indian community support that would result in deficiencies in performance under the grant until those asserting it have exhausted all tribal remedies.

(5) *Adequacy of trained personnel.* The adequacy of trained personnel available to the tribal organization to carry out the proposed grant will be presumed if the following conditions exist:

(i) The tribal organization has a personnel system that prescribes minimum occupational qualification standards which insure equal access to all qualified tribal members;

(ii) The tribal organization has procedures for the selection of personnel on the basis of such standards; and

(iii) The personnel to be used under the proposed grant are to be employed under the personnel system.

(6) Other necessary components of grant performance will be deemed to be met unless a tribal organization:

(i) Does not have an adequate personnel system that provides selection standards which insure equal access to all qualified tribal members;

(ii) Does not have management systems that meet the standards of Part 276 of this chapter;

(iii) Has not agreed to keep records and make reports required by § 271.50 and by Part 276 of this chapter; and

(iv) Has not submitted a completed grant application.

25. Section 271.21 is retitled and revised to read as follows:

§ 271.21 Approval and award.

(a) Within sixty (60) days after receiving a formal application the Bureau will approve the application and award a grant (subject to availability and amount of funds if the award occurs in advance of the allotment) so that the performance period coincides with the beginning of the Fiscal Year or the beginning date indicated in the application, whichever is later, unless the applicant is notified before that time that the application has been declined.

(b) The grant award shall be made by the Agency Superintendent or, if the Agency office does not have administrative jurisdiction over the applicant, at the lowest organizational level having administrative jurisdiction over the applicant.

(c) These provisions do not apply during an appeal process pursuant to Subpart F.

26. Section 271.22 is retitled and revised to read as follows:

§ 271.22 Continuation grants.

(a) Continuation grant applications will be prepared using the standard application form, Standard Form 424, Federal Assistance, and will contain:

(1) Evidence of authority to continue, and

(2) An explicit description of any proposed program changes, including a revised budget.

(b) Applications for continuation grants will be reviewed in the same manner as initial applications and evaluated according to the same criteria.

(c) If the initial grant provided services to only one (1) Indian tribe, written application for a continuation grant shall be sent by the tribal organization to the Agency office as follows:

(1) Directly, when the tribal organization involved is the governing body of the tribe;

(2) Through the governing body of the tribe for review when the tribal organization is not the governing body of the tribe. Submission shall be made to the tribal governing body at least 120 days before the initial grant expires. Copies of the submission shall be sent to the Superintendent at the time of submission to the tribal governing body. The tribal organization shall promptly notify the Agency Superintendent in writing of the date the tribal governing body received the application. If, within 45 days after receiving the application, the tribal governing body does not provide the Agency Superintendent with a formal resolution objecting to the application, the absence of receipt of such resolution shall constitute the tribe's request for a continuation grant.

(d) If the initial grant provided services to more than one (1) Indian tribe, the tribal organization must give a copy of the continuation application to each tribal governing body 120 days before the initial grant expires. The tribal organization shall promptly send written notification to the Bureau office, which will receive the application, of the date the tribal governing bodies received copies of the application. If, within 45 days after receiving copies of the application, none of the tribal governing bodies provide the appropriate Bureau office with a formal resolution objecting to the continuation application, the absence of receipt of such resolution shall constitute the tribe's request for a continuation grant. If one or more of the tribal governing bodies involved objects to the grant, they may withdraw. In such cases those withdrawing can stipulate how they wish the previously granted services to be rendered and the remainder may regrant at the option of the tribes involved.

27. Section 271.23 is revised to read as follows:

§ 271.23 Cooperative agreements.

(a) Under specified circumstances the Commissioner may prescribe the award of a cooperative agreement rather than a grant. In such cases, the application, review and award processes shall be exactly the same as those described for

grants in this Part. However, a cooperative agreement award shall contain special terms and conditions consistent with the anticipated substantial involvement by the Bureau.

(b) The Commissioner may order the use of a cooperative agreement when, in his judgement, performance would be improved by the use of a cooperative agreement and when any of the following conditions exists:

(1) Substantial Bureau involvement is required to protect Trust resources,

(2) Technical assistance requested by the tribe can best be provided through continued substantial involvement of Bureau personnel,

(3) The applicant's management systems as implemented do not meet the standards of Part 276 of this chapter, but performance under the grant is not so deficient as to be cause for reassumption.

§ 271.27 [Redesignated as § 271.24 and Revised]

28. Existing § 271.24 is removed. Section 271.27 is redesignated as § 271.24 and revised to read as follows:

§ 271.24 Technical assistance after declination.

If the Area Director's decision to decline a grant application is not appealed or is upheld on appeal, the Agency Superintendent shall immediately offer technical assistance to the tribal governing body for purpose of overcoming the declination issues. Within thirty (30) days of the tribal governing body's acceptance of this offer, the Area Director will make technical assistance available to the tribal governing body for the development of a plan to overcome the objections that resulted in the decision to decline.

§ 271.28 [Redesignated as § 271.25 and Revised]

29. Existing § 271.25 is removed. Section 271.28 is retitled and redesignated as § 271.25 and revised to read as follows:

§ 271.25 Failure of Agency of Area office to act.

Whenever an Agency or Area office official fails to take action on a grant application within the time limits established in this part, the applicant may request action by the next higher Bureau official. In such cases, the official that failed to act shall immediately forward the application and all supporting documents to the official to whom the request for action was made.

30. A new §271.26, Grant revision or amendment, is added to read as follows:

§ 271.26 Grant revision or amendment.

(a) Any grant made under this Part may be revised or amended as deemed necessary to carry out the purposes of the program, project or function being granted.

(b) Grantee requests for revision or amendment will be prepared using the standard application form, Standard Form 424, Federal Assistance, and will contain:

(1) An explicit description of any proposed program changes, and

(2) A revised budget, including a budget justification.

(c) Grantee requests for revision or amendment shall be submitted to the Bureau in the same manner as for initial and continuation applications (See § 271.16(b). If the grantee is not the tribal governing body, a copy of the request shall be sent immediately to the tribal governing body by the grantee.

(d) The receiving official shall acknowledge receipt of the request in the same manner as for initial and continuation applications (See § 271.18).

(e) Procedures for review, approval or declination, and award shall be as prescribed under § 271.19 through § 271.21 of this part.

Subpart C—Additional Requirement for Trust Responsibilities

31. Section 271.31 is revised to read as follows:

§ 271.31 Applicability

This subpart establishes additional requirements applicable to the application and approval process for grants under this part which involve the Bureau's trust responsibilities in the area of natural resources, such as assessments, irrigation real estate, forestry, range management, wildlife and parks, water inventories, hunting and fishing.

32. Section 271.32 is retitled and paragraphs (e), (f)(2), the introductory caption of (g) and (g)(6) are revised to read as follows. The introductory sentence to the section is included for the convenience of the user.

§ 271.32 Grantable functions or programs.

Grantable trust resources programs, or portions thereof, include the following:

* * * * *

(e) Forestry: Forest management and planning, including the making of inventories, management plans and maintenance, tribal or individual Indian consultation services, administration of timber sales and Indian permit cutting, conduct of forest development programs, protection of the forest against wildlife, trespass, disease, or insect infestation, and participation in cooperative programs with other Federal, State, or tribal organizations related to programs of the Bureau. Activities which already are provided Indian forests from non-Bureau sources, as part of the management of a forested area larger than the reservation, are not grantable under provisions of this part. Advice and technical assistance provided individual landowners in connection with forestry programs will be made concurrently by the grantee and an appropriately designated Federal official.

(f) * * *

(2) Preparation of range management plans.

* * * * *

(g) Wildlife and parks: * * *

(6) Wildlife control.

* * * * *

33. The introductory text to § 271.33 is revised to read as follows:

§ 271.33 Content of application.

In addition to the information required in § 271.16, the following additional information shall be included in the grant application when a trust resource or responsibility is involved:

* * * * *

34. Section 271.34 is retitled and revised to read as follows:

§ 271.34 Criteria for declining a grant.

In addition to the declination issues of § 271.20 the Bureau may decline a grant in the following circumstances. If a grant application includes a project or function which is related to the Bureau's performance of a trust responsibility in the area of natural resources as given in § 271.32, the Agency Superintendent shall recommend declination and the Area Director shall decline if:

(a) The application provides for or would necessarily require the delegation to the tribal organization of a trust responsibility vested by law in the Secretary or the Commissioner;

(b) The application provides for the termination of a trust responsibility;

(c) The application provides for completion or maintenance of the project or function to a lesser standard than under Bureau administration. However, a tribal proposal to raise performance standards shall not be used as a reason for declination;

(d) The proposed activity requires special skills for its performance and the proposed key staff do not meet Office of Personnel Management or excepted qualification standards, other accepted professional standards appropriate to the discipline involved, or are not

otherwise recognized as technically qualified;

(e) If the application is for range management and includes work performed under paragraphs (f)(4) or (f)(5) of § 271.32, the applicant must agree in the application to the granting officer's review and approval of such work.

Subpart D—General Grant Requirements

35. Section 271.41 is revised to read as follows:

§ 271.41 Uniform administrative requirements and cost principles.

(a) The provision of Part 276 of this chapter that establishes uniform administrative requirements and cost principles shall apply to grants under this part. Special grant conditions more restrictive than those required by Part 276 may be imposed only when the Bureau determines that a grantee:

(1) Has repeatedly violated established grant performance requirements, or

(2) Has a management system which does not meet the standards in Part 276 of this chapter.

(b) When special conditions are imposed, the grantee will be notified in writing of:

(1) Why the special conditions were imposed;

(2) What corrective action is needed; and

(3) What his/her rights are to a hearing and appeal.

§ 271.55 [Redesignated as § 271.42 and Revised]

36. Section 271.55 is retitled, redesignated as § 271.42 and revised to read as follows:

§ 271.42 Savings.

(a) If it becomes apparent during the grant period that the amount of a grant under this part will be in excess of actual expenditures, the identified savings may be used to provide additional services or benefits under the grant and/or expand base grant programs.

(b) When both the tribal organization and the Bureau agree that it is not practicable to spend the savings during the grant period and the grant funds were appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208), the savings may be carried over into the succeeding fiscal year grant period, except as otherwise specifically provided in appropriation acts. Savings carried over into a succeeding fiscal year shall be added to the grant amount for the fiscal year. The savings shall not reduce the amount that would have been made available if there had been no savings. Funds available through savings shall be used before a tribe uses grant funds from the current fiscal year.

(c) If there are savings under a grant that is retroceded as provided in § 271.51, the savings shall be used by the Bureau to operate the program or part of a program covered by the retroceded grant, the savings shall be carried over and used for such operations during the succeeding fiscal year, except as otherwise specifically provided in appropriate acts.

(d) Social services grants to individuals in excess of those required to meet the financial assistance needs of the Indian clients served by a grant under this part shall not be considered as savings for the purposes of this section. Excess social services grant funds will be deobligated from the grant.

37. Section 271.43 is revised to read as follows:

§ 271.43 Direct and indirect costs.

The tribal organization shall be entitled to be funded for direct and indirect costs under the grant as follows:

(a) Direct costs under grants for operations of programs or parts of programs shall not be less than the Bureau would have provided if the Bureau operated the program or part of the program during the grant period. Direct costs shall include the Bureau's direct costs for planning, administering, and evaluating the program or part.

(b) Direct costs under grants for operation of programs or parts operated by the Bureau before grant operations shall be not less than the funds that are programmed and available for the program or part at the time of the grant application, except as limited in paragraph (g) of this section.

(c) Direct costs under grants for the operation of programs or parts authorized to be operated by the Bureau, but not operated by the Bureau, for the benefit of the Indians to be served under the grant shall be determined by mutual agreement based on a comparison of similar programs operated by the applicant, the requesting tribe, other tribes, the Bureau, other governmental, public or private organizations.

(d) Direct costs for programs or parts to be granted at the Agency office level shall be based on the funds available at that level.

(e) Direct costs for programs or parts to be granted at the Area office level shall be based on funds available at that level.

(f) Allowability of costs under grants shall be determined under § 276.19 of this chapter.

(g) Funds provided under a grant for direct or indirect costs shall not cause a reduction in funds provided for other programs or parts not under a grant, except as agreed to by the affected tribe(s) and within the existing authorities of the Bureau.

(h) Social services grant funds distributed through a grant under this part shall not be considered a direct cost for the purposes of this section.

§ 271.42 [Redesignated as § 271.44 and Revised]

38. Section 271.44 is removed. Section 271.42 is redesignated as § 271.44 and revised to read as follows:

§ 271.44 Use of government property.

(a) In carrying out a grant made under this part, the Superintendent, Area Director, or Commissioner shall, whenever possible, permit a tribal grantee to use existing buildings, facilities, and related equipment and other personal property owned by the Bureau within the official's jurisdiction. To the extent possible, arrangements on the use of Bureau property shall be provided for in the grant agreement. In determining whether real or personal property can be provided, the Bureau shall determine whether it can provide comparable services for any of the ungranted part(s) of the program.

(b) Requests for the use of Bureau property which arise after signing of the grant shall be submitted to the relevant Bureau official by the tribal organization. Such requests shall be approved and the grant appropriately amended unless such use will seriously interfere with the administration of existing Bureau programs.

Subpart E—Retrocession and Reassumption

§ 271.46 [Redesignated as § 271.50 and Amended]

39. Section 271.46 is redesignated as § 271.50 and the introductory text, paragraphs (a), (b), (d) and (e) are revised to read as follows:

§ 271.50 Recordkeeping to facilitate retrocession and reassumption.

Tribal grantees are required to maintain a recordkeeping system which will allow the Bureau to meet its legal records program requirements under the Federal Records Act (44 U.S.C. 3101 et seq.) and to facilitate retrocession or reassumption under this part. Such a record system shall:

(a) Fully reflect all financial transactions involving the receipt and expenditure of funds provided under the grant in a manner which will provide

accurate, current and complete disclosure of financial status, correlation with budget or allowable cost schedules, and clear audit facilitating data.

(b) Reflect the amounts and sources of funds other than grant funds which may be included in the operation of a program.

* * * * *

(d) Provide for orderly retirement of records used or created under the grant.

(e) Provide recordkeeping adequate to verify the fairness and uniformity of services provided to Indians affected by the grant.

§ 271.71 [Redesignated as § 271.51 and Amended]

40. Section 271.71 is redesignated as § 271.51 and paragraphs (a), the introductory text of (b), and (b)(1) are revised to read as follows:

§ 271.51 Retrocession.

(a) Tribal governing bodies and tribal organizations may receive grants to plan, conduct and administer Bureau programs or portions thereof, and may request retrocession from any grants.

(b) When a tribal organization experiences specific problems with the operation of a grant and is considering the possibility of retrocession, it may request the Bureau to assist it to avoid retrocession. In the event of such a request, the Bureau will:

(1) Meet with appropriate officials of the tribal organization and the tribe, where the tribal governing body is not the grantee, to develop a plan to avoid retrocession.

* * * * *

§ 271.72 [Redesignated as § 271.52 and Amended]

41. Section 271.72 is redesignated as § 271.52 and paragraphs (a), (b), (c), the introductory text of (d), (d)(4), (e), and (g) are revised to read as follows:

§ 271.52 Full retrocession procedures.

(a) Whenever an Indian tribe requests retrocession of a grant, retrocession shall be effective upon a date specified by the Commissioner, Area Director or Agency Superintendent, as appropriate. The date shall not be later than 120 days after the date of the request from the tribe(s), except when the tribe(s) and the Commissioner mutually agree on a later date.

(b) When the grant is with a tribal organization other than the tribal governing body and the tribal resolution required under § 271.15(b)(2) does not vest in the tribal governing body the sole right to request retrocession, the tribal governing body shall consult with the tribal organization and, if so requested, offer it an opportunity to be heard in accordance with tribal procedures before requesting retrocession of the grant.

(c) When the grant is with a tribal organization which is performing services benefiting more than one Indian tribe, all or any of the tribes may request a retrocession in accordance with the procedures provided for in the tribal resolution required for the initial grant. When all tribes request retrocession, the retrocession shall be accomplished as provided for in this section. When one or more, but not all tribes request retrocession, the grant will continue until the end of the grant term or the fiscal year, whichever comes first. In such cases the Bureau shall assess its available resources and capabilities to provide such services independently of and in addition to that being provided under the grant and inform the tribes requesting retrocession of the level of services that will be available to them upon retrocession. The fact that these services may necessarily be at a reduced level will not constitute cause to cancel the existing grant providing services to tribes not retroceding. The existing grant will be modified as appropriate to reflect the non-participation of the tribes no longer being served. The Bureau will, however, provide sufficient resources to maintain the existing level of services under the grant to the tribes that did not request retrocession.

(d) Within fifteen (15) days after receipt by the Commissioner, Area Director or Agency Superintendent of a request for retrocession, representatives of the tribe(s), the tribal organization, when appropriate, and the Commissioner, Area Director or Agency Superintendent, as appropriate, shall meet and take the following actions:

* * * * *

(4) Identify all records relating to the grant and to the granted function.

(e) On the date of retrocession, the grantee will deliver to the Bureau all records and government furnished property which have been identified as necessary for the continuation of the program, project or function.

* * * * *

(g) Retrocession of a grant by an Indian tribe shall be without prejudice to:

(1) Any other grant to which it is a party.

(2) Any other grant it may request.

(3) Any future request to grant for the programs or services covered by the retroceded grant, insofar as the conditions which led to retrocession are no longer a factor and the tribal organization is the one that held the retroceded grant.

§ 271.73 [Redesignated as § 271.53 and Revised]

42. Section 271.73 is retitled, redesignated as § 271.53 and revised to read as follows:

§ 271.53 Tribal assumption of retroceded grant.

Whenever an Indian tribe chooses to retrocede a grant operated by a tribal organization other than the tribal governing body, the tribal governing body may apply for a grant for the program pursuant to § 271.16.

§ 271.74 [Redsignated as § 271.54 and Amended]

43. Section 271.74 is redesignated as § 271.54 and the introductory text of (a), paragraphs (a)(3), (b), (c), (d) and (e) are revised, and paragraphs (f), (g) and (h) are added to read as follows:

§ 271.54 Reassumption.

(a) A grant made under this part may be terminated, and control or operation of the program or function assumed by the Bureau in whole or in part, when the Commissioner, Area Director or Agency Superintendent determines that the tribal organization's performance under the grant involves:

* * * * *

(3) Gross negligence or mismanagement in the handling or misuse of funds provided under the grant.

(b) If the Commissioner, Area Director or Agency Superintendent, as appropriate, finds there is an immediate threat to safety, he/she may, upon written notice to the tribal organization, immediately suspend the grant and resume control or operation of the program. In such an event, a hearing will be held on such action within ten days and shall be conducted as provided under § 271.61(b). The decision issued pursuant to § 271.61(f) shall include a statement of the corrective action needed by the tribal organization before it can assume operation of the grant.

(c) If there is no immediate threat to safety, the Commissioner, Area Director or Agency Superintendent, as appropriate, shall provide written notice to the tribal organization of intent to terminate the grant. The notice shall give the reasons for the proposed termination, the corrective measures necessary, and 60 days in which to take corrective action. A hearing will be held as provided in § 271.61(b) prior to recision of the grant and reassumption of control or operation by the Bureau.

(d) A decision proposing to terminate a grant and reassume control or operation may be appealed as provided in Subpart F of this part.

(e) The Bureau may decline to enter into a new grant and may retain control of the program or function until the conditions which caused the grant to be terminated have been corrected.

(f) Failure to comply with terms and conditions of a grant award, which result in termination of the grant for cause, shall be considered to be gross negligence or mismanagement pursuant to paragraph (a)(3) of this section. Program responsibility for such cancelled-for-cause grants shall be reassumed by the Bureau pursuant to the provisions of this section.

(g) Excess costs resulting from a cancellation that are required to operate the program will be provided by the Bureau to the extent that funds are available for the fiscal year. However, if sufficient funds are not available to maintain the program at its operating level at the time of cancellation, the Bureau shall reduce service levels to the funding level until additional funds can be made available.

(h) Any tribal organization that has a grant cancelled for cause must demonstrate that the causes which led to the cancellation have been cured before it will be considered for another grant. In addition, there must be a new resolution and a new request from the Indian tribe(s) that will receive services or benefits under the grant.

§ 271.76 [Redesignated as § 271.55 and Revised]

44. Section 271.76 is redesignated as § 271.55, retitled and revised to read as follows:

§ 271.55 Bureau operation of retrocession, reassumed or cancelled for cause grant.

(a) The Bureau shall provide to the tribe(s) and Indians served by a grant which is retroceded, reassumed or cancelled for cause, as nearly as possible, the same quantity and quality of service that would have been provided at the level intended by the grant or operated previously by the Bureau.

(b) The Bureau shall provide to the tribe(s) and Indians served by a grant which is retroceded, reassumed, or cancelled for cause, as nearly as possible, the same quantity and quality of permanent and temporary personnel that meet the United States Office of Personnel Management qualifications that would have been provided at the level intended by the grant or previously operated by the Bureau.

(c) This section does not apply to grants for the operation of Bureau programs or parts of programs previously entered into under the authority of the Buy Indian Act (25 U.S.C. 47) and in effect on December 4, 1975. However, the Bureau will provide, as nearly as possible, the same quantity and quality of service and permanent and temporary personnel that meet the United States Office of Personnel Management qualifications that would have been provided at the level intended by the Buy Indian Act grant or as operated previously by the Bureau.

(d) Actions under this section shall not cause a reduction in the quality and quantity of services to tribe(s) or Indians not served by grants which are retroceded, reassumed or cancelled for cause.

§ 271.77 [Redesignated as § 271.56 and Revised]

45. Section 271.77 is redesignated as § 271.56, retitled and revised to read as follows:

§ 271.56 Personnel for retroceded programs.

Upon retrocession, the Bureau will assess the need for additional personnel and if necessary will seek such personnel to ensure effective program operations.

46. Section 271.57 is added to read as follows:

§ 271.57 Closeout of grants.

The Bureau will close out grants when:

(a) The tribe or tribal organization has requested retrocession.

(b) The Bureau has reassumed a granted program and the grant has ended.

(c) Within 120 days following completion of an initial or continuation grant. (See § 276.15)

Subpart G—[Redesignated as Subpart F and Revised]

47. Subpart G, Hearings and Appeals is redesignated as Subpart F and is revised to read as follows:

Subpart F—Hearings and Appeals

§ 271.60 Processing of appeals.

(a) Applicants and grantees under Parts 271 through 277 shall have the right to appeal any Bureau decision affecting an application or grant under these parts.

(b) The appellant shall have thirty (30) days from receipt of notice of the Bureau official's decision in which to exercise its rights to appeal that decision by providing such Bureau official with written notice of intent to appeal.

(1) No extension of time will be granted for filing the notice of intent to appeal. Notices which are not timely filed will not be considered and the case will be closed and written notice to that effect will be given to the appellant.

(2) Having timely filed a notice of intent, the appellant shall have an additional fifteen (15) days from receipt by the proper Bureau official of its notice of intent to appeal in which to file an appeal.

(3) The appeal shall give an identification of the case, a statement of reasons for the appeal and any arguments the appellant wishes to make. The appeal shall be filed with the Agency Superintendent or, in the case of education matters, with the Education Line Officer.

(4) Any other Bureau employee receiving an appeal shall immediately transmit the appeal and all related materials to the Agency Superintendent or Education Line Officer.

(c) All appeals, with the exception of education related matters, will be handled by the Agency Superintendent transmitting the appeal and file, along with his/her recommendation, to the Area Director within ten (10) days of receipt.

(d) In the case of education matters, the Education Line Officer will receive and transmit the appeal and file, along with his/her recommendation, to the Director, Office of Indian Education Programs (OIEP), within ten (10) days of receipt. Following receipt, the Director of OIEP will act in accord with these procedures in the same manner as the Commissioner.

(e) Within ten (10) days of receipt of appeal and file data, the Area Director shall forward to the Commissioner all factual records and information in his/her possession pertinent to the appeal, along with his/her recommendation.

(f) For Facilities Engineering matters, such appeal and pertinent file will be transmitted by the Agency Superintendent, through the Area Office, to the Director, Office of Administration, along with his/her recommendation, within ten (10) days of receipt. The Director of Administration shall forward his/her recommendation and all pertinent materials to the Commissioner within ten (10) days of receipt. The Commissioner shall then act in accord with § 271.60(g) of this part.

(g) Upon receipt of the appeal file and recommendations, the Commissioner shall immediately notify the appellant in writing of receipt of the appeal.

(1) The appellant may request an informal hearing prior to the Commissioner's decision on the appeal.

Such request shall be made to the Commissioner in writing within fifteen (15) days following the appellant's receipt of the notice of the Commissioner's receipt of the appeal. If the appellant makes a timely request for an informal hearing, the appeal shall proceed as provided in § 271.61.

(2) If no timely request for an informal hearing is received from the appellant, the Commissioner shall review and make a decision on the appeal within thirty (30) days after expiration of the period for making a timely request for an informal hearing. Notice of such decision shall be made in writing to the appellant and shall include a statement of the appellant's rights to a formal hearing and to further appeal.

(3) The appellant may request a formal hearing following the Commissioner's decision on the appeal. Such request shall be made to the Commissioner in writing within fifteen (15) days following the appellant's receipt of the Commissioner's decision. If the appellant makes a timely request for a formal hearing, the appeal shall proceed as provided in § 271.62.

(4) The appellant may elect to appeal the Commissioner's decision to the Assistant Secretary—Indian Affairs without a formal hearing. A direct appeal of the Commissioner's decision to the Assistant Secretary—Indian Affairs shall be made as provided in § 271.63.

(b) When a Bureau official fails to act on an appeal within the prescribed time, the appellant has the right to immediately forward to the next higher Bureau official a copy of such appeal and request immediate action. This right is consecutive through the Area Director, Commissioner and/or Director of Education, to the Assistant Secretary.

§ 271.61 Informal hearing.

(a) If elected by the appellant at time of appeal, an informal hearing will be conducted by the Commissioner or his/her delegate within thirty (30) days following receipt by the Commissioner of a written request for same, or at such time and place as agreed upon by the Commissioner and the appellant.

(b) The purpose of an informal hearing is to attempt to resolve issues without a formally-structured hearing. No official transcript of the hearing will be provided to the appellant. The conference is viewed by the Bureau as provision of administrative due process of an informal nature to a tribe or organization having received a Bureau decision or recommendation concerning some aspect of a Pub. L. 93-638 grant with which such tribe or organization disagrees. The appellant has the right to present any argument, evidence, data or other support it deems appropriate, either written or oral, to the Commissioner or his/her designee prior to or at the time of the conference.

(c) Parties entitled to present their positions shall be limited to authorized representatives of the appellant. The Bureau will authorize payment of transportation costs and per diem for authorized representatives of the appellant provided the informal hearing is more than fifty (50) miles from the office of the appellant.

(d) For purposes of payment of transportation and per diem costs by the government, authorized representatives of the appellant may consist of any person or persons deemed appropriate by the appellant, but shall not exceed three (3) persons. Authorization for transportation and per diem costs to be paid by the Bureau must be obtained by the appellant, in writing, from the Commissioner prior to travel.

(e) The Commissioner reserves the right to disapprove payment of travel and per diem costs for representative(s) consisting only of legal counsel for the appellant.

(f) A decision shall be rendered to the appellant in writing by the Commissioner within thirty (30) days following the informal hearing. If the appellant is not in agreement with that decision, the appellant may request a formal hearing as provided under § 271.62, or the appellant may appeal directly to the Assistant Secretary—Indian Affairs as provided by § 271.63.

§ 271.62 Formal hearing.

(a) If elected by the appellant, and provided written notice is made to the Commissioner within fifteen (15) days from receipt of the Commissioner's decision pursuant to § 271.60(g), or within fifteen (15) days following receipt of a decision made pursuant to § 271.61(f), a formal hearing will be arranged by the Commissioner with the Office of Hearings and Appeals of the Department of the Interior.

(b) The formal hearing with the Office of Hearings and Appeals will be arranged by the Commissioner, as expeditiously as possible, and at such date and place as agreed upon by the Commissioner, the Office of Hearings and Appeals, and the appellant. If the hearing is more than fifty (50) miles from the appellant's office, the Bureau will authorize payment of transportation costs and per diem for the authorized representatives of the appellant as prescribed in § 271.61(c), (d) and (e). The Commissioner shall arrange all aspects of the hearing.

(c) The purpose of the formal hearing is to provide the appellant with an objective, formally structured review of its appeal, by an officer of the Office of Hearings and Appeals. The hearing shall be conducted by an Administrative Law Judge, (ALJ), of the Office of Hearings and Appeals, and shall afford the appellant the following rights:

(1) The right to be represented by Counsel;

(2) The right to call Department and/or Bureau witnesses who are capable of providing testimony on the issues;

(3) The right to examine and cross examine witnesses;

(4) The right to submit oral and written evidence;

(5) The right to a copy of the transcript of the hearing and all documentary evidence introduced.

(d) The formal hearing is an administrative procedure designed to afford the appellant an objective legal review and a formal recommendation on its appeal to the Assistant Secretary by an ALJ.

(e) The Assistant Secretary will render a written decision on the appeal within thirty (30) days following receipt of the ALJ's recommendation. The decision by the Assistant Secretary is final for the Department. The appellant is deemed to have exhausted its administrative remedies following rendering of this decision.

§ 271.63 Appeals from decision or action by the Commissioner.

(a) The appellant, unless restricted by tribal resolution, may appeal the Commissioner's decision made under § 271.60(g) or under § 271.61(f) to the Assistant Secretary—Indian Affairs. A notice of intent to appeal must be sent to the Assistant Secretary within fifteen (15) days following receipt of the Commissioner's decision rendered under § 271.60(g) or under § 271.61(f). The appeal must be sent to the Assistant Secretary within thirty (30) days following receipt of the Commissioner's decision. The written decision of the Assistant Secretary shall be rendered within thirty (30) days following receipt of the appeal.

(b) The decision by the Assistant Secretary is final for the Department. The appellant is deemed to have exhausted its administrative remedies following rendering of this decision.

48. A new Subpart G is added to read as follows:

Subpart G—Additional Requirements For New School Starts and Program Expansions

§ 271.71 Applicability.

This subpart establishes additional requirements applicable to the application and approval process for grants requested under this part for new school starts and program expansions to be funded under the Indian School Equalization Program (25 CFR Part 31h).

§ 271.72 Grantable functions or programs.

Grantable new school starts and program expansions include the following:

(a) New school starts. The provision of education services by a tribally-operated school which is seeking initial funding for school operational costs for eligible Indian students not previously served under the Indian School Equalization Program.

(b) Program expansions. The expansion of existing tribally-operated school programs to provide additional educational services to age groups already being served under the Indian School Equalization Program or to serve additional age groups not previously served.

§ 271.73 Additional criteria for approval of program expansions and start-up of new schools.

The following additional criteria shall be used in approving applications for authorization of new school starts and expansions of existing tribally-operated school programs as eligible to receive Bureau funding under the Indian School Equalization Program:

(a) Service population criteria. All members of the proposed service population must qualify as eligible for services under 25 CFR 31a.4(z) and must be described in the application with sufficient detail and documentation to enable them to be classified accurately under the classification of new school starts and program expansions as set forth in § 271.72.

(b) Program quality criteria. Proposed programs and program changes shall be of sufficient quality to offer promise of providing educational benefits to the Indian student recipients approximately equal to those provided to like numbers of recipients under other parts of the Bureau educational program funded through the Indian School Equalization Program. In determining whether this criterion is met by an application, the Director of Indian Education Programs, or his or her representative, shall consider at least the following:

(1) Whether the new school start or program expansion is likely to meet the appropriate education standards specified in Section 1121 of Pub. L. 95–561.

