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INFORMATION
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3-9-83
Vol. 48 No. 47
Pages 9829-10034

federal register

Wednesday
March 9, 1983

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Federal Home Loan Bank Board

Air Pollution Control
Environmental Protection Agency

Banks, Banking
Federal Deposit Insurance Corporation

Customs Duties and Inspections
Customs Service

Electric Utilities
Federal Energy Regulatory Commission

Federal Buildings and Facilities
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Income Taxes
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Pesticides and Pests
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Satellites
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Federal Home Loan Bank Board

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Presidential Documents

Title 3—

The President

Executive Order 12409 of March 7, 1983

Nuclear Cooperation With EURATOM

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 126a(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2155(a)(2)), and having determined that, upon the expiration of the period specified in the first proviso to Section 126a(2) of such Act and extended by Executive Orders No. 12193, 12295, and 12351, failure to continue peaceful nuclear cooperation with the European Atomic Energy Community would be seriously prejudicial to the achievement of the United States non-proliferation objectives and would otherwise jeopardize the common defense and security of the United States, and having notified the Congress of this determination, I hereby extend the duration of that period to March 10, 1984.

Ronald Reagan

THE WHITE HOUSE,
March 7, 1983.

[FR Doc. 83-6225
Filed 3-8-83; 10:08 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5024 of March 7, 1983

National Children and Television Week, 1983

By the President of the United States of America

A Proclamation

Television has the power to shape thoughts, stir emotions, and inspire actions. It teaches, it sells, it entertains, it informs, and it has the capacity to influence powerfully the lives and values of our children. They learn much from television about the world, our society, and their place in it.

Television can communicate values that are consistent with our heritage and traditions and can portray those actions and attitudes that make for better citizens. It also can depict themes that are destructive of these values. Recognizing that children are at a formative and vulnerable stage in their lives, many individuals and groups have a great interest in television programming. These concerned citizens are working to improve the quality of television programs viewed by their families.

By Senate Joint Resolution 264 (P.L. 97–443), the Congress has designated the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week" and has authorized and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week." I commend all those persons concerned about the quality of children's television programming, and I call upon all government agencies and the people of the United States to observe the week with appropriate activities supporting television programs which are attentive to the needs and interests of children.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of March, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-6228
Filed 3-8-83; 10:50 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5025 of March 7, 1983

National Poison Prevention Week, 1983

By the President of the United States of America

A Proclamation

The annual observance of National Poison Prevention Week affords communities across America a special opportunity to increase citizen awareness of the dangers of accidental poisoning.

In recent years the number of poisonings among children has fallen dramatically, due in large measure to the introduction of child-protective packaging. At the community level, poison centers are an essential resource in reducing the incidence of serious injury resulting from accidental ingestions. By providing timely diagnostic and treatment information to medical practitioners and first aid instruction to anxious parents, poison centers have successfully worked to save lives.

While poison centers have proved invaluable, they often provide "after-the-fact" treatment. This year, National Poison Prevention Week will underscore the equally important role poison centers can play in preventing child poisonings "before the fact."

Working together as sponsors of National Poison Prevention Week are national medical, pharmacy, nursing, dental, and hospital associations; health and safety groups; organizations representing manufacturers, packagers, and distributors of consumer products, including medicines; the media; and government agencies. Most of these groups have State and local chapters and affiliates that, along with community organizations, are the backbone of what has become a successful nationwide poison prevention program.

To aid in encouraging the American people to learn of the dangers of accidental poisoning and to take appropriate preventive measures, the Congress, by a joint resolution approved September 26, 1961 (75 Stat. 681), requested the President to issue annually a proclamation designating the third week in March as National Poison Prevention Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning March 20, 1983, as National Poison Prevention Week.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of March, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-6227
Filed 3-8-83; 10:51 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5026 of March 7, 1983

National Agriculture Day, 1983

By the President of the United States of America

A Proclamation

The history of American agriculture is an inspiring story of progress and sacrifice, high technology and individual effort, and frustration and success. It reflects the growth of our country from an untamed wilderness to the highly productive nation and world leader it is today.

Despite flood, frost, heat, hail, drought, and disease, Americans enjoy an abundance of diverse and high quality products. Our 2.4 million farms are the foundation for a trillion-dollar agricultural industry which employs 19 million farm people and which is the primary source of food and fiber for a third of a billion of the world's population. Each American farm worker produces enough food and fiber to support nearly 80 people—a production achievement unmatched anywhere in the world and unparalleled in history.

The courage, tenacity, and know-how of the American farmer make it possible for our citizens to spend a smaller share of their income on food than do people living in any other country.

To honor those who sustain our agricultural prowess and to achieve a greater understanding of each American's dependence upon a reliable food and fiber supply, the Congress of the United States, by Senate Joint Resolution 235, has authorized and requested the President to proclaim March 21, 1983, as "National Agriculture Day."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim March 21, 1983, as "National Agriculture Day" and call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of March, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-6228
Filed 3-8-83; 10:52 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5027 of March 7, 1983

National Coin Week, 1983

By the President of the United States of America

A Proclamation

Since the beginning of history, coins have played an important role in the story of civilization. They reflect the economic development of their country of origin, as well as the scientific advancement and artistic values of the people who produce and use them. Today, millions of Americans collect coins for both pleasure and profit.

To help foster the public's interest in coin collecting, the United States Mint annually offers proof sets of the current year's coinage. In 1982, the United States Mint struck a commemorative silver half-dollar marking the 250th anniversary of the birth of George Washington. In 1983–1984, the first commemorative Olympic coinage ever issued by our country will be introduced in gold and silver.

Recognizing that coin collecting has educational and cultural value, promotes greater understanding of our history and heritage, and is enjoyed by millions of Americans, the Congress, pursuant to House Joint Resolution 516 (Public Law 97–239), has authorized and requested the President to issue a proclamation designating the week beginning April 17, 1983, as "National Coin Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning April 17, 1983, as "National Coin Week" and call upon the people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of March, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-6229
Filed 3-8-83; 10:53 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5028 of March 7, 1983

Small Business Week, 1983

By the President of the United States of America

A Proclamation

Our Founding Fathers envisioned a nation whose strength and vitality would emerge from the ingenuity of its people and their commitment to individual liberty. They understood that a nation's prosperity is dependent on the freedom of its citizens to pursue their hopes, dreams, and creative ambitions. American entrepreneurs and small business owners enthusiastically embraced the challenges of freedom and through the miracle of the marketplace set in motion the forces of economic growth that made our Nation uniquely productive. This pattern of economic development has inspired people throughout the world to look to America for a better life.

The Natioh grew as our free enterprise system became the mainspring of American progress by encouraging entrepreneurs to compete in meeting the demand for new products and methods of production. Competition enabled us to develop our human resources more effectively and enrich our society. With each new discovery, our perception of what could be achieved expanded.

Today small business plays an even more vital role in our national life and is responsible for the creation of well over half of the new jobs in our economy. Small business is also in the forefront of utilizing technological advances.

America's entrepreneurs and small business owners are among the most dynamic and innovative leaders of the business community. Their willingness to confront uncertainty with creativity and determination to succeed helps our Nation meet the challenges we face today. This spirit of accomplishment inspires Americans to look toward tomorrow with confidence and anticipation to the new opportunities open to future generations. By taking steps to encourage the formation and success of small businesses, America can help ensure its economic standing in the world.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning May 8, 1983, as Small Business Week. I call upon every American to join me in this tribute.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of March, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-6230
Filed 3-8-83; 10:54 am]
Billing code 3195-01-M

Rules and Regulations

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

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

Applications, Requests, Submittals, Delegations of Authority and Notices of Acquisition of Control

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: FDIC is amending its regulations to announce existing agency procedure for reconsideration of a denied request for relief from the requirement for making reimbursements for violations of the Truth in Lending Act or any other requests, applications or petitions where authority to act has been delegated to the Board of Review.

EFFECTIVE DATE: March 9, 1983.

FOR FURTHER INFORMATION CONTACT: James L. Meador, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, 550-17th Street, NW., Washington, D.C. 20429; (202) 389-4171.

SUPPLEMENTARY INFORMATION: On March 8, 1982, the Board of Directors of the FDIC delegated authority to the FDIC's Board of Review to act on requests for relief from the requirement for making reimbursements for violations of the Truth in Lending Act. (12 CFR 303.11(f)) (47 FR 9811 (March 8, 1982)). The authority to act includes the authority to deny such requests. It also includes the authority and responsibility to consider any petition for reconsideration of denial of such requests.

The amendments provide that any petition for reconsideration of a denied request, application, or petition must be addressed to the Board of Review where the initial request, application, or petition has been denied by the Board of Review acting pursuant to authority delegated by the Board of Directors. The amendments also provide that action by the Board of Review on any enforcement matter brought under section 8 of the Federal Deposit Insurance Act shall be subject to review by the Board of Directors in accordance with section 303.13(o)(7) of FDIC's rules and regulations.

Regulatory Factors

The requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are inoperative here because the amendments do not affect the recordkeeping or reporting burdens on any insured bank or other person.

The amendments are rules of FDIC practice and procedure. They inform the public of existing agency procedure for processing petitions for reconsideration of requests, applications, or petitions denied by the Board of Review under authority delegated by the Board of Directors. Therefore, in accordance with the Administrative Procedure Act (5 U.S.C. 553), the Board of Directors suspends the requirements for notice of proposed rulemaking and public comment and delayed effective date.

List of Subjects in 12 CFR Part 303

Administrative practice and procedure, Authority delegations, Banks, banking, Insurance.

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES OF ACQUISITION OF CONTROL

Part 303 of Chapter III of title 12 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 303 reads as follows:

Authority: Secs. 2(5), 2(6), 2(7)(j), 2(8), 2(9), "Seventh" and "Tenth"), 2(18), 2(19), Pub. L. 797, 64 Stat. 876, 881, 891, 893 as amended by Pub. L. No. 86-463, 74 Stat. 129; sec. 2, Pub. L. No. 87-827, 76 Stat. 953; Pub. L. No. 88-593, 78 Stat. 940; Pub. L. No. 89-79, 79 Stat. 244; sec. 1, Pub. L. No. 89-356, 80 Stat. 7; sec. 12(c), Pub. L. No. 89-485, 80 Stat. 242; sec. 3, Pub. L. No. 89-597, 80 Stat. 824; title II, secs. 201, 205, Pub. L. No. 89-695, 80 Stat. 1055; sec. 2(b), Pub. L. No. 90-505, 82 Stat. 846; secs. 6(c)(7), (12), (13), Pub. L. No. 95-369, 92 Stat. 616-620; Title III, secs. 306, 309 and title VI, sec. 602, Pub. L. No. 95-630, 92 Stat. 3677, 3683 (12 U.S.C. 1815, 1816, 1817(j), 1818, 1819 "Seventh" and "Tenth", 1828, 1829); title I, sec. 108, Pub. L. No. 90-321, 82 Stat. 150 as amended by title IV, sec. 403, Pub. L. No. 93-495, 88 Stat. 1517 and title VI, sec. 608, Pub. L. No. 96-221, 94 Stat. 171 (15 U.S.C. 1607).

2. Section 303.10 is amended by revising paragraph (d) to read as follows:

§ 303.10 Procedure on applications.

* * * * *

(d) *Opportunity to petition for reconsideration of a denied application, petition, or request.* Within 15 days of its receipt of notice that its application, petition, or other request has been denied, any applicant may petition the Board of Directors, or the Board of Review where such application, petition, or request has been denied by the Board of Review acting pursuant to delegated authority, for reconsideration of such application, petition, or request (except an application, petition, or request already previously denied upon reconsideration) and, in connection therewith, may request an opportunity to amend its application, petition, or request or to submit imformation in rebuttal of the denial, either in writing or in the form of an oral presentation before one or more representatives of the FDIC designated for that purpose. Upon the filing of such petition for reconsideration, the applicant shall be given 60 days in which to amend its application, petition, or request or to make its presentation to the FDIC. If the applicant requests an opportunity to make oral presentation, it shall be advised of the date, time, place, and person or persons before whom such presentation shall be made. Notwithstanding the first sentence of this paragraph, any action taken by the Board of Review pursuant to § 303.13(o) shall be subject to review by the Board of Directors in accordance with § 303.13(o)(7).

By order of the Board of Directors on February 28, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-5791 Filed 3-8-83; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 509a

[No. 83-128]

Removals, Suspensions, and Prohibitions Where a Crime Is Charged or Proven

March 3, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is adopting amendments to its rules of practice and procedure concerning expedited hearings to administratively challenge a suspension notice or removal order affecting participation in the conduct of the affairs of an insured institution by a director, officer, or other person charged with or convicted of certain crimes. The amended rules of practice and procedure (1) clarify the powers and duties of the hearing officer, (2) clarify that the person subject to the notice or order has the burden of proving that grounds exist for the termination or modification thereof, (3) clarify that the nature of the publicity concerning the individual's indictment is a consideration that is relevant to the decision of whether the notice or order should be terminated or modified, and (4) formally incorporate certain of the Board's adjudicative rules. The amended rules are intended to improve processing and eliminate uncertainty in the conduct of these hearings.

EFFECTIVE DATE: April 8, 1983.

FOR FURTHER INFORMATION CONTACT: Steven A. Rosenberg, Attorney, Office of General Counsel, (202) 377-6958, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Where a director, officer, or person participating in the conduct of the affairs of an insured institution or affiliate thereof is a defendant in certain criminal lawsuits and continued service or participation by the individual in the conduct of the affairs of the institution may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution, the Board may suspend the individual from office or prohibit the individual's further participation in any manner in the conduct of the affairs of the institution; that suspension or prohibition is effective only until the criminal action is finally disposed of. Thereafter, if the individual has been found guilty and the judgment is not subject to further appellate review, the Board may upon certain findings permanently remove the individual from office or prohibit him from further participation in any manner in the conduct of the affairs of the institution, except with the prior consent of the Board. Such Board action is pursuant to the authority of Section 5(d)(5) of the Home Owners' Loan Act, as amended ("HOLA"), and Section 407(h) of the National Housing Act, as amended ("NHA") (12 U.S.C. 1464(d)(5), 1730(h) (1976, Supp. IV 1980)). The affected individual may administratively appeal the Board's action in the manner provided by Section 5(d)(5)(C) of the HOLA and Section 407(h)(2) of the NHA.

On November 4, 1982, the Board proposed to amend Part 509a of the Board's General Regulations to clarify the procedures concerning (1) the Board's issuance of temporary notices of suspension or prohibition and permanent orders of removal or prohibition, and (2) the conduct of administrative appellate hearings allowed. (*See* Board Resolution No. 82-727, 47 FR 50918, published on November 10, 1982.) A public comment period was provided through January 10, 1983. Based on the comments received and other available information, the Board has determined to adopt the amendments substantially as proposed.

Discussion of Comments

The Board received a total of six comment letters in response to Resolution No. 82-727. Three were from federally chartered savings and loan associations; one was from a state-chartered savings and loan association the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC"); the remaining two were from savings and loan trade associations. Five of the commenters recommended adoption of the proposed amendments, although three of them recommended some substantive changes, which are discussed below. One commenter recommended against adoption of the proposals on the ground that the existing rules are adequate.

One commenters suggested that a provision be added providing that the affected individual be reinstated to his position if that individual is acquitted or the conviction is reversed on appeal. Pursuant to Section 5(d)(5)(A) of the HOLA and Section 407(h)(1) of the NHA, a *notice* of suspension or prohibition is effective only until the criminal case is finally disposed of or until terminated by the Board; an *order* or removal or prohibition, which may be issued following conviction not subject to further appellate review, is permanent unless the Board determines otherwise. Accordingly, where the individual is acquitted or a conviction is reversed the notice of suspension or prohibition has no further effect. Although the statutes set this forth, for purposes of clarification the Board has modified proposed § 509a.3(a) by adding to the end thereof the following sentence: "The Notice shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board."

Another commenter recommended that proposed § 509a.3(a) have deleted therefrom the word "information" in the phrase stating "where the individual is charged in any information, indictment, or complaint authorized by a United States attorney." An information is a document formally initiating criminal prosecution that is filed by a competent public official rather than by a grand jury. *See Black's Law Dictionary* 918 (rev. 4th ed. 1968). Because the proposed language of the rule follows the statutory language, the recommended change will not be adopted.

Another commenter proposed changing the phrase in proposed § 509a.3 (a) and (b) from the "the Board is of the opinion" to "the Board, upon due deliberation, has determined." Because the Board will make a determination that the grounds exist for these suspensions, removals, and prohibitions, before it takes action requiring compliance, the Board is adopting this recommendation.

It was also recommended that proposed § 509a.7(b) be revised to require disclosure of the names of rebuttal witnesses and a summary of their proposed testimony if a party intends to call such witnesses. Because it is the Board's view that the difficulty in complying with such a requirement upon short notice exceeds the potential for surprise where rebuttal witnesses are concerned, this recommendation has not been adopted.

A further recommendation was that proposed § 509a.7(e) be modified to provide that any of the parties may move for the correction of the administrative record. The recommendation is well-considered and has been adopted.

A commenter recommended that proposed § 509a.9 provide that the Federal Rules of Evidence apply in these proceedings. Those rules apply in Federal court proceedings, but generally are not applicable to administrative proceedings. *See* Section 7(d) of the Administrative Procedure Act, 5 U.S.C. 556(d). It is well established that the Due

Process Clause of the Fifth Amendment to the Constitution does not require administrative proceedings to follow the formal rules of evidence. *Calhoun v. Bailar*, 626 F. 2d 145 (9th Cir. 1980), *cert. denied*, 452 U.S. 906 (1981). The relevant statutory provisions provide that these proceedings are to be informal and expedited in nature. Moreover, the petitioner has the burden of persuasion, and the Federal Rules of Evidence provide for the exclusion of evidence that otherwise would be admissible. Accordingly, the Board is of the view that requiring the adoption of such evidentiary rules would unnecessarily impair the ability of the petitioner to prove his case. Therefore, the Board has not adopted this recommendation.

Finally, it was recommended that proposed § 509.13(b) be revised by requiring a statement for the basis of all decisions concerning these removal, suspension, and prohibition proceedings, rather than limiting such statements to decisions adverse to the petitioner. The proposed rule would have followed the language of Section 5(d)(5)(C) of the HOLA and Section 407(h)(2) of the NHA, but those sections do not preclude the Board from providing a statement in all cases. The Board believes that it would be beneficial to set forth its reasoning in these matters so as to provide a permanent record of the bases for its decisions for the future guidance of the Board, the savings and loan industry, and the bar. Therefore, the Board has adopted this recommendation.

Regulatory Flexibility

The Board certifies that the rules will not have a substantial economic impact on a substantial number of small entities. The rules do not have general effect, as they only apply to individuals who have been served with a suspension notice or removal order where such individuals have been charged with certain crimes. Accordingly, no final regulatory flexibility analysis is required as provided by 5 U.S.C. 605(b).