(2) Whether the facilities, equipment, and other supportive services of the applicant, or those incorporated in the start-up cost or temporary facilities part of the plan, will be adequate to support the program.

(3) Whether the proposed staffing is adequate to achieve the objectives of the plan.

(4) Whether the size of the student population to be served appears to be sufficiently large and stable, or increasing in numbers, to warrant initiation of a new school start or expansion of a program to serve them.

(5) Whether there is an apparent desire for the new school start or program expansion on the part of the Indian tribe and/or community to be served.

(6) Whether the start-up costs are disproportionate to the numbers of students to be served, or the potential benefits of the program, as compared with the start-up costs of other applicants.

(7) Whether there are other adequate education alternatives currently available to the students to be served by the new school start or program expansion.

§ 271.74 Content of application.

In addition to the information required in § 271.16, additional information which addresses the criteria in § 271.73 shall be included in the grant application when a new school start or program expansion is involved.

The additional information includes:

(a) Name of school, school location and current grade span;

(b) Name of administrator or responsible official;

(c) Signature of school board president of authorized representative signifying approval of application/proposal;

(d) Estimated number of eligible Indian children to be served;

(e) Brief narrative description of proposed program objectives; and

(f) Plan of operation, including:

(1) Organization, methods and procedures to be used to accomplish objectives;

(2) Means and methods to measure progress and accomplishment;

(3) Staffing plan;

(4) Listing of equipment, materials, supplies and facilities currently available to the tribe or tribal organization for purposes of initiating the new school start or program expansion;

(5) A local educational financial plan or proposed budget, in draft form, based upon estimated student enrollment for the first year and the current dollar value of the base in the Indian School Equalization Program Formula;

(6) A clear and well documented estimate of any unusual and temporary start-up costs required, in addition to Indian School Equalization Program formula funds, to initiate the new school start or program expansion for the first year of operation;

(7) An estimate of any construction required for permanent operation of the program or program change, and a copy of the application for facilities construction funding to be submitted in support of the program, if authorized; and

(8) A separate plan for provision of temporary facilities, if such are to be used to support the program, which will meet minimum Federal, state and tribal standards for health, safety, and security, whichever is greater, and standards for facilities for handicapped persons under Pub. L. 94–142. Aspects of this plan may be incorported in computing start-up costs for the first year of the program only.

(g) Evidence that the proposed new school start or program expansion has been reported to the tribe or tribes and Indian communities to be served by the program, and opportunity given to these Indian groups to submit comments, objections, or suggestions for change in the plan.

All such comments received in writing shall be attached to the application.

§ 271.75 Application procedures.

(a) To enable the Bureau to enter appropriate amounts into its appropriations request and to secure appropriations to cover the costs of planned increases in the number of students to be served, applications for new school starts and program expansions under these classifications must be submitted no later than April 1 of the second fiscal year previous to the fiscal year in which the new school start or program expansion is to be initiated. Approval of such applications and authorization of such new school starts or program expansions shall be contingent upon the Bureau receiving adequate additional funding for such purposes.

(b) If appropriated funds for the fiscal year in which the change is to take effect are sufficient to offset the net addition to the total student body funded through the Indian School Equalization Program which results from the inclusion of the previously unserved

students, the Bureau will fund such contingently approved applications for new school starts and program expansions until the additional funds are exhausted. The date of receipt of a complete and approvable application shall be used to determine the priority of such applications for the distribution of the additional appropriated funds.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

TABLE OF REDESIGNATION FOR PART 271

Old	New
*	
§271.15(a) through (d) and (f)	§271.20
§271.15(e)	§271.4(g)
§271.16	§271.14
§271.17	§271.13
§271.27	§271.24
§271.28	§271.25
§271.42	§271.44
§271.46	§271.50
§271.55	§271.42
§271.71	§271.51
§271.72	§271.52
§271.73	§271.53
§271.74	§271.54
§271.76	§271.55
§271.77	§271.56
Subpart F	Subpart E
Subpart G	Subpart F

[FR Doc. 82-24934 Filed 9-10-82; 8:45 am]

BILLING CODE 4310-02-M

25 CFR Part 272

Section 104 Grants Under Indian Self-Determination Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is proposing to amend its regulations on Section 104 Grants under the Indian Self-Determination Act to provide for changes in administrative processes and to establish procedures and definitions consistent with other parts of Subchapter Y of this Chapter.

DATE: Comments must be received on or before November 12, 1982.

ADDRESS: Written comments should be addressed to the Assistant Secretary—Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Dale Heald, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone number (202) 343-4796.

SUPPLEMENTARY INFORMATION: This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Effective March 30, 1982, Parts 271–277 of Subchapter Y, Chapter 1, Title 25 of the Code of Federal Regulations were redesignated as Subchapter M. The final rulemaking document will reflect these changes.

The Bureau of Indian Affairs is amending these regulations to make review, award and administrative processes conform closely with those of Part 271 of this chapter. Certain definitions have been changed to conform with other parts of this chapter.

In Section 272.2, definitions of Commissioner, Area Director and Agency Superintendent are revised to correspond to present organizational structure. Paragraph (h) of § 272.2 is revised to redefine a grant. Two new sections are added at § 272.6, Hearings and appeals and § 272.7, Information collection. Section 274.14 is revised to require use of Standard Form 424, Federal Assistance, as the application form. Section 272.17 is revised to place approval authority at the lowest organizational level having administrative jurisdiction over the applicant. Sections 272.19 and 272.20 are revised to provide award authority at the lowest organizational level having administrative jurisdiction over the applicant.

Section 272.21 is revised to provide new time frames and administrative procedures for processing the application and making the grant award. Section 272.25 is redesignated as § 272.24 and revised to place grant execution and administration authority at the Agency level unless authority is withdrawn by the Commissioner. Sections 272.26 and 272.27 are redesignated as § 272.25 and § 272.26.

Sections 272.32, 272.35 and 272.36 have been removed, since those matters are addressed in Part 276 of this chapter. Sections 272.33 and 272.34 are redesignated as § 272.32 and § 272.33.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed rule.

The information collection requirement(s) contained in Sections 272.4, 272.13 through 272.16, 272.18 and 272.22 will be submitted for provisional clearance to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

The Bureau of Indian Affairs has determined that this document is not a major rule under the criteria established by Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act.

The primary author of this document is Dale Heald, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone number (202) 343-4796.

List of Subjects in 25 CFR Part 272

Grant programs—Indians, Indians—self-determination.

It is proposed to amend 25 CFR Part 272 to read as follows:

PART 272—SECTION 104 GRANTS UNDER INDIAN SELF-DETERMINATION ACT

1. Part 272 is retitled "Section 104 Grants Under Self-Determination Act."

2. The Table of Contents is amended by adding new §§ 272.6, Hearings and Appeals, and 272.7, Information Collection (Reserved), to Subpart A—General Provisions. In Subpart B—Application Process, § 272.19 is retitled as "Agency office review and award action." Sections 272.20 and 272.22 are combined and redesignated as § 272.21, Deadline for Agency and Area office actions. Section 272.21 is redesignated as § 272.20, Area office review and action. Section 272.55 is redesignated as § 272.22, Failure of Agency or Area office to act. Sections 272.25, 272.26 and 272.27 are redesignated as §§ 272.24, 272.25 and 272.26. Sections 272.24, 272.32, 272.35 and 272.36 are removed. Sections 272.33 and 272.34 are redesignated as §§ 272.32 and 272.33. Subpart E—Hearings and Appeals is removed from the table of contents.

Subpart A—General Provisions

3. Section 272.1 is revised to read as follows:

§272.1 Purpose and scope.

The purpose of the regulations in this Part is to establish the application and approval procedures for the award of grants under Section 104(a) of Title I of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638, 88 Stat. 2203). Title I is known as the Indian Self-Determination Act.

4. Paragraphs (c), (e), (h) and (n) of § 272.2 are revised to read as follows:

§ 272.2 Definitions.

* * * * *

(c) "Area Director" means the official in charge of a Bureau of Indian Affairs Area office except that the term means Area Education Programs Administrator with regard to education programs and functions under Area office supervision, and the term means Agency

Superintendent for Education where the functional supervision is retained at the Agency level.

* * * * *

(e) "Commissioner" means the operational head of the Bureau of Indian Affairs, under the direction and supervision of the Assistant Secretary—Indian Affairs, who is responsible for the direction of day-to-day operations of the Bureau of Indian Affairs, except that the term means the Director, Office of Indian Education Programs, with regard to education programs and functions.

* * * * *

(h) "Grant" means an instrument of award, in which substantial involvement is not anticipated, establishing a relationship for the transfer of money, property, or services or anything of value to the recipient to accomplish a public purpose of support or stimulation.

* * * * *

(n) "Superintendent" means the official in charge of a Bureau of Indian Affairs' Agency office except that the term means the Agency Superintendent for Education, with regard to education programs and functions.

* * * * *

5. Section 272.6, Hearings and appeals, is added to read as follows:

§ 272.6 Hearings and appeals.

The hearings and appeals procedures for this part are provided under Part 271, Subpart F of this Title.

6. Section 272.7, Information collection, is added and reserved as follows:

§ 272.7 Information collection. [Reserved]

Subpart B—Application Process

7. Section 272.14 is revised to read as follows:

§ 272.14 Content of application.

(a) An application for a grant under this part shall be made on Standard Form 424, Federal Assistance, as prescribed in 25 CFR 276.16. The short form shall be used except in specific cases where the grants officer determines that, for improved fiscal or program accountability, supplementary pages of Standard Form 424 are required.

(b) Grant applications for funds to be used as matching shares shall prescribe, under Section IV of the Standard Form 424, the grant project for which matching funds are requested. The description shall include:

(1) Name of the grantor Agency,

(2) Amount of grant funds requested,

(3) Proposed beginning and ending dates of the grant, and

(4) A summary description of the grant activity.

* * * * *

8. Sections 272.16, 272.17 and 272.18 are revised to read as follows:

§ 272.16 Request from tribal governing body.

The Bureau shall not make a grant under this part unless specifically and officially requested to do so by a tribal governing body. This request may be in the form of a tribal resolution or such other form as the tribal constitution or current practice requires. A request for a grant to serve more than one tribal governing body shall be supported by a resolution from each governing body involved.

§ 272.17 Grant approval limitations.

(a) *Agency office approval.* Authority for approval of a grant application under this part shall be with the Agency Superintendent when the intent, purpose and scope of the grant proposal pertain solely to an Indian tribe or tribes located within that Agency Superintendent's administrative jurisdiction.

(b) *Area office approval.* Authority for approval of a grant application under this part shall be with the Area Director when the intent, purpose and scope of the grant proposal pertain to Indian tribes representing different Agency office administrative jurisdictions but located within the Area Director's overall administrative jurisdiction.

(c) *Central office approval.* Authority for approval of a grant application under this part shall be with the Commissioner when the intent, purpose and scope of the grant proposal pertain to Indian tribes representing different Area office administrative jurisdictions.

(d) *Grant approvals.* Under this section grant approvals shall be subject to availability of funds. These funds will include those which are:

(1) Directly appropriated for implementation of this Act,

(2) Appropriated under other Acts for Bureau programs which are related to the purposes prescribed in § 272.12.

§ 272.18 Submitting application to Agency office.

An application for a grant under this part shall be initially submitted to the appropriate Superintendent for action as prescribed in § 272.19. When the application will require Area office or Central office approval, it shall be submitted to the Agency Office having the greatest degree of involvement, as determined by the Bureau in the preapplication phase. Initial planning grant applications shall be submitted and acted upon as prescribed in § 272.15(b).

9. Section 272.19 is retitled and revised to read as follows:

§ 272.19 Agency office review and award action.

(a) Approval or disapproval of a grant under this part shall be made by the Superintendent when the intent, purpose and scope of the grant proposal pertain to or involve an Indian tribe or tribes located within the Superintendent's administrative jurisdiction.

(b) Upon receipt of an application for a grant requiring Agency office approval, the Superintendent shall:

(1) Acknowledge in writing receipt of the application within five (5) days of its arrival at the Agency office.

(2) Advise the Area Director of receipt of the application.

(3) Review the application for completeness of information and promptly request any additional information which may be required to make a decision.

(4) Assess the completed application for appropriateness of purpose as prescribed in § 272.12, and for overall feasibility.

(5) Inform the applicant in writing of any special problems or impediments which may result in disapproval of the application. Offer any available technical assistance required to overcome such problems or impediments and solicit the applicant's written response.

(6) Approval or disapprove the application following full assessment.

(c) When an application is received which requires Area or Central office approval, the Agency office shall review the application pursuant to § 272.19(b)(1) through § 272.19(b)(5) and make a recommendation to the Area Director. The application and all related materials shall be forwarded with the recommendation.

10. Sections 272.20 and 272.22 are combined and redesignated as § 272.21, and § 272.21 is redesignated as § 272.20. The newly designated §§ 272.20 and 272.21 read as follows:

§ 272.20 Area office review and action.

(a) Upon receipt of an application for a grant requiring Area office approval, the Area Director shall:

(1) Review the application following the applicable review procedures prescribed in § 272.19(b)(1) through § 272.19(b)(5) and solicit recommendations from the appropriate Superintendents on the merits of the applications.

(2) Approve or disapprove the application following full asessment.

(b) In instances where a joint application is made by tribes representing more than one Area office administrative jurisdiction, the Area Director having the greatest potential involvement shall recommend approval or disapproval and forward the application and recommendation to the Commissioner for further action.

§ 272.21 Deadline for Agency office and Area office actions.

(a) Within thirty (30) days of receipt of a grant application under this part, the receiving official shall approve or disapprove the application, or make a recommendation, pursuant to § 272.19. If the application is disapproved, it shall be immediately returned to the applicant with written notification of the reasons for disapproval.

(b) If the application is approved and the Agency office has jurisdiction over the applicant the following procedures shall apply:

(1) The application shall immediately be forwarded to the Area Director.

(2) The Area Director shall, within thirty (30) days of the application's approval, prepare the grant award documents, including the general and special conditions of award.

(3) The Area Director shall immediately return the prepared grant award documents to the Superintendent.

(4) The Agency Superintendent shall immediately sign and issue the grant award.

(c) If the application is approved and the Area office has jurisdiction over the applicant the following procedures shall apply:

(1) The Area Director shall, within thirty (30) days of approval of the application, prepare the grant award documents, including the general and special conditions of award.

(2) The Area Director shall immediately sign and issue the grant award.

§ 272.55 [Redesignated as § 272.22 and Revised]

11. Section 272.55 is redesignated as § 272.22 and revised as follows:

§ 272.22 Failure of Agency or Area office to act.

Whenever a Superintendent or Area Director fails to take action on a grant application within the time limits established in this part, the applicant may at its option, request action by the next higher Bureau official who has grant approval authority as prescribed in this part. In such instances, the Superintendent or Area Director who failed to act shall immediately forward the application and all related materials to the next higher Bureau official.

12. Paragraphs (e) and (f) are added to § 272.23 to read as follows:

§ 272.23 Central office review and decision.

* * * * *

(e) Return the approved application immediately to the Area Director for processing of the grant award.

(f) Review and decision action by the Commissioner shall be taken within 30 days of receipt of an application for a grant.

13. Section 272.25 is redesignated as § 272.24 and is revised to read as follows:

§ 272.24 Grant execution and administration.

(a) Grants approved pursuant to this part shall be executed and administered at the Agency level unless the authority has been withdrawn by the Commissioner or an authorized representative.

(b) In those cases where the Agency office does not have administrative jurisdiction over all participating tribes, the grant shall be administered by the next higher organizational level which has such jurisdiction.

§§ 272.26 and 272.27 [Redesignated as §§ 272.25 and 272.26]

14. Sections 272.26 and 272.27 are redesignated as §§ 272.25 and 272.26.

§§ 272.24, 272.32, 272.35, and 272.36 [Removed]

15. Sections 272.24, 272.32, 272.35, and 272.36 are removed.

§§ 272.33 and 272.34 [Redesignated as §§ 272.32 and 272.33]

16. Sections 272.33 and 272.34 are redesignated as §§ 272.32 and 272.33.

§§ 272.51 through 272.54—[Removed]

§ 272.55 [Redesignated as § 272.22 and Revised]

17. Sections 272.51 through 277.54 of Subpart E are removed, and § 272.55 is redesignated as § 272.22 and revised.

(Sec. 104, Pub. L. 93–638, 88 Stat. 2207 (25 U.S.C. 450h))

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82–24935 Filed 9–10–82; 8:45 am]

BILLING CODE 4310–02–M

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25 CFR Part 273

Education Grants Under Johnson-O'Malley Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is proposing to revise its regulations for Education grants under the Johnson-O'Malley Act to:

(a) Clarify program and grant requirements;

(b) Provide consistency with other self-determination grant regulations through uniform administrative requirements and appeals procedures;

(c) Incorporate the Distribution Formula previously adopted by tribal vote, and change line authorities as provided by Education Amendments of 1978;

(d) Provide for use of grants instead of contracts pursuant to the Federal Grant and Cooperative Agreement Act of 1977; and

(e) Reorganize the subparts for easier use.

DATE: Comments must be received on or before November 12, 1982.

ADDRESSES: Written comments may be sent by mail or hand carried to the Director, Office of Indian Education Programs, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Room 3512, Washington, D.C. 20240, telephone number (202) 343–2175.

SUPPLEMENTARY INFORMATION: This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

Public Law 95–561, Section 1102, required the Bureau of Indian Affairs to publish alternative methods for the equitable distribution of program funds appropriated under the Snyder Act for distribution under the Johnson-O'Malley Act. A proposed rulemaking document was published in the **Federal Register** (44 FR 13042) on Friday, March 9, 1979, offering the public an opportunity to comment on the revised section.

The final rulemaking document covering 25 CFR 273.31, Distribution Formula, was published in the **Federal Register** (45 FR 9241) on February 11, 1980. Section 273.31, previously entitled Distribution Formula is renumbered in this document as § 273.21 and is now entitled Funding.

The revisions are designed to improve the understanding and administration of programs authorized under the Johnson-O'Malley Act and to identify Information Collection requirements.

Tribes currently must respond to repetitive and overlapping requirements under 25 CFR Parts 271, 273, and 276. The revisions attempt to correct these problems in Part 273.

References to basic operational support are deleted since in recent years funds have only been requested for supplemental programs and tuition payments, and appropriations language has restricted funding to these two programs.

A new provision has been added to § 273.27(c) to clarify the status of school lunch programs for Indian students in public schools following the decision in *Vigil et al. v. Kleppe*, (10th Cir. 1982). Before 1970, the Bureau of Indian Affairs under the Johnson-O'Malley Act, 25 U.S.C. 452 *et seq.*, provided school lunches to Indian students in public schools. After 1970, the Bureau discontinued its Johnson-O'Malley school lunch programs, and the United States Department of Agriculture began to provide school lunches to eligible Indian students in public schools under the National School Lunch Act, 42 U.S.C. § 1751–1774, 1824. In 1975, the Johnson-O'Malley Act was amended, 25 U.S.C. 456, to require that Indian school boards, or, in the absence of an Indian school board, a committee of Indian parents, approve or disapprove programs to be conducted under Johnson-O'Malley contracts. Sec. 273.27(c) will make clear that the only school lunch programs for Indian students in public schools are those operated by USDA pursuant to the National School Lunch Act and those approved by Indian school boards or by Indian parent committees pursuant to the Johnson-O'Malley Act.

The Federal Grant and Cooperative Agreement Act of 1977, Public Law 95–224, 41 U.S.C. 501 *et seq.*, provides that Federal assistance instruments, either grants or cooperative agreements, be used for the delivery of Federal assistance when the principal purpose is to accomplish a public purpose of support or stimulation authorized by Federal statute. Accordingly, these regulations are being revised to provide for the use of grants instead of contracts. This is a technical change in form; substantive rights and obligations are not being altered by this change from contracts to grants.

Effective March 30, 1982, Parts 271–277 of Subchapter Y, Chapter 1, Title 25 of the Code of Federal Regulations were redesignated as Subchapter M. The final rulemaking document will reflect those changes.

Overview of Proposed Part 273—Education Grants Under Johnson-O'Malley Act Regulations

The regulations consist of four subparts. Subpart A outlines the General Provisions for the programs. Subpart B outlines Supplemental Programs including eligibility, tribal grant requirements, application procedures and review, and the role of the Indian Education Committee (IEC). Subpart C outlines Student Tuition Programs including eligibility. Subpart D outlines General Grant Requirements.

Subpart A contains revised definitions for Commissioner, Area Director and Agency Superintendent. Definitions have been added for Education Line Officers and Federal Grant and Cooperative Agreement Act. The Table of Contents for this Subpart has been amended by adding a new § 273.6, Information Collection.

Subpart B contains revised application procedures for supplemental programs. This includes content, pre-application technical assistance, review and approval. A new paragraph (e) of § 273.23 provides for annual training programs to be conducted by Area Offices.

Subpart C is a new subpart, Student Tuition Programs. New sections have been added to include cost and placement.

Subpart D is retitled General Grant Requirements. Sections 273.43, 273.45, 273.47 through 273.49, 273.51, 273.53 and 273.54 are redesignated as § 273.40, Applicability of administrative requirement.

Subpart E has been removed. The Grant revision and amendment provisions appear at §273.26 and the Cancelling a grant for cause provisions appear at § 273.44.

Subpart F, Appeals, is redesignated as § 273.42, Hearing and Appeals, under Subpart D.

The Information Collection requirement(s) contained in §§ 273.5, 273.13, 273.15 through 273.18, 273.21 through 273.27 and 273.40 through 273.43, have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

The policy of the Bureau of Indian Affairs is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act.

The primary author of this document is Maribel Printup, Bureau of Indian Affairs, Office of Indian Education Programs, telephone number (202) 343–8657.

List of Subjects in 25 CFR Part 273

Government contracts, Grant programs—Indians, Indian-education, Indians-self-determination.

It is proposed to revise Part 273 of Subchapter M, Chapter I of Title 25 of the Code of Federal Regulations to read as follows:

PART 273—EDUCATION GRANTS UNDER JOHNSON-O'MALLEY ACT

Subpart A—General Provisions

Sec.

273.1 Purpose and scope.
273.2 Definitions.
273.3 Revision or amendment of regulations.
273.4 Policy of maximum Indian participation.
273.5 Eligible students.
273.6 Information collection. [Reserved]

Subpart B—Supplemental Programs

273.11 Purpose and scope.
273.12 Eligible applicants.
273.13 Tribal grant agreements.
273.14 Obtaining application forms.
273.15 Pre-application technical assistance.
273.16 Content of grant application.
273.17 Submitting an application.
273.18 Application review procedure.
273.19 Grant approval and deadline for Bureau Action.
273.20. Grand award.
273.21 Funding.
273.22 Indian Education Committee.
273.23 Establishment of an Indian Education Committee.
273.24 Powers and duties of the Indian Education Committee.
273.25 Education Plan.
273.26 Program revisions and amendments.
273.27 Use of other Federal, State and local funds.
273.28 Equal quality and standards of education.
273.29 Use of funds outside of schools.

Subpart C—Student Tuition Programs

273.30 Eligible proposals.
273.31 Per student cost.
273.32 Appropriate placement.
273.33 Capital outlay or debt retirement.

Subpart D—General Grant Requirements

273.40 Applicability of administrative requirements.
273.41 Annual reporting.
273.42 Hearings and appeals.
273.43 Liability and motor vehicle insurance.
273.44 Canceling a grant for cause.
273.45 Use and transfer of Government property.
273.46 State school laws.
273.47 Civil Rights Act violations.

Authority: 25 U.S.C. 452–456; Section 202, Pub. L. 93–638, 88 Stat. 2203, Pub. L. 95–561, Section 1102 (a) and (b), and 41 U.S.C.

Section 501, Pub. L. 95–224, 92 Stat. 3, unless otherwise noted.

Subpart A—General Provisions

§ 273.1 Purpose and scope.

(a) The purpose of the regulations in this part is to set forth the application and approval process for education grants under the Johnson-O'Malley Act. Such grants shall be for the purpose of financially assisting those efforts designed to meet the specialized and unique educational needs of eligible Indian students, including programs supplemental to the regular school program.

(b) The application and approval process in this part applies specifically to grant agreements with a State, school district, or Indian corporation. Tribal governments and tribal organizations requesting a grant shall proceed under 25 CFR Part 271.

(c) Grant agreements with tribal organizations for supplemental programs will be entered into only upon the request of a tribal governing body(s), and shall be subject to the provisions of Part 271 of this chapter, as well as §§ 273.5, 273.13, 273.21, 273.22, 273.24, 273.25, 273.26 and Part 276.

(d) Nothing in these regulations shall be construed as:

(1) Affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian tribe;

(2) Authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people; or,

(3) Permitting significant reduction in services to Indian people as a result of this part.

(e) Nothing in these regulations shall be construed to mandate an Indian tribe to request a contract or contracts. Such requests are strictly voluntary.

§ 273.2 Definitions.

As used in this part:

(a) "Area Director" means the official in charge of a Bureau of Indian Affairs Area Office except that the term means Area Education Programs Administrator, with regard to education programs and functions.

(b) "Bureau" means the Bureau of Indian Affairs.

(c) "Commissioner" means the operational head of the Bureau of Indian Affairs, under the direction and supervision of the Assistant Secretary—Indian Affairs, except that the term means the Director, Office of Indian Education Programs, with regard to education programs and functions.

(d) "Days" means calendar days.

(e) "Education line officer" means the Agency Superintendent for Education, or Area Education Program Administrator when a Superintendent for Education is not assigned at the Agency or the grant serves tribes from more than one Agency.

(f) "Education Plan" means a comprehensive plan of operation for the programmatic and fiscal services of and accountability by a grantee for the education of eligible Indian students.

(g) The "Federal Grant and Cooperative Agreement Act" means the Act of February 3, 1978 (92 Stat. 3) which requires that the legal instrument of Federal assistance for the purposes stated in Section 202 of Public Law 93–638 be changed from procurement contracts to assistance agreements.

(h) "Indian Education Committee" means one of the entities specified by § 273.23.

(i) "Indian tribe" means any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony or Community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is federally recognized as eligible by the United States Government through the Secretary for the special programs and services provided by the Secretary to Indians because of their status as Indians.

(j) "Indian corporation" means a legally established organization of Indians chartered under State or Federal law and which is not included within the definition of "tribal organization" given in paragraph (v) of this section.

(k) "Indian" means a person who is a member of an Indian tribe.

(l) "Johnson-O'Malley Act" means the Act of April 16, 1934 (48 Stat. 596), as amended by the Act of June 4, 1936 (49 Stat. 1458, 25 U.S.C. 452–456), and further amended by the Act of January 4, 1975 (88 Stat. 2203), and Public Law 95–561, Sections 1102 and 1103 (92 Stat. 2144).

(m) "Pub. L. 93–638" means the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638; 88 Stat. 2203).

(n) "Previously private school" means a school (other than a Federal school formerly operated by the Bureau) that is operated primarily for Indian students from age 3 years through grades 12; and which at the time of application is controlled, sanctioned, or chartered by the government body(s) of an Indian tribe(s).

(o) "Reservation" or "Indian Reservation" means any Indian tribe's reservation, Pueblo, Colony, or Rancheria, including former reservations in Oklahoma, Alaska Natives regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments.

(p) "School district" or "local education agency" means that subdivision of the State which contains the public elementary and secondary educational institutions providing educational services and is controlled by a duly elected board, commission, or similarly constituted assembly.

(q) "Secretary" means the Secretary of the Interior.

(r) "State" means a State of the United States of America or any political subdivision of a State.

(s) "Superintendent" means the official in charge of a Bureau of Indian Affairs' Agency office except that the term means the Agency Superintendent for Education, with regard to education programs and functions.

(t) "Supplemental programs" means those programs designed to meet the specialized and unique educational needs of eligible Indian students as defined by the local Indian community through the Indian Education Committee which may have resulted from socio-economic conditions of the parents, from cultural or language differences or other factors. Program guidelines are contained in § 273.25, Education Plan.

(u) "Tribal government", "tribal governing body" and "tribal Council" means the recognized governing body of an Indian tribe.

(v) "Tribal organization," means the recognized governing body of any Indian tribe or any legally established organization of Indians or tribes which is controlled, sanctioned, or chartered by such governing body or bodies, or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; *Provided*, That a request for a grant must be made by the Indian tribe that will receive services under the grant; *Provided further*, That in any case where a grant is let to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be prerequisite to the letting of such grant.

§ 273.3 Revision or amendment of regulations.

In order to make any substantive revision or amendments to regulations in this part, the Secretary shall take the following actions:

(a) Annually consult with Indian tribes, Indian Education Committees, and national and regional Indian

organizations to the extent practicable about the need for revision or amendment and consider their views in preparing any proposed revision or amendment.

(b) Publish the proposed revisions or amendments in the **Federal Register** as proposed rulemaking to provide adequate notice to, and receive comments from, all interested parties.

(c) After consideration of all comments received, publish the regulations in the **Federal Register** in final form not less than 30 days before the date they are made effective.

(d) Nothing in this section shall preclude Indian tribes or national or regional Indian organizations from initiating request for revisions or amendments subject to paragraphs (a), (b), and (c) of this section.

§ 273.4 Policy of maximum Indian participation.

The meaningful participation in all aspects of educational program development and implementation by those affected by such programs is an essential requisite for success. Such participation not only enhances program responsiveness to the needs of those served, but also provides them with the opportunity to determine and affect the desired level of educational achievement and satisfaction which education can and should provide. Consistent with this concept, maximum Indian participation in the development, approval, and implementation of all programs granted under this part shall be required.

§ 273.5 Eligible students.

Indian children from age 3 years through grade(s) 12, except those enrolled in Bureau or sectarian-operated schools shall be eligible for benefits if they are ¼ or more degree Indian blood and recognized by the Secretary as being eligible for Bureau services.

§ 273.6 Information collection. [Reserved]

Subpart B—Supplemental Programs

§ 273.11 Purpose and scope.

(a) The purpose of the regulations in this subpart is to set forth the application and approval process for Supplemental Education Programs designed to meet the specialized and unique educational needs of Indian children, to establish the funding process for such programs, and to describe the grant procedures necessary to implement such programs.

(b) Priority will be given to proposals which will serve eligible students who live on or near a reservation, and where a majority of such Indian students will be members of the tribes of such reservations. The "on or near" population of a reservation will be determined by each Area Education Program Administrator in consultation with the Area Director and each affected tribe.

§ 273.12 Eligible applicants.

(a) Any tribal governing body, tribal organization, State, school district, or Indian corporation is eligible to submit a grant application for the purposes of this subpart.

(b) No grant funds under the Johnson-O'Malley Act shall be made available by the Bureau directly to other than tribal organizations, States, school districts and Indian corporations. However, tribal organizations, States, school districts, and Indian corporations receiving funds under this part may use the funds to sub-grant or contract for necessary services with any appropriate individual, organization or corporation.

§ 273.13 Tribal grant agreements.

(a) If a tribal governing body desires to be the grantee, it shall have preference for such a grant if it so notifies the Director, Office of Indian Education Programs, before February 1 preceding the school year to be served by the grant. Such notification is not necessary annually for grant renewal purposes and for grants with multi-year terms. If the February 1 date is passed without the tribal notification, the tribe may still be considered equally with all other eligible grantees until such time as the grant agreement is signed.

(b) Before a tribal organization is awarded a grant, it shall establish an Indian Education Committee with such powers and duties as delegated by the tribal organization, in compliance with section 202 "Sec. 5(a)" of Pub. L. 93–638 which gives full approval authority to such committees.