List of Subjects in 12 CFR Part 509a

Savings and loan associations, Administrative practice and procedure.

Accordingly, the Board hereby amends Subchapter A, Chaper V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER A—FEDERAL HOME LOAN BANK BOARD

Revise Part 509a as follows:

PART 509a—REMOVALS, SUSPENSIONS, AND PROHIBITIONS WHERE A CRIME IS CHARGED OR PROVEN

Sec.

509a.1 Scope.
509a.2 Definitions.
509a.3 Issuance of notice or order.
509a.4 Contents and service of the notice or order.
509a.5 Petition for hearing.
509a.6 Initiation of hearing.
509a.7 Conduct of hearings.
509a.8 Default.
509a.9 Rules of evidence.
509a.10 Burden of persuasion.
509a.11 Relevant considerations.
509a.12 Proposed findings and conclusions and recommended decisions.
509a.13 Decision of the Board.
509a.14 Miscellaneous.

Authority: 12 U.S.C. 1437, 1464, 1725, 1726, 1730, 1731; Reorganization Plan No. 3 of 1947, 12 CFR 4981, 3 CFR, 1943–48 Comp., p. 1071.

§ 509a.1 Scope.

The rules in this part apply to hearings, which are exempt from the adjudicative provisions of the Administrative Procedure Act, afforded to any officer, director, or other person participating in the conduct of the affairs of an insured institution, affiliate service corporation, savings and loan holding company, or subsidiary of such a holding company, where such person has been suspended or removed from office or prohibited from further participation in the conduct of the affairs of one of the aforementioned entities by a Notice or Order served by the Board upon the grounds set forth in Section 5(d)(5) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(5)) or Section 407(h) of the National Housing Act (12 U.S.C. 1730(h)).

§ 509a.2 Definitions.

As used in this part—

(a) The term "Board" means the Federal Home Loan Bank Board, or, where appropriate, the Federal Saving and Loan Insurance Corporation.

(b) The term "Secretary" means the Secretary to the Federal Home Loan Bank Board and any Assistant or Acting Secretary to the Board.

(c) The term "Notice" means a Notice of Suspension or Notice of Prohibition issued by the Board pursuant to Section 5(d)(5) of the Home Owners' Loan Act or Section 407(h) of the National Housing Act.

(d) The term "Order" means an Order of Removal or Order of Prohibition issued by the Board pursuant to Section 5(d)(5) of the Home Owners' Loan Act or Section 407(h) of the National Housing Act.

(e) The term "institution" means a Federally-chartered association within the meaning of Section 2(d) of the Home Owners' Loan Act, an institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation ("insured institution") within the meaning of Section 401(a) of the National Housing Act, an affiliate service corporation within the meaning of Section 5(d)(2)(C) of the Home Owners' Loan Act and Section 407(e)(3) of the National Housing Act, a savings and loan holding company within the meaning of Section 408(a)(1)(D) of the National Housing Act, and a subsidiary of a savings and loan holding company (other than an insured institution) within the meaning of Section 408(a)(1)(H) of the National Housing Act.

(f) The term "subject individual" means a person served with a Notice or Order.

(g) The term "petitioner" means a subject individual who has filed a petition for informal hearing under this Part.

§ 509a.3 Issuance of Notice or Order.

(a) The Board may issue and serve a Notice upon an officer, director, or other person participating in the conduct of the affairs of an institution, where the individual is charged in any information, indictment, or complaint authorized by a United States Attorney with the commission of or participation in a crime involving dishonesty or breach of trust that is punishable by imprisonment for a term exceeding one year under State or Federal law, if the Board, upon due deliberation, determines that continued service or participation by the individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution. The Notice shall remain in effect until the information, indictment, or complaint is finally disposed of or until terminated by the Board.

(b) The Board may issue and serve an Order upon a subject individual against whom a judgment of conviction, with respect to the aforementioned crime, has been rendered, where such judgment is not subject to further appellate review, and the Board, upon due deliberation, has determined that continued service or participation by the subject individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution.

§ 509a.4 Contents and service of the Notice or Order.

(a) The Notice or Order shall set forth the basis and facts in support of the Board's issuance of such Notice or Order, and shall inform the subject individual of his right to a hearing, in accordance with this part, for the purpose of determining whether the Notice or Order should be continued, terminated, or otherwise modified.

(b) The Secretary shall serve a copy of the Notice or Order upon the subject individual and the related institution in the manner set forth in § 509.18 of this subchapter.

(c) Upon receipt of the Notice or Order, the subject individual shall immediately comply with the requirements thereof.

§ 509a.5 Petition for hearing.

(a) To obtain a hearing, the subject individual must file two copies of a petition with the Secretary within 30 days of being served with the Notice or Order.

(b) The petition filed under this section shall admit or deny specifically each allegation in the Notice or Order, unless the petitioner is without knowledge or information, in which case the petition shall so state and the statement shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. When a petitioner intends in good faith to deny only a part of or to qualify an allegation, he shall specify so much of it as is true and shall deny only the remainder.

(c) The petition shall state whether the petitioner is requesting termination or modification of the Notice or Order, and shall state with particularity how the petitioner intends to show that his continued service to or participation in the conduct of the affairs of the institution would not, or is not likely to, pose a threat to the interests of the institution's depositors or to impair public confidence in the institution.

§ 509a.6 Initiation of hearing.

(a) Within 10 days of the filing of a petition for hearing, the Board shall notify the petitioner of the time and place fixed for hearing, and it shall designate one or more agency employees to serve as presiding officer.

(b) The hearing shall be scheduled to be held no later than 30 days from the date the petition was filed, unless the time is extended at the request of the petitioner.

(c) A petitioner may appear personally or through counsel, but if represented by counsel, said counsel is required to comply with § 509.3 of this subchapter.

(d) a representative(s) of the Board's Office of General Counsel also may attend the hearing and participate therein as a party.

§ 509a.7 Conduct of hearings.

(a) Hearings provided by this section are not subject to the adjudicative provisions of the Administrative Procedure Act (5 U.S.C. 554–557). The presiding officer is, however, authorized to exercise all of the powers enumerated in § 509.6 of this subchapter.

(b) Witnesses may be presented, within time limits specified by the presiding officer, provided that at least 10 days prior to the hearing date, the party presenting the witnesses furnishes the presiding officer and the opposing party with a list of such witnesses and a summary of the proposed testimony. However, the requirement for furnishing such a witness list and summary of testimony shall not apply to the presentation of rebuttal witnesses. The presiding officer may ask questions of any witness, and each party shall have an opportunity to cross-examine any witness presented by an opposing party.

(c) Upon the request of either the petitioner or a representative of the Office of General Counsel, the record shall remain open for a period of 5 business days following the hearing, during which time the parties may make any additional submissions for the record. Thereafter, the record shall be closed.

(d) Following the introduction of all evidence, the petitioner and the representative of the Office of General Counsel shall have an opportunity for oral argument; however, the parties may jointly waive the right to oral argument, and, in lieu thereof, elect to submit written argument.

(e) All oral testimony and oral argument shall be recorded, and transcripts made available to the petitioner upon payment of the cost thereof. A copy of the transcript shall be sent directly to the presiding officer, who shall have authority to correct the record *sua sponte* or upon the motion of any party.

(f) The parties may, in writing, jointly waive an oral hearing and instead elect a hearing upon a written record in which all evidence and argument would be submitted to the presiding officer in documentary form and statements of individuals would be made by affidavit.

§ 509a.8 Default.

If the subject individual fails to file a petition for a hearing, or fails to appear at a hearing, either in person or by attorney, or fails to submit a written argument where oral argument has been waived pursuant to § 509a.7(d) or (f) of this part, the Notice shall remain in effect until the information, indictment, or complaint is finally disposed of and the Order shall remain in effect until terminated by the Board.

§ 509a.9 Rules of evidence.

(a) Formal rules of evidence shall not apply to hearing, but the presiding officer may limit the introduction of irrelevant, immaterial, or unduly repetitious evidence.

(b) All matters officially noticed by the presiding officer shall appear on the record.

§ 509a.10 Burden of persuasion.

The petitioner has the burden of showing, by a preponderance of the evidence, that his or her continued service to or participation in the conduct of the affairs of the institution does not, or is not likely to, pose a threat to the interests of the institution's depositors or threaten to impair public confidence in the institution.

§ 509a.11 Relevant considerations.

(a) In determining whether the petitioner has shown that his or her continued service to or participation in the conduct of the affairs of the institution would not, or is not likely to, pose a threat to the interests of the institution's depositors or threaten to impair public confidence in the institution, in order to decide whether the Notice or Order should be continued, terminated, or otherwise modified, the Board will consider: (1) The nature and extent of the petitioner's participation in the affairs of the institution; (2) the nature of the offense with which the petitioner has been charged; (3) the extent of the publicity accorded the indictment and trial; and (4) such other relevant factors as may be entered on the record.

(b) When considering a request for the termination or modification of a Notice, the Board will not consider the ultimate guilt or innocence of the petitioner with respect to the criminal charge that is outstanding.

(c) When considering a request for the termination or modification of an Order which has been issued following a final judgment of conviction against a subject individual, the Board will not collaterally review such final judgment of conviction.

§ 509a.12 Proposed findings and conclusions and recommended decision.

(a) Within 30 days after completion of oral argument or the submission of written argument where oral argument has been waived, the presiding officer

shall file with the Secretary and certify to the Board for decision the entire record of the hearing, which shall include a recommended decision, the Notice or Order, and all other documents filed in connection with the hearing.

(b) The recommended decision shall contain:

(1) A statement of the issue(s) presented,

(2) A statement of findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law, or discretion presented on the record, and

(3) An appropriate recommendation as to whether the suspension, removal, or prohibition should be continued, modified, or terminated.

§ 509a.13 Decision of the Board.

(a) Within 30 days after the recommended decision has been certified to the Board, the Board shall issue a final decision.

(b) The Board's final decision shall contain a statement of the basis therefor. The Board may satisfy this requirement where it adopts the recommended decision of the presiding officer upon finding that the recommended decision satisfies the requirements of § 509.12(b).

(c) The Secretary shall serve upon the petitioner and the representative of the Office of General Counsel a copy of the Board's final decision and the related recommended decision.

§ 509a.14 Miscellaneous.

The provisions of §§ 509.17, 509.18, 509.20, 509.21, and 509.22 of this subchapter shall apply to proceedings under this part.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-6060 Filed 3-8-83; 8:45 am]

BILLING CODE 6720-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1215

Tracking and Data Relay Satellite System (TDRSS); Use and Reimbursement Policy for Non-U.S. Government Users

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This final rule establishes an equitable basis for use of and reimbursement for Tracking and Data Relay Satellite System (TDRSS) and service by non-U.S. Government users. The tracking, telemetry, and command services provided by the TDRSS will represent a significant growth in the capability of presently available services provided via the ground tracking station network. Once the TDRSS is declared operational by NASA, TDRSS services will be made available to non-U.S. Government users.

EFFECTIVE DATE: March 9, 1983.

FOR FURTHER INFORMATION CONTACT: Robert O. Aller, 202-755-2340.

SUPPLEMENTARY INFORMATION: The TDRSS space segment consists of two satellites in geostationary orbit. A third satellite is in geostationary orbit to be operated as a spare for additional service as required. The ground segment consists of a single ground terminal and the necessary operational control and interface devices and interconnecting communications circuit services located at White Sands, New Mexico. NASA published its proposed rule in 47 FR 35228-35232, August 13, 1982. One comment was received but was not adopted. The Chief Counsel for Advocacy of the U.S. Small Business Administration indicated the proposed rule failed to comply with Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*]. By letter dated November 19, 1982, the Chief Counsel for Advocacy was informed that the proposed rule was being established to set rates, prices and practices relating to the use of TDRSS and was therefore excluded from compliance with the RFA by 5 U.S.C. 601(2).

Appendix A has been updated to reflect CY 1984 reimbursement rates for use of TDRSS service.

List of Subjects in 14 CFR Part 1215

Satellites, Tracking and data relay satellite, Communications equipment, Government contract.

14 CFR Chapter V is amended by adding a new Part 1215 reading as follows:

PART 1215—TRACKING AND DATA RELAY SATELLITE SYSTEM (TDRSS)

Subpart 1215.1—Use and Reimbursement Policy for Non-U.S. Government Users

Sec.

1215.100 General.
1215.101 Scope.
1215.102 Definitions.
1215.103 Services.
1215.104 Apportionment and assignment of services.
1215.105 Delivery of user data.
1215.106 User command and tracking data.
1215.107 User data security.
1215.108 Defining user services requirements.
1215.109 Scheduling user service.
1215.110 User cancellation of all services.
1215.111 User postponement of all services.
1215.112 User/NASA contractual arrangement.
1215.113 User charges.
1215.114 Service rates.
1215.115 Payment and billing.
Appendix A—Estimated Service Rates in 1984 Dollars for TDRSS Standard Services (Based on NASA Escalation Estimate).
Appendix B—Factors Affecting Standard Charges.
Appendix C—Typical User Activity Timeline.

Authority: Sec. 203, Pub. L. 85-568, 72 Stat. 429, as amended; 42 U.S.C. 2473.

Subpart 1215.1—Use and Reimbursement Policy for Non-U.S. Government Users

§ 1215.100 General.

The Tracking and Data Relay Satellite System represents a major investment by the U.S. Government with the primary goal of providing improved tracking and data acquisition services to spacecraft in low earth orbit or to terrestrial users. It is the objective of NASA to operate as efficiently as possible with the TDRSS. This is to the mutual benefit of all users. Such user consideration will permit NASA and non-NASA services to be delivered without compromising the mission objectives of any individual user. To encourage users toward achieving efficient TDRSS usage, a reimbursement policy has been established which is designed to influence users to operate in the most efficient and orderly manner possible. Additionally, the reimbursement policy is designed to comply with the Bureau of the Budget Circular A-25 on User Charges, dated September 23, 1959, which requires that a reasonable charge should be made to each identifiable recipient for a measurable unit or amount of Government service or property from which a special benefit is derived.

§ 1215.101 Scope.

This Subpart sets forth the policy governing TDRSS services provided to non-U.S. Government users and the reimbursement for rendering such services. It excludes TDRSS services provided as standard or optional services to Space Transportation System (STS) users under existing policy for Shuttle and Spacelab (14 CFR 1214.1 and 1214.2); that is user command and telemetry support which utilizes and is a part of the Shuttle or Spacelab communications system is a Shuttle/Spacelab service. Cooperative missions are also not under the purview of this Subpart. The arrangements for TDRSS

services for cooperative missions will be covered in a Memorandum of Understanding (MOU), as a consequence of negotiations between NASA and the other concerned parties. Any MOU which includes provision for any TDRSS service will require signatory concurrence by the Associate Administrator for Space Tracking and Data Systems prior to dedicating Office of Space Tracking and Data Systems resources for support of a cooperative mission.

§ 1215.102 Definitions.

(a) *User.* Any non-U.S. Government representative or entity who contracts with NASA to use TDRSS services.

(b) *TDRSS.* The Tracking and Data Relay Satellite System including Tracking and Data Relay Satellites (TDRS), the White Sands Ground Terminal (WSGT), and the necessary TDRSS operational areas, interface devices and NASA communication circuits to unify the above into a functioning system. It specifically excludes the user ground system/TDRSS interface.

(c) *Bit Stream.* The digital electronic signals acquired by TDRSS from the user craft or the user generated input commands for transmission to the user craft.

(d) *Flexible Support.* Support requests which permit NASA, at its option, to schedule service at any time during the period of a single orbit of the user mission. Missions requiring multiple support periods during a single orbit may be classified as constrained support.

(e) *Constrained Support.* Support requests which specify the exact times NASA is to provide service, or conditions of support which can be translated into exact times for service, such as sub-satellite positions, apogee/perigee position, etc., for which support is needed.

(f) *Scheduling Service Period.* One scheduled contact utilizing a single TDRS whereby the user by requesting service is allotted a block of time for operations between the user satellite and TDRSS.

§ 1215.103 Services.

(a) *Standard Services.* These are services which the TDRSS is capable of providing to low-earth orbital user spacecraft or other terrestrial users.

(1) Tracking services.

(2) Data acquisition service.

(3) Command transmission service.

(4) Emergency line outage recording in the event of a communications failure between White Sands, Goddard Space Flight Center (GSFC), and Johnson Space Center (JSC).

(5) A weekly user spacecraft orbit determination in NASA standard orbital elements as determined by NASA for TDRSS target acquisition purposes.

(6) Delivery of user data at the NASA Ground Terminal (NGT) located at White Sands.

(7) Pre-launch support for data flow test and related activities which require use of a TDRS.

(8) Pre-launch support planning and documentation.

(9) Scheduling user services via TDRSS.

(10) Access to tracking data to enable users to perform orbit determination at their option.

(b) *Mission Unique Services.* Other tracking and data services desired by the user beyond the standard service and the charges therefor, will be identified and assessed on a case-by-case basis.

§ 1215.104 Apportionment and assignment of services.

No user may apportion, assign, or otherwise convey to any third party its TDRSS service. Each user may obtain service only through contractual agreement with NASA.

§ 1215.105 Delivery of user data.

(a) As a standard service, NASA will provide to the user its data from the TDRSS as determined by NASA in the form of one or more digital or analog bit streams synchronized to associated clock streams at the NGT.

(b) User data handling requirements beyond the NGT interface may be provided as a service without charge to the user, to the extent that NASA determines that it does not exceed NASA's standard communications system. Any additional data transport or handling requirements exceeding NASA's capability will be dealt with as a mission-unique service.

(c) No storage of the user data is provided in the standard service. NASA will provide short-term temporary recording of data at White Sands, only in event of a NASA Communications Network (NASCOM) link outage.

(d) NASA will provide TDRSS service on a "best efforts" basis and does not assume the risk of liability for damage to the user or third parties for failure to provide contracted-for services because of damage to the user's payload or other damage to the user or to third parties. The price for TDRSS service does not include a contingency or premium for this potential damage. The user will assume this risk of damage or obtain insurance to protect against that risk.

§ 1215.106 User command and tracking data.

(a) User command data may enter the TDRSS via the NASCOM interface at one of three locations:

(1) For Shuttle payloads which utilize the Shuttle commanding system, command data must enter the system via the Johnson Space Center (JSC) and is governed by the policies established for STS services (see § 1215.101).

(2) For free flyers and other payloads, command data must enter the system at the Goddard Space Flight Center (GSFC) if it is to be a standard service.

(3) The use of other command data entry points [e.g., the NASA Ground Terminal (NGT) at White Sands, NM, or Johnson Space Center (JSC), for payloads using an independent direct link from TDRS to the user payload] is considered to be a mission unique service.