(c) Applications submitted by tribal governing bodies or tribal organizations shall be governed by the provisions of 25 CFR Part 271; however, tribal grantees must also comply with §§ 273.5 (Eligible Students), 273.13 (Tribal grant agreements), 273.21 (Funding), 273.22 (Indian Education Committee), 273.24 (powers and duties of the Indian Education Committee), 273.25 (Education Plan), 273.26 (Programs revisions and amendments), and Part 276. No other sections in this part will apply to grants with tribal governing bodies or tribal organizations. The education plan requirement of this subpart, which is submitted as a part of the tribal application, shall take the place of the plan of operating the program(s) required under § 271.16 (d)(1)(i)–(iii).

(d) The provisions in § 271.51 through § 271.56 concerning retrocession and reassumption of programs do not apply to a tribal organization retroceding a grant for supplemental programs, as the Bureau does not operate education programs authorized to be granted under Johnson-O'Malley Act. However, the tribal organization may retrocede such a grant agreement and the Bureau will then enter a grant agreement with a state, school district, or Indian corporation for the supplemental programs.

§ 273.14 Obtaining application forms.

Application forms, SF–424, "Federal Assistance", shall be used, and are available from Agency and Area Education personnel and the Director of the Office of Indian Education Programs.

§ 273.15 Pre-application assistance.

Upon request of the proposed grantee the Bureau shall provide technical assistance in:

(a) Developing an effective education plan to meet the needs of the eligible Indian students.

(b) Preparing technical parts of the grant application.

(c) Such other areas as may be requested including providing support to the Indian Education Committee in its participation in the planning and development of an application.

§ 273.16 Content of grant application.

Application for a grant under this Part shall be prepared in accordance with § 276.16 of this Chapter. Part IV of the application form SF 424, Federal Assistance, shall include:

(a) The education plan as described in § 273.25.

(b) Name, address, and telephone numbers of the chairperson and current members of the Indian Education Committee. Copies of organizational documents and bylaws, or any modifications, if not already on file. See § 273.23(d).

(c) Assurances that:

(1) The grantee shall comply in full with the requirements concerning meaningful participation with the Indian Education Committee as required by § 273.4 and described in § 273.22, § 273.23, and § 273.24.

(2) Education facilities receiving funds shall be open to visits and consultations by the Indian Education Committee(s), tribal representatives, Indian parents in the community, and by duly authorized representatives of the Federal and State governments.

§ 273.17 Submitting an application.

(a) The completed application for services under this subpart shall be submitted to the appropriate Education Line Officer serving the eligible Indian students.

(b) The application must be submitted by July 1 preceding the school year for which assistance is requested.

§ 273.18 Application review procedure.

Upon receiving a grant application, the Education Line Officer shall:

(a) Notify the applicant in writing that the application has been received. This notice shall be made within five (5) days after the office receives the application.

(b) Review the application for completeness and compliance with program requirements. If necessary, request within fifteen (15) days any additional information from the applicant which will be needed or make recommendations for changes to produce an acceptable grant agreement.

§ 273.19 Grant approval and deadline for Bureau action.

(a) The Education Line Officer shall approve or disapprove an application for a grant within thirty (30) days after the Education Line Officer receives the completed application including any additional information and/or recommended changes. The thirty (30) day deadline can be extended after obtaining the written consent of the applicant.

(b) If the Education Line Officer cannot approve an application, he/she must decline the application and so notify the applicant. The notice shall be in writing and shall identify the specific reason that the grant cannot be entered into and specific recommendations on actions required by the applicant to overcome the deficiencies.

(c) An application under this subpart cannot be approved before February 1, preceding the school year for which the grant will be let.

§ 273.20 Grant award.

The Education Line Officer and Granting Officer shall negotiate a grant, subject to the availability of funds, for an approved application within thirty (30) days after notification of an approval of an application unless a later date is requested by an applicant. Actual award of the grant is the responsibility of the cognizant Granting Officer.

§ 273.21 Funding.

(a) Funds shall be distributed to eligible grantees based upon the number of eligible Indian students to be served times twenty-five percent (25%) of the higher of the State or national average per pupil operating cost.

Notwithstanding any other provisions of the law, Federal funds appropriated for the purpose shall be allotted pro rata in accordance with the distribution method outlined in this formula.

(b) The Director, Office of Indian Education programs, may make exceptions to the provisions of paragraph (a) of this section based on the special cultural, linguistic, social or educational needs of the communities involved including the actual cost of education in the community only after consultation with all tribes who may be affected by such exceptions.

(c) All monies provided by a grant pursuant to this part, shall be expended only for the benefit of eligible Indian students. Where students other than eligible Indian students participate in programs granted under this part, money expended under such grant shall be prorated to cover the participation of only the eligible Indian students, except where the participation of non-eligible students is so incidential as to be de minimus. Such de minimus participation must be approved by the Indian Education Committee.

§ 273.22 Indian Education Committee.

(a) Every applicant shall have an Indian Education Committee. Such Committee shall participate fully in the development of, and shall have the authority to approve or disapprove, all programs and services to be conducted under grants authorized.

(b) The existence of an Indian Education Committee shall not limit the continuing participation of the rest of the Indian community in all aspects of programs provided.

§ 273.23 Establishment of an Indian Education Committee.

(a) When a school district to be affected by a grant(s) for the education of Indians has a local school board not composed of a majority of Indians, the tribal governing body(s) of the Indian tribe(s) affected by the grant(s) under this part shall specify one of the following entities to serve as the Indian Education Committee:

(1) An Indian Education Committee to be elected from among the parents (including persons acting *in loco parentis* except school administrators or employees) of eligible Indian students enrolled in the school(s) affected by a grant under this part.

(2) A local Indian committee established pursuant to Section 305(b)(2)(B)(ii) of the Act of January 23, 1972 (86 Stat. 235) and existing prior to January 4, 1975;

(3) An Indian school board or Indian Education Committee established pursuant to the Johnson-O'Malley Act and existing prior to January 4, 1975.

(b) When a school district to be affected by a grant has a local school board composed of a majority of Indians, that board may, at its option, act as, or cause to be established, an Indian Education Committee.

(c) When a school district is not affected by a grant(s), the proposed grantee shall cause to be established an Indian Education Committee. Such Committee shall be composed of parents of Indian students elected by the parents of children to be served. A school shall be affected by a grant where it assumes grantee or sub-grantee responsibilities for the implementation of a program under this subpart.

(d) The Indian Education Committee established under paragraphs (a), (b) or (c) of this section and its members shall establish procedures under which the Committee shall serve. Such procedures shall be set forth in the Committee's organizational documents and bylaws. Each Committee shall file a copy of its organizational documents and bylaws, and any future modifications, with the appropriate Education Line Officer, together with a list of its officers and members as soon as practicable after the Committee is organized.

(e) Each Area shall conduct annual training programs for Johnson-O'Malley Indian Education Committees which shall focus upon:

(1) The powers and duties of Indian Education Committees;

(2) The relationship between the Indian Education Committee and the grantee;

(3) Johnson-O'Malley program regulations;

(4) Conducting needs assessments;

(5) Designing an Education Plan;

(6) Conducting program evalutions;

(7) Improving the operation of an education Committee; and

(8) Such other topics as deemed appropriate by the Indian Education Committees within that area.

§ 273.24 Powers and duties of the Indian Education Committee.

(a) Consistent with section 202 "Sec. 5.(a)" of Public Law 93–638, tribal grantees shall delineate in writing the powers and duties of the Indian Education Committee.

(b) Consistent with the purpose of the Indian Education Committee, each such Committee shall be vested with the authority to:

(1) Participate fully in the planning, development, implementation, and

evaluation of all programs conducted under a grant or grants pursuant to this part. Such participation shall include further authority to:

(i) Recommend curricula, including texts, materials, and teaching methods to be used in the grant program or programs;

(ii) Approve budget prepartion and execution;

(iii) Recommend criteria for employment in the program;

(iv) Nominate a reasonable number of qualified prospective educational programmatic staff members from which the grantee would be required to select;

(v) Evaluate staff performance and program results as specified in the education plan and recommend appropriate action to the grantee;

(vi) Make an annual assessment of the learning needs of Indian children in the community affected;

(vii) Have access to all reports, evaluations, surveys, and other program and budget related documents determined necessary by the Committee to carry out its responsibilities subject only to the provisions of the Freedom of Information Act.

(viii) Request periodic reports and evaluations regarding the Indian education program;

(ix) Hear grievances related to programs in the education plan; and,

(x) Hold committee meetings on a regular basis which are open to the public.

(2) Approve and disapprove all programs in the grant. All programs in the grant shall require the prior approval of the appropriate Indian Education Committee.

(3) Secure a copy of the negotiated grant(s) which include the program(s) and budgets which have been approved by the Indian Education Committee.

(4) Recommend to the Director, Office of Indian Education Programs, through the appropriate Bureau Education Line Officer cancellation or suspension of a grant(s) which contains the program(s) approved by the Indian Education Committee if the grantee fails to permit such Committee to exercise its powers and duties as specified by this section.

(5) Participate in negotiations concerning all grants.

(6) Meet regularly with the professional staff serving Indian children and with the local education agency.

(7) Have such additional powers as are consistent with these regulations.

(c) Programs developed or approved by the Indian Education Committee may, at the option of such Committee, include funds for the performance of Committee duties, including the following:

(1) Members' attendance at regular and special meetings, workshops and training sessions, as the Committee deems appropriate.

(2) Such other reasonable expenses incurred by the Committee in performing its primary duties, including the planning, development, implementation and evaluation of the program.

§ 273.25 Education plan.

(a) Every applicant for grant programs shall prepare, in consultation with its Indian Education Committee(s), an education plan to be included in Part IV of the application form SF 424, "Federal Assistance", that shall describe supplemental programs and contain educational objectives which adequately address the unique and specialized educational needs of the Indian students who are to be beneficiaries of the grant and assure that the grant is capable of meeting such objectives. The plan shall include:

(1) *Justification of need.* (i) Describe problems and concerns to be addressed by each component of the program, and a brief description of the community(s), school(s) and students to be served.

(ii) Identify data source used to identify each need. Include number of students and grades demonstrating that need.

(2) *Objectives and implementation.* (i) Describe methods, activities or services to achieve objectives, including personnel and costs.

(ii) State objective(s) in performance and measurable terms for each component.

(iii) Provide time frames in meeting objectives.

(3) *Budget and administration.* (i) Develop line item budget justification.

(ii) Describe staff organization and responsibilities.

(4) *Evaluation.* Describe procedures or methods to be used for comparing actual accomplishments to established objectives within the stated time period.

(b) The educational plan shall also include:

(1) Total number, age, grade level and tribal affiliation of eligible students to be served.

(2) Other sources of Federal educational funding being received, amount from each, objectives of programs being funded, and number of eligible students served by such funding.

(3) Total number of employees and total number of Indian employees.

(4) Procedures for hearing grievances relating to the grant program(s) under this part. Such procedures shall provide for adequate advance notice.

(5) Approval of the Indian Education Committee.

§ 273.26 Program revisions and amendments.

(a) All requests for revisions and amendments to grant agreements for programs under this part shall be submitted to the Education Line Officer and shall:

(1) Be developed and approved in full compliance with the powers and duties of the Indian Education Committee as set out in § 273.24 and as may be contained in the Committee's organizational documents and bylaws.

(2) Be included as a part of the education plan provided for in § 273.25.

(b) No program grant pursuant to this part shall be changed from the time of its original approval by the Indian Education Committee to the end of the grant period without the prior approval, in writing, of the Committee.

§ 273.27 Use of other Federal, State and local funds.

(a) Grant funds shall supplement and not supplant Federal, State and local funds. Each grant agreement shall require that the use of these grant funds will not result in a decrease in State, local, or Federal funds which would be made available for Indian students if there were no funds under this part.

(b) State, local and other Federal funds must be used to provide comparable services to non-Indian and Indian students prior to the use of grant funds.

(c) Except as hereinafter provided, the school lunch program of the United States Department of Agriculture (USDA) shall constitute the only school lunch program for Indian students in public schools. Where USDA school lunches are not available to Indian students in public schools because such students do not qualify for the USDA program, plans prepared pursuant to § 273.25 may provide, to the extent of funding available for Johnson-O'Malley programs, for school lunches for those students who do not qualify for the USDA lunch program but who are eligible students under § 273.5.

§ 273.28 Equal quality and standards of education.

Grant agreements with State education agencies or school districts receiving funds under the provisions of this part shall provide educational opportunities to all Indian children within that school district on the same terms and under the same conditions that apply to all other students, provided that it will not affect the rights of eligible Indian children to receive

benefits from the supplemental programs as provided for in this part. School districts receiving funds under this part must insure that Indian children recieve all aid from the State and other proper sources other than this grant which other schools in the district and other school districts similarly situated in the State are entitled to receive. In no instance shall there be discrimination against Indians or schools enrolling such Indians.

§ 273.29 Use of funds outside of schools.

Nothing in these regulations shall prevent the Director, Office of Indian Education Programs, from making grant agreements with Indian corporations, tribal governing bodies, and tribal organizations that will expend all or part of the funds in places other than the public or previously private schools in the community affected.

Subpart C—Student Tuition Programs

§ 273.30 Eligible proposals.

At his/her discretion, the Director, Office of Indian Education Programs, may consider as eligible a proposal for a grant under which a school district may be reimbursed for the full per capita costs of educating Indian students who meet all of the following.

(a) Are members of recognized Indian tribes.

(b) Do not normally reside in the State in which the school district is located.

(c) Are residing in Federal boarding facilities for the purpose of attending public schools within the school district.

§ 273.31 Per student cost.

The Determination of the appropriate cost per student will be made in negotiations between the educating institution and the Bureau of Indian Affairs.

§ 273.32 Appropriate placement.

Each Agency or Area Office making a placement in a Federal boarding facility shall assure that the child cannot be appropriately served in and educational program available locally.

§ 273.33 Capital outlay or debt retirement.

In no instance shall grant funds provided under this part be used as payment for capital outlay or debt retirement expenses; except that such costs are allowable if they are considered to be a part of the full per capita costs of educating eligible Indian students who reside in Federal boarding facilities for the purpose of attending public schools.

Subpart D—General Grant Requirements

§ 273.40 Applicability of administrative requirements.

The provisions of 25 CFR 276 establishing uniform administrative requirements and cost principles shall apply to grants under this part. Special grant conditions more restrictive than those required under Part 276 may be imposed where the Bureau determines that a grantee:

(a) Has repeatedly violated established grant performance requirements.

(b) Has management systems which do not meet the standards in Part 276. When special conditions are imposed, the grantee will be notified in writing of:

(1) Why the special conditions were imposed, and

(2) What corrective action is needed.

§ 273.41 Annual reporting.

(a) A grantee under this part shall make a detailed annual report to the approving Education Line Officer within ninety (90) days after the end of the grant year covering the previous shool year. The report shall include, but not be limited to, an accounting of the amounts and purposes for which the grant funds were expended, information on the conduct of the program, a quantitative evaluation of the effectiveness of the grant program in meeting the stated objectives contained in the grantee's educational plans, and a complete accounting of actual receipts at the end of the grant period.

(b) In addition to the yearly reporting requirement given in paragraph (a) of this section, the grantee shall furnish other grant-related reports when and as required by the Education Line Officer or the Director of the Office of Indian Education Programs.

(c) A grantee under this part shall send copies of the reports required by paragraphs (a) and (b) of this section to the Indian Education Committee(s) and to the tribe(s) affected by the grant at the same time as the reports are sent to the Bureau.

§ 273.42 Hearings and Appeals.

Applicants and grantees may appeal an adverse Bureau decision or action under this part as provided in Subpart F of Part 271 of this chapter.

§ 273.43 Liability and motor vehicle insurance.

(a) States, school districts and Indian corporations shall obtain public liability insurance under grant agreements entered into with the Bureau. However, where the Education Line Officer determines that the risk of death, personal injury or property damage under the grant is small and that the time and cost of procuring the insurance is preat in relation to the risk, the grantee may be exempted from this requirement.

(b) Notwithstanding paragraph (a) of this section, any grant which requires or authorizes, either expressly or by implication, the use of motor vehicles must contain a provision requiring the State, school district, or Indian corporation to provide liability insurance, regardless of how small the risk.

(c) If the public school authority is self-insured and can present evidence of that fact to the Education Line Officer, liability and motor vehicle insurance will not be required.

§ 273.44 Cancelling a grant for cause.

(a) Any grant entered into under this part may be cancelled for cause when the grantee fails to perform the work called for under the grant or fails to permit an Indian Eduction Committee to perform its duties pursuant to this part.

(b) Before cancelling the grant, the Bureau will advise the grantee in writing of the following:

(1) The reasons why the Bureau is considering cancelling the grant.

(2) The grantee will be given an opportunity to bring its work up to an acceptable level.

(c) If the grantee does not overcome the deficiencies in its grant performance, the Bureau shall cancel the grant for cause. The Bureau will notify the grantee, in writing, of the cancellation. The notice shall give the reasons for the cancellation and the right of the grantee to appeal under Subpart F of Part 271 of this chapter.

(d) When a grant is cancelled for cause, the Bureau will attempt to perform the work by another grant.

(e) Any grantee that has a grant cancelled for cause must demonstrate that the cause(s) which led to the cancellation have been remedied before it will be considered for another grant.

§ 273.45 Use and transfer of Government property.

(a) The use of Government-owned facilities for school purposes may be authorized when not needed for Government activities. Transfer of title to such facilities (except land) may be arranged under the provisions of the Act of June 4, 1953 (67 Stat. 41) subject to the approval of the tribal government if such property is located on a reservation.

(b) In carrying out a grant made under this part, the Area Director or Commissioner may, with the approval of

the tribal government, permit a grantee to use existing buildings, facilities, and related equipment and other personal property owned by the Bureau within his/her jurisdiction under the terms and conditions agreed upon for their use and maintenance. The property at the time of transfer must conform to the minimum standards established by the Occupational Safety and Health Act of 1970 (84 Stat. 1590), as amended (29 U.S.C. 651). Use of Government property is subject to the following conditions:

(1) When nonexpendable Government property is turned over to public school authorities or Indian corporations under a use permit, the permittee shall insure such property against damage by flood, fire, rain, windstorm, vandalism, snow, and tornado in amounts and with companies satisfactory to the Federal officer in charge of the property. In case of damage or destruction of the property by flood, fire, rain, windstorm, vandalism, snow or tornado, the insurance money collected shall be expended only for repair or replacement of property. Otherwise, insurance proceeds shall be paid to the Bureau.

(2) If the public school authority is self-insured and can present evidence of the fact to the Area Director or Commissioner, insurance for lost or damaged property will not be required. However, the public school authority will be reponsible for replacement of such lost or damaged property at no cost to the Government or for paying the Government enough to replace the property.

(3) The permittee shall maintain the property in a reasonable state of repair consistent with the intended use and educational purposes.

(c) The grantee may have access to existing Bureau records needed to carry out a grant under this Part, as follows:

(1) The Bureau will make the records available subject to the provisions of the Freedom of Information Act (5 U.S.C. 552), as amended by the Act of November 21, 1974 (Pub. L. 93–502, 88 Stat. 1561).

(2) The grantee may have access to needed Bureau records at the appropriate Bureau office for review and making copies of selected records.

(3) If the grantee needs a small volume of identifiable Bureau records, the Bureau will furnish the copies to the grantee.

§ 273.46 State school laws.

Pursuant to 25 U.S.C. Sec. 231, State employees may be permitted to enter upon Indian tribal lands, reservations, or allotments if the duly-constituted governing body of the tribe adopts a resolution of consent for the following purposes:

(a) Inspecting school conditions in the public schools located on Indian tribal lands, reservations, or allotments.

(b) Enforcing State compulsory school attendance laws against Indian children, parents or persons standing in *loco parentis.*

§ 273.47 Civil Rights Act violations.

In no instance shall there be discrimination against Indians or schools enrolling such Indians. When informed by a complainant or through its own discovery that possible violation of Title VI of the Civil Rights Act of 1964 exists within a State school district receiving funds under this part, the Department of the Interior shall, in accordance with Federal requirements, notify the Department of Education's Office of Civil Rights of the possible violation of Title VI. The Office of Civil Rights will conduct an investigation into the matters alleged. If the investigation discloses a failure or threatened failure to comply with this part, and if the non-compliance cannot be corrected by informal means opportunity for a hearing will be provided pursuant to 43 CFR 17.7, 17.8 and 17.9. Compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue financial assistance under the Johnson-O'Malley Act or by any other means authorized by law. As delineated in 43 CFR 17.7, such other means may include reference to the Department of Justice with a recommendation that appropriate legal proceedings be brought by the United States to secure compliance.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

REDESIGNATION TABLE FOR 25 CFR PART 273

Old sections or paragraphs	New sections or paragraphs
273.2 (e)	Removed.
273.2 (g)	273.2 (i).
273.2 (h)	273.2 (j).
273.2 (i)	273.2 (h).
273.2 (j)	273.2 (k).
273.2 (k)	273.2 (l).
273.2 (l)	Removed.
273.3 (a) & (d)	273.3 (a).
273.3 (e)	273.3 (d).
273.11 (a), (b)	273.12 (a).
273.11 (c) (1)–(4)	273.13 (c), (d).
273.11 (c)(5)	Removed.
273.12 (1st sent.)	273.5.
273.12 (2nd sent.)	273.11 (b).
273.13 (a)	Removed.
273.13 (b)(1) (i)–(vii)	Removed.
273.13 (b)(2)	Removed.
273.13 (c)	273.30 Intro.
273.13 (c)(1)	273.30 (a).
273.13 (c)(2)	273.30 (b).
273.13 (c)(3)	273.30 (c).
273.14 Intro.	273.25 (a).
273.14 (a)	273.25 (a).
273.14 (b)	Removed.
273.15 (a)	273.23 (a).
273.15 (a)(1)	273.23 (a)(1).
273.15 (a)(2)	273.23 (a)(2).
273.15 (a)(3)	273.23 (a)(3).
273.15 (b)	Removed.
273.15 (c)	273.23 (d).
273.15 (d)	273.22 (d).
273.16 (a)	273.24 (b).
273.16 (a)(1)	273.24 (b)(1).
273.16 (a)(1)(i)	273.24 (b)(1)(i).
273.16 (a)(1)(ii)	273.24 (b)(1)(ii).
273.16 (a)(1)(iii)	273.24 (b)(1)(iii).
273.16 (a)(1)(iv)	273.24 (b)(1)(iv).
273.16 (a)(1)(v)	273.24 (b)(1)(v).
273.16 (a)(2)	273.24 (b)(2).
273.16 (a)(3)	273.24 (b)(3).
273.16 (a)(4)	273.24 (b)(4).
273.16 (b)	Removed.
273.16 (b)(1)	273.24 (b)(5).
273.16 (b)(2)	273.24 (b)(1)(vi).
273.16 (b)(3)	273.24 (b)(1)(vii).
273.16 (b)(4)	273.24 (b)(1)(viii).
273.16 (b)(5)	273.24 (b)(1)(ix).
273.16 (b)(6)	273.24 (b)(6).
273.16 (b)(7)	273.24 (b)(1)(x).
273.16 (b)(8)	273.24 (b)(7).
273.17 (a)	Removed.
273.17 (a)(1)	273.26 (a)(1).
273.17 (a)(2)	273.26 (a)(2).
273.17 (b)	273.26 (b).
273.17 (c)	273.24 (c).
273.17 (c)(1)	273.24 (c)(1).
273.17 (c)(2)	273.24 (c)(2).
273.18 Intro.	273.25 (a).
273.18 (a)	273.25 (a).
273.18 (b)	Removed.
273.18 (c)	273.25 (b)(4).
273.18 (d)	Removed.
273.18 (e)	Removed.
273.18 (f)	273.16 (c)(1).
273.18 (g)	273.16 (c)(2).
273.18 (h)	273.25 (a)(3)(i), (ii).
273.18 (i)	Removed.
273.18 (j)	273.25 (a)(3).
273.18 (j)(1)	Removed.
273.18 (j)(2)	273.25 (b)(2).
273.18 (j)(3)	273.25 (b)(3).
273.18 (j)(4)	Removed.
273.18 (j)(5)	Removed.
273.18 (j)(6)	Removed.
273.18 (k), (1)	273.25 (b)(1).
273.18 (m)	Removed.
273.18 (n)	Removed.
273.18 (o)	273.16 Intro.
273.18 (p)	273.16 Intro.
273.18 (q)(1)–(4)	273.25 (a)(1)–(4).
273.19	273.14.
273.20 Intro.	273.16 Intro.
273.20 (a)	273.16 do.
273.20 (b)	273.16 do.
273.20 (c), (d)	273.16 (a).
273.20 (e)	Removed.
273.20 (f)	Removed.
273.20 (g)	Removed.
273.21 (a), (b)	273.13 (a).
273.22 (a), (b)	Removed.
273.23	273.17 (a).
273.24 Intro.	273.18 Intro.
273.24 (a)	273.18 (a).
273.24 (b)	273.18 (b).
273.24 (c)	Removed.
273.24 (d)	Removed.
273.24 (e)	273.19 (a).
273.24 (f)	273.19 (b).
273.25 (a)	273.19 (a).
273.25 (b)	273.19 (c).
273.26	Removed.
273.27 (a)–(f)	Removed.
273.28 (a), (b)	Removed.
273.29	273.20.
273.31 (a)	273.21 (a).
273.31 (b)	273.21 (b).
273.32	273.21 (c).
273.33	Removed.
273.34 (a)	273.27 (a).
273.34 (b)	273.27 (b).
273.34 (c)	Removed.
273.35	273.33.
273.36	273.12 (b).
273.37	273.29.
273.38	273.28.
273.41	Removed.
273.42	273.47.

REDESIGNATION TABLE FOR 25 CFR PART 273—Continued

Old sections or paragraphs	New sections or paragraphs
273.43	273.40.
273.44	273.45.
273.45	273.40.
273.46 (a)	273.43 (a).
273.46 (b)	273.43 (b).
273.46 (c)	273.43 (c).
273.47	273.40.
273.48	273.40.
273.49	273.40.
273.50 (a)	273.41 (a).
273.50 (b)	273.41 (b).
273.50 (c)	273.41 (c).
273.51	273.40.
273.52	273.46.
273.53	273.40.
273.54	273.40.
273.61	273.26 (a)(1), (2).
273.62 (a)	273.44 (a).
273.62 (b)	273.44 (b).
273.62 (b)(1)	273.44 (b)(1).
273.62 (b)(2)	273.44 (b)(2).
273.62 (c)	273.44 (c).
273.62 (d)	273.44 (d).
273.62 (e)	273.44 (e).
273.71	273.42.
273.72	273.42.
273.73	273.42.

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BILLING CODE 4310-02-M

25 CFR Part 274

School Construction Grants or Services for Tribally Operated Previously Private Schools

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is proposing to amend its regulations to provide for the use of grants or cooperative agreements rather than contracts when providing assistance for the acquisition, construction or renovation of facilities for tribally operated, previously private schools, to provide for changes in the administrative processes, and to remove administrative language not necessary in the regulations. The Federal Grant and Cooperative Agreement Act requires that grants or cooperative agreements be used to administer programs in which the relationship between the Federal Agency and the recipient is one of assistance. It is expected that use of an assistance agreement and changes in administrative processes will improve the quality of program services.

DATE: Comments must be received on or before November 12, 1982.

ADDRESS: Written comments should be addressed to the Assistant Secretary—Indian Affairs, Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Dale Heald, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone number (202) 343-4796.

SUPPLEMENTARY INFORMATION: This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Effective March 30, 1982, Parts 271-277 of Subchapter Y, chapter 1, Title 25 of the Code of Federal Regulations were redesignated as Subchapter M. The final rule-making document will reflect these changes.

The Federal Grant and Cooperative Agreement Act of 1977, Public Law 95-224, (41 U.S.C. 501 et seq.) standardized the usage of legal instruments reflecting Federal assistance and procurement relationships by establishing government-wide criteria for selection of either a procurement contract, a grant agreement or a cooperative agreement on the basis of the relationship to be established between the Federal Government and recipient. It provides that a contract be used only when the principal purpose of the relationship is for the acquisition of property or services for the direct benefit or use of the Federal Government. When the principal purpose of the relationship is for the transfer of something of value, such as money, property or services, to the recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, Federal assistance instruments are to be used. Where substantial Federal involvement is anticipated during performance, the appropriate Federal assistance instrument is a cooperative agreement; when no such involvement is anticipated, the appropriate instrument is a grant. The Act authorized and directed each agency to use the type of legal instrument as required by the Act notwithstanding any other provision of law. The Bureau of Indian Affairs has determined that, pursuant to Pub. L. 95-224, a contract is no longer the proper instrument for implementing Title II of Pub. L. 93-638. The Bureau of Indian Affairs has further determined that a grant instrument best reflects the relationship with tribal governments in most instances. Accordingly, these regulations are being revised to provide for use of grants and, under specified circumstances, cooperative agreements instead of contracts. This is a technical change in form; substantive rights and obligations under Pub. L. 93-638 are not being altered by this law. Therefore, general changes are proposed including nomenclature changes which have been made throughout the regulatory text to provide for the use of grants in lieu of contracts.

Other revisions are being made independent of the change to assistance agreements required by Pub. L. 95-224. Administrative language unnecessary to the regulatory text has been removed and other minor administrative changes have been made. Organizational changes are reflected in the revised text.

Administrative practices have been changed to vest more responsibility in the grantee for architectural design, for approving preconstruction documents, and for selecting initial equipment. Major specific changes are addressed below.

Section 274.3 contains revised definitions for Area Director, Commissioner, Superintendent, and Assistant Secretary—Indian Affairs, consistent with changes in the Bureau's organizational structure. Definitions have been revised for existing school facilities and previously private schools to reflect program policy.

Section 274.12 corrects procedures for placement of projects on a priority list for funding, by making reference to 34 CFR Part 221. Since 34 CFR Part 221 may not yet be available in the Code of Federal Regulations, please note that it was previously codified at 45 CFR Part 114 (1979). After redesignation as 34 CFR 221, it was amended at 45 FR 86299. (December 30, 1980).

Under § 274.19 procedures are changed to forward applications directly to the Commissioner following Agency review.

Section 274.31 is added to reference applicability of the uniform administrative requirements and cost principles of Part 276.

The information collections contained in this part have fewer than ten (10) respondents. Since these information collections have fewer than ten (10) respondents per year, they are exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and do not require clearance by the Office of Management and Budget.

The policy of the Bureau of Indian Affairs is, whenever practical to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule.

The Bureau of Indian Affairs has determined that this document is not a major rule under the criteria established by Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities

under the criteria established by the Regulatory Flexibility Act.

The primary author of this document is Dale Heald, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20245, telephone number (202) 343–4796.

List of Subjects in 25 CFR Part 274

Government contracts, Grant programs—Indians, Indians—education, Indians—self determination, School construction.

It is proposed to amend 25 CFR Part 274 as follows:

PART 274—SCHOOL CONSTRUCTION GRANTS OR SERVICES FOR TRIBALLY OPERATED PREVIOUSLY PRIVATE SCHOOLS

1. Part 274 is retitled as School Construction Grants or Services for Tribally-operated Previously Private Schools.

2. Subpart B of the table of contents is retitled Application and Award Process and is further amended by revising the entry for § 274.12 to read "Project Application Procedure for Placement on Priority List"; by removing §§ 274.13, 274.17, 274.19, and 274.20; by redesignating § 274.15 and § 274.18 as § 274.16 and § 274.19 respectively; by retitling and redesignating §§ 274.14, 274.16 and 274.21 as §§ 274.17, Assistance in Completing Grant Applications, 274.18, Where to Submit Grant Application, and 272.20 Commissioner's Review and Action; by redesignating § 274.23 through § 274.25 as § 274.13 through § 274.15; and by redesignating § 274.26 as § 274.21. Section 274.22 is removed.