(b) NASA is required to maintain the user satellite orbital elements to sufficient accuracy to permit the TDRS system to establish and maintain acquisition. This can be accomplished in two ways:

(1) The user can provide the orbital elements in a NASA format to GSFC to meet TDRSS operational requirements.

(2) The user shall insure that a sufficient quantity of tracking data is received at GSFC to permit the determination of the user satellite orbital elements. The charges for this service will be determined by using the on-orbit service rates.

§ 1215.107 User data security.

User data security is not provided by the TDRSS. Responsibility for data security resides solely with the user. User desiring data safeguards shall provide and operate, external to the TDRSS, the necessary equipment or systems to accomplish data security. Any such user provisions must be compatible with data flow through TDRSS and not interfere with other users.

§ 1215.108 Defining user service requirements.

Potential users should become familiar with TDRSS capabilities and constraints, which are detailed in the TDRSS User's Guide (GSFC document, STDN No. 101.2), as early as possible. This action allows the user to evaluate the trade-offs available among various TDRSS services, spacecraft design, operations planning, and other significant mission parameters. When these user evaluations have been completed, and the user desires to use

TDRSS, the user should initiate a request for TDRSS service.

(a) Initial requests for TDRSS service from non-U.S. Government users should be addressed to NASA Headquarters, Code TX, TDRSS Program, Washington, D.C. 20546. Upon review and preliminary acceptance of the service requirements by NASA Headquarters, the appropriate areas of GSFC will be assigned to the project to produce the detailed requirements, plans and documentation necessary for support of the mission. Changes to user requirements shall be made as far in advance as possible and shall be submitted in writing to both NASA Headquarters, Code TX, TDRSS Program, and GSFC, Code 804, Greenbelt, Maryland 20771.

(b) Acceptance of user requests for TDRSS service is the sole prerogative of NASA. Although TDRSS represents a significant increase to current support capabilities, service capacity is finite, and service will be provided in accordance with operational priorities established by NASA. Request for services within priority groups shall be negotiated with non-NASA users on a first come, first service basis for inclusion into the TDRSS mission model.

§ 1215.109 Scheduling user service.

(a) User service shall be scheduled only by NASA. Scheduling refers to that activity occurring after the user has been accepted and placed in the TDRSS mission model as specified in § 1215.108(b). See Appendix C for a description of a typical user activity timeline.

(b) Schedule conflict will be resolved in general by application of principles of priority to user service requirements. Services shall be provided either as normally scheduled service or as emergency/disruptive update service. Priorities will be different for emergency/disruptive updates than for normal services.

(1) Normally scheduled service is service which is planned and ordered under normal operational conditions and is subject to schedule conflict resolution under normal service priorities. Priorities are established by the NASA Administrator or his/her designee. Requests for normally scheduled service must be received by the schedulers at the GSFC Network Control Center (NCC) no later than 45 minutes prior to requested support time.

(2) Normal scheduling principles of priority are generally ordered as follows beginning with the highest priority:

(i) Launch, reentry, landing of the STS Shuttle or launch of a NASA expendable launch vehicle.

(ii) NASA payloads/spacecraft.

(iii) Other payloads/spacecraft of interest to the United States.

(iv) Other payloads/spacecraft launched by a NASA launch vehicle.

(v) Other payloads/spacecraft.

(vi) Support of other launches.

(3) Exceptions to these priorities may be determined on a case-by-case basis with the NASA Administrator or his/her designee as the priorities stated in paragraph (b)(2) of this section are indicative of general rather than specific cases.

(4) Emergency service conditions are those requiring rapid response to changing user service requirements. Emergency service may be instituted under the following conditions:

(i) Circumstances which pose a threat to the security of the United States.

(ii) Circumstances which threaten human life.

(iii) Circumstances which threaten user mission loss.

(iv) Other circumstances of such a nature which make it necessary to preempt normally scheduled services.

(5) At times, emergency service requirements will override normal schedule priority. Under emergency service conditions, disruptions to schedule service will occur. As a consequence, users requiring emergency service shall be charged for emergency service at rate factors set forth in Appendix B.

(6) Disruptive updates are scheduled updates which by virtue of priorities, causes previously scheduled user's services to be rescheduled or deleted or are requested by the user less than 45 minutes prior to the scheduled support period.

(i) Disruptive updates will be charged at the same rates as emergency service. User initiated schedule requests which are received less than 45 minutes prior to the requested schedule support time will be considered a disruptive update.

(ii) User initiated schedule requests which are received more than 45 minutes and less than 12 hours prior to the scheduled support period will be acted upon as a routine input provided other users are unaffected. If other users are affected, the scheduling input will be considered a disruptive update and the appropriate charge factor will be applied.

(iii) The Network Control Center (NCC) at GSFC reserves the sole right to schedule, reschedule or cancel TDRSS service. Schedule changes brought about through no fault of the user are not charged the factor for a disruptive update.

(7) While the priority listing remains the general guide for establishing support availability, the NASA schedulers will exercise judgment and endeavor to see that lower priority users are not excluded from a substantial portion of their contracted-for service due to the requirements of higher priority users.

(8) When a user contracts for TDRSS service for an "operational satellite" which interfaces with a significant number of national and world-wide users on a regularly scheduled basis as opposed to a "research and development satellite," NASA will place special emphasis on the operational requirement when planning schedules. This should reduce the probability of losing perishable operational data such as meteorological, climate, or earth resources information.

(c) General user service requirements, which will be used for preliminary planning and mission modeling, should include as a minimum, the following:

(1) Date of service initiation.

(2) Expected date of service termination.

(3) The type of TDRSS services desired [e.g., multiple access, tracking, etc.].

(4) The frequency and duration of each service, including orbital position or time constraints on service delivery from a given spacecraft where appropriate.

(5) Orbital or trajectory parameters and tracking data requirements.

(6) Spacecraft events affecting tracking, telemetry or command requirements.

(7) Signal parameters and data rates by type of service, type and location of antennas and other related information dealing with user tracking, command, and data systems.

(8) Special test requirements, compatibility testing, data flows, simulations, etc.

(9) Identification of type and quantity of user information necessary for control functions, location of user control facility, and identification of communications requirements.

(10) Identification of ground communications requirements and interface points, including the level of support to be requested from NASCOM.

(d) To provide for effective planning, general service requirements should be provided at least 3 years before initiation of service. With these data NASA will determine whether the requested services can be provided.

(e) Detailed requirements for user services must be provided 18 months before the initiation of service. These data will be the basis for the technical definition of the Interface Control

Document (ICD). If requirements are received late, necessitating extraordinary NASA activities [e.g., overtime, special printing of documents], such activities will be considered to be mission unique and their cost charged the user.

§ 1215.110 User cancellation of all services.

The user has the right to terminate its service contract with NASA at any time. A user who exercises this right after contracting for service shall pay the charge agreed upon for services previously rendered, and the cost incurred by the Government for support of pre-launch activities, services, and mission documentation not included in that charge. The user will remain responsible for the charges for any services actually provided.

§ 1215.111 User postponement of service.

The user may postpone the initiation of contract service (user launch date) by delivery of written notification to NASA Headquarters, Code TX. If NASA's written approval is not obtained for postponements which delay the initial contract start of service date by more than 6 months, the quantity of service provided may be affected due to changes in other support requirements. Therefore, the validity of previous estimates of predicted support availability may no longer be applicable.

§ 1215.112 User/NASA contractual arrangement.

(a) The NASA Administrator reserves the right to waive any portion of the reimbursement due to NASA under the provisions of the reimbursement policy.

(b) When NASA has determined that a potential user has not made sufficient progress toward concluding a contractual arrangement for service, after being placed in a mission model, NASA shall have the unilateral right to remove that user from the mission model.

(c) NASA shall have the right to determine unilaterally that the potential user has failed to make progress toward concluding a contractual arrangement.

§ 1215.113 User charges.

(a) The user shall reimburse NASA the sum of the charges for standard and mission unique services. Charges will be based on the service rates determined at the beginning of each calendar year and the service time scheduled for the user.

(b) For standard services the user shall be charged only for services rendered, except that if a total cancellation of service occurs, the users shall be charged in accordance with the provisions of § 1215.110.

(1) Standard services which are scheduled, and then cancelled by the user less than 12 hours prior to the start of that scheduled service period, will be charged as if the scheduled service actually occurred.

(2) The time scheduled by the user project shall include the slew time, set up and/or configuration time, TDRSS contact time, and all other conditions for which TDRSS services were allocated to the user.

(3) Charges will be accumulated by the minute, based on the computerized schedule/configuration messages which physically set up the TDRSS equipment at the start of a support period and free the equipment for other users at the end of a support period.

(c) The user shall reimburse NASA for the costs of any mission unique services provided by NASA for the user's benefit unless NASA obtains full cost reimbursement from another user for these mission unique services.

(d) Any person or entity which pays to NASA the initial administrative charge (see § 1215.115) does so with the understanding that it is not refundable whether or not an agreement is entered into with NASA for TDRSS services.

§ 1215.114 Service rates.

(a) Non-U.S. Government user rates will reflect TDRSS total operational and maintenance costs prorated to a per-minute basis.

(b) Rates for TDRSS services will be set by NASA Headquarters each October for the following year, January through December. Rate variations will reflect changes in operating costs, loading formulas and escalation.

(c) Projected estimates will include escalation bases on the Bureau of Labor Statistics Index for compensation per hour—total private.

(d) Appendix A is provided for preliminary planning purposes only. It delineates the rate per minute by service and type of user. These rates are subject to change.

(e) The per minute charge for TDRSS service is computed by multiplying the charge per minute for the appropriate service by the number of minutes scheduled and the appropriate factor (for flexible, constrained or disruptive/emergency service).

§ 1215.115 Payment and billing.

(a) To each user there will be an initial non-refundable administrative charge of $25,000 which is applicable toward TDRSS operational services.

(b) The procedure for billing and payment of standard TDRSS services is as follows:

(1) The calendar year is divided into two service periods, January through June and July through December. The charge for TDRSS service will be determined in October for the succeeding calendar year.

(2) The estimated cost of service, January through June period, will be due the previous July 1, and will be billed 60 days prior to the payment due date.

(3) The estimated cost of service, July through December period, will be due the previous January 1, and will be billed 60 days prior to the payment due date.

(4) Adjustments to the amounts prepaid will be made to the succeeding billings as the actual service time is tabulated. Amounts due to the user will be credited to the next service period or refunded to the user if no more service is to be provided.

(5) The total estimated cost of all standard pre-launch services such as mission planning, documentation, link analysis, testing, computer, human resources, etc., with the exception of TDRSS operational services, will be paid to the Government prior to NASA rendering such services. This advance payment will be applied as a credit to the charges billed for post-launch TDRSS operational services as specified in paragraphs (b) (1) through (4) of this section.

(c) Payment schedules for mission unique services will be mutually developed between NASA the user on a case-by-case basis, dependent upon level of engineering effort, long-lead items, special communication services or other considerations. Payment will generally be made prior to NASA incurring a cost for mission unique service.

(d) Late payments by the user will require the user to pay a late payment charge equal to 1½% per month of the unpaid balance calculated daily from the date the payment was due until the date payment is made.

Appendix A—Estimated Service Rates in 1984 Dollars for TDRSS Standard Services (Based on NASA Escalation Estimate)

TDRSS user service rates for services rendered in CY-84 based on current projections in 1984 dollars are as follows:

Single Access Service—forward command, return telemetry, or tracking, or any combination of these, the base rate in $110.00 per minute for non-U.S. Government users.

Multiple Access Forward Service—Base rate is $24.00 per minute for non-U.S. Government users.

Multiple Access Return Service—Base rate is $8.00 per minute for non-U.S. Government users.

Appendix B—Factors Affecting Standard Charges

Charges for services shall be determined by multiplying the factors below by the base rates for standard services set forth in Appendix A.

	Flexible	Time or position constrained	Emergency service, disruptive updates
Single access service	.5	1	2
Multiple access forward (command) service	.67	1	2

	Normally scheduled support	Emergency service, disruptive updates
Multiple access return (telemetry) service	1	2

Appendix C—Typical User Activity Timeline

Time (approximate)	Activity
Project conceptualization (At least 3 years before launch; Ref. § 1215.108(a)).	Request NASA Headquarters perform study to determine availability of TDRSS. $25,000 non-refundable charge for this service. Placement into mission model if accepted.
3 year before launch (Ref. § 1215.109(c)).	Submit general user requirements to permit preliminary planning. Begin payment for pre-mission activities. (Ref. § 1215.115(b)(5).)
18 months before launch (earlier if interfacing is expected).	Provide detailed requirements for technical definition and development of operational documents and ICD's. (Ref. § 1215.109(e).)
3 weeks prior to a scheduled support period (SSP).	Submit scheduling request to GSFC covering a weekly period.
2 weeks prior to an SSP.	Receive schedule from GSFC based on principles of priority (§ 1215.109(b)(2)). Acknowledgement to GSFC required.
Up to 12 hours prior to an SSP.	Can cancel an SSP without charge. (Ref. § 1215.113(a)(1).)
Up to 45 minutes prior to an SSP.	Can schedule an SSP if a time slot is available without impacting another user.
Between SSP minus 45 minutes and the SSP.	Schedule requests will be charged at the disruptive update rate (Ref. § 1215.109(b)(5)).
Real Time	Emergency service requests will be responded to per the priority system (Ref. § 1215.109(b)(3)) and assessed the emergency service rate.

James M. Beggs,

Administrator.

[FR Doc. 83-6041 Filed 3-8-83; 8:45 am]

BILLING CODE 7510-01-M

UNITED STATES METRIC BOARD

15 CFR Ch. V

Removal of Chapter

In a letter to the Chairman, United States Metric Board dated February 25, 1982, the Deputy Director of the Office of Management and Budget assigned responsibility for metric policy and coordination to the Secretary of Commerce upon the phase out of the Board.

As of October 1, 1982, responsibility for metric policy was transferred to the Secretary of Commerce, and the regulations of the U.S. Metric Board, appearing in Chapter V of the Code of Federal Regulations became obsolete. The regulations in 15 CFR Chapter V are being removed based on a letter to the Office of the Federal Register from the Director, Office of Administration, U.S. Department of Commerce.

CHAPTER V—[REMOVED]

Accordingly, in Title 15, Code of Federal Regulations, Parts 500–504 appearing in Chapter V—United States Metric Board, are removed and the chapter is removed.

BILLING CODE 1505-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 145

Commission Headquarters Office and Western and Southwestern Offices; Change and Address; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules, correction.

SUMMARY: This document corrects telephone numbers for the Division of Economics and Education in New York and the Division of Trading and Markets in Chicago, which were published on January 21, 1983 (48 FR 2735).

FOR FURTHER INFORMATION CONTACT: Donald L. Tendick, Acting Executive Director, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254–7556.

The Commodity Futures Trading Commission is correcting the following telephone numbers in § 145.6:

On page 2735, column 1, line 55, the telephone number for the Division of Economics and Education in New York is (212) 466–2061. On page 2735, column 1, line 60, the telephone number for the Division of Trading and Markets in Chicago is (312) 353–5990.

Issued in Washington, D.C. on March 3, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-5962 Filed 3-8-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 34

[Docket No. RM81-18-000]

Order Denying Application for Rehearing and Clarifying Regulatory Provision

Issued March 3, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Denying Application for Rehearing and Clarifying Regulatory Provision.

SUMMARY: The Federal Energy Regulatory Commission (Commission) denies an application for rehearing or reconsideration of the final rule which revised the Commission's Regulations regarding applications for authorization of the issuance of securities or the assumption of liabilities. The final rule was issued October 7, 1981 (Order No. 182, 46 FR 50511, October 14, 1981), and clarified and simplified those regulations as part of the Commission's ongoing program to reevaluate its information requirements. The rehearing request is denied because it does not raise any issues nor present any new data that were not fully considered by the Commission during this rulemaking, or which now having been considered, warrant any modification of the final rule with respect to that request.

The Commission also amends its regulations in § 34.1(c)(1) in order to insert text previously omitted in that provision.

EFFECTIVE DATE: March 3, 1983.

FOR FURTHER INFORMATION CONTACT: Cathy Ciaglo, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357–8033.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Energy Regulatory Commission issued a final rule on October 7, 1981, to revise its regulations at 18 CFR Part 34, "Application for Authorization of the Issuance of

Securities or Assumption of Liabilities" (Order No. 182, 46 FR 50511, October 14, 1981). Part 34 provides requirements for any issuance of a security or assumption of liability by a public utility, licensee or other entity for which approval is required under sections 19, 20 and 204 of the Federal Power Act (16 U.S.C. 812, 813, 824c). The final rule clarified and simplified the Part 34 provisions and deleted or reduced certain of the specified requirements. The revisions were made as part of the Commission's ongoing program to reevaluate all of its information requirements and to eliminate the reporting of data that are not necessary for Commission regulatory purposes.

B. Rehearing Application

On November 6, 1981, Simpson, Thacher and Bartlett (Applicant) filed a timely application for rehearing or reconsideration of the final rule. By that application, the applicant objected to the revised language of § 34.1(c)(1) adopted in the rule. That provision reads as follows:

(c) *Exemptions*—(1) *If a State regulates securities prior to issuance.* A utility whose security issuances are regulated by a State agency, shall be exempted from the provisions of sections 19, 20 and 204 of the Federal Power Act, and from the provisions of this part: *Provided, however,* that the State agency is required to exercise its regulatory authority with respect to the issuance of *such securities* prior to issuance, and that the utility must obtain written authorization or approval from the State agency prior to the issuance of such securities. (Emphasis provided by Applicant.)

The essence of the Applicant's objection is that this provision, exempting security issuances from Commission jurisdiction under section 204 of the Federal Power Act by reason of the exercise of state regulation, is in conflict with section 204(f) of the Federal Power Act. Section 204(f) provides as follows:

(f) The provisions of this section shall not extend to a *public utility* organized and operating in a State under the laws of which its security issues are regulated by a State commission. (Emphasis provided by Applicant.)

The Applicant stated that the implicit premise of the proviso to § 35.1(c)(1) is that "every security issued by a public utility which is not approved by a state commission" must be authorized by the Commission under section 204 and that this conflicts with section 204(f). According to the Applicant, the Commission incorrectly construed the language of section 204(f) as providing exemptions for specific security issues, and that, in fact, section 204(f) should be broadly construed to exempt the public utilities that are regulated by states irrespective of whether individual securities are so regulated.

The Applicant, citing to legislative history and court cases, argued that the purpose of section 204(f) is to preserve the states' jurisdiction to regulate utility issuances where state laws provide for such regulation. The Applicant concluded that section 204(f) was designed to exempt from federal regulation "*public utilities* whose security issues were subject to a general structure of state regulation, without regard to the state-to-state nuances and variations in exempting particular transactions * * *" (Emphasis provided by Applicant.) That is, section 204(f) reflects the clear intention that the Commission should regulate security issuances only in states that did not provide for any regulation.

For the reasons given below, the Commission believes that the proviso of § 34.1(c)(1) of the revised regulations is consistent with section 204(f) of the Federal Power Act and with the overall intent of the Act. For this reason, the application for rehearing is denied.

The primary purpose of Part II of the Federal Power Act has been succinctly stated by the Supreme Court:

"* * * to curb abusive practices of public utility companies by bringing them under effective control, and to provide effective federal regulation of the expanding business of transmitting and selling power in interstate commerce." [1]

To adopt the Applicant's interpretation of the section 204(f) exception would result in no federal or state control over certain security issuances. Under its interpretation, the mere fact that a state or state commission *could* regulate a security issuance, whether or not it does so regulate, would be enough to preclude the exercise of federal authority.

Although the issue in this Application was not specifically addressed in the legislative history, this Commission does not believe that the Congress intended that the authority of state commissions should be so broad that they could unilaterally decide by regulatory inaction which issuances should and should not be regulated by federal authority. This would violate the very spirit of the Federal Power Act and would also contradict section 204(f) which provides that the exemption applies when a utility security issues are "regulated" by a state commission.

With respect to the Applicant's assertion that the § 34.1(c)(1) proviso would supplant state regulation of its utilities' security issuances, the Commission notes that in no instances would the Commission and the states regulate the *same* issuances in a particular state. This would be consistent with the statement in the report of the House Committee on Interstate and Foreign Commerce that: "[t]he new parts are so drawn as to be a complement to and in no sense a usurpation of State regulatory authority * * *" (H. Rep. No. 1318, 74th Cong., 1st Sess. at 8 (1935).) The Commission would never usurp the state authority when the state actively regulated security issues, but would only regulate in those instances where the states themselves chose not to regulate.

The Commission's determination that it is authorized to regulate specific security issuances that are not regulated by the states is entirely consistent with previous Commission decisions dating to 1949. Three of these early decisions were cited by the Applicant [2] and each of them reflects the Commission's long-standing practice of interpreting section 204(f) as exempting from federal regulation under the Federal Power Act only the specific security issuances that are regulated by the States. This practice is implemented in the proviso at § 34.1(c)(1) of the Commission's regulations. This provision is consistent with section 204(f) of the Federal Power Act and with the stated purpose of that Act which requires the Commission to regulate in the "public interest".

In conclusion, the Applicant has not raised any issues nor presented any data that were not fully considered by the Commission during this rulemaking or, which now having been considered, warrant any modification of the final rule with respect to that request.

Accordingly, the application for rehearing or reconsideration of the final rule that was filed in this docket by Simpson, Thacher and Bartlett is denied.

II. Clarification of Regulatory Provision

Subsequent to the issuance of the final rule in this docket, the Commission was notified by an interested person of an omission in the revised regulations. The omission pertains to the language in § 34.1(c)(1), that appears before the proviso discussed in the rehearing application. The reference to a utility that is "organized and operating" in a State appeared in the notice of proposed rulemaking but was not included in the

[1] *Gulf States Utilities Co.* v. *FPC*, 411 U.S. 717, 758 (1973) (citations omitted).

[2] *Newport Electric Co. of New Hampshire* (Docket No. E-6250) 8 FPC 1369 (1949); *Florida Power Corp.* (Docket No. E-6386) 10 FPC 1550 (1951); and *Public Service Co. of New Hampshire* (Docket No. E-6521) 12 FPC 1199 (1953).

final rule. The omission of this phrase from the final rule was inadvertent. The Commission, therefore, reinserts this language and the provision now reads,

A utility whose security issuances are regulated by a State agency, in a State in which it is organized and operating, shall be exempted from the provisions of sections 19, 20 and 204 of the Federal Power Act, and from the provisions of this Part. * * *

In accordance with section 553(b) of the Administrative Procedure Act (5 U.S.C. 553(b)) (APA), the Commission finds that public notice and comment on this amendment are unnecessary because the phrase was inadvertently omitted from the final rule. For this same reason, the Commission finds good cause, in accordance with section 553(d) of the APA, to make the amendment effective immediately.

(Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR Part 142; Federal Power Act, 16 U.S.C. 792–828(c); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2635)

List of Subjects in 18 CFR Part 34

Electric power, Electric utilities, Reporting requirements, Securities.

In consideration of the foregoing, Part 34 of Subchapter B, Chapter 1, Title 18, Code of Federal Regulations, is amended as set forth below, effective March 3, 1983.

By the Commission.

Kenneth F. Plumb,
Secretary.

PART 34—[AMENDED]

§ 34.1 [Amended]

Section 34.1(c)(1) is amended by inserting the phrase "in a State in which it is organized and operating," between the words "State agency," and "shall".

[FR Doc. 83-5951 Filed 3-8-83; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 250

[Docket No. RM83-51-000; Order No. 285]

Discontinuance of FPC Form 334, Reserves Dedication Report

Issuance: March 4, 1983.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) discontinues FPC Form 334, "Reserves Dedication Report," and deletes the Commission's regulation which prescribes the form, 18 CFR 250.13. The Commission is taking this action because Form 334 and its prescribing regulation no longer serve any regulatory function or purpose for the Commission. The effect of this action will be to remove an unnecessary portion of the Commission's regulations and to avoid possible confusion or uncertainty.

EFFECTIVE DATE: April 8, 1983.

FOR FURTHER INFORMATION CONTACT: Ellen Brown, Office of Program Management, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–5250.

SUPPLEMENTARY INFORMATION: By this rule, the Federal Energy Regulatory Commission (Commission) is discontinuing FPC Form 334, "Reserves Dedication Report," and the regulation prescribing that form, 18 CFR 250.13. The Commission is eliminating Form 334 and its corresponding regulation because they no longer serve any regulatory purpose.

I. Background

In *Phillips Petroleum Co. v. Wisconsin*, 347 U.S. 672 (1954), the Supreme Court held that the jurisdiction of the Federal Power Commission[1] encompassed the regulation of independent producers of natural gas, *i.e.*, producers not affiliated with an interstate pipeline. The *Phillips* decision resulted in a dramatic increase in the number of natural gas producers to be regulated by the Commission. In response to this increased administrative burden, the Commission instituted proceedings to regulate the wellhead prices charged by independent producers. These "area rate" proceedings individually addressed the various geographical areas throughout the United States.[2]

While the area rate proceedings were pending, the Commission permitted many independent producers to sell their gas at their requested rates. Each producer was on notice, however, that it would be required to make appropriate refunds if the Commission later found that the rate charged was not just and reasonable, in whole or in part.

The area rate proceeding first completed by the Commission was that regarding the Texas Gulf Coast Area. On May 6, 1971, the Commission issued Opinion No 595 [3] establishing the just and reasonable area rates for natural gas produced in that area. Opinion No. 595 also included two provisions designed to encourage independent producers to dedicate more gas produced in the Texas Gulf Coast Area to the interstate market.

Under the first incentive provision, a producer that owed refunds to any of its purchasers of Texas Gulf Coast Area gas could elect to discharge those refund obligations by making new dedications, prior to January 1, 1976, of Texas Gulf Coast Area gas reserves for sale in the interstate market. Producers' pipeline purchasers were responsible for reporting newly dedicated gas reserves to the Commission. A producer's refund obligation was reduced by one cent for each Mcf of newly dedicated gas reserves.

The second incentive provision included in Opinion No. 595 provided for automatic increases in the Texas Gulf Coast Area rates for gas sold under contracts dated prior to October 1, 1968, as the gas reserves newly dedicated by producers reached certain specified volumes. Thus, for example, while Opinion No. 595 established an initial area base rate of 19.0 cents per Mcf for Texas Gulf Coast Area gas sold during the period October 1, 1968, through September 30, 1973, Opinion No. 595 also provided for an increase to 19.5 cents per Mcf at such time as the combined new dedications of Gulf Coast Area gas reserves of all producers totalled 4 trillion cubic feet (excluding both gas already dedicated as of the effective date of Opinion No. 595 and gas dedicated after the effective date of Opinion No. 595 to reduce refund obligations).

Refund credit provisions like those in Opinion No. 595 for the Texas Gulf Coast Area were eventually adopted for the Southern Louisiana Area,[4] the Other

[1] The term "Commission" is used in this Order to refer to either the Federal Power Commission or its successor, the Federal Energy Regulatory Commission.

[2] Initially, the Commission attempted to set producer rates on a case-by-case basis. This approach proved to be administratively unacceptable.

[3] Docket No. AR64–2, Area Rate Proceeding (Texas Gulf Coast Area), Opinion No. 595, 45 FPC 674 (May 6, 1971), *modified by* Opinion and Order No. 595–A 46 FPC 827 (Oct. 18, 1971), *remanded and vacated, sub nom.* Public Service Commission of New York v. FPC, 487 F.2d 1043 (D.C. Cir. 1973), *remanded for further proceedings*, Blanco Oil Company v. FPC, 485 F.2d 1036 (D.C. Cir. 1973), *vacated and remanded*, 417 U.S. 964 (1974), *petitions to set aside denied, sub nom.* Public Service Commission of New York v. FPC, 516 F.2d 746 (D.C. Cir. 1975).

[4] Docket No. AR61–2, Area Rate Proceeding (Southern Louisiana Area), Opinion No. 598, 46 FPC 86 (July 16, 1971), Opinion and Order No. 598–A, 46 FPC 633 (Sept. 9, 1971), *affirmed sub nom.* Placid Oil Co. v. FPC, 483 F. 2d 880 (5th Cir. 1973), *affirmed sub nom.* Mobil Oil Corporation v. FPC, 417 U.S. 284 (1974).

Southwest Area,[5] and the Permian Basin Area II.[6] The Southern Louisiana Area and the Permian Basin Area orders also provided for the escalation of area rates as producers' combined new dedications reached specified levels in a manner similar to that in Opinion No. 595.

II. Discussion

A. Creation of Form 334

On November 10, 1972, the Commission promulgated 18 CFR 250.13,[7] which prescribes FPC Form 334, "Reserves Dedication Report," as the form to be used to report new dedications of gas reserves implementing refund credit and contingent rate escalation provisions in the Commission's area rate opinions.

As indicated above, Opinion No. 595 provided that only dedications made prior to January 1, 1976, would qualify for either the refund credit or application toward the contingent escalation of area rates based on the combined new dedications of all producers. Similarly, Opinion No. 598 required that new dedications in the Southern Louisiana Area be made before October 1, 1977, to receive this special treatment. The dedication cut-off dates for the Other Southwest and Permian II Basin Areas were January 1, 1976, and January 1, 1978, respectively.

On September 27, 1976, the Commission established the termination dates for filing reserve dedication reports.[8] Producers seeking to discharge refund obligations through credits for additional dedications of gas reserves in the Texas Gulf Coast and Other Southwest Areas had to have their pipeline purchasers file Form 334 by December 1, 1976. Reserve dedication reports for the Southern Louisiana and Permian II Basin Areas were to be filed by October 1, 1977, and January 1, 1978, respectively.

Thus, January 1, 1978, was the latest date for new dedications to qualify either as a credit against a producer's refund obligations or toward contingent area rate escalations based on producers' combined new dedications. The use of Form 334 also stopped on that date. However, the Commission subsequently permitted the refiling of revised Forms 334 until June 29, 1979, for certain limited purposes related to refund credits.[9]

B. Limited Use of Form 334 after January 1, 1978

In 1975–76, the Commission established nationwide rates, effective January 1, 1976, for "flowing gas," *i.e.*, gas dedicated to interstate commerce prior to January 1, 1973.[10] These new, nationwide rates were higher than existing area rates. The Commission ordered that flowing gas currently being sold by a producer to discharge a refund obligation, or dedicated by the producer for such purpose, could be sold at the higher national rates going into effect on January 1, 1976, only if the producer waived its refund credits on and after that date. In *Tenneco Oil Co. v. Federal Energy Regulatory Commission*, 571 F. 2d 834 (5th Cir. 1978), the Court of Appeals set aside that portion of the Commission's decision requiring waiver of refund credits for sales of gas made at the rate established in Opinion No. 749. Thus, producers were allowed to recoup the excess refund payments and the refund credits that had to be waived earlier under Opinion No. 749.

To accommodate the *Tenneco* decision, the Commission established procedures for recoupment of excess refund payments.[11] The Commission required that the necessary refilings of Form 334 be made within 120 days, by March 28, 1979. On January 25, 1979, the Commission extended the time for refiling Form 334 until May 29, 1979. On April 10, 1979, the Commission again extended the refiling period to June 29, 1979. At that time, the use of Form 334 ended.

C. Current Status of 18 CFR 250.13 and Form 334

Form 334 has not been in use since June 29, 1979, because all claims for recoupment of excess refund payments under *Tenneco* had to be filed by that date. In addition, the incentive provisions of the area rate opinions leading to the adoption of § 250.13 and Form 334 have no current effect. Therefore, there is no longer any ongoing regulatory purpose or function to be served by 18 CFR 250.13 or Form 334, at least on a generic basis.[12]

The Commission has determined that the interests of the Commission, the regulated gas industry, and the public will be served by the elimination of 18 CFR 250.13 and Form 334, since such action would eliminate possible uncertainty and confusion that might occur from the continued existence of § 250.13 and Form 334. This result is consistent with the Commission's ongoing efforts to reduce filing and reporting burdens.

It is the Commission's further determination that this rule to discontinue Form 334 and delete 18 CFR 250.13 constitutes a minor change of no substantive effect since it merely removes provisions that no longer are needed by the Commission to carry out its regulatory responsibilities. Therefore, the Commission believes that good cause exists for finding that prior notice and opportunity for public comment are unnecessary for this rulemaking under 5 U.S.C. § 553(b)(B).

(Natural Gas Act, as amended, 15 U.S.C. 717–717w (Supp. IV 1980); Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 42 FR 46,267, 3 CFR Part 142; 5 U.S.C. 553)

List of Subjects in 18 CFR Part 250

Natural gas.

In consideration of the foregoing, the Commission amends Part 250 of Title 18, Chapter 1, Code of Federal Regulations, as set forth below, effective April 8, 1983.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 250—[AMENDED]

1. The table of contents in Part 250 of Title 18 is amended by removing the

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[5] Docket No. AR67–1, Area Rate Proceeding (Other Southwest Area), Opinion 607, 46 FPC 900 (Oct. 29, 1971), *modified* Opinion and Order No. 607–A, 47 FPC 99 (Jan. 17, 1972).

[6] Docket No. AR70–1, Area Rate Proceeding (Permian Basin Area II), Opinion No. 662, 50 FPC 390 (Aug. 7, 1973), *modified* 50 FPC 932 (Sept. 28, 1973), *reconsideration denied* 50 FPC 1250 (Oct. 26, 1973).

[7] Order No. 459, 37 Fed. Reg. 24,342 (Nov. 16, 1973), *rehearing denied* 49 FPC 50 (Jan. 5, 1973).

[8] "Order Setting Deadline for Filing Dedication Reports," 56 FPC 1829 (Sept. 27, 1976).

[9] Producers' combined new dedications of natural gas reserves never reached the specified levels for any geographical production area which, if met before the applicable cut-off date, would have triggered area rate increases.

[10] Docket No. R–478, Just and Reasonable National Rates for Sales of Natural Gas, Opinion No. 749, 54 FPC 3090 (Dec. 31, 1975), Opinion No. 749–A, 55 FPC 825 (Feb. 27, 1976), Opinion No. 749–B, 55 FPC 1525 (March 31, 1976), Opinion No. 749–C, 56 FPC 303 (July 19, 1976), *affirmed in part, and set aside in part*, Tenneco Oil Company v. FPC, 571 F. 2d 834 (5th Cir. 1978).

[11] Area Rate Proceeding, et al., Order Establishing Procedures for Claiming Recoupment of Excess Refund Payments, 5 FERC ¶ 61,189 (Nov. 28, 1978).

[12] Form 334 has been used where its format was well-suited for reporting new reserve dedications, as required in a Commission opinion directed at a single firm. In Tennessee Gas Pipeline Company, Opinion No. 667, 50 FPC 1194 (Oct. 24, 1973), the Commission approved a settlement involving the lease-sale of certain gas reserves from Amoco Production Company (Amoco) to Tennessee Gas Pipeline Company (Tennessee). The settlement, which required Amoco to refund $8 million to Tennessee, provided that Amoco would receive a credit against its refund obligation at the rate of one cent per Mcf of new gas reserves committed by Amoco to Tennessee during the eight years following the issuance of the order approving the settlement. Since the refund credit provisions of the Amoco/Tennessee settlement were so similar to the area rate refund credit provisions, Form 334 was used by Amoco in reporting its new reserves dedications in order to obtain refund credit.

entry for "Sec. 250.13 Reserves Dedication Report (Form No. 334)" in its entirety (and reserving the same for future use).

§ 250.13 [Removed and Reserved]

2. Part 250 of Title 18 is amended by removing § 250.13 in its entirety (and reserving the same for future use).

[FR Doc. 83-5947 Filed 3-8-83; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 19

[T.D. 83-56]

Fee To Establish Container Stations

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to authorize Customs to implement a fee schedule to establish a container station. It provides that such a fee schedule will be published periodically to revise this fee to reflect increased costs. It also requires that a fee, which will remain in effect until revised, must accompany any new application to establish a container station after the effective date of this document.

These fees are necessary because a Federal agency is required to charge appropriate fees to recover the costs of services provided by that agency.

EFFECTIVE DATE: April 8, 1983.

FOR FURTHER INFORMATION CONTACT: John Holl, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5354).

SUPPLEMENTARY INFORMATION:

Background

Under 31 U.S.C. 9701, a Federal agency is required to charge appropriate fees to recover the costs of services provided by that agency. The fees must be fair and based on the costs to the Government, value to the recipient, public policy or interest served, and other pertinent facts.

Although imported merchandise ordinarily is subject to entry and the payment of duty at the time and place the merchandise arrives in the United States, entry and payment of duty may be postponed in certain circumstances. For example, merchandise may be removed from the place of arrival to a container station before entry and the payment of duty.

A container station is a secured area within the United States into which containers of merchandise may be moved for the purpose of opening the container and delivering the contents before any entry is filed or duty is paid. A container station is important because it serves as a central location at a port for processing containerized merchandise which otherwise could not be handled timely at the dock, wharf, pier, or bonded carrier's terminal. Sections 19.40 through 19.49, Customs Regulations (19 CFR 19.40-19.49), provide the procedure for the establishment and use of container stations.