3. Subpart C of the table of contents is retitled General Grant Requirements, and is further amended by removing §§ 274.31, 274.35, and §§ 274.37 through 274.49. New sections are added as § 274.31, Applicability of 25 CFR Part 276, and § 274.35, Cooperative Agreements.

4. Subpart D of the table of contents is revised by removing § 274.52 and § 274.53. Section 274.51 is redesignated as § 274.41, Appeals.

5. The authority citation is amended by adding Pub. L. 95–224 (41 U.S.C. 501 et seq.), after the table of contents and before the regulatory text, so as revised it reads:

Authority: Secs. 204 and 208, Pub. L. 93–638, 88 Stat. 2203, 2214–2216 and 2216–2217 (25 U.S.C. 458 and 3458d); Pub. L. 95–224 (U.S.C. 501 et seq.).

6. Section 274.1 is revised to read as follows:

Subpart A—General Provisions

§ 274.1 Purpose.

The purpose of the regulations in this part is to give the application and approval process for obtaining a grant or services from the Bureau for school construction for previously private schools now controlled and operated by tribes or tribally approved Indian organizations under Sections 204 and 208 of Title II of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638, 88 Stat. 2203).

7. Section 274.2 is revised to read as follows:

§ 274.2 Scope.

The Act authorizes the expenditure of funds authorized and appropriated under Part B of the Act to grant or provide services for school construction for tribally operated previously private schools. After a project application has been completed and approved by the tribe, the application is forwarded through Bureau channels to the Commissioner for ranking and placement on the priority list. If a project is high enough on the priority list so as to be available for funding, the applicant may submit a grant application, subject to approval by the requesting tribe(s), for planning, architectural-engineering design, facilities construction and purchase of equipment to provide educational facilities meeting Bureau space standards and construction code regulations. Subject to approval by the requesting tribe(s), the applicant has the following options:

(a) Enter into a grant with the Bureau under which the applicant performs all or part of the necessary work with the Bureau performing the rest.

(b) Request that the Bureau perform or arrange for the performance of all the necessary work.

8. Section 274.3 is amended by revising paragraphs (b), (e), (i), (n), (p), and (s) to read as follows:

§ 274.3 Definitions.

* * * * *

(b) "Area Director" means the official in charge of a Bureau of Indian Affairs Area office except that the term means Area Education Program Administrator with regard to education programs and functions under Area office supervision, and the term means Agency Superintendent for Education where the functional supervision is retained at the Agency level.

* * * * *

(e) "Commissioner" means the operational head of the Bureau of Indian Affairs, under the direction and supervision of the Assistant Secretary—Indian Affairs, who is responsible for the direction of day-to-day operations of the Bureau of Indian Affairs, except that the term means the Director, Office of Indian Education Programs, with regard to education programs and functions.

* * * * *

(i) "Existing school facilities" means facilities used continuously for educational purposes.

* * * * *

(n) "Previously private school" means a school (other than a Federal school formerly operated by the Bureau), that is operated primarily for Indian students from kindergarten through grade(s) 12; and which at the time of application, is controlled, sanctioned, or chartered by the governing body(ies) of an Indian tribe(s).

* * * * *

(p) "Superintendent" means the official in charge of a Bureau of Indian Affairs' Agency office except that the term means the Agency Superintendent for Education, with regard to education programs and functions.

* * * * *

(s) "Assistant Secretary—Indian Affairs" means the Assistant Secretary—Indian Affairs who discharges the authority and responsibility of the Secretary for activities pertaining to Indians and Indian Affairs, or his/her authorized representative.

Subpart B—Application and Award Process

9. The heading for Subpart B is retitled as Application and Award Process.

10. Section 274.11 is amended by revising paragraphs (a) and (c) and by adding paragraph (d) to read as follows. The introductory text to the section is provided for clarity.

§ 274.11 Eligible applicants.

Any tribal organization which meets all of the following criteria is eligible to apply for a grant with or services from the Bureau for school construction:

(a) The tribal organization must control and manage the previously private school for which the organization is applying for a grant or services under this part.

* * * * *

(c) The previously private school controlled and managed by the tribal organization must have a minimum current enrollment of twenty-five (25) students through grade 8 and/or fifty (50) students in grades 9 through 12.

(d) The school has been ranked on the Bureau's School Construction Priorities List and is high enough on that list to be considered for funding.

11. Section 274.12, is retitled and revised is to read as follows:

§ 274.12 Project application procedure for placement on priority list.

(a) Project applications for previously private school construction assistance shall be submitted and processed in accordance with the requirements contained in 34 CFR Part 221. Project application forms, instructions, advice, and assistance may be obtained from an Agency Office or the Commissioner. All questions pertaining to the preparation and filing of project applications, and requests for materials should be directed to the Agency Superintendent, who will respond or forward the inquiries, where appropriate, to the Commissioner.

(b) The project application, review and priority determination processes include field and site reviews by the Commissioner or his/her representative to determine a tentative cost estimate for budget purposes. The Commissioner or his/her representative will conduct on-site inspections to determine which buildings need to be retained, demolished or remodeled. Initial information will be gathered to provide a tentative cost estimate for planning, design, construction, and equipment.

(c) The projects will be ranked by priority based on criteria established by the Bureau pursuant to the requirements contained in 34 CFR Part 221.

§§ 274.13, 274.17, 274.19, and 274.20 [Removed]

12. Sections 274.13, 274.17, 274.19 and 274.20 are removed.

§ 274.23 [Redesignated as § 274.13 and Revised]

13. Section 274.23 is redesignated as § 274.13 and revised to read as follows:

§ 274.13 Preparing a commitment-to-fund listing.

High priority projects for which on-site inspections and tentative cost estimates have been made, will be placed on a commitment-to-fund listing when the total of the tentative cost estimates is less than the amount of funds appropriated for the fiscal year. Applicants will be notified, in writing, when projects are placed on the commitment-to-fund listing.

§ 274.24 [Redesignated as § 274.14]

13. Section 274.24 is redesignated as § 274.14 and revised to read as follows:

§ 274.14 Performing construction work.

When a project has been placed on the commitment-to-fund listing, the applicant has the following options, subject to approval by the requesting tribe(s):

(a) Request a grant from the Bureau to perform all or part of the work needed for the project, with the Bureau performing the rest. The grant application may request funds for any or all of the planning, design, construction, and equipping phases of the project.

(b) Have the Bureau perform or arrange for performance of the required work.

§ 274.25 [Redesignated as 274.15 and Revised]

14. Section 274.25 is redesignated as § 274.15 and revised to read as follows:

§ 274.15 Reapplication.

When a project has been placed on the Bureau-wide priority listing and a grant application has been submitted there is no need to reapply. The project will be carried on the priority listing until placed on the commitment-to-fund list. However, if changes occur which would affect the project's rank and its priority, the applicant must update the project and grant applications.

§ 274.15 [Redesignated as § 274.16 and Amended]

15. Section 274.15 is redesignated as § 274.16 and amended by revising paragraph (a) to read as follows:

§ 274.16 Tribal request.

(a) Before the Bureau can approve a tribal organization's project or grant application or a request for services, it must be requested to do so by the Indian tribe to be affected. The Indian tribe's request shall be in the form of a resolution by the tribal governing body. If the tribal organization's application or request will affect more than one tribe, an authorizing resolution from each tribal governing body must be obtained before submitting the application or request to the Bureau for approval.

* * * * *

§ 274.14 [Redesignated as § 274.17 and Revised]

16. Section 274.14 is retitled and redesignated as § 274.17 and revised to read as follows:

§ 274.17 Assistance in completing grant applications.

An applicant may obtain grant application materials and assistance in completing the grant application from the Agency office. The Superintendent or Commissioner shall, upon request, make information available to the applicant to prepare the grant application, except as restricted from disclosure by the Freedom of Information Act (5 U.S.C. 552), as amended.

§ 274.16 [Redesignated as § 274.18 and Amended]

17. Section 274.16 is retitled, redesignated as § 274.18 and amended by revising paragraph (b) and removing paragraph (c) to read as follows:

§ 274.18 Where to submit grant application.

* * * * *

(b) When the grant or services requested in the application will benefit more than one tribe under the jurisdiction of more than one (1) Agency Office, the application and documentation of the tribal requests shall be delivered or mailed to the Commissioner.

§ 274.18 [Redesignated as § 274.19 and Revised]

18. Section 274.18 is redesignated as § 274.19 and revised to read as follows:

§ 274.19 Agency Office review and action.

(a) Within thirty (30) days from receipt of a grant application, the Superintendent will notify the applicant, in writing, of its receipt, review the grant application for completeness, and request any needed information from the applicant.

(b) When the Superintendent has determined that the grant application is complete, he/she will forward the following to the Commissioner:

(1) The completed grant application.

(2) Documentation of the tribal request(s).

(3) A written statement that the grant application is complete.

(4) A written statement on the sources and amount of funding, deficits, and stability of the program budget.

§ 274.21 [Redesignated as § 274.20 and Revised]

19. Section 274.21 is retitled, redesignated as § 274.20 and revised to read as follows:

§ 274.20 Commissioner's review and action.

After receiving a grant application, the Commissioner will take the following actions:

(a) Notify the applicant in writing that the grant application was received in the Central Office.

(b) Review each grant application for completeness and request any information required to complete the application.

(c) Prepare and execute a grant award.

§ 274.26 [Redesignated as § 274.21 and Revised]

20. Section 274.26 is redesignated as § 274.21 and revised to read as follows:

§ 274.21 Funding provisions.

(a) No funds from any grant under this part shall be made available by the Bureau directly to other than Indian tribes and tribal organizations. However, Indian tribes and tribal organizations assisted under this part may arrange for necessary services through a contract under the grant.

(b) Any unobligated funds will be retained until completion of the project and unexpended funds returned to the Bureau in accordance with § 276.15 of this chapter.

(c) Projects which are partially funded shall be given first consideration for the additional funding necessary to complete such projects.

Subpart C—General Grant Requirements

21. The heading for Subpart C is retitled as General Grant Requirements.

22. Section 274.31 is retitled and revised to read as follows:

§ 274.31 Applicability of 25 CFR Part 276.

(a) The provisions of 25 CFR Part 276 establishing uniform administrative requirements and cost principles shall apply to grants under this part. Special grant conditions more restrictive than Part 276 may be imposed where the Bureau determines that a grantee:

(1) Has repeatedly violated established grant performance requirements, or

(2) Has a management system which does not meet the standards in Part 276. When special conditions are imposed, the grantee will be notified in writing:

(i) Why the special conditions were imposed, and

(ii) What corrective action is needed.

23. Section 274.32 is revised to read as follows:

§ 274.32 Architectural design.

(a) Plans and specifications for a project shall comply with such Federal, State and local laws, ordinances and regulations pertaining to standards or construction and safety requirements as may be applicable.

(1) The grantee may complete the planning documents itself, hire a consultant, or request Bureau assistance for that purpose.

(b) An Architect/Engineer shall be selected by the grantee within the limits of criteria and procedures of § 276.12 of this chapter.

(c) Plans and specifications must conform to the project description and its approved revisions. Plans and specifications including schematic design, design development and final construction document shall be developed in accordance with criteria and procedures established in the terms and conditions of the grant award. These and other actions under the grant shall be monitored by the grants officer or his/her representative to ensure compliance.

24. Section 274.33 is revised to read as follows:

§ 274.33 Facilities construction.

(a) The Commissioner may assist in preconstruction and construction activities to assure conformity with the requirements of the Act. Assistance in preparation of preconstruction and construction documents will be provided, upon request, by the Commissioner or a designated representative. A preliminary conference may be suggested with the project architect and others. The Commissioner will provide sufficient copies of all forms used to prepare the documents required for the project.

(b) The Commissioner will provide, upon request, technical supervision and services in connection with the construction of school facilities. When appropriate, such services will provide assistance with periodic inspection of construction progress. Periodic inspection of construction and compliance with the terms of the grant award will be made by the grants officer or his/her representative.

25. Section 274.34 is revised to read as follows:

§ 274.34 Selecting initial equipment.

The grantee has the option of selecting initial equipment or hiring a consultant or requesting Bureau assistance for that purpose. Such equipment will be identified and budgeted in the grant application.

26. Section 274.35 is removed and a new section added to read as follows:

§ 274.35 Cooperative agreements.

(a) Under specified circumstances the Commissioner may prescribe the award of a cooperative agreement rather than a grant. In such cases the application, review and award processes shall be exactly the same as those described for grants in this part. However, a cooperative agreement award shall contain special terms and conditions consistent with the anticipated substantial involvement by the Bureau.

(b) The Commissioner may order the use of a cooperative agreement when in his/her judgment, performance would be improved by the use of a cooperative agreement and when any of the following conditions exist:

(1) Technical assistance requested by the tribal organization can best be provided through continued substantial involvement of Bureau personnel.

(2) The applicant's management systems as implemented do not meet the standards of Part 276 of this chapter, but performance would be acceptable with added controls and involvement.

27. Section 274.36 is revised to read as follows:

§ 274.36 Use and transfer of Government property.

Use and transfer of Government property shall be as prescribed under 25 CFR 276.11.

28. Section 274.37 is revised to read as follows:

§ 274.37 Grant revision or amendment.

(a) Any grant made under this part may be revised or amended as deemed necessary to carry out the purposes of the grant. No revision or amendment shall be made without the consent of the grantee. A grantee may make a written request for a revision or amendment of a grant to the Bureau grants officer.

(b) If the grants officer disapproves the proposed revision or amendment of the grant, he/she will notify the grantee in writing within thirty (30) days after receiving the request. The notice shall state:

(1) The objections to the requested revision or amendment; and

(2) The right of the grantee to appeal.

Subpart D—Hearings and Appeals

29. The heading for Subpart D is retitled as Hearings and Appeals.

§ 274.51 [Redesignated as § 274.41 and Revised]

30. Section 274.51 is retitled, redesignated as § 274.41 and revised to read as follows:

§ 274.41 Appeals.

Applicants and grantees may appeal an adverse Bureau action or decision under the procedures of Subpart F, Part 271 of this chapter.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

REDESIGNATION TABLE FOR 25 CFR PART 274

Old	New
§ 274.14	§ 274.17
§ 274.15	§ 274.16
§ 274.16	§ 274.18
§ 274.18	§ 274.19
§ 274.21	§ 274.20
§ 274.23	§ 274.13

REDESIGNATION TABLE FOR 25 CFR PART 274—Continued

Old	New
§ 274.24	§ 274.14
§ 274.25	§ 274.15
§ 274.26	§ 274.21
§ 274.51	§ 274.41

[FR Doc. 82-24937 Filed 9-10-82; 8:45 am]
BILLING CODE 4310-02-M

25 CFR Part 275

Staffing; Grants Operations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is proposing to amend its regulations by revising definitions and organization names to correspond to present organizational structure. Methods presently used by Indian tribes to employ or obtain the services of Bureau of Indian Affairs' employees for contracting purposes under the Staffing regulations will continue to be used for grant purposes. Regulatory language is revised to reflect the change from contracts to grants operations.

DATE: Comments must be received on or before November 12, 1982.

ADDRESS: Written comments should be addressed to the Assistant Secretary—Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Dale Helad, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone number (202) 343-4796.

SUPPLEMENTARY INFORMATION: This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Effective March 30, 1982, Parts 271-277 of Subchapter Y, Chapter 1, Title 25 of the Code of Federal Regulations were redesignated as Subchapter M. The final rule-making document will reflect these changes.

To implement Pub. L. 95-224, the Federal Grant and Cooperative Agreement Act, the Bureau of Indian Affairs is proposing to amend its Self-Determination and Education Assistance Act regulations by changing the program delivery process from contracts to grants.

Section 275.1 is revised to reference the Office of Personnel Management.

Paragraphs (b), (d) and (h) of § 275.2 are amended to include a provision for Office of Indian Education Programs with regard to education programs and functions. In § 275.3, paragraphs (a)(3), (a)(3)(ii)(A), (a)(3)(ii)(B) and (b) are amended by removing any references to the word "contract" and inserting the word "grant(s)" as it appears in the regulatory text. A new section is added at § 275.5, Information Collection Requirements.

The information collection requirement(s) contained in Section 275.3 will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

The policy of the Bureau of Indian Affairs is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule.

The Bureau of Indian Affairs has determined that this document is not a major rule under the criteria established by Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act.

The primary author of this document is Dale Heald, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone number (202) 343-4796.

List of Subjects in 25 CFR Part 275

Government employees, Grant programs—Indians, Indians—self-determination.

It is proposed to amend 25 CFR Part 275 as follows:

PART 275—STAFFING

1. By adding a new § 275.5, Information Collection Requirements, to the table of contents.

2. By revising § 275.1 to read as follows:

§ 275.1 Purpose and scope.

The purpose of this part is to outline methods available to tribes for utilizing the services of Bureau employees. These regulations are not intended to prevent an Indian tribe or tribal organization from staffing their programs by other methods they feel appropriate. However, when an Indian tribe or tribal organization decides to provide Bureau employees certain Federal benefits, Office of Personnel Management regulations must be adhered to.

3. By revising paragraphs (b), (d) and (h) of § 275.2 to read as follows:

§ 275.2 Definitions.

* * * * *

(b) "Area Director" means the official in charge of a Bureau of Indian Affairs Area office except that the term means Area Education Programs Administrator with regard to education programs and functions under Area office supervision, and the term means Agency Superintendent for Education where the functional supervision is retained at the Agency level.

* * * * *

(d) "Commissioner" means the operational head of the Bureau of Indian Affairs, under the direction and supervision of the Assistant Secretary—Indian Affairs, who is responsible for the day-to-day operations of the Bureau of Indian Affairs, except that the term means Director, Office of Indian Education Programs with regard to education programs and functions.

* * * * *

(h) "Superintendent" means the official in charge of a Bureau of Indian Affairs' Agency office except that the term means the Agency Superintendent for Education, with regard to education programs and functions.

* * * * *

4. By revising paragraphs (a)(3), (a)(3)(ii)(A), (a)(3)(ii)(B) and (b) of § 275.3 to read as follows:

§ 275.3 Methods for staffing.

* * * * *

(a) * * *

(3) An agreement by an Indian tribe in accordance with the 1834 Act (25 U.S.C. 48) may be made in connection with grants under section 102 of the Act.

* * * * *

(ii) * * *

(A) Whose positions are in the program or portion of the program to be granted; or

(B) In a portion of the program to continue under Bureau operation in connection with a grant for other portions of the program.

* * * * *

(b) When a grant application under Part 271 of this chapter does not include a proposed agreement for direction of Bureau employees, the application must be submitted at least 120 days in advance of the proposed effective date of the grant to allow time for placement of affected employees.

5. By revising § 275.4 to read as follows:

§ 275.4 Implementing regulations.

Regulations to implement section 105 of the Act will be issued by the Office of Personnel Management. The regulations

will cover the situations described in paragraphs (a)(1) and (a)(2) of § 275.3.

6. By adding and reserving a new § 275.5 to read as follows:

§ 275.5 Information Collection Requirements. [Reserved]

(Sec. 502, Pub. L. 91–648, 84 Stat. 1909, 1925 (42 U.S.C. 4762); Sec. 105, Pub. L. 93–638, 88 Stat. 2203, 2208–2210 (25 U.S.C. 450i); 26 U.S.C. 48).

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82–24938 Filed 9–10–82; 8:45 am]

BILLING CODE 4310–02–M

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25 CFR Part 276

Uniform Administrative Requirements for Grants

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs proposes to amend its regulations for administration of grants with tribal organizations in order to utilize Office of Management and Budget Circulars A–87, Cost Principles for State and Local Governments, and A–102, Uniform Requirements for Assistance to State and Local Governments, as policy for the Bureau of Indian Affairs.

DATE: Comments must be received on or before November 12, 1982.

ADDRESS: Written comments should be addressed to the Assistant Secretary-Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Dale Heald, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone number (202) 343–4796.

SUPPLEMENTARY INFORMATION: This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8.

Effective March 30, 1982, Parts 271–277 of Subchapter Y, Chapter 1, Title 25 of the Code of Federal Regulations were redesignated as Subchapter M. The final rule-making document will reflect these changes.

The Office of Management and Budget is the Executive Agency responsible for establishing consistency and uniformity among Federal agencies in the administration of grants. The Office of Management and Budget Circulars A–87, Cost Principles for State and Local Governments, and A–102, Uniform Requirements for Assistance to State and Local Governments, are required policy for all Federal agencies in administering grants with federally recognized Indian tribal governments. The existing regulations contained in this part were developed using those documents as a guide. However, to promote uniformity with other Federal agencies to the maximum extent practicable and to simplify the regulatory process the Bureau proposes to reference the Attachments of those aforementioned circulars as Bureau policy and standards for grants to tribal governing bodies and to tribal organizations.

The documents may be obtained from the Government Printing Office, North Capitol and H Street, Washington, D.C. 20402. The Office of Management and Budget Circular A–102, stock number 041–001–00234–1, is priced at $4.75 per copy. The Office of Management and Budget Circular A–87, stock number 041–001–00232–2, is priced at $1.50 per copy.

The resulting administrative responsibilities of a grantee under the revised regulations will generally be not significantly different from those which are required by the existing regulations.

The Department of Interior is considering removal of the requirements for public liability insurance, § 276.4(b) through (h). Comments are particularly encouraged on those paragraphs.

The Procurement Standards contained in Attachment "O" of the Office of Management and Budget's Circular A–102 were revised and published in January, 1981. Those standards are adopted under § 276.12. Recent audits of Bureau grants by the General Accounting Office pointed out practices of grantees which resulted in inappropriate use of travel funds under grants. Under Section 276.17 grantees will be required to develop travel policies meeting specified criteria.

The Bureau will implement a new organizational audit requirement at § 276.18 by adopting the standards of Attachment P, of the Office of Management and Budget Circular A–102.

Sections 276.19 through 276.23 have been added to address matters previously addressed in other parts.

Other revisions represent only minor changes, due to the differences in wording between the Office of Management and Budget Circular A–102 and existing regulations of this part, and organizational changes.

Both the Bureau of Indian Affairs and the Indian Health Service, Department of Health and Human Services, recognize the need for uniformity where programmatic differences do not require that distinctions be made in requirements imposed under Title I of the Indian Self-Determination and Education Assistance Act. The Indian Health Service has concluded that, because of the service-delivery nature of its programs, the utilization of contract agreements under Section 103 of the Act is consistent with the Federal Grant and Cooperative Agreement Act (Pub. L. 95–224, 41 U.S.C. 501 et seq.). However, in order to avoid unnecessary differences between the conditions attached to grants under Section 102 of the Act and those attached to contracts under Section 103 of the Act, the Service has advised the Bureau of Indian Affairs that, if the A–102 requirements are adopted by the Bureau of Indian Affairs, as proposed in this Notice, the Service will evaluate those requirements to determine the extent to which they can be used, consistent with program needs, in lieu of the comparable requirements now contained in the General Provisions (41 CFR 3–4.6013, 3–4.6014) for contracts entered into by the Secretary of Health and Human Services under Section 103 of the Act. The adoption of any revised requirements by the Indian Health Service will be made in accordance with Section 107(c) of the Act governing the revision and amendment of rules or regulations promulgated under Title I of the Indian Self-Determination and Education Assistance Act.

The policy of the Bureau of Indian Affairs is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule.

The information collection requirement(s) contained in §§ 276.3 through 276.23 will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

The Bureau of Indian Affairs has determined that this document is not a major rule under the criteria established by Executive Order 12291, and does not have a significant economic impact on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act.

The primary author of this document is Dale Heald, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone number 202/343–4796.

List of Subjects in 25 CFR Part 276

Government programs—Indians, Grant programs—Indians, Indians—self-determination.

PART 276—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS

It is proposed to amend 25 CFR Part 276 as follows:

1. The table of contents is amended by adding the words "information collection" to the title of § 276.1 so that is reads "Purpose, scope and information collection", by removing § 276.16, § 276.17, and Appendices A and B, by retitling § 276.5 as "Rentention and Custodial Requirements for Records"; and by adding the following new sections to read as follows:

* * * * *

Sec.
276.16 Standard forms for applying for Federal assistance.
276.17 Grantee travel standards.
276.18 Audit requirements.
276.19 Cost principles.
276.20 Indian preference.
276.21 Penalties.
276.22 Wage and labor standards.
276.23 Reports to Indian people.

2. Section 276.1 is retitled and amended by revising paragraph (a), by redesignating paragraph (b) as (c) and adding new paragraphs (b) and (d) to read as follows:

§ 276.1 Purpose, scope and information collection.

(a) The purpose of the regulations in this part is to establish the uniform administrative requirements for grants awarded by the Bureau of Indian Affairs to tribal governing bodies or to tribal organizations.

(b) The Office of Management and Budget is the Executive Agency responsible for establishing consistency and uniformity among Federal agencies in the administration of grants. The Office of Management and Budget Circulars A–87, Cost Principles for State and Local Governments and A–102, Uniform Requirements for Assistance to State and Local Governments are required policy for all Federal agencies in administering grants with federally recognized Indian Tribal Governments. The Bureau shall require Indian tribes and tribal organizations to meet those standards as provided in this part. Although future revisions to Office of Management and Budget Circulars A–87 and A–102 will be required policy for Bureau administration of assistance agreements, such revisions will not be made applicable to grantees until an appropriate period of training and consultation has been conducted with tribal governing bodies.

* * * * *

(d) [Reserved for information collection]

3. Section 276.2 is amended by removing paragraphs (a) through (c), (e) through (g), and (j) through (p); by redesignating paragraphs (d), (h), (i), (q) and (r) as (a), (b), (c), (d) and (e) and by adding a new paragraph (f) to read as follows:

§ 276.2 Definitions

* * * * *

(f) Other definitions that apply to this part are those contained in the relevant attachments to the Office of Management and Budget Circular A–102.

4. Section 276.3 is revised to read as follows:

§ 276.3 Cash depositories.

Attachment A of the Office of Management and Budget Circular A–102 is adopted as Bureau policy governing cash depositories.

5. Section 276.4 is revised to read as follows:

§ 276.4 Bondings and insurance.

(a) Attachment B of the Office of Management and Budget Circular A–102 is adotped as Bureau policy governing Bonding and Insurance.

(b) For grants awarded pursuant to Part 271 of this chapter, tribal organizations shall obtain public liability insurance except where the granting officer determines that the risk of death, personal injury or property damage under the grant is small and that the time and cost of procuring insurance is great in relation to the risk.

(c) Notwithstanding paragraph (b) of this section, any grant which requires or authorizes, either expressly or by implication, the use of motor vehicles must contain a provision requiring the tribal organization to provide liability insurance, regardless of how small the risk.

(d) Grantees pursuant to Part 271 of this chapter shall secure, pay premiums for, and keep in force until the expiration of the grant or any renewal period thereof, insurance as provided below. Such insurance policies shall specifically include a provision stating the liability assumed by the grantee under the grant.

(1) Workman's compensation insurance, as required by laws of the various States in which the grant is performed.

(2) Owner's, landlord's, and tenant's bodily injury liability insurance with limits of not less than $50,000 for each person and $500,000 for each accident.

(3) Property damage liability insurance with limits of not less than $25,000 for each accident.

(4) Automobile bodily injury liability insurance with limits on personal injury liability of not less than $50,000 for each person and $500,000 for each accident, and automobile property damange liability insurance with a limit of not less than $5,000 for each accident.

(5) Food products liability insurance with limits of not less than $50,000 for each person and $500,000 for each accident.

(6) Other insurance not specifically mentioned when required by law or other regulation.

(e) Each policy of insurance shall contain an endorsement providing that cancellation by the insurance company shall not be effective unless a copy of the cancellation is sent by registered mail to the granting officer at least 30 days before the effective date of cancellation.

(f) A certificate of each policy of insurance, and any changes therein, shall be furnished to the granting officer immediately upon receipt from the insurance company.

(g) Insurance companies of the grantee must be satisfactory to the granting officer. When in his/her opinion an insurance company is not satisfactory for reasons stated in writing, the grantee shall provide insurance through companies which the granting officer deems satisfactory.

(h) Each policy of insurance shall contain a provision that the insurance carrier waives any rights which it may have to raise as a defense the tribe's sovereign immunity from suit, but such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy of insurance. The policy shall contain no provision, either expressed or implied, that will serve to authorize or empower the insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

6. Section 276.5 is retitled and revised to read as follows:

§ 276.5 Retention and custodial requirements for records.

Attachment C of the Office of Management and Budget Circular A–102 is adopted as Bureau policy and standards governing retention and custodial requirements for grant records.

7. Section 276.6 is revised to read as follows:

§ 276.6 Program income.

(a) Attachment E of the Office of Management and Budget Circular A–102 is adopted as Bureau policy governing use of program income.

(b) Interest earned on advances of Federal funds shall be promptly remitted to the Bureau unless the recipient of the advance is a tribal governing body or a tribal organization controlled, sanctioned or chartered by the governing body.

8. Section 276.7 is revised to read as follows:

§ 276.7 Standards for grantee financial management systems.

Attachment G of the Office of Management and Budget Circular A–102 is adopted as policy and standards for grantee financial management systems.

9. Section 276.8 is revised to read as follows:

§ 276.8 Financial reporting requirements.

(a) Attachment H of the Office of Management and Budget Circular A–102 is adopted as Bureau policy governing financial reporting requirements.

(b) The special conditions of the grant award shall specifically address the reports to be required and the frequency of those reports which shall be not more than quarterly, but at least annually.

10. Section 276.9 is revised to read as follows:

§ 276.9 Monitoring and reporting program performance.

Attachment I of the Office of Management and Budget Circular A–102 is adopted as Bureau policy and standards governing monitoring and reporting of program performance.

11. Section 276.10 is revised to read as follows:

§ 276.10 Grant payment requirements.

Attachment J of the Office of Management and Budget Circular A–102 is adopted as Bureau policy governing grant payment requirements.

12. Section 276.11 is revised to read as follows:

§ 276.11 Property managment standards.

Attachment N of the Office of Management and Budget Circular A-102 is adopted as Bureau policy and standards governing property management.

13. Section 276.12 is revised to read as follows:

§ 276.12 Procurement Standards.

Attachment O of the Office of Management and Budget Circular A–102 is adopted as Bureau policy and standards governing procurement under grants.

14. Section 276.14 is revised to read as follows:

§ 276.14 Budget revision.

Attachment K of the Office of Management and Budget Circualr A–102 is adopted as Bureau policy governing budget revision.

15. Section 276.15 is revised to read as follows:

§ 276.15 Grant closeout.

(a) Attachment L of the Office of Management and Budget Circular A–102 is adopted as Bureau policy governing grant closeout.

(b) Except when there is an immediate threat to safety, a grant may be terminated for cause only upon sixty (60) days written notice during which time the grantee shall have the right to appeal the proposed termination as provided in Subpart F of Part 271, and the opportunity to correct the deficiencies for which termination is proposed.

16. Existing § 276.16 is removed and a new section is added to read as follows:

§ 276.16 Standard forms for applying for Federal assistance.

(a) Attachment M of the Office of Management and Budget Circular A–102 is adopted as policy governing use of standard application forms. The grants officer shall require use of the short form application except in those specific cases where in his/her judgment, supplementary pages are required for improved program or fiscal accountability.

(b) No preapplication form shall be required.

17. Existing § 276.17 is removed and a new section is added to read as follows:

§ 276.17 Grantee travel standards.

(a) The existence of an acceptable organizational travel policy is a required management system for administering grants. The Bureau will periodically review grantee travel policies to ensure that they meet minimum acceptable standards.