Section 19.40, Customs Regulation (19 CFR 19.40), provides that a container station, independent of either the importing carrier or bonded carrier, may be established at any port or other area under the jurisdiction of a district director of Customs. To establish a container station, an application must be filed with, and approved by, the district director. However, even though the administrative costs to Customs to process the application are similar to an application to establish a bonded warehouse, no fee is presently required to accompany the application.

Before an application may be approved, Customs must—

(1) Determine that the application is in proper form;

(2) Survey the premise to determine that all physical requirements are met;

(3) Perform a background investigation of the applicant and the applicant's officers and employees;

(4) Prepare a report of that investigation; and

(5) Review the application, survey, and background investigation report and prepare a response to the applicant.

Proposed Rule

On July 10, 1980, a notice was published in the **Federal Register** (45 FR 46442 (proposing to amend §§ 19.2, 19.3, 19.40, and 24.12, Customs Regulations (19 CFR 19.2, 19.3, 19.40, 24.12)—

(1) To delete the reference in § 19.2(a) to the $80 fee required to accompany an application to establish a Customs bonded warehouse;

(2) To provide in § 19.3(a) for a fee to accompany an application to alter a Customs bonded warehouse;

(3) To provide in § 19.40 for a fee to accompany an application to establish a container station; and

(4) To provide in § 24.12(a) for publication of a general notice in the **Federal Register** and the Customs Bulletin on or about August 31 of each year which will establish the fees for the next fiscal year.

The notice indicated that the fee schedule will be based on the actual current costs to Customs of processing an application to establish or to alter a Customs bonded warehouse, or to establish a container station. These costs are related closely to Customs employees' salaries and, therefore, are subject to change annually.

Interested parties were given until September 8, 1980, to submit written comments regarding the proposal.

Discussion of Comments

One comment was received regarding the proposed changes. The commenter suggested that when a general notice setting the fees for services provided is published in the **Federal Register**, Customs provide for "the submission of comments on the fairness of the fees proposed to be charged and that such comments be given consideration before the final establishment of fees."

As indicated above, the fee schedule will be based on the actual current costs to Customs of processing an application to establish a container station. The costs are directly related to the salary of each Customs officer performing the service and, therefore, are subject to change annually. Therefore, Customs believes it is inappropriate to entertain comments on the fairness of the fees on an annual basis as this would merely result in additional administrative expenses and delay in processing the general notice. Of course, Customs will consider any suggestions received to improve upon the procedures established by this document, including the fee structure.

Other Changes

Upon its review, Customs has made changes in the proposed amendment. The notice proposed to amend the Customs Regulations to increase the fee that must accompany an application to establish a bonded warehouse, and to require a fee to accompany an application to alter an existing bonded warehouse or to establish a container station. However, this document pertains only to container stations. Fees relating to bonded warehouses were included in a separate document concerning changes in the supervision of those warehouses which was published in the **Federal Register** on November 1, 1982, as T.D. 82-204 (47 FR 49355). Therefore, only § 19.40 is amended by the document. It is noted that this section was amended by T.D. 82-135, published in the **Federal Register** on July 27, 1982 (47 FR 32414), to provide that bonded carriers may transport

containerized cargo in-bond to container stations at ports of destination.

The notice advised that a general notice would be published in the **Federal Register** and Customs Bulletin on or about August 31 of each year which would establish the fee for the next fiscal year.

This document amends the Customs Regulations to authorize Customs to implement a fee schedule to establish a container station. It provides that a general notice shall be published in the **Federal Register** and Customs Bulletin setting forth a fee schedule to be revised periodically to reflect increased costs to establish a container station. It also requires that a fee of $852.00 must accompany any new application to establish a container station after the effective date of this document. This fee will remain in effect until revised.

Explanation

Customs has determined that the service to establish a container station is provided by the following Customs officers:

1. Clerk in the fifth step of a GS–5;
2. Inspector in the fifth step of a GS–11 (performing physical security);
3. Agent in the fifth step of a GS–12 (performing the investigation);
4. Administrator in the fifth step of a GS–13.

The fee charged for the service would be based upon the amount of time the service requires of each of the above Customs officers and equal the sum of individual charges plus a charge for mileage incurred by the applicable Customs officer in using a vehicle to visit the premises to perform his respective task. The average mileage associated with performing the necessary tasks is 60 miles. Currently, mileage costs are reimbursed at 20 cents per mile.

The (1) estimated length of time reflected in the fee schedule required by each of the above Customs officers to perform his or her respective service; (2) the adjusted hourly rate of pay utilized which is 137 percent of the hourly rate of pay of the respective Customs officer; (3) the charge of each respective service based on the hourly rate of pay of each Customs officer performing his or her respective service; and (4) the total fee for the service rendered rounded off to the nearest dollar follow:

FEE TO ESTABLISH A CONTAINER STATION

Customs officer	Time in hours	Adjusted hourly rate	Individual charge
1. Clerk	5	$9.98	$49.90
2. Inspector	14	18.28	255.92

FEE TO ESTABLISH A CONTAINER STATION—Continued

Customs officer	Time in hours	Adjusted hourly rate	Individual charge
3. Agent	22	21.92	482.24
4. Administrator	2	26.07	52.14

Therefore, the total fee to establish a container station is $852.00 ($840.00 for Customs officers fee plus $12.00 for mileage).

Section 24.17(d), Customs Regulations (19 CFR 24.17(d)), provides the computation for regular compensation for reimbursable charges. The charge shall be computed at a rate per hour equal to 137 percent of the hourly rate of regular pay of the particular employee. The ratio of the annual number of working hours charged to Customs appropriation to the net number of annual working days is 137 percent.

Inapplicability of Regulatory Flexibility Act

This document is not subject to the provisions of sections 603 and 604 of Title 5, United States Code, relating to the Regulatory Flexibility Act, because it was the subject of a notice of proposed rulemaking published in the **Federal Register** before January 1, 1981, the effective date of the Act.

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 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 19

Customs duties and inspection, Imports, Freight, Container stations.

Amendment to the Customs Regulations

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

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: February 17, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

Section 19.40, Customs Regulations (19 CFR 19.40), is amended by designating the existing text as paragraph (a), revising the introductory text of newly designated paragraph (a), and adding a new paragraph (b) after the bond format to read as follows:

§ 19.40 Establishment of container stations.

(a) A container station, independent of either the importing carrier or bonded carrier, may be established at any port or portion of a port, or any other area under the jurisdiction of a district director upon the filing of an application therefor, accompanied by the fee required by paragraph (b) of this section, and its approval by the district director. The applicant also must post a bond in the following format in the sum of $25,000 or such larger amount as the district director shall determine:

* * * * *

(b)(1) Customs shall charge a fee to establish a container station, and publish a general notice in the **Federal Register** and Customs Bulletin setting forth a fee schedule, to be revised periodically to reflect increased costs, to establish the container station. The published revised fee schedule shall remain in effect until changed.

(2) The fee, rounded off to the nearest dollar, shall be calculated in accordance with section 24.17(d) of this chapter. The fee shall be based upon the amount of time the average service requires of the Customs officers performing the service.

(R. S. 251, as amended (19 U.S.C. 66), section 624, 46 Stat. 759 (19 U.S.C. 1624); 96 Stat. 1051 (31 U.S.C. 9701))

[FR Doc. 83-5904 Filed 3-8-83; 8:45 am]

BILLING CODE 4820-02-M

Fiscal Service

31 CFR Part 354

Regulations Governing Book-Entry Securities of the Student Loan Marketing Association (Sallie Mae)

Correction

In FR Doc. 83–4962 beginning on page 8059 in the issue of Friday, February 25, 1983, make the following correction:

On page 8059, middle column, in the **SUMMARY** of the document, in the last two lines, "non-competitive form" should have read "non-certificated form".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 70

[DoD Directive 1332.28]

Discharge Review Board (DRB) Procedures and Standards

AGENCY: Office of the Secretary, DoD.

ACTION: Amendment of final rule.

SUMMARY: This amendment corrects Part 70 to correspond with the new application form for review of discharge, DD Form 293, which was revised and issued after the effective date of this Part. This amendment clarifies the DRBs' decisional principles, how records of proceedings are to be stored and revises the information required in the statistical report submitted semiannually by the DRBs. These amendments will correct and clarify discharge proceedings and reporting requirements.

EFFECTIVE DATE: November 3, 1982.

FOR FURTHER INFORMATION CONTACT: Colonel Thomas Cuthbert, USA, Office of the Deputy Assistant Secretary of Defense (Military Personnel and Force Management), Washington, D.C. 20301, telephone 202-697-3387.

SUPPLEMENTARY INFORMATION: In FR Doc. 82-23283, appearing in the **Federal Register** on August 26, 1982 (47 FR 37770) this part was revised and reissued as part of the Settlement Agreement in *Urban Law Institute of Antioch College, Inc.* v. *Secretary of Defense*, Civ. No. 76-0503 (D.D.C.) (Stipulation of Dismissal, Jan 31, 1977) (Order and Settlement Agreement, July 30, 1982). The Supplementary Information accompanying the final rule described the changes that were made in the proposed rule in response to public comments and final formulation of the rule.

This amendment ensures that Part 70 corresponds with the new application form for review of discharge, DD Form 293, which was issued after the effective date of this Part. In addition, this amendment clarifies the DRBs' application of a specific decisional principle and storage of the record of proceedings. Finally, this amendment revises the information required in the statistical report submitted semiannually by the DRBs.

List of Subjects in 32 CFR Part 70

Military personnel, Discharge review boards, Administrative practice and procedures.

Accordingly, 32 CFR, Chapter 1, Part 70, is amended as follows:

PART 70—DISCHARGE REVIEW BOARD (DRB) PROCEDURES AND STANDARDS

1. Section 70.8 is amended by revising paragraph (a)(3)(i), (ii), and (iii) reading as follows:

§ 70.8 [Amended]

* * * * *

(a) * * *

(3) * * *

(i) *Character of discharge.* Block 7 of DD Form 293 provides an applicant an opportunity to request a specific change in character of discharge (for example, General Discharge to Honorable Discharge; Other than Honorable Discharge to General or Honorable Discharge). A person separated on or after 1 October 1982 while in an entry level status may request a change from Other than Honorable Discharge to Entry Level Separation. A request for review from an applicant who does not have an Honorable Discharge shall be treated as a request for a change to an Honorable Discharge unless the applicant requests a specific change to another character of discharge.

(ii) *Reason for discharge.* Block 7 of DD Form 293 provides an applicant an opportunity to request a specific change in the reason for discharge. If an applicant does not request a specific change in the reason for discharge, the DRB shall presume that the request for review does not involve a request for change in the reason for discharge. Under its responsibility to examine the propriety and equity of an applicant's discharge, the DRB shall change the reason for discharge if such a change is warranted.

(iii) The applicant must ensure that issues submitted to the DRB are consistent with the request for change in discharge set forth in block 7 of the DD Form 293. If an ambiguity is created by a difference between an applicant's issue and the request in block 7, the DRB shall respond to the issue in the context of the action requested in block 7. In the case of a hearing, the DRB shall attempt to resolve the ambiguity under paragraph (a)(5) of this section.

* * * * *

2. Section 70.8 is amended by revising paragraph (e)(3)(ii)(B)(*2*) and (e)(6)(ii)(B)(*2*) to read as follows:

§ 70.8 [Amended]

* * * * *

(e) * * *

(3) * * *

(ii) * * *

(B) * * *

(*2*) If a finding of fact is made after consideration of contradictory evidence in the record (including information cited by the applicant or otherwise identified by members of the DRB), the decisional document shall set forth the conflicting evidence and explain why the information relied upon was more persuasive than the information that was rejected. If the presumption of regularity is cited as the basis for rejecting such information, the decisional document shall set forth the basis for relying on the presumption of regularity and explain why the contradictory evidence was insufficient to overcome the presumption. In an appropriate case, the explanation as to why the contradictory evidence was insufficient to overcome the presumption of regularity may consist of a statement that the applicant failed to provide sufficient corroborating evidence, or that the DRB did not find the applicant's testimony to be sufficiently credible to overcome the presumption.

* * * * *

(6) * * *

(ii) * * *

(B) * * *

(*2*) If a finding of fact is made after consideration of contradictory evidence in the record (including information cited by the applicant or otherwise identified by members of the DRB), the decisional document shall set forth the conflicting evidence and explain why the information relied upon was more persuasive than the information that was rejected. If the presumption of regularity is cited as the basis for rejecting such information, the decisional document shall set forth the basis for relying on the presumption of regularity and explain why the contradictory evidence was insufficient to overcome the presumption. In an appropriate case, the explanation as to why the contradictory evidence was insufficient to overcome the presumption of regularity may consist of a statement that the applicant failed to provide sufficient corroborating evidence, or that the DRB did not find the applicant's testimony to be

sufficiently credible to overcome the presumption.

* * * * *

3. Section 70.8 is amended by revising paragraph (k) reading as follows:

§ 70.8 [Amended]

* * * * *

(k) *Final Disposition of the Record of Proceedings.* The original record of proceedings and all appendices thereto shall in all cases be incorporated in the Military Service record of the applicant and the Military Service record shall be returned to the custody of the appropriate records holding facility. If a portion of the original record of the proceedings cannot be stored with the Military Service record, the Military Service record shall contain a notation as to the place where the record is stored. Other copies shall be filed and disposed of in accordance with appropriate Military Service regulations.

4. Section 70.10 is amended by revising paragraph (d)(4)(v)(B)(*2*) and (C)(*3*) to read:

§ 70.10 [Amended]

* * * * *

(d) * * *
(4) * * *
(v) * * *
(B) * * *

(*2*) notifying the applicant and counsel, if any, of the opportunity to obtain a priority review using the letter providing at attachment 6. * * *

(C) * * *

(*3*) If a decisional document concerning an initial record review under Pub. L. 95–126 is otherwise defective and corrective action is taken after a request by the applicant for a priority review in response to the letter at attachment 6, the new decisional document shall address all issues previously raised by the applicant during the SDRP.

* * * * *

(Title 10, U.S.C. 1553, title 38 U.S.C. 101 and 3103, as amended)

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

March 1, 1983.

[FR Doc. 83-5973 Filed 3-8-83; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications under the International Regulations for Preventing Collisions at Sea, 1972, (72 COLREGS) to reflect that the Secretary of the Navy has determined that USS HAYLER (DD 997) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a destroyer. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: March 1, 1983.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332. Telephone Number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS HAYLER (DD 997) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: 72 COLREGS Annex I, Section 3(a) pertaining to the placement of the forward masthead light in the forward quarter of the ship; 72 COLREGS Annex I, Section 3(a) pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a naval ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements. Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to the public interest since it is based on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following naval ship to the list of vessels therein to indicate the certifications issued by the Secretary of the Navy.

* * * * * * * *

TABLE 5

Vessel	Number	Forward masthead light not required; height above hull. Annex I, Section 2(a)(ii), (c), (d).	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, Section 2(a)(ii).	Masthead lights not over all other lights and obstructions. Annex I, Section 2(f).	Vertical separation of masthead lights used when towing less than required by Annex I, Section 2(a)(i).	Aft masthead lights not visible over forward light 1000 meters ahead of ship in all normal degrees of trim. Annex I, Section 2(b).	Forward masthead light not in forward quarter of ship. Annex I, Section 3(a).	After masthead light not less than ½ ship's length aft of forward masthead light, Annex I, Section 3(a).	Percentage horizontal separation attained.
*	*	*	*	*	*	*	*	*	
USS Hayler	DD 997						X	X	46.4.

Dated: February 15, 1983.
James F. Goodrich,
Acting Secretary of the Navy.
[FR Doc. 83-5948 Filed 3-8-83; 8:45 am]
BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS ALBUQUERQUE (SSN 706) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine; and (2) has found that USS ALBUQUERQUE (SSN 706) is a member of the SSN 688 class of ships, exemptions for which have previously been granted under 72 COLREGS, Rule 38. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: March 1, 1983.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332. Telephone Number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605 and Executive Order 11964, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS ALBUQUERQUE (SSN 706) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c) requiring that the sternlight show an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel; Annex I, Section 2(a)(i) pertaining to the height of the masthead light; 72 COLREGS, Annex I, Section 2(k) pertaining to the height and relative positions of the anchor lights; 72 COLREGS, Annex I, Section 3(b) pertaining to the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements. Notice is also provided to the effect that USS ALBUQUERQUE (SSN 706) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of section 706.3 are equally applicable to USS ALBUQUERQUE (SSN 706). Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the ships's ability to perform its military function.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table Three of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by inserting the following entry:

Vessel	Number	Masthead light, arc of visibility; Rule 21(a).	Sidelights, arc of visibility; Rule 21(b).	Stern light, arc of visibility; Rule 21 (c).	Sidelights, distance inboard of ship's sides in meters; section 3(b), Annex I.	Stern light, distance forward of stern in meters; Rule 21 (c).	Forward Anchor light, height above hull in meters; section 2(k), Annex I.	Anchor lights, relationship of aft light to forward light in meters; section 2(k), Annex I.
•	•	•	•	•	•	•		
USS Albuquerque	SSN-706		114°		4.2	6.1	3.5	1.7 below.

§ 706.2 [Amended]

2. Table One of §706.2 is amended to indicate certifications issued by the Secretary of the Navy by insertion of the following entry:

Vessels	Number	Distance in meters of forward masthead light below minimum required height. Section 2(a)(i) Annex I
•	•	•
USS Albuquerque	SSN 706	3.5

(E.O. 11964; 33 U.S.C. 1605)
Dated: February 17, 1983.
John Lehman,
Secretary of the Navy
[FR Doc. 83-5949 Filed 3-8-83; 8:45 am]
BILLING CODE 3810-AE-M

32 CFR Part 770

Rules Limiting Public Access to Particular Installations—Base Entry Regulations for Puget Sound Naval Shipyard, Bremerton, Washington

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is adding Subpart F to 32 CFR Part 770 in order to set forth regulations governing entry upon Puget Sound Naval Shipyard, Bremerton, Washington. It is intended that these regulations will apprise members of the public of the rules governing access to Puget Sound Naval Shipyard, Bremerton, Washington.

EFFECTIVE DATE: February 24, 1983.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Steven L. Seaton, JAGC, U.S. Navy (Code 107), Puget Sound Naval Shipyard, Bremerton, Washington 98314. Telephone: (206) 476-2120.