(b) Applicants shall annually submit a copy of their organizational travel policy to the Bureau.

(c) The following minimum stanards apply:

(1) The policy shall apply equally to all official travel regardless of the source of funds used to reimburse the traveler.

(2) When meals, lodging or other costs normally associated with travel are paid by a third party or included in other costs, in whole or in part, the travel allowance shall be reduced to reflect those contributions.

(3) Travel costs may be reimbursed only to cover travel performed in an official capacity.

(4) Travelers must file a travel voucher upon completion of travel. An amount received as an advance shall not be recorded as "travel expense" without submission of cost data and certification that the travel was actually performed.

(5) Reimbursement for air travel must be at a rate less than first class unless such accommodations are not reasonably available.

Travel costs may be charged on an actual or a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to the entire trip and the resultant charges are consistent with those normally allowed in like circumstances for non-federally sponsored activities.

18. A new § 276.18 is added to read as follows:

§ 276.18 Audit requirements.

Attachment P of the Office of Management and Budget Circular A–102 is adopted as the Bureau standard governing audits of grants. Grantees shall arrange for an oranizational audit in accordance with those standards at least once every two years.

19. A new § 276.19 is added to read as follows:

§ 276.19 Cost principles.

(a) Attachment A, Principles for Determining Costs Applicable to Grants and Contracts with State, Local and Federally Recognized Indian Tribal Governments, and Attachment B, Standards for Selected Items of Cost, of the Office of Management and Budget Circular A–87, Cost Principles for State and Local Governments, are adopted as Bureau policy and standards concerning cost principles for grants with tribal governing bodies and tribal organizations controlled, sanctioned or chartered by those governing bodies.

(b) The Agency grants officer shall be responsible for initiating action to recover reimbursed costs which have been identified as unallowable.

20. A new § 276.20 is added to read as follows:

§ 276.20 Indian preference.

Any grant or subgrant shall require that to the greatest extent feasible:

(a) Preferences and opportunities for training and employment in connection with the administration of a grant, contract, subcontract or subgrant shall be given to Indians.

(b) Preference in the award of a subgrant, contract or subcontract in connection with administration of a grant shall be given to Indian organizations and economic enterprises.

(c) A tribal governing body may develop its own Indian preference requirements to the extent that such requirements are not inconsistent with the purpose and intent of paragraphs (a) and (b) of this section for grants executed under this part.

21. A new § 276.21 is added to read as follows:

§ 276.21 Penalties.

If any officer, director, agent, or employee of, or connected with, any recipient of a grant, subgrant, contract or subcontract under Parts 271 through 277 embezzles, willfully misapplies, steals, or obtains by fraud any of the money, funds, assets or property which are the subject of such a grant, subgrant, contract or subcontract he/she shall be subject to the following penalties:

(a) If the amount involved does not exceed $100, a fine of not more than $1,000 or imprisonment of not more than one year, or both.

(b) If the amount involved exceeds $100, a fine of not more than $10,000 or imprisonment of not more than two years, or both.

22. A new § 276.22 is added to read as follows:

§ 276.22 Wage and labor standards.

All laborers and mechanics employed by tribal grantees, subgrantees, contractors or subcontractors in the construction, alteration, or repair of buildings or other facilities in connection with grants under Parts 271 through 277 shall be paid wages not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act of March 3, 1931 (46 Stat. 1494), as amended, except that this requirement does not apply where the tribal grantee is the recognized governing body of the tribe or an Indian organization serving as a governmental instrumentality of an Indian tribe and the construction, alteration, or repair work is being performed by the tribal organization or the tribe with its own employees.

23. A new § 276.23 is added to read as follows:

§ 276.23 Reports to Indian people.

Each recipient of Federal financial assistance under Parts 271 through 277 shall make information and reports concerning that grant available to the Indian people which it serves or represents. Access to the data shall be requested in writing and shall be made available by the recipients within ten (10) days of receipt of that request.

Appendices A and B [Removed]

24. Appendices A and B are removed.

(34 CFR Part 256; Sec. 104, Pub. L. 93–638, 88 Stat. 2203, 2207 (25 U.S.C. 450h))

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82–24939 Filed 9–10–82; 8:45 am]

BILLING CODE 4310–02–M

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25 CFR Part 277

School Construction Grants for Public Schools

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is proposing to amend its regulations to provide for the use of grants or cooperative agreements rather than contracts when providing assistance for the acquisition, construction or renovation of public school facilities, to provide for changes in the administrative processes, and to remove administrative language not necessary in the regulations. The Federal Grant and Cooperative Agreement Act requires that grants or cooperative agreements be used to administer programs in which the relationship between the Federal Agency and the recipient is one of assistance. It is expected that use of an assistance agreement and changes in administrative processes will improve the quality of program services.

DATE: Comments must be received on or before November 12, 1982.

ADDRESS: Written comments should be addressed to the Assistant Secretary—Indian Affairs, Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20204.

FOR FURTHER INFORMATION CONTACT: Dale Heald, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20204, telephone number (202) 343–4796.

SUPPLEMENTARY INFORMATION: This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Effective March 30, 1982, Parts 271–277 of Subchapter Y, Chapter 1, Title 25 of the Code of Federal Regulations were redesignated as Subchapter M. The final rule-making document will reflect these changes.

The Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224, (41 U.S.C. 501 et seq.), standardized the usage of legal instruments reflecting Federal assistance and procurement relationships by establishing government-wide criteria for selection of either a procurement contract, a grant agreement or a cooperative agreement on the basis of the relationship to be established between the Federal government and the recipient. It provides that a contract be used only when the principal purpose of the relationship is for the acquisition of property or services for the direct benefit or use of the Federal government. When the principal purpose of the relationship is for the transfer of something of value, such as money, property or services, to the recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, Federal assistance instruments are to be used. Where substantial Federal involvement is anticipated during performance, the appropriate Federal assistance instrument is a cooperative agreement when no such involvement is anticipated, the appropriate instrument is a grant. The Act authorized and directed each agency to use the type of legal instrument as required by the Act notwithstanding any other provision of law. The Bureau of Indian Affairs has determined that, pursuant to Pub. L. 95–224, a contract is no longer the proper instrument for implementing Title II of Pub. L. 93–638. Accordingly, these regulations are being revised to provide for use of grants and under specified circumstances, cooperative agreements instead of contracts. This is a technical change in form; substantive rights and obligations under Pub. L. 93–638 are not being altered by this change.

General changes are proposed including nomenclature changes which have been made throughout the text to provide for the use of grants in lieu of contracts. Other changes are being made independent of the change to assistance agreements pursuant to Pub. L. 95–224. Organizational changes are reflected in the revised text. Administrative language unnecessary to the regulatory text has been removed and other minor administrative changes have been made. Major specific changes are addressed below.

Section 277.3 contains revised definitions for Commissioner and Assistant Secretary for Indian Affairs and a new definition for Secretary of Education. The term Commissioner of Education is removed.

Paragraph (e) of § 277.15a is removed.

Section 277.25 and §§ 277.27 through 277.37 are removed. A new § 277.25 is added to incorporate Part 276 as applicable to administration grants made under this part. A new § 277.27 is added to provide for use of cooperative agreements under specified circumstances.

Sections 277.41 and 277.42 are removed and a new § 277.41 is added to incorporate the appeals procedures of Subpart F, Part 271. Sections 277.51 through 277.53 are removed.

Section 277.2 and 277.13 contain references to 34 CFR Part 221. Since 34 CFR Part 221 may not yet be available in the Code of Federal Regulations, please note that it was previously codified at 45 CFR Part 114 (1979). For amendment after redesignation as 34 CFR Part 221, see 45 FR 86299 (December 30, 1980).

The information collections contained in this part have fewer than ten (10) respondents. Since these information collections have fewer than ten (10) respondents per year, they are exempt from the requirement of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and do not require clearance by the Office of Management and Budget.

The policy of the Bureau of Indian Affairs is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule.

The Bureau of Indian Affairs has determined that this document is not a major rule under the criteria established by Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act.

The primary author of this document is Dale Heald, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone number (202) 343-4796.

List of Subjects in 25 CFR Part 277

Government contracts, Grant programs—Indians, Indians—education, Indians—self-determination, School construction.

PART 277—SCHOOL CONSTRUCTION GRANTS FOR PUBLIC SCHOOLS

It is proposed to amend 25 CFR Part 277 as follows:

1. Part 277 is retitled School Construction Grants for Public Schools.

2. Subpart B of the table of contents is retitled "Application and Award Process", and is further amended by redesignating § 277.15a as § 277.16, Grants for Planning Documents; by redesignating § 277.16 as § 277.17, Grants for Other Project Phases; by redesignating § 277.17 as § 277.18; and by redesignating § 277.18 as § 277.19.

3. Subpart C of the table of contents is retitled "General Grant Requirements" and amended by retitling § 277.21 to read Reimbursable Costs; by retitling § 277.25 as Uniform Administrative Requirements; by retitling § 277.27 as Cooperative Agreements, and by removing §§ 277.28 through 277.37.

4. Subpart D of the table of contents is retitled Appeals and is amended by removing §§ 277.41 and 277.42 and by adding a new § 277.41, Hearings and Appeals.

5. Subpart E of the Table of Contents, consisting of §§ 277.51 through 277.53, is removed.

6. The authority citation is amended by adding Pub. L. 95-224 (41 U.S.C. 501 et seq.) after the table of contents and before the regulatory text, so as to read:

Authority: Sec. 207, Pub. L. 93-638, 88 Stat. 2216 (25 U.S.C. 458c(b)); Pub. L. 95-224, (41 U.S.C. 501 et seq.).

Subpart A—General Provisions

7. Section 277.1 is revised to read as follows:

§ 277.1 Purpose.

The purpose of the regulations in this part is to give the application and approval process for a School District to obtain school construction grants from the Bureau under Section 204 of Title II of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638, 88 Stat. 2203), to assist in the education of Indians.

8. Section 277.2 is revised to read as follows:

§ 277.2 Scope.

(a) The application process for public school construction grants under section 204 of Pub. L. 93-638 is given in 20 U.S.C. 631-645 and 34 CFR Part 221. The application process is administered by and is the responsibility of the Secretary of Education. Upon receipt of an application, the Secretary of Education notifies the Commissioner of Indian Affairs. The Secretary of Education prepares and furnishes the national priority index to the Bureau at the start of each fiscal year or when the Bureau so requests.

(b) The Bureau requests and receives funding for the acquisition of sites and for planning, architectural-engineering design, facilities construction and equipment for the program. Funds are allocated to projects by the Bureau on the basis of funding priorities as established by the Secretary of Education. For each project for which funds are allocated, the Bureau and the Department of Education shall jointly develop an individual project management plan and shall provide guidance to the applicant in developing educational and facilities specifications. A Bureau grants officer, designated by the Commissioner of Indian Affairs, shall negotiate one or more grants with the applicant, in accordance with the approved management program, for the acquisition of sites and for the planning, design, construction, and purchase of equipment to provide educational facilities. Construction standards and space requirements shall be based on need as described in the prepared educational and facilities specifications documents.

9. Section 277.3 is amended by revising paragraphs (b), (c), and (p) to read as follows:

§ 277.3 Definitions.

* * * * *

(b) "Secretary of Education" means the Secretary of the Department of Education or his/her designated representative.

(c) "Commissioner" means the operational head of the Bureau of Indian Affairs, under the direction and supervision of the Assistant Secretary—Indian Affairs, who is responsible for the direction of day-to-day operations of the Bureau of Indian Affairs, except that the term means the Director, Office of Indian Education Programs, with regard to education programs and functions.

* * * * *

(p) "Assistant Secretary—Indian Affairs" means the Assistant Secretary—Indian Affairs who discharges the authority and responsibility of the Secretary for activities pertaining to Indians and Indian Affairs, or his/her authorized representative.

* * * * *

Subpart B—Application and Award Process

10. The heading for Subpart B is retitled as "Application and Award Process".

11. Section 277.11 is amended by revising paragraph (a) to read as follows:

§ 277.11 Eligible applicants.

(a) Any school district may apply for a grant with the Bureau to assist the agency or district in acquiring sites for, or in constructing, acquiring, or renovating, facilities (including all necessary equipment) in school districts on or adjacent to or in close proximity to any Indian reservation or other lands

held in trust by the United States for Indians.

* * * * *

12. Section 277.12 is revised to read as follows:

§ 277.12 Consultation with Indians.

(a) Except where there is a majority of Indians on an elected public school board, the Commissioner of Indian Affairs shall consult with the local Indian Education Committee(s) and the tribal governing body(ies) of the local Indian tribe(s) affected on each project which the Bureau is committed to fund under Pub. L. 93–638 for that fiscal year and at the time the commitment is made. Tribal members on an elected public school board or the local Indian Education Committee may advise the tribal governing body(ies) of the local Indian tribe(s) affected by providing a written declaration of intent to apply and to provide progress reports on the grant application process.

(b) The school district applying for a grant under this part shall consult with the local Indian Education Committee(s) and the tribal governing body(ies) of the local Indian tribe(s) affected before the application is submitted to the Secretary of Education. After this consultation the official tribal governing body(ies) of the Indian tribe(s) to be benefited by the application shall notify the Secretary of Education. The notification that the tribe(s) approves or disapproves the application will be made in writing, within sixty (60) days after the date of the consultation. The notice of disapproval must give specific stated objections to the application. A copy of the notice shall be delivered or mailed to the Commissioner of Indian Affairs at the same time as the notice is delivered or mailed to the Secretary of Education.

(c) After being notified that the tribe(s) disapproved a proposed application, the Commissioner of Indian Affairs or a designated representative(s) shall meet with tribal and public school officials and the Indian Education Committee(s) to provide assistance in resolving the stated objections to the application. The Commissioner of Indian Affairs shall notify the Secretary of Education fifteen (15) days in advance of the date, place, and time of such meetings and shall invite the Secretary of Education or his/her representative(s) to attend.

13. Section 277.13 is revised to read as follows:

§ 277.13 Application procedure for placement on priority list.

(a) Applications for public school construction assistance under this part will be submitted and processed in accordance with procedures outlined in 20 U.S.C. 631–645 and 34 CFR Part 221. Application forms, instructions, advice, and assistance in accordance with 20 U.S.C. 636 and 34 CFR Part 221 may be obtained from each State education agency. All questions pertaining to the preparation and filing of preapplications, applications, and requests for materials should be directed to the State Representative for School Assistance, who will respond or may forward the inquiries, where appropriate, to the Secretary of Education. Upon receipt of an application, the Secretary of Education will so notify the Commissioner of Indian Affairs. The Commissioner of Indian Affairs shall in turn notify the tribal governing body(ies) of the local Indian tribe(s) affected of the application for public school construction assistance under this part.

(b) Section 204(b) of Pub. L. 93–638 assigns responsibility for the application processing, determination of eligibility and establishment of project priority to the Secretary of Education. Such application, review and determination processes will include a field and site review by the Secretary of Education to determine a tentative cost estimate for budget purposes. The Secretary of Education, or an authorized representative(s), will conduct the on-site inspection to determine which buildings need to be retained, demolished or remodeled. For budget purposes, initial information will be gathered to provide a tentative cost estimate for planning, design, construction, and equipment, as well as to insure that the quality and standard of education will be equal to that of all other students in the school(s).

(c) The projects will be ranked by priority based on criteria established by the Secretary of Education as given in 34 CFR 221.16.

14. Section 277.14 is revised to read as follows:

§ 277.14 Submitting priority list to Bureau.

Pursuant to Section 204(b) of Pub. L. 93–638, a list of public school projects eligible for funding under this part will be submitted to the Commissioner of Indian Affairs by the Secretary of Education at the beginning of each fiscal year or when so requested by the Bureau. The Commissioner of Indian Affairs shall notify the tribal governing body(ies) of the local Indian tribe(s) affected by the application for public school construction assistance under this part. The Secretary of Education shall also inform the Commissioner of Indian Affairs of the amount of funds available under subsections 14(a) or 14(b) of Pub. L. 81–815 for public school construction under this part.

15. Section 277.15 is amended by revising the introductory text of paragraph (a) and paragraph (a)(3), to read as follows:

§ 277.15 Preparing a commitment-to-fund list.

(a) When the Commissioner for Indian Affairs receives the priority list from the Secretary of Education, the Commissioner of Indian Affairs shall:

* * * * *

(3) Place the project highest on the priority list at the top of a commitment-to-fund list. Projects will be added to the commitment-to-fund list in the same order as they are on the priority list. Each project will be added to the commitment-to-fund list as long as the total of the tentative cost estimates is less than the total of the amount of funds available under subsection 14(a) or 14(b) of Pub. L. 81–815 for public school construction plus the amount of funds appropriated for public school construction under Pub. L. 93–638 for the new fiscal year.

* * * * *

§ 277.15a [Redesignated as § 277.16 and Amended]

16. Section 277.15a is redesignated as § 277.16 and amended by revising paragraphs (a) through (d), by removing (e) and redesignating (f) as (e), to read as follows:

§ 277.16 Grants for planning documents.

(a) For each project added to the commitment-to-fund list, the Commissioner of Indian Affairs and the Secretary of Education shall jointly develop an individual project management plan. This plan may include funding data, tentative schedule, assignment of responsibility, personnel to contact and other requirements for operations.

(b) A Bureau grants officer will then negotiate a grant with the applicant for preparation of the planning documents (educational and facilities specifications). The Commissioner of Indian Affairs and the Secretary of education shall jointly:

* * * * *

(c) The planning documents (educational and facilities specifications) prepared by the applicant must be reviewed and approved by the Bureau before a grant application can be submitted for other phases of the project.

(d) In its discretion, the Bureau may make an exception to the requirement to award a grant for preparation of the

planning documents. The Bureau shall prepare the planning documents when the applicant so request and when the applicant can clearly demonstrate that special circumstances exist which warrant the Bureau making such an exception.

(e) * * *

* * * * *

§ 277.16 [Redesignated as § 277.17 and Revised]

17. Section 277.16 is redesignated as § 277.17 and revised to read as follows:

§ 277.17 Grants for other project phases.

(a) After the planning documents (educational and facilities specifications) are approved by the Bureau, a Bureau grants officer shall negotiate one or more grants with the applicant for the other phases of the project:

* * * * *

(b) Paragraph (e) of § 277.16 also applies to grants under this section.

§ 277.17 [Redesignated as § 277.18 and Amended]

18. Section 277.17 is redesignated as § 277.18 and is amended by revising paragraphs (a), (c), and (e) to read as follows:

§ 277.18 Funding provision.

(a) When funds are available under subsections 14(a) and/or 14(b) of Pub. L. 81–815, those funds will be used first to fund as many projects as possible on the priority list prepared by the Secretary of Education, beginning with the project highest on the priority list. When substantially all Pub. L. 81–815 funds available under subsections 14(a) or 14(b) are reserved for projects on the priority list, Pub. L. 93–638 funds shall be used to fund the remaining projects on the priority list, beginning with the highest ranked project for which no Pub. L. 81–815 funds have been reserved.

* * * * *

(c) No funds from any grant under this part shall be made available by any Federal agency directly to other than public agencies. However, school districts assisted by this part may use funds provided under this part to contract for necessary services with any appropriate individual, organization, or corporation.

* * * * *

(e) When non-Federal funds are involved, a local school district shall have 120 days from receipt of the notice that the project has been placed on the commitment-to-fund list to assemble the funds from local and/or State sources before the grant negotiations are completed. An extension may be granted by the Commissioner of Indian Affairs for unusual circumstances.

§ 277.18 [Redesignated as § 277.19 and Revised]

19. Section 277.18 is redesignated as § 277.19 and revised to read as follows:

§ 277.19 Ownership of completed project.

After completion of a project funded under this part, the school district grantee under this part, or the State, or both shall become the owner(s) of the project. The Bureau shall not be responsible for ongoing maintenance of the project.

Subpart C—General Grant Requirements.

20. The heading for Subpart C is retitled as "General Grant Requirements".

21. Section 277.21 is retitled and revised to read as follows:

§ 277.21 Reimbursable costs.

Costs eligible for reimbursement under this part include: Planning, architectural design, site acquisition, facilities construction (including site development and supervision), and equipment in accordance with the approved educational and facilities specifications and equipment lists. Increases in administrative costs incurred by the grantee as the result of seeking and performing grants awarded under this part may also be included and paid upon review and approved by the Bureau of Indian Affairs of the grantee's administrative cost proposals.

22. Section 277.22 is amended by revising paragraphs (c) and (d) to read as follows:

§ 277.22 Architectural design.

* * * * *

(c) The Commissioner of Indian Affairs shall counsel with the grantee with respect to the professional qualifications and performance history of Architect/Engineer firms in order that the best qualified firm be selected. With the advice and assistance of the Commissioner of Indian Affairs, the grantee shall select an Architect/Engineer to prepare the plans and specifications. The grantee shall comply with State selection requirements in making the selection in addition to complying with the Indian preference requirements of § 276.20. The grantee shall not enter into an Architect/Engineer agreement involving the expenditures of Federal funds until the Commissioner of Indian Affairs has approved the agreement.

(d) The drawings and specifications will conform to the educational and facilities specifications prepared in accordance with § 277.16.

* * * * *

23. Section 277.23 is revised to read as follows:

§ 277.23 Facilities construction.

The Commissioner of Indian Affairs shall assist in preconstruction and construction activities to assure conformity with the requirements of Pub. L. 93–638. Approval of all proposed preconstruction documents shall be obtained from the Commissioner of Indian Affairs. Assistance prior to the preparation of these and similar documents will be provided upon request. In this connection, the Commissioner of Indian Affairs may suggest a preliminary conference with the project architect and others. The granting officer or his/her representative(s) shall make interim inspections and otherwise monitor the construction and participate in the final acceptance inspection.

24. Section 277.24 is revised to read as follows:

§ 277.24 Selecting initial equipment.

Equipment to be procured with payments under this part must be included in the grant budget (indicating quantities, costs, and specifications) approved by the grants officer before invitations for bids or requests for proposals for acquisition of such equipment are issued.

25. Existing § 277.25 is removed and a new section is added to read as follows:

§ 277.25 Uniform administrative requirements.

The provisions of 25 CFR Part 276 establishing uniform administrative requirements and cost principles for grants shall apply to this part. Special grant conditions more restrictive than Part 276 may be imposed where the Bureau determines that a grantee:

(a) Has repeatedly violated established grant performance requirements.

(b) Has a management system which does not meet the standards in Part 276. When special conditions are imposed, the grantee will be notified in writing of the following:

(1) why the special conditions were imposed, and

(2) what corrective action is needed.

26. Section 277.26 is revised to read as follows:

§ 277.26 Use and transfer of government property.

Use and transfer of government property shall be as prescribed under 25 CFR 276.11.

27. Existing § 277.27 is removed and a new section is added to read as follows:

§ 277.27 Cooperative agreements.

(a) Under specified circumstances the Commissioner may prescribe the award of a cooperative agreement rather than a grant. In such cases, the application, review and award processes shall be exactly the same as those described for grants in this part. However, a cooperative agreement award shall contain special terms and conditions consistent with the anticipated substantial involvement by the Bureau.

(b) The Commissioner may order the use of a cooperative agreement when in his/her judgment, performance would be improved by the use of a cooperative agreement and when any of the following conditions exist:

(1) Technical assistance requested by the tribal organization can best be provided through continued substantial involvement of Bureau personnel.

(2) The applicant's management systems as implemented do not meet the standards of Part 276 of this chapter, but they are not so deficient as to be cause for declining the application.

§§ 277.28 through 277.37 [Removed]

28. Sections 277.28 through 277.37 are removed.

Subpart D—appeals

29. Subpart D is retitled "Appeals."

30. Existing § 277.41 is removed and a new § 277.41 is added to read as follows.

§ 277.41 Hearings and appeals.

Applicants and grantees may appeal an adverse Bureau action or decision under the procedures of Subpart F, Part 271 of this chapter.

§ 277.42 [Removed]

31. Section 277.42 is removed.

Subpart E—[Removed]

§§ 277.51 through 277.53 [Removed]

32. Subpart E, consisting of §§ 277.51 through 277.53, is removed.

Kenneth Smith,

Assistant Secretary, Indian Affairs.

[FR Doc. 82-24940 Filed 9-10-82; 8:45 am]

BILLING CODE 4310-02-M

federal register

Monday
September 13, 1982

Part IV

Department of the Interior

Minerals Management Service

Outer Continental Shelf Diapir Field; Oil and Gas Lease Sale No. 71

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Diapir Field

Oil and Gas Lease Sale No. 71

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (43 CFR Part 3300). A revision of 43 CFR 3300 appeared in the Federal Register of June 16, 1982 at 47 FR 25967 and 26031. The revisions became effective on July 16, 1982 and will therefore apply to this sale.

2. Filing of Bids. Sealed bids will be received by the Minerals Manager, Alaska Outer Continental Shelf (OCS) Region, 620 East 10th Avenue, P.O. Box 1159, Anchorage, Alaska 99510. Bids may be delivered, either by mail or in person, to the above address until 4:30 p.m., October 12, 1982; or by personal delivery to the Imperial Ballroom, International Banquet House, 549 W. International Airport Road, Anchorage, Alaska 99502, between the hours of 8:30 a.m., a.h.s.t., and 9:30 a.m., a.h.s.t., October 13, 1982. Bids received by the Minerals Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Minerals Manager prior to 9:30 a.m., a.h.s.t., October 13, 1982. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 47 FR 14785, April 6, 1982.

3. Method of Bidding. A separate bid in a sealed envelope, labeled, "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., a.h.s.t. October 13, 1982," must be submitted for each tract. A suggested form appears in 43 CFR Part 3300, Appendix A. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check, payable to the order of the Minerals Management Service. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to no more than five decimal places after the decimal point, e.g., 50.12345 percent. Other documents may be required of bidders under 43 CFR 3316.4. Partnerships also need to submit a list of signatures authorized to bind the partnership agreement. All documents must be executed in conformance with signatory authorizations on file. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All leases awarded for this sale will provide for a yearly rental payment of $8 per hectare or fraction thereof and a minimum royalty of $8 per hectare or fraction thereof. The following systems will be utilized:

a. Bonus Bidding with a 12-1/2 Percent Royalty. Bids on tracts 71-1, 71-2, 71-3, 71-4, 71-17, 71-18, 71-19, 71-34, 71-35, 71-36, 71-51, 71-52, 71-53, 71-54, 71-55, 71-97, 71-98, 71-99, 71-100, 71-116, 71-117, 71-118, 71-119, 71-134, 71-135, 71-136, 71-137, 71-151, 71-152, 71-153, 71-251, 71-252, 71-253, 71-254, 71-255, 71-256, 71-257, 71-258, 71-259, 71-260, 71-261, 71-262, 71-263, 71-264, 71-265, 71-266, 71-267, 71-268, 71-269, 71-270, 71-271, 71-272, 71-273, 71-274, 71-275, 71-276, 71-282, 71-283, 71-299, 71-300, and 71-310 must be submitted on a cash bonus basis with a fixed royalty of 12-1/2 percent.

b. Bonus Bidding with a Fixed Sliding Scale Royalty. Bids on tracts 71-277, 71-278, 71-279, 71-280, 71-281, 71-284, 71-285, 71-286, 71-287, 71-288, 71-289, 71-290, 71-291, 71-292, 71-293, 71-294, 71-295, 71-296, 71-297, 71-298, 71-301, 71-302, 71-303, 71-304, 71-305, 71-306, 71-307, 71-308, 71-309, 71-311, 71-312, 71-313, 71-314, 71-315, 71-316, 71-317, 71-318, 71-319, 71-320, 71-321, 71-322, 71-323, 71-324, 71-325, 71-326, 71-327, 71-328, 71-329, 71-330, 71-331, 71-332, 71-333, 71-340, 71-341, 71-342, 71-343, 71-344, 71-345, 71-346, 71-347, 71-348, 71-349, 71-350, and 71-351 must be submitted on a cash bonus basis with the percent royalty due in amount or value of production fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates in the following way: When the quarterly value of production, adjusted for inflation, is less than or equal to $28.109194 million, a royalty of 16.66667 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $28.109195 million, but less than or equal to $11822.537759 million, the royalty percent due on the unadjusted value or amount of production is given by:

$$Rj = b[Ln (Vj/S)]$$

where Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production in quarter j

b = 8.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.50

When the adjusted quarterly value of production is equal to or greater than $11822.537760 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 18.56224 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., the nearest dollar (for example, 35.624831 millions of dollars).

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

c. Bonus Bidding with a 16-2/3 Percent Royalty. Bids on the remaining tracts to be offered at this sale must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., a.h.s.t., October 13, 1982, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Exective Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (June 1982), and the Affirmative Action Representation Form, Form 1140-7 (June 1982). See item 14, "Information to Lessees."

6. Bid Opening. Bids will be opened on October 13, 1982, beginning at 10 a.m., a.h.s.t., at the second address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, October 13, 1982, that bid will be returned unopened to the bidder, as soon thereafter as possible.

Figure 1
Form of the Sliding Royalty Schedule

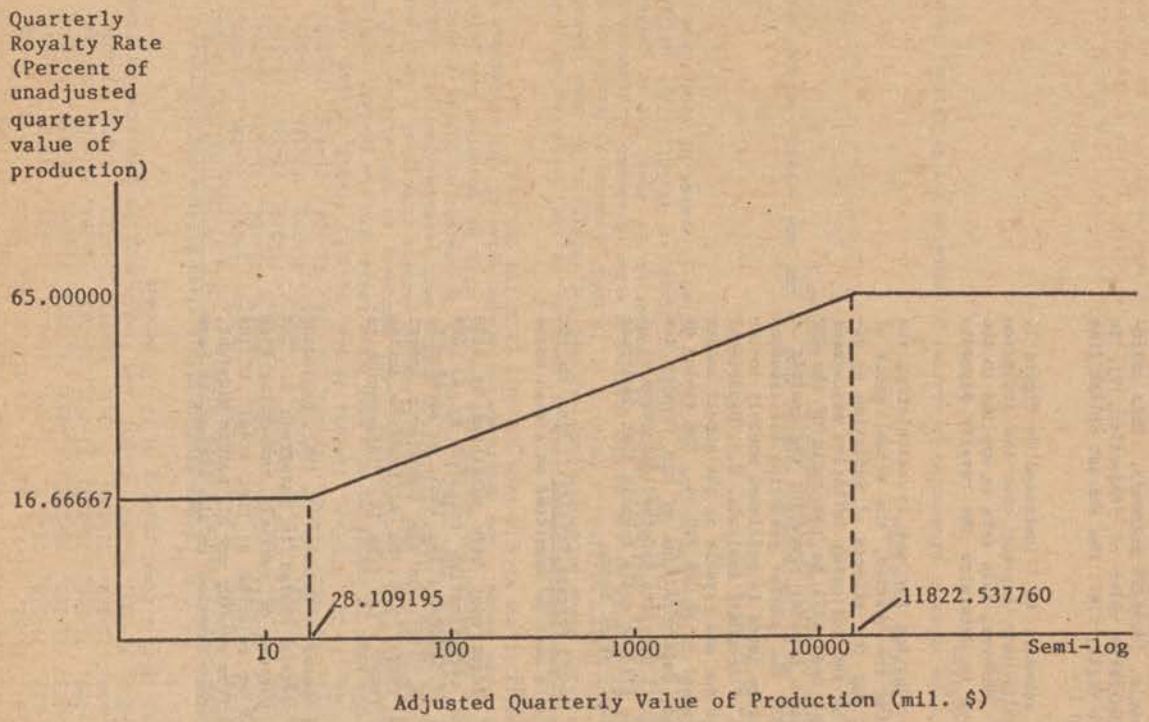


TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A) Actual Value of Quarterly Production (Millions of Dollars)	(B) GNP Fixed Weighted Price Index	(C) Inflation Factor[1]	(D) Adjusted Value of Quarterly Production[2] (Vj, Millions of $)	(E) Percent Royalty Rate (Rj)	(F) Royalty Payment[3] (Millions of Dollars)
10.000000	200.0	4/3	7.500000	16.66667	1.666667
30.000000	200.0	4/3	22.500000	16.66667	5.00000
90.000000	200.0	4/3	67.500000	23.67492	21.30743
270.000000	200.0	4/3	202.500000	32.46382	87.65231
810.000000	200.0	4/3	607.500000	41.25271	334.14695
10.000000	250.0	5/3	6.000000	16.66667	1.666667
30.000000	250.0	5/3	18.000000	16.66667	5.00000
90.000000	250.0	5/3	54.000000	21.88977	19.70079
270.000000	250.0	5/3	162.000000	30.67867	82.83241
810.000000	250.0	5/3	486.000000	39.46757	319.68732

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (A) divided by Inflation Factor.