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below, the Commander, Puget Sound Naval Shipyard, Bremerton, Washington, on February 18, 1983, adopted entry regulations entitled "Shipyard Entry Policy" (NAVSHIPYDPUGETINST 5510.38). These regulations were subsequently amended on February 24, 1983. Puget Sound Naval Shipyard is a major naval ship repair facility, with operational requirements to complete repairs and overhaul of conventionally powered and nuclear powered naval vessels. It is vital to national defense that the operation and use of the shipyard be continued without undue or unnecessary interruptions. Additionally, most of Puget Sound Naval Shipyard is dedicated to heavy industrial activity where potentially hazardous conditions exist. It is vital to the national defense that the operation of the shipyard continue without undue interruption. Accordingly, these regulations limit entry upon Puget Sound Naval Shipyard to authorized personnel and those persons who have obtained advance consent pursuant to these regulations. It has been determined, in accordance with the public rulemaking provisions of 32 CFR Parts 295 and 701, that publication of these regulations for public comment prior to adoption would be impracticable, unnecessary, and contrary to the public interest since the nature and national importance of Puget Sound Naval Shipyard mandate the immediate and uninterrupted effectiveness of these regulations.

List of Subjects in 32 CFR Part 770

Federal buildings and facilities, National defense, Restricted access areas, Security measures.

Accordingly, 32 CFR Part 770 is amended by adding a new Subpart F as follows:

PART 770—[AMENDED]

Subpart F—Base Entry Regulations for Puget Sound Naval Shipyard, Bremerton, Washington

Sec.

770.47 Purpose.
770.48 Definition.
770.49 Background.
770.50 Entry restrictions.
770.51 Entry procedures.
770.52 Violations.

Authority: 50 U.S.C. 797; DoD Directive 5200.8 of July 29, 1980; SECNAVINST 5511.36 of December 20, 1980; OPNAVINST 5510.45B of April 19, 1971; 5 U.S.C. 301; 10 U.S.C. 6011; 32 CFR 700.702; 32 CFR 700.714.

Subpart F—Base Entry Regulations for Puget Sound Naval Shipyard, Bremerton, Washington

§ 770.47 Purpose.

The purpose of this subpart is to promulgate policy governing entry upon Puget Sound Naval Shipyard.

§ 770.48 Definition.

For the purpose of this subpart, Puget Sound Naval Shipyard is defined as follows:

(a) Beginning at a point, latitude 122°39'37"W, longitude 47°33'05"N, a point on the MHHW line of Sinclair Inlet on an East-West line approximately 100 yards clear off the Southerly end of the Naval Shipyard shoreline, piers or drydock facilities; thence Northeasterly to the South margin of Primary State Highway No. 21, thence Northeasterly on the Southeasterly margin of Primary State Highway No. 21 to the Easterly margin of Cambrian Avenue; thence Northerly to the Southerly margin of Farragut Street; thence Easterly to the line common to Sections 22 and 23, Township 24 North, Range 1 East, W.M. which is approximately 100 feet East of the East margin of Montgomery Street; thence Northerly to the corner common to Sections 14, 15, 22, and 23, Township 24 North, Range 1 East, W.M., which is the South margin of First Street; thence Easterly on the line common to Sections 14 and 23 to the Easterly margin of Chester Avenue; thence Northerly approximately 335 feet on the Easterly margin of Chester Avenue to the Southerly margin of the East-West alley in Block 21, Original Town of Bremerton as recorded in Volume 2 of Plats, page 30, Records of Kitsap County, Washington; thence Easterly to the Easterly margin of Warren Avenue; thence Northerly to the Southerly margin of Burwell Avenue; thence Easterly approximately 1315 feet to a point approximately 90 feet West of the West margin of Pacific Avenue, to the line common to Lots 22 and 23, Block 13, said Original Town of Bremerton; thence Southerly to the Northerly margin of the East-West alley in said Block 13; thence Easterly to the Northerly extension of the Westerly margin of the North-South alley in Block 12, said Original Town of Bremerton; thence Southerly to the Southerly margin of First Street; thence Easterly to the Westerly margin of First Street; thence Easterly to the Westerly margin of the North-South alley in Block 10, said Original Town of Bremerton; thence Southerly to the Northwesterly margin of Washington Avenue; thence Southeasterly to the Northwesterly corner of Lot 9, Block 1, said Original Town of Bremerton; thence Southeasterly on the line common to Lots 8 and 9, Block 1, and its Southeasterly extension to a point near the Washington State Ferry Terminal at the MHHW line of Sinclair Inlet located at Latitude 122°37'27"W, longitude 47°33'44"N.

§ 770.49 Background.

(a) Puget Sound Naval Shipyard is a major naval ship repair facility, with operational requirements to complete repairs and overhaul of conventionally powered and nuclear powered naval vessels. It is vital to national defense that the operation and use of the shipyard be continued without undue or unnecessary interruptions. Additionally, most of Puget Sound Naval Shipyard is dedicated to heavy industrial activity where potentially hazardous conditions exist.

(b) For prevention of the interruption of the stated use of Puget Sound Naval Shipyard by the presence of any unauthorized person within the boundaries of Puget Sound Naval Shipyard and prevention of injury to any such unsupervised person as a consequence to the hazardous conditions which exist, as well as for other reasons, it is essential to restrict entry upon Puget Sound Naval Shipyard to authorized persons only.

§ 770.50 Entry restrictions.

Except for military personnel and

civilian employees of the United States in the performance of their official duties, entry upon Puget Sound Naval Shipyard, or remaining thereon by any person whoever for any purpose without the advance consent of the Commander, Puget Sound Naval Shipyard, or his authorized representative, is prohibited. *See* 18 U.S.C. 1382; the Internal Security Act of 1950, Section 21 (50 U.S.C. 797); Chief of Naval Operations Instruction 5510.45B of April 19, 1971; Secretary of the Navy Instruction 551.36 of December 20, 1980; and Department of Defense Directive 5200.8 of July 29, 1980.

§ 770.51 Entry procedures.

(a) Any person or group of persons desiring the advance consent of the Commander, Puget Sound Naval Shipyard, or his authorized representative, shall, in writing, submit a request to the Commander, Puget Sound Naval Shipyard, at the following address: Commander, Puget Sound Naval Shipyard, Bremerton, Washington 98314.

(b) Each request for entry will be considered on an individual basis weighing the operational, security and safety requirements of Puget Sound Naval Shipyard with the purpose, size of party, duration of visit, destination, and military resources which would be required by the granting of this request.

§ 770.52 Violations.

(a) Any person entering or remaining on Puget Sound Naval Shipyard, without the consent of the Commander, Puget Sound Naval Shipyard, or his authorized representative, shall be subject to the penalties prescribed by 18 U.S.C. 1382, which provides in pertinent part: "Whoever, within the jurisdiction of the United States, goes upon any military, naval * * * reservation, post, fort, arsenal, yard, station or installation, for any purpose prohibited by law or lawful regulation * * * shall be fined not more than $500.00 or imprisoned not more than six months or both."

(b) Moreover, any person who willfully violates this subpart is subject to a fine not to exceed $5000.00 or imprisonment for not more than one (1) year or both as provided in 50 U.S.C. 797.

Dated: March 4, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-5966 Filed 3-8-83; 8:45 am]

BILLING CODE 3810-AE-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL-2279-7; AL-004]

Approval and Promulgation of Implementation Plans; Alabama: New Source Review for Nonattainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is conditionally approving implementation plan revisions submitted by Alabama on March 31, 1981, to satisfy changes made by EPA in 40 CFR 51.18(j). The changes relate to new source review requirements for sources in or near nonattainment areas. Alabama has revised definitions and added definitions, as well as eliminated requirements in order to make their rules consistent with EPA's rules.

DATE: This action is effective April 8, 1983.

Material needed to satisfy the condition attached to the approval must be submitted by March 9, 1984.

ADDRESSES: Copies of the materials submitted by Alabama may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Steet, SW., Washington, D.C. 20460;

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005;

Air Management Branch, EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365;

Air Program, Alabama Department of Environmental Management, State Capitol, Montgomery, Alabama 36130.

FOR FURTHER INFORMATION CONTACT: Archie Lee of the Region IV Air Planning Section at 404/881-3286 (FTS 257-3286)

SUPPLEMENTARY INFORMATION: On July 15, 1982 (47 FR 30798), EPA proposed approval of the regulation changes made by the Alabama Air Pollution Control Commission (now the Air Program of the Alabama Department of Environmental Management) to meet the requirements of 40 CFR 51.18(j), as promulgated on August 7, 1980 (45 FR 52743 ff.), for new source review in nonattainment areas. The revisions include definitions of "source," "potential to emit," "major source," "major modification" and other terms which have been changed to make them consistent with EPA's definitions. In addition several definitions have been added, including "net emissions increase," "significant," "actual emissions," and "commenced." Alabama has deleted certain requirements from its regulations that EPA deleted from the Interpretative Ruling. These requirements related to sources constructing or modifying in increments; applicability determinations based on increase in allowable emissions by specific hourly, daily, our annual amounts; disallowing of credit for emission reduction elsewhere in a facility; and other similar requirements. Finally, exemptions for sources obtaining permits prior to certain dates have been included.

Alabama's revised SIP does not contain provisions on federal enforceability or limiting offset credits for source shutdowns to replacement units only. On February 22, 1982, EPA signed a settlement agreement in which it agreed to propose to delete these requirements from its Interpretative Ruling *Chemical Manufacturers Ass'n* v. *EPA*, No. 79-1112 (9th Cir.). The Agency expects to publish this proposal within the next few months. Therefore, EPA is not requiring Alabama to include these requirements in its SIP at this time. However, EPA is conditioning its approval of the Alabama SIP on the state's commitment to add the requirements to its regulations if EPA does not withdraw them within one year. Alternatively, Alabama may ask the Administrator to extend the deadline for meeting this condition.

No comments were received on EPA's proposal of July 15, 1982 on the Alabama revisions.

Action. EPA is today conditionally approving these changes in the Alabama plan based on the State's submitting the necessary conforming amendments by March 9, 1984. These amendments will require that new source permits are federally enforceable and that offset credits for source shutdowns are limited to replacement units only. During the interim the State has committed to implement its Part D new source review regulations, in a manner consistent with current EPA requirements.

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 307(b)(2).)

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any

response are available for public inspection at the EPA Region IV office (see address above).

Incorporation by reference of the Alabama State implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

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

(Secs. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: February 25, 1983.

Anne M. Burford,

Administrator.

PART 52—[AMENDED]

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

Subpart B—Alabama

1. In § 52.50, paragraph is amended by adding (c)(37) as follows:

§ 52.50 Identification of plan.

* * * * *

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

(37) Provisions for new source review in nonattainment areas (changes in Chapter 16 of the regulations), submitted on March 31, 1981, by the Alabama Air Pollution Control Commission.

2. A new § 52.56 is added as follows:

§ 52.56 Review of new sources and modifications.

Part D conditional approval. The plan's provisions for review of new sources and modifications in nonattainment areas are approved on condition that the State submit any necessary corrections by March 9, 1984 and, during the interim, implement these regulations in a manner consistent with EPA requirements.

[FR Doc. 83-5941 Filed 3-8-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL 2276-8]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA announces final rulemaking on a revision to the Total Suspended Particulates (TSP) portion of the Wisconsin State Implementation Plan (SIP). The SIP revision consists of Wisconsin Administrative Code (WAC) Section NR 154.11, Control of Particulate Emissions, as amended on June 10, 1981, and published in final form in the Wisconsin Register 308 in August, 1981. The State submitted this revision to EPA pursuant to the requirements of Part D of the Clean Air Act (Act). A notice of proposed rulemaking on this revision appeared in the June 1, 1982 (47 FR 23778) **Federal Register**. The June 1, 1982, **Federal Register** described the background and nature of the SIP revision, discussed the provisions which EPA determined do not comply with the requirements of the Act and requested comments from the State and public on EPA's proposed rulemaking action and the State's plan to control TSP emissions. Subsequent to publication of the notice of proposed rulemaking, the State of Wisconsin submitted additional information for inclusion in its SIP. This information is intended to satisfy, in part, the deficiencies noted in EPA's notice of proposed rulemaking.

Based on the State's response, EPA is today disapproving one provision of Wisconsin's submittal, contained in NR 154.11, relating to the control of TSP emissions from coke batteries. EPA is approving the remaining provisions of Wisconsin's submittal as a revision to its SIP. Wisconsin has failed to submit a plan for attainment of the TSP National Ambient Air Quality Standards (NAAQS) in Columbia, Brown, Dane, Douglas, Kenosha, Manitowoc, Marathon, Racine, Winnebago, and Wood Counties.

DATE: The final rulemaking becomes effective on April 18, 1983.

ADDRESSES: Copies of the revision to the Wisconsin SIP and other materials relating to this rulemaking are available for inspection at the following addresses:

The Office of the Federal Register, 1101 L Street, NW., Room 8401, Washington, D.C. 20408

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

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707

FOR FURTHER INFORMATION CONTACT: Sharon Reinders (312) 886-6034

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978 (43 FR 8962), pursuant to the requirements of Section 107 of the Act, EPA designated portions of the following counties in the State of Wisconsin as nonattainment for the primary TSP standard and other portions as nonattainment for the secondary TSP standard: Columbia County, Milwaukee County, Rock County, and Waukesha County. Additionally, EPA also designated the following counties or portions thereof as nonattainment for the secondary TSP standard: Brown County, Dane County, Douglas County, Kenosha County, LaCrosse County, Manitowoc County, Marathon County, Racine County, Winnebago County, and Wood County. (For the specific nonattainment areas of each county see 40 CFR 81.350). LaCrosse County was redesignated as attainment for TSP on August 14, 1981 (46 FR 41056).

Part D of the Act requires each state to revise its SIP to meet specific requirements for the areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary TSP NAAQS as expeditiously as practicable, but no later than December 31, 1982, and attainment of the secondary TSP NAAQS as expeditiously as practicable. If attainment of the NAAQS cannot be demonstrated for an area designated as nonattainment for TSP by the required date, an acceptable alternative SIP for that area must include provisions for applying reasonably available control technology (RACT) to traditional sources of particulate emissions and studying the nature and extent of the nontraditional particulate sources in the area. This study would then be used in designing a control strategy for such sources. The requirements for an approvable SIP are further described in a **Federal Register** notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979, notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

Summary of Wisconsin's Actions

In response to the requirements of Part D of the Act, the State of Wisconsin submitted revisions to its TSP SIP to EPA on November 27, 1979, and May 1, 1980. The revisions consisted of amendments to NR 154.11, Control of Particulate Emissions, applying RACT to control TSP emissions from process and fuel burning installation sources and fugitive dust. EPA proposed rulemaking action to conditionally approve

Wisconsin's TSP SIP, in the **Federal Register** on April 4, 1980 (45 FR 22982) and July 3, 1980 (45 FR 45318). However, on November 6, 1980, the Director of the Bureau of Air Management of the Wisconsin Department of Natural Resources (DNR) withdrew several amendments to the TSP plan. The following regulations were withdrawn: NR 154.11(2)(b), (3)(c) and (e), and (4)(c), (e) and (f). On April 9, 1981, EPA notified the public of this withdrawal in the **Federal Register** at 46 FR 21165.

On June 10, 1981, the Wisconsin DNR again submitted revisions to the Wisconsin TSP SIP. The submittal included amendments to NR 154.11 which were previously withdrawn, as well as additional revisions. NR 154.11 is divided into the following major sections: (1) General Limitations, (2) Fugitive Dust, (3) Particulate Emission Limits for Processes, (4) Particulate Emission Limits for Fuel Burning Installations, (5) Particulate Emission Limits for Incinerators, (6) Visible Emissions and (7) RACT Requirements for Coking Operations. Amended NR 154.11 was published in final form in the Wisconsin Register 308 in August 1981. The regulations were effective in Wisconsin as of September 1, 1981.[1]

In a rulemaking action on June 1, 1982, at 47 FR 23778, EPA reproposed conditional approval of NR 154.11, as submitted to EPA on November 27, 1979, and amended on June 10, 1981. Additionally, EPA withdrew the April 4, 1980 (45 FR 22982) proposed rulemaking (inadvertently printed as April 9, 1981, 46 FR 21165) and the July 3, 1980 (45 FR 45318) proposed rulemaking as they relate to NR 154.11.

In the June 1, 1982, notice of rulemaking action, EPA discussed several deficient areas of Wisconsin's proposed SIP revision. Specifically, deficiencies were noted in the areas of:

- lack of nontraditional fugitive dust studies;
- lack of a list of sources subject to the RACT control requirements contained in NR 154.11;
- opacity reading procedures;
- criteria and evaluation procedures relating to fugitive dust emission control, rule NR 154.11(2);
- lack of RACT-level numerical visible emissions limitation for coke battery charging, rule NR 154.11(7); and,
- lack of a plan for attainment of the standards in the nonattainment areas in Columbia County and in the secondary nonattainment areas in Brown, Dane, Douglas, Kenosha, Manitowoc, Marathon, Racine, Winnebago, and Wood Counties.

On May 13, December 7, and December 29 1982, Wisconsin submitted additional information to EPA intended to satisfy, in part, the deficiencies noted above and a commitment to correct the remaining deficiencies. The information included studies of sources of nontraditional fugutive dust.

Wisconsin submitted a list of sources, located in the Milwaukee, Waukesha, and Rock County primary and secondary TSP nonattainment areas, which are subject to the RACT regulations contained in NR 154.11. This list is an integral part of the State's plan because TSP RACT emission limitations become applicable to a nonattainment area only when Wisconsin identifies it in a document issued under Section NR 154.03. EPA notes that this list is effective as of January 1980. Thus, final compliance with NR 154.11 is required no later than 33 months from this date. EPA finally approved and incorporates the listing into the Wisconsin SIP. Any subsequent modification of this list of affected facilities must be submitted to EPA for approval. Of course, Wisconsin's existing regulations continue to apply to those sources to which RACT regulations do not apply.

Wisconsin also submitted a list of sources subject to the RACT requirements contained in NR 154.11 and adequate information which satisfies EPA's concern about opacity reading and the criteria and evaluation procedures the State will use to enforce fugitive dust controls in NR 154.11(2). Finally, Wisconsin made a commitment to adopt a RACT-level numerical visible emission limitation for coke battery charging operations, Rule NR 154.11(7), and submit the revised rule to EPA as a SIP revision by December 31, 1983.

No public comments on EPA's proposed rulemaking action on the State's plan to control TSP emissions were received. Therefore, based on the State's response, EPA is taking final rulemaking action to approve the revisions to the TSP SIP for Wisconsin with the exception of NR 154.11(7)(b), which EPA is disapproving. EPA's disapproval is based on the determination that the SIP revision does not contain an enforceable RACT-level emission limitation for the source subject to Rule NR 154.11(7).

As a result of today's rulemaking action, EPA finds that the SIP revision for Rock and Waukesha Counties meets the requirements for a Part D TSP SIP. Therefore, the moratorium contained in Section 110(a)(2)(I) of the Act on the construction and modification of major stationary sources of TSP emissions is lifted in these areas. However, the moratorium remains in effect in the Milwaukee County TSP nonattainment area as a result of EPA's disapproval of Rule 154.11(7)(b) pertaining to the control of emissions from the coke batteries located in Milwaukee.