3 Column (A) times Column (E) divided by 100. All values are rounded for display purposes only.

7. Deposit of Payment. Any cash, cashier's checks, certified checks or bank drafts submitted with a bid may be deposited in a suspense account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

a. The bidder has complied with all requirements of this notice and applicable regulations;

b. The bid is the highest valid cash bonus bid; and

c. The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $371 or more per hectare or fraction thereof.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's rental and satisfy the bonding requirements of 43 CFR Subpart 3318 within the time provided in 43 CFR Subpart 3316.5. A modification of payments procedures for successful bidders appeared in the latest revision of 43 CFR 3300 (see paragraph 1, above). These changes do not apply to the submission of the one-fifth bonus with bids, described in paragraph 3, above.

11. Official Protraction Diagrams. Tracts offered for lease may be located on the following official protraction diagrams which are available from the Minerals Manager, Alaska Outer Continental Shelf Region, at the first address stated in paragraph 2, at a cost of $2 each:

a. Outer Continental Shelf Official Protraction Diagram NR 5-1, Dease Inlet (approved June 3, 1976).

b. Outer Continental Shelf Official Protraction Diagram NR 5-2, (approved May 5, 1976).

c. Outer Continental Shelf Official Protraction Diagram NR 5-3, Teshekpuk (approved June 3, 1976).

d. Outer Continental Shelf Official Protraction Diagram NR 5-4, Harrison Bay (approved May 13, 1982).

e. Outer Continental Shelf Official Protraction Diagram NR 6-3, Beechey Point (approved February 25, 1982).

f. Outer Continental Shelf Official Protraction Diagram NR 6-4, Flaxman Island (approved April 29, 1975).

Copies of individual Supplemental Official Block Diagrams for tracts containing federal and/or disputed acreage are available from the Minerals Manager at the first address stated in paragraph 2.

12. Tract Descriptions. Note: There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental impact statement may not be included in this notice. The tracts offered for bid are as follows:

OCS OFFICIAL PROTRACTION DIAGRAM, DEASE INLET NR 5-1
(Approved 6/3/76)

Tract	Block	Designation	Hectares
71-1	877	A11	2304.00
71-2	878	A11	2304.00
71-3	879	A11	2304.00
71-4	880	A11	2304.00
71-5	921	A11	2304.00
71-6	922	A11	2304.00
71-7	923	A11	2304.00
71-8	924	A11	2304.00
71-9	965	A11	2304.00
71-10	966	A11	2304.00
71-11	967	A11	2304.00
71-12	968	A11	2304.00
71-13	1009	A11	2304.00
71-14	1010	A11	2304.00
71-15	1011	A11	2304.00
71-16	1012	A11	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM NR 5-2
(Approved 5/5/76)

Tract	Block	Designation	Hectares
71-17	749	A11	2304.00
71-18	793	A11	2304.00
71-19	837	A11	2304.00
71-20	881	A11	2304.00
71-21	882	A11	2304.00
71-22	883	A11	2304.00
71-23	884	A11	2304.00
71-24	885	A11	2304.00
71-25	886	A11	2304.00
71-26	887	A11	2304.00
71-27	888	A11	2304.00
71-28	889	A11	2304.00
71-29	890	A11	2304.00
71-30	891	A11	2304.00
71-31	892	A11	2304.00
71-32	893	A11	2304.00
71-33	894	A11	2304.00
71-34	895	A11	2304.00
71-35	896	A11	2304.00
71-36	897	A11	2304.00
71-37	925	A11	2304.00
71-38	926	A11	2304.00
71-39	927	A11	2304.00
71-40	928	A11	2304.00
71-41	929	A11	2304.00
71-42	930	A11	2304.00
71-43	931	A11	2304.00
71-44	932	A11	2304.00
71-45	933	A11	2304.00
71-46	934	A11	2304.00
71-47	935	A11	2304.00
71-48	936	A11	2304.00
71-49	937	A11	2304.00
71-50	938	A11	2304.00
71-51	939	A11	2304.00
71-52	940	A11	2304.00
71-53	941	A11	2304.00
71-54	942	A11	2304.00
71-55	943	A11	2304.00
71-56	969	A11	2304.00
71-57	970	A11	2304.00
71-58	971	A11	2304.00
71-59	972	A11	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM NR 5-2
(Approved 5/5/76)

Tract	Block	Designation	Hectares
71-60	973	All	2304.00
71-61	974	All	2304.00
71-62	975	All	2304.00
71-63	976	All	2304.00
71-64	977	All	2304.00
71-65	978	All	2304.00
71-66	979	All	2304.00
71-67	980	All	2304.00
71-68	981	All	2304.00
71-69	982	All	2304.00
71-70	983	All	2304.00
71-71	984	All	2304.00
71-72	985	All	2304.00
71-73	986	All	2304.00
71-74	987	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, TESHEKPUK NR 5-3
(Approved 6/3/76)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-75	41	All	2304.00	
71-76	42	1/	1807.33	
71-77	43	1/	1239.55	
71-78	44	Federal Portion	1349.30	
71-79	85	1/	687.95	
	86	1/	13.94	701.89

1/That portion seaward of the three geographical mile line.

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4
(Approved 5/13/82)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-80	3	All	2304.00	
71-81	4	All	2304.00	
71-82	5	All	2304.00	
71-83	6	All	2304.00	
71-84	7	All	2304.00	
71-85	8	All	2304.00	
71-86	9	All	2304.00	
71-87	10	All	2304.00	
71-88	11	All	2304.00	
71-89	12	All	2304.00	
71-90	13	All	2304.00	
71-91	14	All	2304.00	
71-92	15	All	2304.00	
71-93	16	All	2304.00	
71-94	17	All	2304.00	
71-95	18	All	2304.00	
71-96	19	All	2304.00	
71-97	20	All	2304.00	
71-98	21	All	2304.00	
71-99	22	All	2304.00	
71-100	23	All	1751.37	
71-101	49	1/	2045.73	
71-102	50	All	2304.00	
71-103	51	All	2304.00	
71-104	52	All	2304.00	
71-105	53	All	2304.00	
71-106	54	All	2304.00	
71-107	55	All	2304.00	
71-108	56	All	2304.00	
71-109	57	All	2304.00	
71-110	58	All	2304.00	
71-111	59	All	2304.00	
71-112	60	All	2304.00	
71-113	61	All	2304.00	

1/That portion seaward of the three geographical mile line.

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4
(Approved 5/13/82)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-114	62	All	2304.00	
71-115	63	All	2304.00	
71-116	64	All	2304.00	
71-117	65	All	2304.00	
71-118	66	All	2304.00	
71-119	67	All	1865.49	
71-120	93	1/	28.58	
	94	1/	784.55	813.13
71-121	95	1/	1897.28	
71-122	96	All	2304.00	
71-123	97	All	2304.00	
71-124	98	All	2304.00	
71-125	99	All	2304.00	
71-126	100	All	2304.00	
71-127	101	All	2304.00	
71-128	102	All	2304.00	
71-129	103	All	2304.00	
71-130	104	All	2304.00	
71-131	105	All	2304.00	
71-132	106	All	2304.00	
71-133	107	All	2304.00	
71-134	108	All	2304.00	
71-135	109	All	2304.00	
71-136	110	All	2304.00	
71-137	111	All	1979.58	
71-138	139	1/	124.93	
	140	1/	2132.98	2257.91
71-139	141	All	2304.00	
71-140	142	All	2304.00	
71-141	143	All	2304.00	
71-142	144	All	2304.00	
71-143	145	All	2304.00	
71-144	146	All	2304.00	
71-145	147	All	2304.00	
71-146	148	All	2304.00	
71-147	149	All	2304.00	
71-148	150	All	2304.00	
71-149	151	All	2304.00	
71-150	152	All	2304.00	

1/That portion seaward of the three geographical mile line.

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-151	153	All	2304.00	
71-152	154	All	2304.00	
71-153	155	All	2093.64	
71-154	184	1/	1171.93	
71-155	185	All	2304.00	
71-156	186	All	2304.00	
71-157	187	All	2304.00	
71-158	188	All	2304.00	
71-159	189	All	2304.00	
71-160	190	All	2304.00	
71-161	191	All	2304.00	
71-162	192	All	2304.00	
71-163	193	All	2304.00	
71-164	194	All	2304.00	
71-165	195	All	2304.00	
71-166	196	All	2304.00	
71-167	197	All	2304.00	
71-168	198	All	2304.00	
71-169	199	All	2207.67	
71-170	228	1/	44.91	
	229	1/	1833.68	
	273	1/	357.06	2235.65
71-171	230	All	2304.00	
71-172	231	All	2304.00	
71-173	232	All	2304.00	
71-174	233	All	2304.00	
71-175	234	All	2304.00	
71-176	235	All	2304.00	
71-177	236	All	2304.00	
71-178	237	All	2304.00	
71-179	238	All	2304.00	
71-180	239	All	2304.00	
71-181	240	All	2304.00	
71-182	241	All	2304.00	
71-183	242	All	2304.00	
71-184	243	All	2297.22	
	244	All	24.45	2321.67
71-185	274	1/	2213.92	
71-186	275	All	2304.00	

1/That portion seaward of the three geographical mile line.

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4
(Approved 5/13/82)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-187	276	All	2304.00	
71-188	277	All	2304.00	
71-189	278	All	2304.00	
71-190	279	All	2304.00	
71-191	280	All	2304.00	
71-192	281	All	2304.00	
71-193	282	All	2304.00	
71-194	283	All	2304.00	
71-195	284	All	2304.00	
71-196	285	All	2304.00	
71-197	286	All	2304.00	
71-198	287	All	2304.00	
71-199	318	1/	959.44	
	362	1/	7.32	966.76
71-200	319	All	2304.00	
71-201	320	All	2304.00	
71-202	321	All	2304.00	
71-203	322	All	2304.00	
71-204	323	All	2304.00	
71-205	324	All	2304.00	
71-206	325	All	2304.00	
71-207	326	All	2304.00	
71-208	327	All	2304.00	
71-209	328	All	2304.00	
71-210	329	All	2304.00	
71-211	330	All	2304.00	
71-212	331	All	2304.00	
71-213	363	1/	1644.50	
71-214	364	All	2304.00	
71-215	365	All	2304.00	
71-216	366	All	2304.00	
71-217	367	All	2304.00	
71-218	368	All	2304.00	
71-219	369	All	2304.00	
71-220	370	All	2304.00	
71-221	371	All	2304.00	
71-222	372	All	2304.00	

1/That portion seaward of the three geographical mile line.

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4
(Approved 5/13/82)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-223	409	All	2304.00	
71-224	410	All	2304.00	
71-225	411	All	2304.00	
71-226	412	All	2304.00	
71-227	413	All	2304.00	
71-228	414	1/	2298.51	
71-229	415	1/	2201.55	
	459	1/	3.27	2204.82
71-230	455	All	2304.00	
71-231	456	1/	2300.82	
71-232	457	1/	1170.40	
	458	1/	90.65	1261.05
71-233	1	Federal Portion	1684.78	
71-234	2	Federal Portion	2107.78	
	46	Federal Portion	24.66	2132.44
71-235	47	Federal Portion	519.67	
	48	Federal Portion	1214.38	1734.05
71-236	373	Federal Portion	2235.57	
71-237	374	Federal Portion	1379.59	
71-238	375	Federal Portion	1006.34	
	376	Federal Portion	117.06	1123.40
71-239	407	1/	189.05	
	408	Federal Portion	1640.01	
	452	Federal Portion	6.27	1835.33
71-240	416	Federal Portion	1764.04	
	417	Federal Portion	413.25	2177.29
71-241	453	Federal Portion	882.02	
71-242	454	Federal Portion	2150.28	
71-243	498	Federal Portion	221.94	
	499	Federal Portion	747.65	
	500	1/	303.74	1273.33

1/That portion seaward of the three geographical mile line

OCS OFFICIAL PROTRACTION DIAGRAM, BEECHEY POINT NR 6-3
(Approved 2/25/82)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-251	22	All	1751.37	
71-252	23	All	2304.00	
71-253	24	All	2304.00	
71-254	25	All	2304.00	
71-255	26	All	2304.00	
71-256	27	All	2304.00	
71-257	66	All	1865.49	
71-258	67	All	2304.00	
71-259	68	All	2304.00	
71-260	69	All	2304.00	
71-261	70	All	2304.00	
71-262	71	All	2304.00	
71-263	110	All	1979.58	
71-264	111	All	2304.00	
71-265	112	All	2304.00	
71-266	113	All	2304.00	
71-267	114	All	2304.00	
71-268	115	All	2304.00	
71-269	116	All	2304.00	
71-270	154	All	2093.64	
71-271	155	All	2304.00	
71-272	156	All	2304.00	
71-273	157	All	2304.00	
71-274	158	All	2304.00	
71-275	159	All	2304.00	
71-276	160	All	2304.00	
71-277	198	All	2207.67	
71-278	199	All	2304.00	
71-279	200	All	2304.00	
71-280	201	All	2304.00	
71-281	202	All	2304.00	
71-282	203	All	2304.00	
71-283	204	All	2304.00	
71-284	241	All	24.45	
	242	All	2297.22	2321.67
71-285	243	All	2304.00	
71-286	244	All	2304.00	
71-287	245	All	2304.00	
71-288	246	All	2304.00	

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-289	247	All	2304.00	
71-290	248	All	2304.00	
71-291	286	All	2304.00	
71-292	287	All	2304.00	
71-293	288	All	2304.00	
71-294	289	All	2304.00	
71-295	290	All	2304.00	
71-296	291	All	2304.00	
71-297	292	All	2304.00	
71-298	293	All	2304.00	
71-299	294	All	2304.00	
71-300	295	All	2304.00	
71-301	330	All	2304.00	
71-302	331	All	2304.00	
71-303	332	All	2304.00	
71-304	333	All	2304.00	
71-305	334	All	2304.00	
71-306	335	All	2304.00	
71-307	336	All	2304.00	
71-308	337	All	2304.00	
71-309	338	All	2304.00	
71-310	339	All	2304.00	
71-311	380	All	2304.00	
71-312	381	All	2304.00	
71-313	382	All	2304.00	
71-314	383	All	2304.00	
71-315	426	All	2304.00	
71-316	427	All	2304.00	
71-317	285	All	131.64	
	329	All	245.58	
(NR 5-4)	288	All	131.64	
(NR 5-4)	332	All	245.58	754.44
71-318	373	Federal Portion	112.98	
	374	Federal Portion	762.86	
	375	Federal Portion	639.56	1515.40
71-319	376	Federal Portion	682.57	
	377	Federal Portion	1162.52	1845.09
71-320	378	Federal Portion	1850.24	
71-321	379	Federal Portion	2303.91	
71-322	423	Federal Portion	446.45	
	424	Federal Portion	1369.12	1815.57

OCS OFFICIAL PROTRACTION DIAGRAM, BEECHEY POINT NR 6-3
(Approved 2/25/82)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-323	425	Federal Portion	2203.03	
71-324	469	Federal Portion	152.20	
	470	Federal Portion	1096.95	1249.15
71-325	475	Federal Portion	1161.96	
71-326	476	Federal Portion	1012.52	
	477	Federal Portion	906.43	1918.95
71-327	478	Federal Portion	1731.54	
71-328	522	Federal Portion	12.25	
	523	Federal Portion	952.96	965.21
71-329	524	Federal Portion	2188.12	
71-330	568	Federal Portion	279.82	
	569	Federal Portion	1665.97	1945.79
71-331	613	Federal Portion	2.34	
	614	Federal Portion	720.29	722.63
71-332	615	Federal Portion	1957.14	
71-333	659	Federal Portion	44.20	
	660	Federal Portion	972.04	1016.24
71-340	613	Disputed Portion	2.64	
	614	Disputed Portion	557.96	
	615	Disputed Portion	332.89	893.49

OCS OFFICIAL PROTRACTION DIAGRAM, FLAXMAN ISLAND NR 6-4
(Approved 4/29/75)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-341	617	Federal Portion	2112.45	
71-342	618	All	2304.00	
71-343	661	Federal Portion	127.93	
	662	Federal Portion	990.45	1118.38
71-344	663	Federal Portion	1747.74	
71-345	664	Federal Portion	2282.30	
71-346	708	Federal Portion	215.48	
	709	Federal Portion	938.48	1153.96
71-347	710	Federal Portion	1657.21	
71-348	711	Federal Portion	2233.32	
71-349	755	Federal Portion	98.15	
	756	Federal Portion	554.32	652.47
71-350	617	Disputed Portion	88.55	
(NR 6-3)	659	Disputed Portion	1115.39	
(NR 6-3)	660	Disputed Portion	957.07	2161.01
71-351	661	Disputed Portion	21.53	
	662	Disputed Portion	427.39	
	663	Disputed Portion	556.26	
	706	Disputed Portion	78.48	
	707	Disputed Portion	1101.76	2185.42

13. Lease Terms and Stipulations.

a. All leases issued as a result of this sale will be for an initial term of 10 years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), revised to change references from "Bureau of Land Management" and "United States Geological Survey" to "Minerals Management Service", available from the Minerals Manager, Alaska Outer Continental Shelf Region, at the first address stated in paragraph 2.

b. Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. In the following stipulations the term DMMOFO refers to the Regional Deputy Minerals Manager, Offshore Field Operations, Minerals Management Service, formerly Deputy Conservation Manager, Field Operations, U.S. Geological Survey.

c. For leases resulting from this sale for tracts offered on a cash bonus basis with fixed sliding scale royalty, listed in paragraph 4(b), Form 3300-1 will be amended as follows:

Sec. 6. Royalty on Production. The lessee agrees to pay the lessor a royalty of that percent in amount or value of production from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than or equal to $28.109194 million, a royalty of 16.66667 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $28.109195 million, but less than or equal to $11822.537759 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b[Ln (Vj/S)]$$

where Rj = the percent royalty that is due and payable on the unadjusted amount or value of production in quarter j

b = 8.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.50

When the adjusted quarterly value of production is equal to or greater than $11822.537760 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 18.56224 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 35.624831 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

Stipulation No 1. To be included only in the leases resulting from this sale for the fixed sliding scale royalty tracts identified in paragraph 4(b) of this notice.

(a) The royalty rate on production from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.21).

The Director, Minerals Management Service may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless production has been under way for one year or more.

(b) Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16-2/3 percent of the production from the lease area may be taken as royalty in amount, except as provided in sec. 15(d); the royalty on any portion of the production from the lease in excess of 16-2/3 percent may only be taken in value of the production from the lease area.

Stipulation No. 2. To be included only in leases resulting from this sale for tracts 71-17, 71-18, 71-22 through 71-36, 71-71 through 71-73, 71-93 through 71-95, 71-112 through 71-114, 71-296, 71-305 through 71-307, 71-318, 71-322, and 71-324.

If the DMMOFO has reason to believe that a site, structure or object of historical or archeological significance, hereinafter referred to as "cultural resource" may exist in the lease area, and gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation", the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indicators are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by a marine survey archaeologist or underwater archeologist shall be submitted by the lessee to the DMMOFO for review.

If such cultural resource indicators are present the lessee shall: (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the DMMOFO, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the DMMOFO, either that such operation shall not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archeologist or underwater archeologist shall be submitted to the DMMOFO for his review. Should the DMMOFO determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the DMMOFO has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DMMOFO and make every reasonable effort to preserve and protect the cultural resource from damage until the DMMOFO has given directions as to its preservation.

Stipulation No. 3. The lessee shall include in his exploration and development plans, submitted under 30 CFR 250.34, a proposed environmental training program for all personnel involved in exploration or development activities (including personnel of the lessee's contractors and subcontractors) for review and approval by the DMMOFO. The program shall be designed to inform each person working on the project of specific types of environmental, social, and cultural concerns which relate to the individual's job. The program shall be formulated by qualified instructors experienced in each pertinent field of study, and shall employ effective methods to insure that personnel are informed of archaeological, geological, and biological resources, including bird colonies and sea mammal concentration areas, to insure the importance of avoidance and non-harassment of wildlife resources is understood. The program shall be designed to increase the sensitivity and understanding of personnel to the community values, customs, and lifestyles in areas in which such personnel will be operating.

The lessee shall also submit for review and approval a continuing technical environmental briefing program for supervisory and managerial personnel of the lessee and its agents, contractors, and subcontractors.

Stipulation No. 4. Pipelines will be required: (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technologically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be

placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with participation of Federal, State, and local governments and the industry.

All pipelines, including both flow lines and gathering lines for oil and gas, shall be designed and constructed to provide for adequate protection from water currents, storms and ice scouring, subfreezing conditions, and other hazards as determined on a case-by-case basis.

Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DMMOFO.

Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1972 (46 U.S.C. 391a), and the Port and Tanker Safety Act of 1978, as amended (33 U.S.C. 1221).

Stipulation No. 5. This stipulation applies to the following tracts resulting from this lease sale: 71-1 through 71-119, 71-131 through 71-137, 71-147 through 71-153, 71-163 through 71-169, 71-179 through 71-184, 71-197, 71-198, 71-211, 71-212, 71-233 through 71-235, 71-237, 71-238, 71-251 through 71-316, 71-318 through 71-333, 71-340 through 71-351.

Exploratory drilling and testing and other downhole exploratory activities will be prohibited during the fall bowhead whale migration period, generally from September 1 through October 31, unless the DMMOFO determines that continued operations are necessary to prevent a loss of well control or to ensure human safety. This stipulation will remain in effect until termination or modification by the Department of the Interior after conferring with the State of Alaska and consultation with the National Marine Fisheries Service.

Stipulation No. 6. Exploratory drilling and other downhole activities above a predetermined threshold depth will be allowed year-round area wide(subject to the limitations of Stipulation 5).

Exploratory drilling and other downhole activities below a predetermined threshold depth, with the exception of testing through casing, are prohibited in broken ice conditions unless the lessee demonstrates to the DMMOFO, with concurrence of the State of Alaska, the theoretical and physical capability to detect, contain, clean-up and dispose of spilled oil in broken ice conditions.

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* The threshold depth is a point above which major accumulations of hydrocarbons are not likely. This depth will be determined on a case-by-case basis by the DMMOFO, after a review of all pertinent geological and geophysical data.

Stipulation No. 7. Discharge of produced water into open or ice-covered marine waters of less than 10 meters in depth is prohibited. Tracts affected include all or portions of: 71-13 through 71-15, 71-75 through 71-81, 71-101, 71-102, 71-120 through 71-122, 71-133, 71-134, 71-138, 71-139, 71-154 through 71-156, 71-170 through 71-172, 71-185, 71-186, 71-199 through 71-201, 71-213, 71-223 through 71-232, 71-236, and 71-239 through 71-243. The DMMOFO, after consultation with EPA, may approve discharges into waters greater than 10 meters in depth subject to a case-by-case review of the local environmental factors and consistency with the conditions of a development phase general NPDES permit for the sale area. The discharge of oil-based or oil-contaminated drilling muds and/or cuttings into the marine environment is prohibited.

Discharge of non oil-contaminated drilling muds and/or cuttings during winter exploratory operations shall be to above-ice locations and avoid areas of sea ice cracking or major stress fracturing.

Under-ice discharge of drilling muds and cuttings is prohibited except where direct disposal by pumping, artificial thickening of sea ice or use of light or routine drilling effluent handling equipment are all determined to be impractical during periods of reduced ice thickness or instability. Predilution requirements for under-ice discharge shall be, at a minimum, ten parts seawater to one part drilling fluid.

During exploration, the discharge of non oil-contaminated drilling muds and/or cuttings into open water is authorized only when drilling occurs during open water periods. Stockpiling muds over winter at the drillsite for purposes of open water disposal is prohibited, except in cases where advanced stages of sea ice breakup prohibit the use of the above referenced disposal methods.

Discharge of muds and or cuttings during the development/production phase is subject to the conditions of development phase permits issued by the EPA.

Stipulation No. 8. If biological populations or habitats which may require additional protection are identified by the DMMOFO on any tracts in the leasing area, the DMMOFO may require the lessee to conduct environmental surveys to determine the extent and composition of biological populations or habitats which might require additional protective measures. The DMMOFO will give written notification to the lessee of his decision to require such surveys.

Based on any surveys which the DMMOFO may require of the lessee, or other information available to the DMMOFO on special biological resources, the DMMOFO may require the lessee to: (1) relocate the site; (2) establish to the satisfaction of the DMMOFO, on the basis of a site-specific survey, either that such operation will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist; (3) operate during those periods of time that do not adversely affect the biological resources as established by the DMMOFO; and/or (4) modify operations to ensure that significant biological populations or habitats deserving protection are not adversely affected.

The lessee agrees that if any area of biological significance should be discovered during the conduct of any operations on the leased area, he shall

report immediately such findings to the DMMOFO, and make every reasonable effort to preserve and protect the biological resource from damage until the DMMOFO has given the lessee directions with respect to its protection.

The lessee will submit all data obtained in the course of such surveys to the DMMOFO, with the locational information for drilling or other activity. The lessee may take no action that might affect the biologic populations or habitats surveyed, until the DMMOFO provides written directions to the lessee, with regard to permissible actions.

Stipulation No. 9. (To be included in all leases on tracts 71-340, 71-350, and 71-351.) This lease is subject to the "Agreement Between the United States and State of Alaska Pursuant to Section 7 of the Outer Continental Shelf Lands Act, and Alaska Statutes 38.05.137 for the leasing of disputed tracts in Federal Outer Continental Shelf Oil and Gas Lease Sale 71" (commonly referred to as the "Interim Agreement"), and the lessee hereby consents to every term of that agreement.

Any loss incurred or sustained by the lessee as a result of obtaining validation and recognition of this lease pursuant to the "Interim Agreement," and in particular any loss incurred or sustained by the lessee as a result of conforming this lease with any and all provisions of all applicable laws of the party prevailing in United States of America v. State of Alaska, United States Supreme Court No. 84, Original, shall be borne exclusively by the lessee.

No taxes payable to the State of Alaska will be required to be paid with respect to this lease until such time as ownership of or jurisdiction over the lands subject to this lease is resolved. In the event that the lands subject to this lease or any portion of them, are judicially determined to be State lands, the lessee shall pay to the State a sum equivalent to the State taxes which would have been imposed under Alaska law if the lands, or portion thereof determined to be State lands, had been undisputed State lands from the date the lease was executed, plus interest at the annual legal rate of interest provided under Alaska law accruing from the date the taxes would have become due under Alaska law. Such payment shall be in lieu of, and in satisfaction of the actual State taxes.

Stipulation No. 10. (To be included in all leases on tracts 71-340, 71-350, and 71-351.) This lease is subject to the "Agreement Regarding Unitization for the Outer Continental Shelf Oil and Gas Lease Sale 71 between the United States and the State of Alaska" and the lessee is bound by the terms of that agreement.

14. Information to Lessees. Bidders are advised that during the conduct of all activities related to leases issued as a result of this lease sale, the lessee and its agents, contractors, and subcontractors will be subject to the provisions of the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and International Treaties.

- The lessee or its contractors should be aware that disturbance of wildlife could be determined to constitute harassment, and thereby be in violation of existing laws. Violations under these Acts and Treaties may be reported to the National Marine Fisheries Service or U.S. Fish and Wildlife Service, as appropriate. Behavioral disturbance of most birds and mammals found in or near the proposed Sale 71 area would be unlikely if ocean vessels and aircraft maintained at least a 1-mile distance from observed wildlife or known wildlife concentration areas such as bird colonies or marine mammal concentrations. Therefore, in concurrence with the U.S. Fish and Wildlife Service, it is recommended that aircraft or vessels operated by lessees maintain at least a 1-mile distance from observed wildlife or known wildlife concentrations.

- To reduce potential impacts to bowhead whales from effects of noise and disturbance in specific blocks (see map on seasonal drilling restriction, Figure II.B.1.c. - 1, Final Environmental Impact Statement) lessees are encouraged to reduce, minimize, or reroute marine vessel operations to and from the leasehold by tugs, supply ships, hovercraft, or other self-propelled surface vessels during the period September 1 through October 31.

For protection of bowhead whales in specific blocks, operators of fixed-wing aircraft or helicopters should maintain a 1,500-foot altitude (except during take-off and landing) when in transit over the specific blocks during the period September 1 through October 31.

- Maps locating major wildlife concentration areas are available for route planning from the DMMOFO and appropriate resource agencies. Human safety will take precedence at all times over these provisions.

- Lessees are advised that oil and gas exploration and production operations should be conducted so as to minimize interference with subsistence harvests.

- Bidders are advised that the Arctic Peregrine Falcon (Falco perigrinus tundrius) is officially listed as an endangered species by the U.S. Department of the Interior. It is protected by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). This law provides, in part, that "it is unlawful for any person subject to the jurisdiction of the United States to . . . take any such [listed] species . . . ." The term "take" has been defined in that law to mean "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." It has been determined that there is a potential for conflict in this region between the onshore and aerial support of OCS exploration and development activities, and the Arctic Peregrine Falcon. No such conflict is anticipated if onshore support facilities are located within the corporate limits of Barrow or Kotzebue, the immediate vicinity of Cape Lisburne, or within the existing facility at Prudhoe Bay, and aerial support flight paths are 1,500 feet above ground level except over the aforementioned areas.

The U.S. Fish and Wildlife Service reviews exploration plans submitted by lessees to the Minerals Management Service. Bidders are advised that if, as a result of this review, it is determined that onshore support facilities or aerial support flight paths are planned for areas other than those four listed above, an illegal taking of the Arctic Peregrine Falcon may result. Bidders are further advised that the U.S. Fish and Wildlife Service has determined that the following actions would prevent such illegal taking: Annual surveys of habitat suitable for nesting Peregrine Falcons for all onshore areas (except as exempted above) which will be used in support of offshore exploration, production, or development activities (including gravel mining and aircraft flight corridors). Any documented nesting site not surveyed in any

given year shall receive the full protection afforded to sites known or suspected to be occupied. Specific details of each survey should be coordinated through the U.S. Fish and Wildlife Service Endangered Species staff in Anchorage. Within one (1) mile of nest sites: Aircraft may be required to maintain minimum altitudes of 1,500 feet above nest level from April 15 through August 31; all ground level activity may be prohibited from April 15 through August 31, except on existing thoroughfares; and habitat alterations or the construction of permanent facilities may be prohibited. Within two (2) miles of nest sites: Activities having high noise levels, including but not limited to gravel mining and its associated activities, may be prohibited from April 15 through August 31, and permanent facilities having high noise levels, sustained human activities, or altering limited, high quality habitat (e.g., ponds, lakes, wetlands, and riparian habitats), including but not limited to airfields and supply bases, may be prohibited. Within fifteen (15) miles of nest sites: Alteration of limited, high quality habitat which could detrimentally and significantly reduce prey availability (in particular ponds, lakes, wetlands, and riparian habitats) may be prohibited; and use of pesticides shall be prohibited--the only exception may be the limited, non-aerial application of approved non-persistent insecticides at supply bases.