EPA is taking no action on Wisconsin's SIP to attain and maintain the TSP primary and secondary NAAQS in Columbia County and the TSP secondary NAAQS in Brown, Dane, Douglas, Kenosha, Manitowoc, Marathon, Racine, Winnebago, and Wood Counties because the State did not submit a plan for attainment and maintenance of the TSP NAAQS in these areas.

The existing federally-approved SIP regulations for any source will apply, and be fully enforceable, until the source complies with those new regulations which EPA is approving today. Further, the existing SIP will continue in force if there is any delay or lapse in the applicability of the new regulations. However, if (but only if) the existing and new regulations conflict, so that a source cannot comply with the existing SIP while moving toward compliance with the new regulations, the State may exempt the source from the existing SIP. EPA will review and act on any such exemption.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

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 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Note.—Incorporation by reference of the State Implementation Plan for the State of Wisconsin was approved by the Director of the Federal Register on July 1, 1982.

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

[1] Wisconsin held public hearings on the technical support documents for the TSP SIP in Beloit on May 21, 1979, and January 8, 1980; and in Milwaukee on June 20, 1979, and January 22, 1980. Public hearings on NR 154.11 were held in Beloit, Milwaukee, and Wausau in February, 1979; in Superior, Green Bay, Madison, and Milwaukee in January, 1980; and, in Madison and Waukesha in October, 1980.

Dated: February 25, 1983.

Anne M. Burford,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS—WISCONSIN

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, Subpart YY—Wisconsin is amended as follows:

1. Section 52.2570 is amended by adding paragraph (c)(28) as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

* * * * *

(28) On November 27, 1979, the State of Wisconsin submitted implementation plan revision to satisfy the Part D, Title I of the Clean Air Act for attainment and maintenance of the national ambient air quality standards for particulate matter. The revision consists of NR 154.11, Wisconsin Administrative Code, Control of Particulate Matter. Amendments to the plan were submitted by the State on November 6, 1980, and June 10, 1981. Supplemental information and commitments were submitted on May 1, 1980, May 13, 1982, and December 7, 1982. No attainment plan was submitted for Columbia, Brown, Dane, Douglas, Kenosha, Manitowoc, Marathon, Racine, Winnebago, and Wood Counties.

* * * * *

2. Section 52.2577 is revised to read as follows:

§ 52.2577 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. The dates reflect the information presented in Wisconsin's plan, except where noted.

Air Quality Control Region	Pollutant						
	TSP		SO_2		NO_x	CO	O_3
	Primary	Secondary	Primary	Secondary			
Duluth (Minnesota)-Superior (Wisconsin Interstate (AQCR 129):							
a. Primary/Secondary nonattainment areas.	a	f	b	a	c	c	c
b. Remainder of AQCR	b	c	c	c	c	c	c
North Central Wisconsin Intrastate (AQCR 238):							
a. Primary/Secondary nonattainment areas.	b	f	d	c	c	c	d
b. Remainder of AQCR	b	c	c	c	c	c	c
Lake Michigan Intrastate (AQCR 237):							
a. Primary/Secondary nonattainment areas.	b	f	c	c	c	c	d
b. Remainder of AQCR	b	c	c	c	c	c	c
Southeast Minnesota-LaCrosse (Wisconsin) Interstate (AQCR 129):							
a. Primary/Secondary nonattainment areas.	b	c	a	a	c	c	c
b. Remainder of AQCR	b	c	c	c	c	c	c
Southern Wisconsin Intrastate (AQCR 240):							
a. Primary/Secondary nonattainment areas.	g	f	d	c	c	c	d
b. Remainder of AQCR	b	c	c	c	c	c	c
Southeastern Wisconsin Intrastate (AQCR 239):							
a. Primary/Secondary nonattainment areas.	d	d	b	a	c	e	e
b. Remainder of AQCR	b	c	c	c	c	c	c
Rockford (Illinois)-Janesville-Beloit (Wisconsin) Interstate (AQCR 73) (Wisconsin portion):							
a. Primary/Secondary nonattainment areas.	d	d	c	c	c	c	c
b. Remainder of AQCR	b	c	c	c	c	c	c
Metropolitan Dubuque Interstate (AQCR 68):							
a. Primary/Secondary nonattainment areas.	a	a	c	c	c	c	c
b. Remainder of AQCR	b	c	c	c	c	c	c

* * * * * * * * *

a. July, 1975.
b. Air quality levels presently below primary standard or is unclassifiable.
c. Air quality levels presently below secondary standard or is unclassifiable.
d. December 31, 1982.
e. December 31, 1987.
f. 18-Month extension granted for plan submission and identification of attainment date.
g. No attainment plan was submitted.

Note.—Sources subject to the plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with these requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.2577(1978).

For actual nonattainment designations refer to 40 CFR Part 81.

Dates or footnotes which are italicized are prescribed by the Administrator because the plan did not provide a specific date or the date provided was not acceptable.

(Secs. 110 and 172 of the Clean Air Act as amended 46 FR 25300, May 6, 1981)

3. Section 52.2584 is added as follows:

§ 52.2584 Control strategy; Particulate matter.

(a) Part D—Disapproval—USEPA disapproves Regulation NR 154.11(7)(b) of Wisconsin Administrative Code (RACT Requirements for Coking Operations), which is part of the control strategy to attain and maintain the standards for particulate matter, because it does not contain an enforceable RACT-level numerical visible emission limitation for charging operations.

[FR Doc. 83-5856 Filed 3-8-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2F2632/R496; PH-FRL 2317-5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide acephate and its metabolite in or on the raw agricultural commodities peanuts and peanut hulls. This regulation to establish maximum permissible levels for the combined residues of the pesticide in or on the commodities was requested, pursuant to a petition, by the Chevron Chemical Company.

EFFECTIVE DATE: Effective on March 9, 1983.

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

FOR FURTHER INFORMATION CONTACT: William Miller, Product Manager (PM) 16, Registration Division (TS–767C); Office of Pesticide Programs, Environmental Protection Agency, Rm. 211, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of February 24, 1982 (47 FR 8089) which announced that Chevron Chemical Company, 940 Henley St., Richmond, CA 94804, had submitted pesticide petition 2F2632 proposing that 40 CFR 180.108 be amended by the establishment of tolerances for the combined residues of the insecticide acephate (*O,S*-dimethylacetyl-phosphoromidothioate) and its cholinesterase-inhibiting metabolite methamidophos (*O,S*-dimethyl phosphoromidothioate) in or on the raw agricultural commodities peanuts at 0.2 part per million (ppm) and peanut hulls at 5.0 ppm.

There were no comments received in response to the notice of filing.

The scientific data submitted in this petition and other relevant material have been evaluated. The toxicological data considered in support of the regulation included a 90-day rat feeding study with a no-observed-effect level (NOEL) of 5.0 ppm (0.25 mg/kg) based on the inhibition of cholinesterase activity in plasma, red blood cell (RBC), and brain; a 2-year dog feeding study with a NOEL of 30.0 ppm (0.75 mg/kg), based on the inhibition of plasma, RBC, and brain cholinesterase activity and a NOEL of 100.0 ppm (2.5 mg/kg) for systemic toxicity; a 28-month rat feeding/oncogenic study with a NOEL of 5.0 ppm (0.25 mg/kg), based on the inhibition of cholinesterase activity in plasma, RBC, and brain; a rabbit teratogenic study with a NOEL of 10.0 mg/kg (highest dose tested); a rat teratogenic study with a NOEL of 200.0 mg/kg (highest dose tested); and a supplemental acute delayed neuroctoxicity study with no effects observed (no leg paralysis) at the 375 mg/kg level.

In a recently conducted micronucleus test (mouse bone marrow), acephate did not display mutagenic activity. There are studies available, however, in which acephate did display such activity (gene mutations in microorganisms and DNA repair). Additional mutagenic studies have since been submitted and are currently under review by the Agency.

Desirable data that are currently lacking include (1) a mouse oncogenic study, (2) a rat reproduction study, and (3) a delayed neurotoxicity study.

Although there are significant data gaps for the chemical, the available toxicity data are adequate to support the tolerances because the use will result in an insignificant increase (0.24 percent) in the TMRC to the human diet. As stated in the **Federal Register** of May 11, 1979 (44 FR 27932), the Agency will generally consider as insignificant an increase in the TMRC of 1.0 percent or less. Furthermore, most peanuts are roasted before consumption and heat treatment such as roasting reduces or eliminates acephate residues in peanuts.

Based on the 28-month rat feeding/oncogenic study with a NOEL of 5.0 ppm (0.25 mg/kg) and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.025 milligram (mg)/kilogram (kg) of body weight (bw)/day and the maximum permissible intake (MPI) is 1.500 mg/day for a 60-kg human.

The theoretical maximum residue contribution (TMRC) in the human diet from the regulation is 0.0011 mg/day/1.5 kg. This value represents a 0.24 percent increase in the existing TMRC. The existing tolerances and this regulation utilize a total of 30.43 percent of the ADI.

The established tolerances for the combined residues of acephate and its cholinerase-inhibiting metabolite, methamidophos in meat, milk, poultry, and eggs at 0.1 ppm are adequate to cover any secondary residues occurring in these commodities from the use of acephate on peanuts. The metabolism of the insecticide is adequately understood and an adequate analytical method, gas chromatography with a thermionic detector, is available for enforcement purposes. There are no regulatory actions pending against continued registration of the insecticide, and no other considerations are involved in establishing the tolerances.

The pesticide is considered useful for the purpose for which the tolerances are sought. Based on the above considerations, it is concluded that the establishment of the tolerances will protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: February 25, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.108 is amended by adding and alphabetically inserting the raw agricultural commodities peanuts and peanut hulls to read as follows:

§ 180.108 Acephate; tolerance for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Peanuts	0.2
Peanut hulls	5.0
* * * * *	

[FR Doc. 83–5855 Filed 3–8–83; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 2E2682/R521; PH-FRL 2317–3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the raw agricultural commodity cranberries. This regulation to establish a maximum permissible level for residues of chlorpyrifos was requested, pursuant to a petition, by the

Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on March 9, 1983.

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

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of January 12, 1983 (48 FR 1320), that announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 2E2682 to the Agency proposing to amend 40 CFR 180.342 by establishing a tolerance for the combined residues of the insecticide chloryprifos (*O-O*-diethyl-*O*-(3,5,6,-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity cranberries at 1.0 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

Dated: February 25, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.342 is amended by adding and alphabetically inserting the commodity cranberries to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Part per million
* * * * *	
Cranberries	1.0
* * * * *	

[FR Doc. 83-5854 Filed 3-8-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6362

[M 41581]

Montana; Revocation of Stock Driveway Withdrawal No. 227, Montana No. 13

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order which withdrew public lands for use as a stock driveway. This action will restore 2,722.28 acres to operation of the public land laws generally.

EFFECTIVE DATE: March 30, 1983.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406-657-6291.

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

1. Secretarial Order dated March 24, 1932, which withdrew the following described lands for a stock driveway is hereby revoked:

Principal Meridian

T. 13 S., R.10 W.,

Sec. 15, W½;
Sec. 21, E½;
Sec. 22,, W½;
Sec. 28, All;
Sec. 29, SE¼;
Sec. 31, lots 3, 4, E½SW¼, SE¼;
Sec. 32, All;

The area described contains 2,722.28 acres in Beaverhead County, Montana.

2. At 8 a.m. on March 30, 1983, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on March 30, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

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

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Dated: February 22, 1983.

Assistant Secretary of the Interior.

[FR Doc. 83-3957 Filed 3-8-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. 21502; RM-2737; FCC 83-10]

Subscription Television Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of petitions for partial reconsideration.

SUMMARY: By this action the Commission denies two petitions for partial reconsideration of the Third Report and Order in Docket No. 21502. Petitioners seek reversal of that part of the Third Report allowing subscription television decoder sales. The restriction prohibiting sales inhibited competition. Its removal will foster the development of subscription television, a relatively new communications outlet providing consumers with programming meeting their specific demands. The petitions for partial reconsideration were filed by Subscription Television Association and Wometco Home Theatre, Inc.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the Matter of, Amendment of Part 73 of the Commission's Rules and Regulations In Regard to Section 73.642(a)(3) and Other Aspects of the Subscription Television Service; Docket No. 21502, RM–2737 Petitions for Partial Reconsideration; Memorandum Opinion and Order.

Adopted: January 13, 1983.

Released: March 3, 1983.

Introduction

1. The Commission has before it two petitions for partial reconsideration of its *Third Report and Order* (*"Third Report"*), 47 FR 30069, published July 12, 1982, in the captioned proceeding. Petitioners Subscription Television Association ("STVA") and Wometco Home Theatre, Inc. ("Wometco"), request reconsideration of that portion of the Commission's *Order* deleting Rule 73.642(f)(3) which prohibited the selling of subscription television ("STV") decoders to subscribers. Comments in response to the petitions were filed by Cox Communications, Inc. ("Cox"), and Channel 57 Corporation ("Channel 57") with STVA submitting further comments in reply to Channel 57's pleading.

2. The *Third Report* essentially deregulated the STV service.[1] In that document the Commission eliminated the rule restricting STV operation to communities within the Grade A contour of at least five commercial television stations, including that of the STV operator; deleted the requirement that an STV station broadcast at least 28 hours of conventional programming per week; abolished the requirement that an applicant for STV authorization ascertain the needs and interests of the community specifically with regard to subscription programming; and eliminated the rule permitting only the leasing of decoder equipment by subscribers. This action was taken because of the Commission's expectation that it would accelerate the utilization of unused channels, allow for additional specialized programming, provide financial support for small market stations, and offer a unique broadcast service that directly responds to consumer desires.

3. More specifically, our decision to rescind the "lease only" restriction on STV decoders was intended to benefit both the businessman and consumer. As noted by the Commission, decoder sales can provide working capital to establish securely subscription operations. Further, the elimination of the restriction gives the STV operator the ability to change business practices on demand, thus serving himself and his subscribers. Although some commenters opposed decoder sales because of the threat of increased signal piracy, the Commission was not convinced by this argument. Rather, it noted that individuals who seek to duplicate a decoder may purchase the components for such equipment from companies manufacturing and soliciting their sale as well as utilizing boxes that are sold or rented to others.

4. In its petition, STVA contends that: (1) The factual record does not support elimination of the "lease-only" rule; (2) elimination of the "lease-only" rule will lead to increased signal piracy; and (3) the sale of decoders anywhere will increase entry barriers to further STV development. According to STVA, 25 of the 26 STV operators now on the air in 22 markets serving 1.4 million subscribers oppose decoder sales. It submits that those commenters who generally favored equipment sales confined their comments to the issues of perceived consumer savings or operator cash flows.[2] As to the few who did address the piracy issue, petitioner submits that they failed to analyze the technical questions surrounding signal piracy.

5. STVA states that it is unaware of, and questions whether, any technology can be developed capable of making STV systems truly pirate-proof. It submits that even if such a technology could be developed, the 1.4 million decoders currently in use would require years to upgrade or replace at a considerable cost to STV operators. In the interim, petitioners asserts that decoders moving freely on the open market would make it virtually impossible to detect and prevent signal piracy.[3]

6. According to STVA, under the "lease-only" rule, any decoder found on the market that was not the property of an STV operator was presumed to be a pirate device marketed in violation of Sections 302 and 303 of the Communications Act. Petitioner asserts that permitting decorder sales would make it virtually impossible for STV operators to ferret out unauthorized pirate devices from those being lawfully offered for sale. STVA further alleges that pirate decoders may well gravitate toward other technologically compatible STV market systems where the only recourse against pirates is to move against individual viewers caught in the act of stealing the scrambled signal.

7. Petitioner asserts that when entertainment is stolen off the air, creative artists, programmers and distributors are denied fair compensation for their product efforts. This artificially skews the ratio of revenues to costs and forces these groups to charge more for their intellectual property. Ultimately, STVA believes the public thus will find STV and other pay television services priced beyond the financial reach of the ordinary household.[4]

8. In its petition for partial reconsideration, Wometco Home Theatre contends that the Commission failed to address the problems associated with decoder sales, including the subsequent inability of STV operators to control the resale of legally manufactured and acquired decoders. Wometco also alleges that decoder purchase creates a situation where subscribers who have legally acquired a decoder may stop paying for or cancel the subscription service without the STV operator being able to reclaim the privately owned decoder. Also, petitioner is not convinced that the addressable feature of newer decoders cannot solve this problem.[5] It further expressed concern, as did STVA, that the piracy problem would be compounded by the inevitable growth of STV operations on low power stations throughout the country.

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[1] Briefly described, subscription television broadcasting involves the broadcasting of a television signal that subscribers are authorized to unscramble through use of a decoder on payment of a fee.

[2] Rather than selling decoders in order to increase operator cash flow, petitioner suggests that STV operators who are strapped for funds increase subscriber deposit and installation fees.

[3] To support its position, STVA submit an affidavit by John Thompson, developer of the SSAVI–I addressable decoder, stating that while it is not usually a trivial matter to defeat the addressability function of most modern decoders, it is not beyond the skills of an electronics engineer or technician. Until more sophisticated technology is implemented around the country, Mr. Thompson recommends that the "lease-only" rule be retained.

[4] In an affivadit attached to STVA's petition for reconsideration, Werner R. Koester, President of Oak Communications, Inc., attests that the widespread sale of pirate STV decoders has placed considerable strain on Oak's relationships with its entertainment program suppliers. Because program producers derive their income from license fees based on the total number of subscribers, petitioner asserts that potential subscribers lost to piracy means an effective revenue loss both to programmers as well as to the creative artists whose work is being distributed. Therefore, STVA maintains that signal piracy adds to the program supplier's cost of doing business and forces them to raise the price of their products tending to "price-out" substantial segments of the viewing public who cannot afford higher STV rates.

[5] In an affidavit submitted by Wometco, Alex MacDonald, petitioner's Vice President for Engineering, asserts that it is possible for a layman with access to common household tools and easy-to-follow instructions to bypass the addressable features of these decoders.

9. Wometco also contends that the Commission was incorrect in concluding that parity between various sellers of pay services requires allowing STV operators to sell decoders. Petitioner asserts that not only do STV and cable differ in terms of their delivery system, but that cable operators do not sell equipment. Further, it submits that in the MDS service, receiving equipment must be under the control of the MDS operator and the decorder must be owned by the MDS operator to ensure security. Thus, under the "parity of services" rationale originally advanced by the Commission, Wometco believes STV operators should be required to own or control reception and decoding equipment.