Human safety would take precedence at all times over distances indicated herein for avoidance or disturbance of wildlife. Further, these restrictions may not be appropriate under all circumstances and in all situations, and exceptions may be granted on a case-by-case basis. It is anticipated that affected operators and lessees will establish regular communication with the U.S. Fish and Wildlife Service Endangered Species staff in Anchorage.

- Lessees are advised that, after identifying potential OCS-related facility sites, they may wish to consult with the local planning agencies in the North Slope Borough and state agencies involved in coastal zone area review in order to provide coordination on coastal zone development and the siting of energy facilities. Lessees should realize that the North Slope Borough Coastal Management Program (CMP) is being prepared and should be completed in 1983. Early coordination with the North Slope Borough may assist in the identification of suitable facility siting.

- Operations on some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes which might be established, among other reasons, for the purpose of protecting commercial fisheries. Bidders are advised that the United States reserves the right to designate necessary fairways through lease tracts pursuant to the Port and Tanker Safety Act of 1978 (33 U.S.C. 1221).

- Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with section 4(e) of the Outer Continental Shelf Lands Act of 1953, as amended.

- Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

- Bidders are also advised that in accordance with Sec. 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a royalty rate based on a sliding scale.

- Revisions of Department of Labor regulations on Affirmative Action requirements for Government Contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 F.R. 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this sale, Section 18 of the lease form, Form 3300-1 (September 1978), would be deleted from leases resulting from this sale. In addition, existing stocks of the Affirmative Action Forms described in Section 5 of this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1).

Pending the issuance of revised versions of Forms 1140-7 and 1140-8, submission of Form 1140-7 (June 1982) and Form 1140-8 (June 1982) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing Affirmative Action Forms.

- Bidders are advised that the State of Alaska will be consulted by the MMS throughout the stages of OCS development. In addition to State involvement in the Intergovernmental Planning Program (IPP), the Scientific Committee of the OCS Advisory Board, and the review of exploration and development plans, the DMMOFO may involve the State in the implementation of Stipulation 8.

- Lessees are advised that the Department of the Interior and the State of Alaska have not yet reached an agreement as contemplated in Section 8(g) of the OCS Lands Act (43 U.S.C. 1331 et seq.) for all tracts within 3 miles of the seaward boundary of Alaska except tracts 71-340, 71-350, and 71-351. If such an agreement is reached it may require that lessees holding leases subject to Section 8(g) join a unit agreement with lessees on Alaskan tracts or, if the State land is unleased, with the State of Alaska.

In the enforcement of stipulations 7 & 8, the DMMOFO will receive recommendations from a biological task force composed of designated representatives of the Minerals Management Service, U.S. Fish & Wildlife Service, the National Marine Fisheries Service, the Environmental Protection Agency, and in consultation with the State of Alaska (as a non-voting member). It is intended that the task force will remain in existence throughout the operating life of the field. The DMMOFO will consult with the task force on the conduct of biological surveys by lessees, the appropriate course of action after surveys have been conducted, and on the administration of the biological/environmental aspects of the above-mentioned stipulations.

- Bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to Minerals Management Service either an exploration plan or a general statement of exploration intentions prior to the end of the ninth lease year.

- Lessees are notified that oilspill contingency plans are required under Alaska Outer Continental Shelf (OCS) Order No. 7, under 30 CFR 250.11, 250.34, 240.43, prior to approval of exploration plans and development and production plans. Furthermore, lessees are required under 30 CFR 250.34-2 to include in development and production plans descriptions of all vessels, pipelines and other facilities, and descriptions of all environmental safeguards. Prior to approval of development and production plans, the Deputy Minerals Manager for Offshore Field Operations (DMMOFO) will review these items to determine whether those oil transporation facilities described which are regulated by MMS can safely transport oil in conditions expected in the lease area.

OCS Order No. 2 provides that exploration and development plans include provisions to meet emergency situations, including drilling a relief well, loss or disablement of a drilling unit, drilling rig or support craft during periods of solid ice cover, freeze-up and break-up.

- Under the provisions of OCS Operating Order No. 2 Section 2.1.4, ice information will be collected by the lessee as specified by the DMMOFO in consultation with the State of Alaska when operating in multi-year pack ice. Where such information is not readily available and is deemed necessary for conduct of production operations, the lessee will be required to collect and report information such as:

(a) continual monitoring of meteorological events in the vicinity of platforms or drilling structures (e.g., wind speed and direction);

(b) ice movement, ice dynamics, and the degree of ice ridging around offshore drilling platforms or structures;

(c) internal ice stress and ice pressures against a drilling structure or platform; and

(d) structural response of a drilling platform to local ice conditions.

The data to be collected will be specified on a case-by-case basis dependent upon structure type, location, bathymetry, etc. In the case of fixed structures such as artificial islands, these data will include, pursuant to OCS Order No. 8, a summary list of all data that have a bearing on design, installation and operation of the structure, as well as derived loads such as icing. The plans submitted will include lessee provisions for monitoring these parameters and reconciling any discrepancies between design assumptions and subsequent observations.

- Bidders are advised that a competitive sand and gravel lease sale is planned for May 1983, covering the Sales BF and 71 areas plus an additional buffer area.

Easements for the use of sand and gravel on oil and gas leases, however, may be granted by the Secretary. The appropriate vehicle for this is approval of exploration plans and development and production plans requiring these easements. These easements may extend across tract boundaries to any leasehold covered by a plan. Such plans may apply to more than one lease held by a lessee or by a group of lessees acting under a unitization, pooling, or drilling agreement.

Where sand and gravel sources exist on tracts not leased for oil and gas and not appropriately included in an exploration plan or development and production plan, the rights to use sand and gravel from these tracts can only be obtained through competitive leasing under Section 8(k) of the OCS Lands Act, as amended.

On tracts where the oil and gas lessee and the sand and gravel lessee are not the same, the correlative rights of the holder of an easement to use sand and gravel in connection with an oil and gas lease, and a lessee of the sand and gravel itself, have yet to be determined. Either the regulations concerning easements, or the Notice of Sale for a sand and gravel lease sale, or both, could define the rights of those parties.

- In addition to the protection offered by the stipulation prohibiting exploratory drilling during certain periods on certain tracts, lessees are advised that the DMMOFO has the authority to suspend operations on any lease in the lease sale area whenever bowhead whales are present in the area or near enough to be subject to disturbance from offshore oil and gas activities which would be likely to jeopardize the endangered species. This authority is not limited to the time period of restricted drilling activities, or the leases subject to the restriction. The Department of the Interior will have in place a monitoring program to determine the timing and location of bowhead whales as they migrate through or adjacent to the Diapir Field lease sale area. If it is determined that whales are present, the DMMOFO shall initiate a prescribed course of action for cessation of drilling activities, until such time that it is determined that the whales are no longer subject to potential disturbances, or are outside the zone of influence.

- Lessees and/or MMS permittees are advised that permits for seismic exploration will be subject to the authority of the DMMOFO/DMMORE to prohibit seismic operations when bowhead whales are present in the sale area or near enough to be subject to disturbance from seismic exploratory activity. The Department of the Interior will have in place a monitoring program to determine when whales are present in or adjacent to the area, or if they are being disturbed. A determination that whales are present or subject to potential disturbance shall result in the initiation of a prescribed course of action for cessation of seismic/geophysical activities, until such time that it is determined that the whales are no longer being disturbed, or outside the zone of influence.

- Lessees are advised that certain geologic conditions and processes exist that are potentially hazardous to offshore oil and gas operations. Ice gouging, wave and current reworking, and over-ice flooding affect the seabed throughout the sale area and could lead to damage to pipelines and other seafloor installations. Ice gouging occurs in the entire sale area. Potential ice hazards with gouge microrelief of at least 2 meters are indicated on the tracts listed below.

- In nearshore areas, wave and current reworking processes exist, indicated by rapidly eroded ice gouges and redistributed sediment. In the offshore shoals

along the shoreward edges of the grounded ice ridges, there are indications of frequent high current velocities, including strong intermittent bottom currents in addition to active ice gouging. Over-ice flooding and associated circular drainage exist seaward of the Colville River delta, out to approximately the 7-meter isobath.

- Portions of the following tracts may contain shallow gas deposits: 71-82, 71-83, 71-90, 71-120 through 71-123, 71-138 through 71-140, 71-154 through 71-156, 71-170 through 71-172, 71-181, 71-183 through 71-186, 71-192, 71-196 through 71-232, 71-236 through 71-243, 71-278, 71-279, 71-284 through 71-298, 71-301 through 71-305, 71-317, 71-318, 71-325 through 71-333, and 71-340 through 71-351.

- Portions of the following tracts may contain shallow faults: 71-3, 71-4, 71-17through 71-19, 71-21 through 71-26, 71-43 through 71-46, 71-63 through 71-66, 71-86 through 71-89, 71-106, 71-108 through 71-112, 71-125, 71-127, 71-128, 71-142 through 71-145, 71-161, 71-162, 71-176 through 71-179, 71-192, 71-194, 71-195, 71-207, 71-208, 71-222, 71-236, and 71-237.

- Portions of the following tracts are subject to potential ice hazards, to both surface and seabed structures, with gouge microrelief of at least 2 meters: 71-1 through 71-12, 71-17 through 71-42, 71-45 through 71-55, 71-69 through 71-74, 71-92 through 71-100, 71-113 through 71-119, 71-131 through 71-137, 71-147 through 71-153, 71-165 through 71-169, 71-251 through 71-285, 71-287, 71-289, 71-290, 71-295 through 71-300, 71-306 through 71-310, 71-325 through 71-333, and 71-340 through 71-351.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of Arctic OCS Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

Director, Minerals Management Service
Harold E. Doley

Approved: 9/3/82

Secretary of the Interior
James G. Watt

AGREEMENT BETWEEN

THE UNITED STATES OF AMERICA AND THE STATE OF ALASKA

PURSUANT TO SECTION 7

OF THE OUTER CONTINENTAL SHELF LANDS ACT

AND ALASKA STATUTES 38.05.137

FOR THE LEASING OF DISPUTED TRACTS IN FEDERAL

OUTER CONTINENTAL SHELF OIL AND GAS LEASE SALE 71 ("AGREEMENT")

WHEREAS, there is a controversy between the United States of America ("United States") and the State of Alaska ("State") concerning the authority of the State or the United States over the natural resources of the seabed and subsoil of certain submerged lands located in the Alaska Beaufort Sea; and

WHEREAS, this dispute is evidenced by the action entitled United States v. State of Alaska, United States Supreme Court, No. 84, Original ("United States v. Alaska"); and

WHEREAS, Section 7 of the Outer Continental Shelf Lands Act of August 7, 1953, 43 U.S.C. §1336, (1970) ("Act"), authorizes the Secretary of the Interior, with concurrence of the Attorney General of the United States, to negotiate and enter into agreements with the States regarding the issuance or non-issuance of mineral leases pending the settlement or ajudication of a controversy over the applicability of the provisions of the Act, 43 U.S.C. §1331 et seq. (1970); and

WHEREAS, AS 38.05.020 and AS 38.05.137 confer authority on the Commissioner of Natural Resources to negotiate and enter into agreements with United States on behalf of the State respecting mineral leasing development on lands which are the subject of a title dispute between the State and the United States; and

WHEREAS, the United States and the State agree that the best interest of each party will be served by a mineral lease sale in the Beaufort Sea at an early date and further agree that the interests of each party will be served best by inclusion in the mineral lease sale of the submerged lands over which ownership there is a genuine dispute; and

WHEREAS, the United States desires to lease three tracts in the Beaufort Sea over which there is a genuine dispute as to whether the provisions of the Act and the Submerged Lands Act of 1953, 43 U.S.C. 1301 et seq. apply. These tracts were included in the joint federal/state Beaufort Sea lease sale in December 1979 and received no bids, and are now proposed to be reoffered for lease in federal Outer Continental Shelf Oil and Gas Lease Sale 71; and

WHEREAS, the United States and the State desire to provide for the safekeeping of bonuses, rentals, royalties, and other sums payable under any mineral leases issued for the submerged lands over which there is a dispute, prior to a final determination or settlement of the action, United States v. Alaska;

NOW THEREFORE, the United States, by and through the Secretary of the Interior, and with the concurrence of the Attorney General of the United States, and the State, by and through the Commissioner of Natural Resources of the State of Alaska, agree as follows:

I.

The parties agree that it is their explicit intention that no definition, agreement, provision of this Agreement, or lease issued in accordance with any provision of this Agreement, shall be construed to waive or prejudice in any way any right, interest, claim, or demand which either party now has or may be determined to have to any of the disputed area as defined in Section II of this Agreement, and that neither party shall use in any manner any provision of this Agreement as a basis for questioning, prejudicing, or waiving any right, interest, claim, or demand of either party in the judicial proceeding, United States v. Alaska, now pending, except that either party may use this Agreement, or any provision of it, as a basis for questioning, prejudicing, or waiving any right, interest, claim, or demand of either party in a proceeding involving a dispute over this Agreement or an interpretation of this Agreement or any of its terms.

II.

For purposes of this Agreement, the disputed area is generally defined as:

> All submerged lands located more than three geographic miles from the low-water line or closing lines across the mouths of inland water bodies which the United States claims as the baseline from which to delimit its territorial sea, constructed by the method of arcs of circles; and, located inside a line three miles seaward of a series of straight lines following the outermost points on the fringe of islands located in the vicinity of Prudhoe Bay and which the State claims as the baseline from which to delimit the territorial sea.

The three disputed tracts proposed for lease which result from this definition are shown on the maps and supplemental block diagrams attached to this Agreement as Exhibit 1, which maps and diagrams are expressly incorporated into and made a part of this agreement. The parties state that the lines shown on the maps and diagrams in Exhibit 1 as delimiting State lands, federal lands, and disputed lands are based on a consistent application of the principles which each party endorses in the action United States v. Alaska.

III.

The parties covenant that no mineral leases have been granted by either party on the three disputed areas. Each party agrees that as long as this Agreement remains in effect no mineral lease will be issued for any portion of the disputed area except in accordance with this Agreement. Each party agrees to indemnify and hold harmless the other party for any loss or damage sustained by the other party as a result of the issuance of any lease in the disputed area other than according to the terms of this Agreement.

IV.

The United States and the State consent to the issuance of mineral leases and the granting of rights-of-way for pipeline construction and other lease development facilities in the disputed area and to the drilling and development of it during the period this Agreement remains in effect.

(a) Leasing and management of the disputed area shall be accomplished by the U.S. Department of the Interior in accordance with the provisions of this Agreement, and with the guidelines set out in Appendix A, which are incorporated into and made a part of this Agreement. The law, including rules and regulations, of the United States shall apply to leases

within the disputed area except where this Agreement expressly provides otherwise. The United States agrees to obtain the express written permission of the State before agreeing to reduce by any means rentals or royalties payable under any lease within the disputed area, or before agreeing to take payment of such royalties in amount (in kind) rather than in value.

(b) Subject to Section IV(a), the United States may:

(1) Offer the tracts in the disputed area for lease as it may select, provided that any tract offered for lease shall not exceed the acreage allowed by state and federal law and shall correspond to a leasing unit as shown in Exhibit 1;

(2) Determine the bidding system under which tracts in the disputed area will be offered for lease, subject to the concurrence of the State;

(3) Administer all proceedings with respect to nomination, tract selections, bid invitations, bid openings, and lease sales in the disputed area, provided that State officials are allowed to participate with respect to the three disputed tracts;

(4) Accept or reject bids on tracts in the disputed area, but failure to achieve concurrence with State concerning the adequacy of a bid on a disputed tract will result in rejection of the bid;

(5) Execute leases, permits, and other necessary instruments with respect to tracts in the disputed area, provided these instruments are made expressly subject to this Agreement.

(c) No State taxes will be required to be paid on those lands within the disputed area during the pendency of United States v. Alaska. However, any lease issued pursuant to this Agreement shall expressly provide that in the event the State is determined to own the lands subject to the lease or any portion of those lands, the lessee shall pay to the State a sum that is equivalent to the taxes which would have been imposed under Alaska law if the lands or a portion of them determined to be State lands had been undisputed State lands from the date the lease was executed, plus interest at the annual legal rate of interest provided under Alaska law accruing from the date that the taxes would have become due under Alaska law. This payment shall be in lieu of and in satisfaction of the actual state taxes.

(d) Unitization of leases overlying a common reservoir may be required prior to the commencement of commercial production, and voluntary unitization may be authorized during exploration, as provided in the AGREEMENT REGARDING UNITIZATION FOR THE OUTER CONTINENTAL SHELF PROPOSED OCS OIL AND GAS LEASE SALE 71 BETWEEN THE UNITED STATES AND STATE OF ALASKA executed on or about this date.

(e) All payments by lessees attributable to lands within the disputed area, including but not limited to, all bonuses, rentals, and royalties, shall be paid into the escrow account created by Section V of this Agreement. The State and the United States each shall receive a monthly statement of all funds paid into the escrow account. The monthly statement shall be provided by the last day of the month following the month in which the reported funds are paid.

(f) Each lease issued pursuant to this Agreement shall provide that the lessee consents to every term of this Agreement.

V.

The escrow account provided for in Section IV(e) of this Agreement will be established in the U.S. Department of the Treasury as a Deposit Fund Account. The funds deposited in that account shall be invested at the direction of the Department of the Interior only in special non-marketable U.S. Treasury securities purchased at prevailing market rates. The Department of the Interior will obtain the approval of the State Department of Revenue before directing the U.S. Department of the Treasury with regard to the investment of funds in the escrow account. The State will hold the Department of the Interior harmless from any liability due to interest lost from investments it is required to direct the Department of the Treasury to make as a consequence of the State's failure to timely approve those investments.

VI.

The parties agree that the rights of either party to any sums received under leases issued on the disputed tracts issued pursuant to this Agreement shall be controlled solely by, and dependent upon, this Agreement, and the final judicial determination in United States v. Alaska concerning the authority of the State or the United States over the natural resources of the seabed and subsea soil in the disputed tracts. The parties agree that after final judicial determination the provisions of Section VII of this Agreement shall control the rights of the parties to the money attributable to leases in the disputed tracts in the escrow account.

VII.

For each lease which pertains to lands in the disputed tracts, distribution of the funds paid into escrow on account of each lease shall be as follows:

(a) If the final decision of the Court is that the State is the owner of the submerged lands subject to the lease, then all funds paid into escrow on account of the lease, plus interest earned from the time those funds are invested in accordance with Section V, shall be paid to the State.

(b) If the final decision of the Court is that the United States has jurisdiction over the submerged lands subject to the lease, then all funds paid into escrow on account of the lease, plus interest earned from the time those funds are invested in accordance with Section V, shall be paid to the United States.

(c) If the final decision of the Court is that the United States and the State each owns or has jurisdiction over a portion of the submerged lands subject to the lease, then the funds paid into escrow on account of the lease shall be distributed as follows:

(1) Bonuses and rentals paid into escrow, plus interest earned from the time the funds are invested in accordance with Section V, shall be apportioned and paid to the State and to the United States

in the same ratio as the ratio of the acreage of State land bears to the acreage of federal land within the lease area.

(2) Royalties paid into escrow, plus interest earned from the time the funds are invested in accordance with Section V, shall be apportioned and paid to the State and the United States in a fair and equitable manner solely on the basis of estimated volumes of recoverable oil or gas, or both, originally in place under the portion of the submerged lands determined to be owned by or under the jurisdiction of each party.

(d) Payment from the escrow account of sums due to either party under this section shall be made as soon as possible after the final judicial determination in United States v. Alaska, but in no event more than 180 days after the final judicial determination.

(e) "Final judicial determination" shall mean the final decree issued by the Court with regard to the ownership or jurisdictional status of the submerged lands subject to the lease. The decree shall not be considered final until the time for rehearing has expired.

VIII.

(a) Upon the final judicial determination in United States v. Alaska as to any area affected by a lease or portion of it to which this Agreement is applicable, the successful party, upon receipt of the funds due it, shall validate and give recognition to the lease or portion of it, and shall grant to the lessee all the rights authorized or provided for by the laws of the successful party. If the State is determined to have paramount rights to the natural resources of the seabed and subsoil of the submerged lands in the disputed area to which the lease is applicable, the ratification and validation of the lease by the State shall be subject to the full compliance by the lessee with all applicable State laws and regulations. If the United States is determined to have paramount rights to the natural resources of the seabed and subsoil of the submerged lands to which the lease is applicable, the lessee shall, within ninety days after the mailing of notice by the United States, comply with the requirements of the Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq. (1970), as amended, and regulations promulgated under it, and thereupon the provisions of that Act shall govern the lease. The validation and recognition provisions of this paragraph are not applicable if the lease was originally issued and administered by the successful party.

(b) Any loss incurred or sustained by any lessee as a result of obtaining validation and recognition of any lease issued pursuant to this Agreement, and in particular any loss incurred or sustained as a result of conforming any lease with any and all provisions of all applicable laws of the party prevailing in United States v. Alaska, shall be borne exclusively by the lessee and each lease issued pursuant to this Agreement must so provide.

IX.

(a) Any sums paid or released by the escrow agent in accordance with this Agreement shall be made without reference to, limitation by, or effect as to any claim against or liability or obligation of the other

party not arising under this Agreement. Nothing contained in this Agreement shall limit any right either party may have to assert separately any other claims which it may have against the other party or any third party.

(b) Upon payment of all sums due and payable in accordance with the provisions of sections VII and in compliance with the validation and ratification requirements set forth in section VIII, this Agreement shall terminate.

X.

This Agreement, or any provision of it, may be amended at any time by written instrument signed by the parties.

XI.

The parties agree that this Agreement may be incorporated into an appropriate judicial order by the Court in United States v. Alaska.

XII.

This Agreement shall become effective when signed by the Commissioner of Natural Resources on behalf of the State and the Secretary of the Interior and Attorney General of the United States on behalf of the United States and shall remain in effect until terminated pursuant to Section IX or by mutual written agreement of the parties. When executed by both parties, this Agreement shall supersede the Interim Agreement of October 26, 1979, insofar as that Agreement applied to the disputed tracts which are the subject of the present Agreement.

MANAGEMENT OF BEAUFORT SEA LEASES

The principal element of this plan for the management and administration of leases in the Beaufort Sea sale area is a management committee that will coordinate State and Federal activities. The Coordination Committee ("Committee") will be an outgrowth of the present Steering Committee utilized for administering leases issued in the 1979 Joint Federal/State Beaufort Sea Lease Sale. It will not be a full time, independent entity and redundant staffing will not be required.

The Committee will be comprised of the principal State and Federal agencies having Beaufort Sea regulatory authority. These agencies are the Minerals Management Service, Alaska Oil and Gas Conservation Commission, and Alaska Department of Natural Resources (Division of Energy and Minerals Management). The Committee will consult with the following agencies to ensure a coordinated lease management program: EPA, the Corps of Engineers, NOAA, the Coast Guard, the Department of Environmental Conservation (State), Fish and Wildlife Service, Alaska Department of Fish and Game, and the Alaska Department of Labor. The following are proposed management principles for the sale area:

A. Standards and Legal Requirements

Federal standards and legal requirements will apply to those tracts on disputed lands as described in the Interim Agreement.

APPENDIX A

B. Jurisdiction

Leasing units containing disputed lands will be leased and managed by the Federal Government. All activities in the sale area will be coordinated by the Committee.

The Committee will be responsible for the consistency of operations throughout the duration of the dispute. Federal officials will consult with appropriate State officials in the administration of disputed lands.

C. Application and Review Procedures

1. Applications pertaining to leases in the disputed area will be submitted to the Federal agency normally receiving that type of application.

2. Applications pertaining to leases in the disputed area will be distributed to the state agencies comprising the Committee for review and coordination purposes. This provision does not constitute a waiver of the requirements of 30 CFR 250.34 and 30 CFR 252.

3. Specific time frames will be set for accomplishing each task in the review process. If possible, whenever environmental assessments or impact statements are necessary, one document will be prepared, coordinated, and directed through the Committee to fulfill the needs of all agencies party to this agreement.

D. Enforcement

1. Federal officials will be responsible for inspections on Federally managed leases and all inspections will be scheduled and conducted by them.

2. Inspection procedures for the disputed area will be made as uniform as possible and coordinated by the affected State and Federal agency representatives.

3. Enforcement of environmental and operating requirements, the monitoring of environmental programs, and the review of data and reports will be accomplished by the appropriate State or Federal agencies and coordinated through the Committee. If problems arise from inconsistent enforcement or monitoring procedures, such problems will be resolved through the Committee.

AGREEMENT REGARDING UNITIZATION FOR THE
OUTER CONTINENTAL SHELF OIL AND GAS LEASE SALE 71
BETWEEN THE UNITED STATES AND THE STATE OF ALASKA

With respect to the three tracts in the disputed area which are described in the AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE STATE OF ALASKA PURSUANT TO SECTION 7 OF THE OUTER CONTINENTAL SHELF LANDS ACT AND ALASKA STATUTE 38.05.137 FOR THE LEASING OF DISPUTED TRACTS IN FEDERAL OUTER CONTINENTAL SHELF ("OCS") OIL AND GAS LEASE SALE 71 ("Interim Agreement"), in section II and Exhibit 1 of the Interim Agreement, and which are proposed to be leased by the United States in federal OCS lease sale 71, the following Agreement Regarding Unitization is entered into between the United States and the State of Alaska:

1. All reservoirs underlying more than one lease, as indicated by drilling and other information sufficient to show the extent of the reservoir, must be operated and produced only under a unit agreement which includes all leases over which the reservoir is located; provided, however, that this requirement will not be applicable to any reservoirs which are located entirely under undisputed federal land or entirely under undisputed state land. The unit agreement must provide for the fair and equitable allocation of production and costs, solely on the basis of estimated volumes of recoverable oil or gas, or both, originally in place under each lease. A unit agreement involving any lease on disputed lands, must be approved by the Director, Minerals Management Service ("MMS") or his designee, and the Alaska Commissioner of Natural Resources, or his designee, before the unit agreement is effective. In the event that the lessees are unable to agree on the fair and equitable allocation of production and costs, the allocation will be prescribed by both the Director, MMS, or his designee, and the Alaska Commissioner of Natural Resources, or his designee. Unitization of all leases on disputed lands overlying the reservoir will not be required if the lessee can demonstrate to the satisfaction of both the Director, MMS, or his designee, and the Alaska Commissioner of Natural Resources, or his designee that to require unitization of all leases overlying the reservoir would not be in the interest of conservation or would unduly delay development of the resource. A stipulation setting out the requirement of this paragraph shall be included in each lease issued pursuant to the Interim Agreement in federal OCS lease sale 71.

2. When the federal government leases an offshore tract containing reservoirs of oil or gas which underlie the boundary between the areas leased by the United States as lessor and the areas leased by the State as lessor, each party to this Agreement Regarding Unitization will require its lessee to enter into a production unit in accordance with paragraph 1 above, for the fair and equitable allocation of production and costs attributable to each of those reservoirs.

3. If upon commencement of commercial production, a portion of the jointly controlled reservoir is not under lease, the party having leasing jurisdiction will undertake to lease the area containing the reservoir as soon as reasonably possible. When the area is subsequently leased, unitization will be required in accordance with this Agreement Regarding Unitization. Federal and State lessees shall be required to participate in the unitization by applicable lease terms, regulations, or statutes.

APPENDIX B

4. When production units are established for reservoirs underlying leases on disputed lands, it is agreed that revenues on production must be paid as follows:

(a) Production must be allocated on the bases prescribed in the unit agreement and unit operating agreement between lessees, approved in accordance with paragraph 1 of this Agreement Regarding Unitization;

(b) Revenues payable to the escrow account established for leases on disputed lands, and revenues subsequently payable to the lessor, will be based on the production allocated to each lease on disputed lands and payable at the rate imposed by the lessor on production from that lease as if the production had taken place from lands subject to that lease, regardless of whether the production is actually taken from lands subject to that lease.

5. Exploration units or other forms of cooperative exploration agreements may also be allowed where appropriate, subject to the approval of both the Director, MMS, or his designee, and the Alaska Commissioner of Natural Resources, or his designee, if leases on disputed lands are involved. These unitization agreements shall provide for the fair and equitable allocation of costs. Nothing in this Agreement Regarding Unitization shall be construed to require either party to order unitization at the exploration stage, or to approve any unit agreement.

6. Nothing in this Agreement Regarding Unitization or in the unit agreements for which it provides shall affect the applicability of state or federal statutes, including the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.), and state and federal regulations. Nothing in this Agreement Regarding Unitization shall be construed to affect or alter the procedures currently used, or to be used in the future, by the State of Alaska or the Department of the Interior in assessing the adequacy and approving the terms of unit or other cooperative agreements.

7. This Agreement Regarding Unitization comprises, among other things, the agreement concerning the disposition of revenues which may be generated by a federal lease from the disputed tracts described in Section II of the Interim Agreement in order to permit their fair and equitable division between the State and the Federal Government, in accordance with Section 8(g)(2) of the Outer Continental Shelf Lands Act Amendments of 1978, 43 U.S.C. 1337.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Diapir Field

Notice of Leasing Systems, Sale No. 71

Sec. 8(a)(8) (43 U.S.C. 1337 (a)(8)) of the Outer Continental Shelf (OCS) Lands Act, as amended, requires that, at least 30 days before any lease sale, a notice be submitted to the Congress and published in the Federal Register:

(A) identifying the bidding systems to be used and the reasons for such use, and

(B) designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

A. Bidding systems to be used. In OCS Sale No. 71, tracts will be offered under the following three bidding systems as authorized by Sec. 8(a)(1) (43 U.S.C. 1337 (a)(1)): (1) bonus bidding with a 16-2/3 percent royalty on 213 tracts, (2) bonus bidding with a 12-1/2 percent royalty on 61 tracts, and (3) bonus bidding with a fixed sliding scale royalty on 64 tracts.

(1) Bonus Bidding with a 16-2/3 Percent Royalty. This system is authorized by Sec. (8)(a)(1)(A) of the OCS Lands Act, as amended. This system has been used extensively since the passage of the OCS Lands Act in 1953 and imposes greater risks on the lessee than systems with higher contingency payments, but may yield more rewards if a commercial field is discovered. The relatively high front-end payments required may encourage rapid exploration.

(2) Bonus Bidding with a 12-1/2 Percent Royalty. This system is authorized by Sec. (8)(a)(1)(A) of the OCS Lands Act, as amended. This system has been chosen for certain deeper water tracts proposed for Sale 71 because these tracts are expected to require substantially higher exploration, development, and production costs, as well as longer times before initial production, in comparison to more shallow water tracts. DOI analyses indicate that the minimum economically developable discovery on a tract in such high cost areas under a 12-1/2 percent royalty system would be less than for the same tracts under a 16-2/3 percent royalty system. As a result, more tracts may be explored and developed. In addition, the lower royalty rate system is expected to yield more rapid production rates and higher economic profits. It is not anticipated, however, that the larger cash bonus bid associated with a lower royalty rate will significantly reduce competition, since the higher costs for exploration and development are the primary restraints to competition.

(3) Bonus Bidding with a Fixed Sliding Scale Royalty. This system is authorized by Sec. (8)(a)(1)(C) of the OCS Lands Act, as amended. The sliding scale is designed to establish higher royalty rates for larger reservoirs with higher production rates. As such, the expected bonus is reduced compared to a fixed one-sixth royalty system. This may improve competition for leases, and also tends to reduce the likelihood of production losses that could result if higher royalty rates are set by other means, such as royalty bidding, prior to reservoir delineation and production. The fixed sliding scale formula provided for Sale 71 is based on the current assumed range of costs and wellhead prices for this area.

The fixed sliding scale formula operates in the following way: When the quarterly value of production, adjusted for inflation, is less than or equal to $28.109194 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $28.109195 million, but less than or equal to $11822.537759 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b\,[Ln\,(Vj/S)]$$ where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

$b = 8.0$

Ln = natural logarithm

Vj = the value production in quarter j, adjusted for inflation, in millions of dollars

$S = 3.50$

When the adjusted quarterly value of production is equal to or greater than $11822.537760 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.64.

(B) Designation of Tracts. The selection of tracts to be offered under the three systems was based on the following factors:

(1) Lease terms on adjacent tracts were considered in order to reduce administrative costs and barriers to unitization, and to enhance orderly development of each field.

(2) Generally, tracts in deeper water were selected for 1/8 royalty based on the favorable performance of this system in these high cost areas.

The specific tracts to be offered under each system are as follows:

(a) Bonus Bidding with a 12-1/2 Percent Royalty--Tracts 71-1 thru 71-4, 71-17 thru 71-19, 71-34 thru 71-36, 71-51 thru 71-55, 71-97 thru 71-100, 71-116 thru 71-119, 71-134 thru 71-137, 71-151 thru 71-153, 71-251 thru 71-276, 71-282, 71-283, 71-299, 71-300, and 71-310.

(b) Bonus Bidding with a Fixed Sliding Scale Royalty--Tracts 71-277 thru 71-281, 71-284 thru 71-298, 71-301 thru 71-309, 71-311 thru 71-333, and 71-340 thru 71-351.

(c) Bonus Bidding with a 16-2/3 Percent Royalty -- All remaining tracts.

Director, Minerals Management Service
Harold E. Doley

Approved: 9/3/82

Secretary of the Interior
James G. Watt

[FR Doc. 82-25018 Filed 9-10-82; 8:45 am]
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federal register

Monday
September 13, 1982

Part V

Department of Justice

Antitrust Division

United States v. Western Electric Co., Inc., et al.; Notice of Entry of Final Judgment

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Western Electric Company, Inc., et al., Civil Action No. 82–0192; Notice of Entry of Final Judgment

On January 8, 1982, the United States and the American Telephone & Telegraph Company ("AT&T") filed an agreed-upon proposed modification of the 1956 final judgment in *United States* v. *Western Electric Company, Inc., et al.,* Civil Action No. 82–0192 (D.D.C.). Upon completion of the procedures provided for in several orders of the United States District Court for the District of Columbia,[1] that Court issued an opinion on August 11, 1982, requiring that certain changes be made to the proposed Modification of Final Judgment prior to the Court's entry thereof. The United States and AT&T agreed to those changes, and a proposed Modification of Final Judgment incorporating the changes set forth in the Court's August 11 opinion was filed on August 24, 1982, accompanied by the parties' stipulation to the entry of that judgment. The United States also filed a memorandum with the Court concerning the changes made to the Modification of Final Judgment. On August 24, 1982, the Court entered the Modification of Final Judgment.[2]

Set forth below is the full text of the Modification of Final Judgment as entered by the Court on August 24, 1982, together with the parties' stipulation to the entry of that modification and the Memorandum of the United States filed in connection therewith on August 24, 1982. Requests for copies of these documents should be directed to: Mr. Eric Donovan, Antitrust Division, Room 430 SAFE, U.S. Department of Justice, Washington, D.C. 20530, (202) 724–5819.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *Western Electric Company, Incorporated, and American Telephone and Telegraph Company,* Defendants; Civil Action No. 82–0192.

Modification of Final Judgment

Plaintiff, United States of America, having filed its complaint herein on January 14, 1949; the defendants having appeared and filed their answer to such complaint denying the substantive allegations thereof; the parties, by their attorneys, having severally consented to a Final Judgment which was entered by the Court on January 24, 1956, and the parties having subsequently agreed that modification of such Final Judgment is required by the technological, economic and regulatory changes which have occurred since the entry of such Final Judgment;

Upon joint motion of the parties and after hearing by the Court, it is hereby

Ordered, adjudged, and decreed that the Final Judgment entered on January 24, 1956, is hereby vacated in its entirety and replaced by the following items and provisions:

I

AT&T Reorganization

A. Not later than six months after the effective date of this Modification of Final Judgment, defendant AT&T shall submit to the department of Justice for its approval, and thereafter implement, a plan of reorganization. Such plan shall provide for the completion, within 18 months after the effective date of this Modification of Final Judgment, of the following steps:

1. The transfer from AT&T and its affiliates to the BOCs, or to a new entity subsequently to be separated from AT&T and to be owned by the BOCs, of sufficient facilities, personnel, systems, and rights to technical information to permit the BOCs to perform, independently of AT&T, exchange telecommunications and exchange access functions, including the procurement for, and engineering, marketing and management of, those functions, and sufficient to enable the BOCs to meet the equal exchange access requirements of Appendix B;

2. The separation within the BOCs of all facilities, personnel and books of account between those relating to the exchange telecommunications or exchange access functions and those relating to other functions (including the provision of interexchange switching and transmission and the provision of customer premises equipment to the public); provided that there shall be no joint ownership of facilities, but appropriate provision may be made for sharing, through leasing or otherwise, of multifunction facilities so long as the separated portion of each BOC is ensured control over the exchange telecommunications and exchange access functions;

3. The termination of the License Contracts between AT&T and the BOCs and other subsidiaries and the Standard Supply Contract between Western Electric and the BOCs and other subsidiaries; and

4. The transfer of ownership of the separated portions of the BOCs providing local exchange and exchange access services from AT&T by means of a spin-off of stock of the separated BOCs to the shareholders of AT&T, or by other disposition; provided that nothing in this Modification of Final Judgment shall require or prohibit the consolidation of the ownership of the BOCs into any particular number of entities.

B. Notwithstanding separation of ownership, the BOCs may support and share the costs of a centralized organization for the provision of engineering, administrative and other services which can most efficiently be provided on a centralized basis. The BOCs shall provide, through a centralized organization, a single point of contact for coordination of BOCs to meet the requirements of national security and emergency preparedness.

C. Until September 1, 1987, AT&T, Western Electric, and the Bell Telephone Laboratories, shall, upon order of any BOC, provide on a priority basis all research, development, manufacturing, and other support services to enable the BOCs to fulfill the requirements of this Modification of Final Judgment. AT&T and its affiliates shall take no action that interferes with the BOCs' requirements of nondiscrimination established by section II.

D. After the reorganization specified in paragraph I(A)(4), AT&T shall not acquire the stock or assets of any BOC.

II

BOC Requirements

A. Subject to Appendix B, each BOC shall provide to all interexchange carriers and information service providers exchange access, information access, and exchange services for such access on an unbundled, tariffed basis, that is equal in type, quality, and price to that provided to AT&T and its affiliates.

B. No BOC shall discriminate between AT&T and its affiliates and their products and services and other persons and their products and services in the:

1. Procurement of products and services;

2. Establishment and dissemination of technical information and procurement and interconnection standards;

3. Interconnection and use of the BOC's telecommunications service and facilities or in the charges for each element of service; and

4. Provision of new services and the planning for and implementation of the construction or modification of facilities, used to provide exchange access and information access.

C. Within six months after the reorganization specified in paragraph I(A)(4), each BOC shall submit to the Department of Justice procedures for ensuring compliance with the requirements of paragraph B.

D. After completion of the reorganization specified in section I, no BOC shall, directly or through any affiliated enterprise:

1. Provide interexchange telecommunications services or information services;

2. Manufacture or provide telecommunications products or customer premises equipment (except for provision of customer premises equipment for emergency services); or

3. Provide any other product or service, except exchange telecommunications and exchange access service, that is not a natural monopoly service actually regulated by tariff.

III

Applicability and Effect

The provisions of this Modification of Final Judgment, applicable to each defendant and each BOC, shall be binding upon said

[1] Dated January 21, February 5, May 5, and May 25, 1982.

[2] On January 8, 1982, the United States and AT&T also filed a stipulation of dismissal in *United States* v. *American Telephone & Telegraph Company,* Civil Action No. 74–1698 (D.D.C.). That action was ordered dismissed by the Court on August 24, 1982.

defendants and BOCs, their affiliates, successors and assigns, officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with each defendant and BOC who receive actual notice of this Modification of Final Judgment by personal service or otherwise. Each defendant and each person bound by the prior sentence shall cooperate in ensuring that the provisions of this Modification of Final Judgment are carried out. Neither this Modification of Final Judgment nor any of its terms or provisions shall constitute any evidence against, an admission by, or an estoppel against any party or BOC. The effective date of this Modification of Final Judgment shall be the date upon which it is entered.

IV

Definitions

For the purposes of this Modification of Final Judgment:

A. "Affiliate" means any organization or entity, including defendant Western Electric Company, Incorporated, and Bell Telephone Laboratories, Incorporated, that is under direct or indirect common ownership with or control by AT&T or is owned or controlled by another affiliate. For the purposes of this paragraph, the terms "ownership" and "owned" mean a direct or indirect equity interest (or the equivalent thereof) of more than fifty (50) percent of an entity. "Subsidiary" means any organization or entity in which AT&T has stock ownership, whether or not controlled by AT&T.

B. "AT&T" shall mean defendant American Telephone and Telegraph Company and its affiliates.

C. "Bell Operating Companies" and "BOCs" mean the corporations listed in Appendix A attached to this Modification of Final Judgment and any entity directly or indirectly owned or controlled by a BOC or affiliated through substantial common ownership.

D. "Carrier" means any person deemed a carrier under the Communications Act of 1934 or amendments thereto, or, with respect to intrastate telecommunications, under the laws of any State.

E. "Customer premises equipment" means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications, but does not include equipment used to multiplex, maintain, or terminate access lines.

F. "Exchange access" means the provision of exchange services for the purpose of originating or terminating interexchange telecommunications. Exchange access services include any activity or function performed by a BOC in connection with the origination or termination of interexchange telecommunications, including but not limited to, the provision of network control signalling, answer supervision, automatic calling number identification, carrier access codes, directory services, testing and maintenance of facilities and the provision of information necessary to bill customers. Such services shall be provided by facilities in an exchange area for the transmission, switching, or routing, within the exchange area, of interexchange traffic originating or terminating within the exchange area, and shall include switching traffic within the exchange area above the end office and delivery and receipt of such traffic at a point or points within an exchange area designated by an interexchange carrier for the connection of its facilities with those of the BOC. Such connections, at the option of the interexchange carrier, shall deliver traffic with signal quality and characteristics equal to that provided similar traffic of AT&T, including equal probability of blocking, based on reasonable traffic estimates supplied by each interexchange carrier. Exchange services for exchange access shall not include the performance by any BOC of interexchange traffic routing for any interexchange carrier. In the reorganization specified in section I, trunks used to transmit AT&T's traffic between end offices and class 4 switches shall be exchange access facilities to be owned by the BOCs.

G. "Exchange area," or "exchange" means a geographic area established by a BOC in accordance with the following criteria:

1. Any such area shall encompass one or more contiguous local exchange areas serving common social, economic, and other purposes, even where such configuration transcends municipal or other local governmental boundaries;

2. Every point served by a BOC within a State shall be included within an exchange area;

3. No such area which includes part or all of one standard metropolitan statistical area (or a consolidated statistical area, in the case of densely populated States) shall include a substantial part of any other standard metropolitan statistical area (or a consolidated statistical area, in the case of densely populated States), unless the Court shall otherwise allow; and

4. Except with approval of the Court, no exchange area located in one State shall include any point located within another State.

H. "Information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or other symbols.

I. "Information access" means the provision of specialized exchange telecommunications services by a BOC in an exchange area in connection with the origination, termination, transmission, switching, forwarding or routing of telecommunications traffic to or from the facilities of a provider of information services. Such specialized exchange telecommunications services include, where necessary, the provision of network control signalling, answer supervision, automatic calling number identification, carrier access codes, testing and maintenance of facilities, and the provision of information necessary to bill customers.

J. "Information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information which may be conveyed via telecommunications, except that such service does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

K. "Interexchange telecommunications" means telecommunications between a point or points located in one exchange telecommunications area and a point or points located in one or more other exchange areas or a point outside an exchange area.

L. "Technical information" means intellectual property of all types, including, without limitation, patents, copyrights, and trade secrets, relating to planning documents, designs, specifications, standards, and practices and procedures, including employees training.

N. "Telecommunications equipment" means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services.

O. "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, by means of electromagnetic transmission, with or without benefit of any closed transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

P. "Telecommunications service" means the offering for hire of telecommunications facilities, or of telecommunications by means of such facilities.

Q. "Transmission facilities" means equipment (including without limitation wire, cable, microwave, satellite, and fibre-optics) that transmit information by electromagnetic means or which directly support such transmission, but does not include customer premises equipment.

V

Compliance Provisions

The defendants, each BOC, and affiliated entities are ordered and directed to advise their officers and other management personnel with significant responsibility for matters addressed in this Modification of Final Judgment of their obligations hereunder. Each BOC shall undertake the following with respect to each such officer or management employee:

1. The distribution to them of a written directive setting forth their employer's policy regarding compliance with the Sherman Act and with this Modification of Final Judgment, with such directive to include:

(a) An admonition that non-compliance with such policy and this Modification of Final Judgment will result in appropriate disciplinary action determined by their employer and which may include dismissal; and

(b) Advice that the BOCs' legal advisors are available at all reasonable times to confer with such persons regarding any compliance questions or problems;

2. The imposition of a requirement that each of them sign and submit to their employer a certificate in substantially the following form:

The undersigned hereby (1) acknowledges receipt of a copy of the 1982 *United States* v. *Western Electric* Modification of Final Judgment and a written directive setting forth Company policy regarding compliance with the antitrust laws and with such Modification of Final Judgment, (2) represents that the undersigned has read such Modification of Final Judgment and directive and understands those provisions for which the undersigned has responsibility, (3) acknowledges that the undersigned has been advised and understands that non-compliance with such policy and Modification of Final Judgment will result in appropriate disciplinary measures determiend by the Company and which may include dismissal, and (4) acknowledges that the undersigned has been advised and understands that non-compliance with the Modification of Final Judgment may also result in conviction for contempt of court and imprisonment and/or fine.

VI

Visitorial Provisions

A. For the purpose of determining or securing compliance with this Modification of Final Judgment, and subject to any legally recognized privilege, from time to time:

1. Upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant or after the reorganization specified in section I, a BOC, made to its principal office, duly authorized representatives of the Department of Justice shall be permitted access during office hours of such defendants or BOCs to depose or interview officers, employees, or agents, and inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, BOC, or subsidiary companies, who may have counsel present, relating to any matters contained in this Modification of Final Judgment; and

2. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office or, after the reorganization specified in section I, a BOC, such defendant, or BOC, shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Modification of Final Judgment as may be requested.

B. No information or documents obtained by the means provided in this section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States or the Federal Communications Commission, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

C. If at the time information or documents are furnished by a defendant to plaintiff, such defendant or BOC represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant or BOC marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days' notice shall be given by plaintiff to such defendant or BOC prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant or BOC is not a party.

VII

Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Modification of Final Judgment, or, after the reorganization specified in section I, a BOC to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Modification of Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

VIII

Modifications

A. Notwithstanding the provisions of section II(D)(2), the separated BOCs shall be permitted to provide, but not manufacture, customer premises equipment.

B. Notwithstanding the provisions of section II(D)(3), the separated BOCs shall be permitted to produce, publish, and distribute printed directories which contain advertisements and which list general product and business categories, the services or product providers under these categories, and their names, telephone numbers, and addresses.

Notwithstanding the provisions of sections I(A)(1), I(A)(2), I(A)(4), all facilities, personnel, systems, and rights to technical information owned by AT&T, its affiliates, or the BOCs which are necessary for the production, publication, and distribution of printed advertising directories shall be transferred to the separated BOCs.

C. The restrictions imposed upon the separated BOCs by virtue of section II(D) shall be removed upon a showing by the petitioning BOC that there is no substantial possibility that it could use its monopoly power to impede competition in the market it seeks to enter.

D. AT&T shall not engage in electronic publishing over its own transmission facilities. "Electronics publishing" means the provision of any information which AT&T or its affiliates has, or has caused to be, originated, authored, compiled, collected, or edited, or in which it has a direct or indirect financial or proprietary interest, and which is disseminated to an unaffiliated person through some electronic means.

Nothing in this provision precludes AT&T from offering electronic directory services that list general product and business categories, the service or product providers under these categories, and their names, telephone numbers, and addresses; or from providing the time, weather, and such other audio services as are being offered as of the date of the entry of the decree to the geographic areas of the country receiving those services as of that date.

Upon application of AT&T, this restriction shall be removed after seven years from the date of entry of the decree, unless the Court finds that competitive conditions clearly require its extension.

E. If a separated BOC provides billing services to AT&T pursuant to Appendix B(C)(2), it shall include upon the portion of the bill devoted to interexchange services the following legend: This portion of your bill is provided as a service to AT&T. There is no connection between this company and AT&T. You may choose another company for your long distance telephone calls while still receiving your local telephone service from this company.

F. Notwithstanding the provisions of Appendix B(C)(3), whenever, as permitted by the decree, a separated BOC fails to offer exchange access to an interexchange carrier that is equal in type and quality to that provided for the interexchange traffic of AT&T, the tariffs filed for such less-than-equal access shall reflect the lesser cost, if any, of such access as compared to the exchange access provided AT&T.

G. Facilities and other assets which serve both AT&T and one or more BOCs shall be transferred to the separated BOCs if the use made by such BOC or BOCs predominates over that of AT&T. Upon application by a party or a BOC, the Court may grant an exception to this requirement.

H. At the time of the transfer of ownership provided for in section I(A)(4), the separated BOCs shall have debt ratios of approximately forty-five percent (except for Pacific Telephone and Telegraph Company which shall have a debt ratio of approximately fifty percent), and the quality of the debt shall be representative of the average terms and conditions of the consolidated debt held by AT&T, its affiliates and the BOCs at that time. Upon application by a party or BOC, the Court may grant an exception to this requirement.

I. The Court may act *sua sponte* to issue orders or directions for the construction or carrying out of this decree, for the enforcement of compliance therewith, and for the punishment of any violation thereof.

J. Notwithstanding the provisions of section I(A), the plan of reorganization shall not be implemented until approved by the Court as being consistent with the provisions and principles of the decreee.

Enterd this 24th day of August 1982.

Harold H. Greene,

United States District Judge.

Appendix A

Bell Telephone Company of Nevada
Illinois Bell Telephone Company
Indiana Bell Telephone Company, Incorporated
Michigan Bell Telephone Company
New England Telephone and Telegraph Company
New Jersey Bell Telephone Company
New York Telephone Company
Northwestern Bell Telephone Company
Pacific Northwest Bell Telephone Company
South Central Bell Telephone Company

Southern Bell Telephone and Telegraph Company
Southwestern Bell Telephone Company
The Bell Telephone Company of Pennsylvania
The Chesapeake and Potomac Telephone Company
The Chesapeake and Potomac Telephone Company of Maryland
The Chesapeake and Potomac Telephone Company of Virginia
The Chesapeake and Potomac Telephone Company of West Virginia
The Diamond State Telephone Company
The Mountain States Telephone and Telegraph Company
The Ohio Bell Telephone Company
The Pacific Telephone and Telegraph Company
Wisconsin Telephone Company

Appendix B

Phased-in BOC Provision of Equal Exchange Access

A. 1. As part of its obligation to provide non-discriminatory access to interexchange carriers, no later than September 1, 1984, each BOC shall begin to offer to all interexchange carriers exchange access on an unbundled, tariffed basis, that is equal in type and quality to that provided for the interexchange telecommunications services of AT&T and its affiliates. No later than September 1, 1985, such equal access shall be offered through end offices of each BOC serving at least one-third of that BOC's exchange access lines and, upon bona fide request, every end office shall offer such access by September 1, 1986. Nothing in this Modification of Final Judgment shall be construed to permit a BOC to refuse to provide to any interexchange carrier or information service provider, upon bona fide request, exchange or information access superior or inferior in type or quality to that provided for AT&T's interexchange services or information services at charges reflecting the reduced or increased cost of such access.

2. (i) Notwithstanding paragraph (1), in those instances in which a BOC is providing exchange access for Message Telecommunications Service on the effective date of this Modification of Final Judgment through access codes that do not permit the designation of more than one interexchange carrier, then, in accordance with the schedule set out in paragraph (1), exchange access for additional carriers shall be provided through access codes containing the minimum number of digits necessary at the time access is sought to permit nationwide, multiple carrier designation for the number of interexchange carriers reasonably expected to require such designation in the immediate future.

(ii) Each BOC shall, in accordance with the schedule set out in paragraph (1), offer as a tariffed service exchange access that permits each subscriber automatically to route, without the use of access codes, all the subscriber's interexchange communications to the interexchange carrier of the customer's designation.

(iii) At such time as the national numbering area (area code) plan is revised to require the use of additional digits, each BOC shall provide exchange access to every interexchange carrier, including AT&T, through a uniform number of digits.

3. Notwithstanding paragraphs (1) and (2), with respect to access provided through an end office employing switches technologically antecedent to electronic, stored program control switches or those offices served by switches that characteristically serve fewer than 10,000 access lines, a BOC may not be required to provide equal access through a switch if, upon complaint being made to the Court, the BOC carriers the burden of showing that for particular categories of services such access is not physically feasible except at costs that clearly outweigh potential benefits to users of telecommunications services. Any such denial of access under the preceding sentence shall be for the minimum divergence in access necessary, and for the minimum time necessary, to achieve such feasibility.

B. 1. The BOCs are ordered and directed to file, to become effective on the effective date of the reorganization described in paragraph I(A)(4), tariffs for the provision of exchange access including the provision by each BOC of exchange access for AT&T's interexchange telecommunications. Such tariffs shall provide unbundled schedules of charges for exchange access and shall not discriminate against any carrier or other customer. Such tariffs shall replace the division of revenues process used to allocate revenues to a BOC for exchange access provided for the interexchange telecommunications of BOCs or AT&T.

2. Each tariff for exchange access shall be filed on an unbundled basis specifying each type of service, element by element, and no tariff shall require an interexchange carrier to pay for types of exchange access that it does not utilize. The charges for each type of exchange access shall be cost justified and any differences in charges to carriers shall be cost justified on the basis of differences in services provided.

3. Notwithstanding the requirements of paragraph (2), from the date of reorganization specified in section I until September 1, 1991, the charges for delivery or receipt of traffic of the same type between end offices and facilities of interexchange carriers within an exchange area, or within reasonable subzones of an exchange area, shall be equal, per unit of traffic delivered or received, for all interexchange carriers; provided, that the facilities of any interexchange carrier within five miles of an AT&T class 4 switch shall, with respect to end offices served by such class 4 switch, be considered to be in the same subzone as such class 4 switch.

4. Each BOC offering exchange access as part of a joint or through service shall offer to make exchange access available to all interexchange carriers on the same terms and conditions, and at the same charges, as are provided as part of a joint or through service, and no payment or consideration of any kind shall be retained by the BOC for the provision of exchange access under such joint or through service other than through tariffs filed pursuant to this paragraph.

C. 1. Nothing in this Modification of Final Judgment shall be construed to require a BOC to allow joint ownership or use of its switches, or to require a BOC to allow co-location in its building of the equipment of other carriers. When a BOC uses facilities that (i) are employed to provide exchange telecommunications or exchange access or both, and (ii) are also used for the transmission or switching or interexchange telecommunications, then the costs of such later use shall be allocated to the interexchange use and shall be excluded from the costs underlying the determination of charges for either of the former uses.

2. Nothing in this Modificaton of Final Judgment shall either require a BOC to bill customers for the interexchange services of any interexchange carrier or preclude a BOC from billing its customers for the interexchange services of any interexchange carrier it designates, provided that when a BOC does provide billing services to an interexchange carrier, the BOC may not discontinue local exchange service to any customer because of nonpayment of interexchange charges unless it offers to provide billing services to all interexchange carriers, and provided further that the BOC's cost of any such billing shall be included in its tariffed access charges to that interexchange carrier.

3. Whenever, as permitted by this Modification of Final Judgment, a BOC fails to offer exchange access to an interexchange carrier that is equal in type and quality to that provided for the interexchange traffic of AT&T, nothing in this Modification of Final Judgment shall prohibit the BOC from collecting reduced charges for such less-than-equal exchange access to reflect the lesser value of such exchange access to the interexchange carrier and its customers compared to the exchange access provided AT&T.

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *American Telephone and Telegraph Company; Western Electric Company, Inc.; and Bell Telephone Laboratories, Inc.*, Defendants; Civil Action Action No. 74–1698.

United States of America, Plaintiff, v. *Western Electric Company, Inc., and American Telephone and Telegraph Company*, Defendants; Civil Action No. 82–0192.

Memorandum of the United States

Many of the changes that the Court prescribed in its August 11 opinion before it will approve the proposed consent decree reflect and make explicit matters that, in the view of the United States, were implicit in the decree as submitted by the parties. To these changes, which place the decree's obligations in more concrete form, the United States readily agrees. As the papers it previously has filed in this matter indicate, however, the United States has substantial doubts that certain other changes are properly within the scope of the Court's authority under the public interest standard, or are supported by the antitrust theory and the record in these cases. The United States believes, in

particular, that the revision allowing the BOCs to market customer premises equipment presents a significant risk of anticompetitive conduct, relating primarily to the marketing of complex business equipment, although the extent of the risk depends on how the revision is interpreted. Despite its reservations on these points, the United States believes that the public interest can be served only if the reorganization of AT&T, which lies at the center of the proposed decree and which the Court uniequivocally has approved, is undertaken as soon as possible. The alternatives to accepting the Court's revisions would delay the reorganization indefinitely, with great costs to the industry and ultimately the public. Accordingly, the United States has decided to accept the Court's revisions and submits herewith, for entry by the Court, a revised decree, stipulated to by AT&T and by the United States, that incorporates the changes the Court required in its August 11 opinion.[1]

Respectfully submitted.

Ronald G. Carr,

Deputy Assistant Attorney General, Antitrust Division, United States Department of Justice, Washington, D.C. 20530; (202) 633–2411.

Dated: August 24, 1982.

[1]In the process of incorporating the Court's modifications, the parties discovered a number of minor typographical errors in the decree as originally submitted. These errors, with one exception, have been corrected in the revised decree and are reflected in the errata sheet appended to this Memorandum. In Section IV of the decree as originally submitted, the paragraph designation "M" was inadvertantly omitted, so that paragraph "N" follows paragraph "L." This omission was simply an error in alphabetizing and does not reflect a substantive omission. Because these and subsequent paragraphs have been referred to in various pleadings filed with the Court, correction of this error in the revised decree might cause confusion in the future. The parties, therefore, have not changed Section IV to correct this typographical error.

ERRATA

Page	Line	Change from	Change to
1	35	Defendant	defendant
3	17	A(4)	I(A)(4)
4	9	I(A)4	paragraph I(A)4
4	13	Section	section
4	30	receives	receive
5	31	state	State
6	28	carriers	carrier
8	21	transmissions	transmission
9	5	customer-premises	customer premises
9	25	problems	problems;
9	31	*Electric,*	*Electric*
10	22	Section	section
10	36	Section	section
11	2	Section	section
11	10	to a plaintiff	to plaintiff
11	10	or a BOC	or BOC
11	19	BOC is	or BOC is
11	25	Section	section
1[1]	23	modification	Modification
2[1]	28	I(A)(4)	paragraph I(A)(4)
3[1]	12	paragraph 2	paragraph (2)

[1] Appendix B.

Certificate of Service

I, James P. Denvir, one of the attorneys for the United States, hereby certify that I have on this day served the Memorandum of the United States, the Stipulation between the United States and AT&T, and the Modification of Final Judgment on defendants by delivering a copy thereof to: George L. Saunders, Jr., Esq., Sidley & Austin c/o AT&T, 499 South Capitol Street, 8th Floor, Washington, D.C. 20003.

Dated: August: 24, 1982.

James P. Denvir.

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *Western Electric Company, Incorporated, and American Telephone and Telegraph Company,* Defendants; Civil Action No. 82–0192.

Stipulation

It is stipulated by and between the undersigned parties, Plaintiff, United States of America, and Defendants, American Telephone & Telegraph Company and Western Electric Company, Incorporated, by their respective attorneys, that:

1. The attached Modification of Final Judgment is the Modification of Final Judgment filed in this case on January 8, 1982, in the United States District Court for the District of New Jersey by stipulation of the parties as revised to incorporate the modifications required by the United States District Court for the District of Columbia in an Opinion dated August 11, 1982.

2. The parties consent that the Modification of Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

3. In the event Plaintiff withdraws its consent or if the proposed Modification of Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to Plaintiff or Defendants in this or any other proceeding.

Dated: August 24, 1982.

For the Plaintiff:

William F. Baxter,

Assistant Attorney General, Antitrust Division, Department of Justice, Washington, D.C. 20530.

For the Defendants:

Howard J. Trienens,

Vice President and General Counsel for American Telephone and Telegraph Company, 195 Broadway, New York, New York 10007.

[FR Doc. 82–24944 Filed 9–10–82; 8:45 am]

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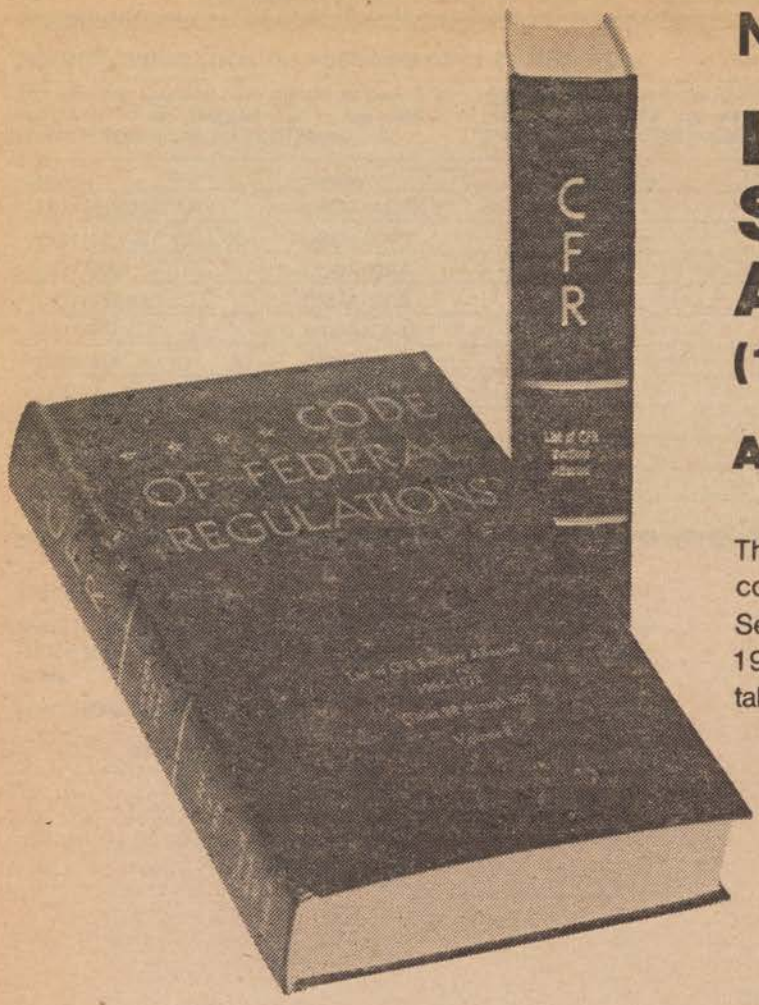
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