10. Wometco next argues that although established STV stations are likely to continue their operations, there is no reason to suppose that all or even most STV entrants have the capitalization necessary to be viable. Wometco contends that STV operators reach a cash flow breakeven point at a figure far higher than the one cited by either the Commission or STVA, and that STV penetration levels may well continue to run far below the originally projected 10 percent level, given the likelihood of accelerating MDS activities and increasing cable penetration.[6] Thus, Wometco contends that there remains a substantial risk of cessation of service, requiring a lease-only restriction to protect consumers. Petitioner also submits that accumulation of rental fees need not exceed the purchase price of STV decoders. Wometco contends that decoder sales will cause increased security costs to STV operators as well as subscribers, thus reducing any alleged benefits from subscriber ownership.

11. In conclusion, Wometco argues that the Commission intended STV operators alone to be able to sell decoders. However, by deleting the rule requiring the lease of decoders (73.642(f)(3)), the Commission failed to so provide. Therefore, if the Commission is not persuaded to reimpose a "lease-only" provision, Wometco requests that § 73.642(f)(3) be modified to reflect that intent. Petitioner maintains that this would aid in private enforcement against signal piracy.

12. Cox Communications, Inc. ("Cox"), the parent company of Miami Valley Broadcasting Corporation, licensee of STV Station KDNL, St. Louis, Missouri, filed comments supporting both petitions for reconsideration. Cox reiterates many of the arguments made by petitioners. Essentially, Cox contends that having already expressed its sensitivity to the signal piracy problem, the Commission should continue to do so. To illustrate the Commission's concern in this regard, Cox cites the *Michael R. Reynolds* case, 89 FCC 2d 450 (1982). In that decision, the Commission held decoder technological information submitted with an application for STV system approval to be confidential and exempt from disclosure under the Freedom of Information Act. Cox argues that in keeping with the spirit of *Reynolds*, the Commission should restore the "lease-only" rule to minimize signal piracy. If the Commission reaffirms its decision to authorize decoder sales, however, Cox suggests that it be made clear by rule that STV operators alone may exercise the sale option.

13. Channel 57 Corporation contends that decoder sales should be permitted, but only by STV operators.[7] It submits that the Commission correctly found the elimination of the "lease-only" restriction would aid capital formation and business flexibility. It further contends that the freeing of financial resources by allowing decoder purchases will permit STV operators to offer subscribers higher quality programming service and will ultimately promote the establishment of a secure and thriving STV industry throughout the whole country.[8] It also regards STVA's suggestion that STV operators generate this additional working capital through an increase in the required deposit or installation fees charged subscribers as in total disregard of today's competitive marketplace. In many situations, states Channel 57, subscriber prices are already as high as the market will bear.

14. Channel 57 particularly takes issue with petitioners' views that decoder sales will aggravate signal piracy. Channel 57 believes that whether decoders are purchased or leased, signal piracy will continue to be a significant problem. It argues that retaining a "lease-only" restriction will not effectively remedy piracy. Channel 57 is convinced that the efficacy of such a restriction is outweighed by the benefits to be gained through the promotion of new sources of capital and the provision of market flexibility. It argues that STV operators should explore new avenues and more effective methodologies for dealing with the piracy problem. Channel 57 submits that addressable decoders can be utilized so as to minimize the extent of piracy operations. For example, the addressable component of Oak's decoder currently used by commenter is sealed in plastic and, according to Channel 57, virtually impervious to tampering. Finally, Channel 57 asserts that the possibility of an active resale market in those decoders capable of modification is remote. The profitability and practicability of obtaining, modifying and transporting a substantial number of decoders in a market is seriously questioned by Channel 57.[9]

Discussion

15. Once again, we have carefully weighed the advantages and disadvantages of the "lease-only" rule. On balance, we do not believe that our decision to allow decoder sales should be modified. Petitioners' major objection to the sale of decoders is their concern that it will aggravate signal piracy.[10] Our decision to allow decoder sales does not signify a lack of concern with this problem. However, as we stated in *Michael Reynolds*, "[I]t has long been the Commission's view that the initial responsibility for signal protection

[6] In the proceeding establishing the basis for nationwide STV service (Docket No. 11279), some commenting parties projected a 10 percent penetration level. See *Fourth Report and Order*, 15 FCC 2d 466, 488 (1968). However, at that time the Commission concluded that the question of STV penetration and what it might take to obtain greater penetration was one about which there could only be speculation. 15 FCC 2d at 492. In 1981, in its *Further Notice of Proposed Rule Making*, 88 FCC 2d 213, the Commission noted that STV penetration levels were running at 4.0 percent.

[7] Channel 57 Corporation is the licensee of STV Station WWSG, Philadelphia, Pennsylvania.

[8] According to Channel 57, it has expended $2.3 million for the acquisition of decoders and it currently maintains an inventory of 2, 000 decoders that costs $100,000 per year to carry.

[9] In reply STVA asserts that the Commission misunderstood the current state-of-the-art in STV decoder technology. STVA argues that an abandonment of the "lease-only" rule at today's level of addressable decoder technology will unfairly penalize the dozens of STV operators who have come to rely on industry-supported Commission regulations and policies of the past. STVA requests retention of a "lease-only" rule for the moment and revisiting the question of decoder sales in three to five years or when a more secure addressable technology emerges. Petitioner also argues that it is more likely that a purchased decoder will make its way into the hands of a signal pirate (not back to the STV operator as Channel 57 apparently believes) and lead to an undermining rather than stabilization of the financial base of the STV industry. Finally, attached to STVA's reply comments are a number of newspaper items and advertisements submitted to demonstrate that even in a climate where decoder sales are illegal, large scale distribution networks and mail order operations for pirate decoders have grown and thrived.

[10] STVA further argues that STV licensees may have come to rely on the "lease-only" rule. We note, however, that it has been almost five years since the Commission first proposed a relaxation of the restriction. That is certainly more than adequate notice to STV operators of a possible change in the decoder equipment provision.

should be on the signal originator who is in the best position to protect the signal against unauthorized interception and use." [11] Although Section 605 of the Communications Act prohibits signal piracy, civil actions against STV signal pirates generally have been more successful than Commission intervention and can continue to be so even if different methods of proof become necessary.[12] We believe that technology, as well as legal procedures, can be employed to deal with the signal piracy dilemma. The problem did not originate with decoder sales nor would it be eliminated if decoder purchases were not allowed.

16. On the other hand, the sale of STV decoders has certain benefits that must be considered in reaching our decision. As indicated in the *Third Report and Order*, decoder sales could provide a new licensee with alternative methods of raising start-up capital, reducing capital expenditures or reducing capital tied up in decoder inventories. Under these circumstances, decoder purchase may reduce the cost of service to the customer. This is not to say that STV licensees necessarily will make use of the new opportunities made possible by elimination of the "lease-only" rule. Rather the rule change gives them the flexibility to sell or lease decoders according to what they, as businesspeople, believe to be in their own and their customers' best interest.

17. Our conclusion that the benefits of decoder sales outweigh the potential risks is not based on any conclusion that the action is necessary to put STV at parity with other pay services. Cable is not subject to a "lease-only" restriction, but Wometco alleges that cable companies do not offer converters for sale. This may be true, but what is crucial is that cable systems *may* offer converters to their customers on a sale or lease basis, not whether they do offer such arrangments.[13] Further, our conclusion is not based on the belief that STV operations are financially stable. Both Wometco and STVA have alleged that STV stations break even at between 70,000 and 100,000 subscribers, but our staff study indicated a break even point at between 25,000 and 40,000. Petitioners' higher estimates do not indicate that the STV industry is in a precarious position. On the contrary, the industry has experienced substantial growth in the past five years, from two stations in 1977 to 31 in October 1982. In any event, we do not believe that it is appropriate for this Commission to limit the options of the overall industry and the public because there is a possibility that a few licensees may go out of business. Finally, our conclusion is not based on any presumption that decoder rental fees will necessarily exceed the sale price of decoders. The price of decoders offered for sale will be determined by the marketplace and, in some instances, the sale price might be less than accumulated rentals.

18. On balance, we have provided a regulatory framework that allows the marketplace to govern the issue of whether STV decoders are offered for sale. Once again we emphasize that we have not mandated that decoders be so offered. We merely allow it.

19. As an alternative to reinstating the "lease-only" restriction Wometco has requested that we amend the rules to make it clear that the decision to sell or lease decoders is within the sole discretion of the STV licensee. We do not believe that further amendment of the rules is necessary or appropriate. As to the issues raised in this proceeding, the *Third Report and Order*, as affirmed herein, is sufficient as written.

20. Accordingly, it is ordered, That the petitions for partial reconsideration filed by Subscription Television Association and Wometco Home Theatre, Inc., are denied.

21. For further information concerning this proceeding, contact Freda Lippert Thyden, Mass Media Bureau, (202) 632–7792.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-6096 Filed 3-8-83; 8:45 am]

BILLING CODE 6712-01-M

[11] 89 FCC 2d 450, 455 (1982).

[12] Two federal appellate court decisions interpreting 47 U.S.C. 605 clarified that STV is not a form of broadcasting intended for the use of the general public and that therefore the unauthorized manufacture, sale or distribution of STV signal decoding equipment violates the protection of section 605. See *National Subscription Television* v. *S&H TV*, 644 F. 2d 820 (9th Cir. 1981); and *Chartwell Communications Group* v. *Westbrook*, 637 F. 2d 459 (6th Cir. 1980).

[13] In a number of recent cable franchises, operators are required to offer their subscribers purchase of converters.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1331

[Ex Parte No. 297 (Sub-6)]

Bus Rate Bureau Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: Section 10 of the Bus Regulatory Reform Act of 1982 establishes new standards for bus industry rate bureaus. In general, section 10 applies 49 U.S.C. 10706(b), formerly applicable only to motor carriers of property, to the passenger bus industry. In addition, new provisions are adopted and made applicable only to motor carriers of passengers. Section 10 adds three new subsections defining the scope of antitrust immunity for passenger motor carriers. Following consideration of comments on our proposed interpretations of the new statutory provisions, this decision adopts binding rules (Appendix) to implement the statutory provisions. To retain interim antitrust immunity under section 10(f) of the Bus Act: (1) New or amended agreements must be submitted to the Commission for approval on or before March 19, 1983; (2) The bureau(s) must comply with 49 U.S.C. 10706 and the standards issued in this proceeding during the period new or amended agreements are being prepared, submitted to, and considered by the Commission.

DATES: New or amended agreements must be filed by March 19, 1983. These rules are effective on March 9, 1983.

ADDRESS: All documents (original and 15 copies) must be submitted to: Interstate Commerce Commission, Room 5344, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: This proceeding was initiated by Notice of Proposed Rulemaking (NPR or notice) served September 28, 1982 (47 FR 42916 September 29, 1982), to implement the provisions of section 10 of the Bus Regulatory Reform Act of 1982 (Bus Act), which was adopted on September 20, 1982, and became effective on November 19, 1982. Section 10 establishes new criteria for the operation of bus industry rate bureaus. In general, it applies the Motor Carrier Act (MCA) [1] guidelines [49 U.S.C. 10706(b)], formerly applicable only to motor common carriers of property, to the passenger bus industry. Section 10 also adds three new provisions [2] applicable solely to passenger motor carriers which define the scope of antitrust immunity.

In the notice we invited public comments on our interpretations and proposed standards, and indicated that we will adopt binding norms to implement the statutory provisions.

[1] Motor Carrier Act of 1980, Pub. L. No. 96-296, 94 Stat. 793.

[2] These specific provisions are now codified at 49 U.S.C. 10706 (b)(3)(E), (b)(3)(F) and (b)(5).

Because many of our proposed standards are the same as the final standards adopted for motor carriers of property, we also sought comments delineating differences between the motor carrier of property and passenger industries. We indicated that if those differences or any other factors so justify, appropriate changes in the final standards and procedures would be made.

In response to the NPR, comments were filed by the National Bus Traffic Association, Inc. (NBTA), the Department of Justice (DOJ), and the Commission's Office of Special Counsel (OSC). These comments have been thoroughly considered, as noted below. Because several of the new statutory provisions are self-executing and should be reflected in amended agreements, this decision addresses only those issues requiring interpretations. We are adopting final rules which are set out in the Appendix.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free 800–424–5403.

Energy and Environmental Considerations

We affirm our preliminary determination that this decision will not significantly affect the quality of the human environment or conservation of energy resources.

Regulatory Flexibility Analysis

In our initial notice, we determined that our proposed standards may benefit smaller entities by granting them greater freedom to set rates independently. Moreover, the Bus Act allows carriers to use the rate bureau process to establish innovative or promotional fares. Both of these provisions will benefit individual, and groups of, passengers, as well as carriers. We acknowledged that these procedures can also be employed by larger carriers to the detriment of smaller ones. However, no comments have been received addressing regulatory flexibility issues.

This is a statutorily-mandated proceeding, and the overall purpose of the Bus Act is to establish a new regulatory scheme that will assure a viable intercity bus industry and benefit both small and large carriers, as well as passengers. In framing these rules, we have attempted to minimize the burdens on small entities consistent with Congressional intent. We affirm our prior conclusion that we anticipate no significant impact on small entities as a result of these final rules.

Authority: Section 10 of the Bus Regulatory Reform Act of 1982, 49 U.S.C. 10321 and 10706, and 5 U.S.C. 553.

List of Subjects in 49 CFR Part 1331

Buses, Freight forwarders, Maritime carriers, Motor carriers, Pipelines, Railroads.

Dated: March 2, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre, Simmons, and Gradison. Commissioner Andre dissented. Commissioner Simmons did not participate.

Agatha L. Mergenovich,

Secretary.

Appendix

PART 1331—[AMENDED]

49 CFR Part 1331 is amended by adding § 1331.5:

§ 1331.5 Additional standards and procedures required for passenger bus industry rate bureaus to retain antitrust immunity.[3]

(a) Rate bureau agreements must provide each carrier the absolute right of independent action. This must include the right to decide whether or when an independent action, or rate within the zone of freedom, will be docketed. In the absence of explicit instructions from the independent actor, the bureau may not docket the item until the proposal has been filed with the Commission. There may be no bureau discussion of the independent action prior to the effective date of the tariff item. The Bureau may cancel or change a rate established by independent action only for the purpose of tariff simplification, removal of discrimination, or elimination of obsolete items. The bureau must have the written permission of the independent actor to do so. General increases and decreases and broad tariff restructuring are not subject to these notice and consent requirements.

(b) Rate bureau employees and employee committees are restricted from initiating a tariff proposal or determining whether to adopt, reject or otherwise dispose of proposals. Upon request, they may provide the proponent of a rate change with expert analysis and technical assistance. Any advice concerning an independent action proposal shall remain confidential.

(c) Upon request, bureaus will promptly divulge the name of the proponent of a tariff matter and the vote cast by any member on any proposal. Bureaus will provide detailed and timely public notice of meetings and their agenda. Discussion or voting on rate-related matters will not be permitted unless the meeting is reasonably noticed. Any person requesting admittance to a meeting at which rates or rules are being discussed shall be admitted immediately. Note taking and sound recording by attendees are permissible, provided the conduct of the meeting is not disrupted. If mail voting and telephonic communications are employed, they cannot be used to circumvent rate bureau restrictions. Any abuses will be investigated.

(d) Any carrier voting for another must possess a written proxy. The proxy must be dated and contain the grantor's signature, the specific items for which the vote is released, direction on voting, and certification of authority. A copy of the proxy and the written certification of authority executed by the proxy holder for the grantor will be made part of the voting record and ballot. Proxies may not be accepted for the purpose of certifying permission to cancel any item established by independent action which the carrier represented by proxy either initiated or joined. A proxy may be revoked at any time, either by subsequent written verification or by the member carrier appearing at a meeting and voting on its own behalf.

(e) The quorum for holding meetings of the organization or a committee is 30 percent of the membership.

(f) The bureaus are required to maintain detailed minutes of all meetings where tariff items are discussed. The bureaus will be subject to withdrawal of their immunity for serious continuing violations of Commission standards, and individual tariff publications will be subject to rejection, suspension or investigation for improprieties in the rate bureau process.

(g) Rate bureaus shall not file a protest or complaint with the Commission.

(h) Rate bureaus shall make a final disposition of a rate or rule by the 120th day after the proposal is docketed, except that if unusual circumstances require, the organization may extend such period, subject to review by the Commission. If the 120th day falls on a Saturday, Sunday, or public holiday, the final day for disposition will be the next working day.

(i) There can be no discussion of or voting on rates proposed *under the authority* of the zone of rate freedom.

[3] Rate Bureaus must also comply with 49 CFR 1331.1–.4 and guidelines adopted in Ex Parte No. 297 (Sub-No. 5), *Motor Carrier Rate Bureaus-Implementation of P.L.–96–296*, 46 FR 30092, June 5, 1981, and applied to the bus industry in Ex Parte No. 397 (Sub-No. 6), *Bus Rate Bureau Procedures*, served ——.

(j) For the purposes of this subsection the following definitions shall apply:

(1) A "general increase" is a proposed general adjustment of substantially all the rates published in a rate bureau's tariff or tariffs.

(2) A "broad change in tariff structure" modifies in a relatively non-uniform fashion the relationship between most rates published in a rate bureau's tariff, and applies to a large area, either nationally or regionally.

(3) An "innovative fare" will be determined on a case-by-case basis; the Commission will, on request, issue formal or informal opinions on whether particular rate proposals may be regarded as innovative. Two examples of an innovative fare are (i) a fare for unlimited passenger travel and (ii) an experimental fare which provides for transportation, at the option of the passenger, over the line of one or more than one carrier.

(4) A "promotional fare" generally has three characteristics: (i) Limited duration; (ii) attractive price or level of service quality; and (iii) some added feature in addition to those normally offered.

[FR Doc. 83-6043 Filed 3-8-83; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No. 47
Wednesday, March 9, 1983

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.

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 83-129]

Amendment Concerning Conflicts of Interest Involving Mortgage Insurance

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Board is proposing to limit the scope of an exception to a regulation that prohibits an insured institution from insuring loans with a mortgage insurance company in which the institution, its service corporation(s) or insiders have an investment in excess of specified limits. The proposed amendment would grandfather existing investment in certain mortgage insurance companies and would terminate the special exception allowing new investment in those mortgage companies in excess of the limits applicable to investment in all other mortgage insurance companies. The proposed amendment is intended to create competitive parity among all mortgage insurance companies and reduce the potential for conflicts of interest.

DATE: Comments must be received by: May 5, 1983.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Gregory B. Smith (202) 377-6451, Attorney, or John Soukenik, Acting Director, Corporate and Regulatory Structure Division, (202) 377-6411, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 563.44(b)(4) of the Rules and Regulations for the Federal Savings and Loan Insurance Corporation (12 CFR 563.44(b)) prohibits an insured institution, as defined in section 561.1 (12 CFR 561.1), from insuring loans with a mortgage insurance company ("MIC") or parent thereof in which the institution, its service corporation(s), or affiliated persons (i.e. officers, directors, and controlling persons) have a sufficient ownership interest to give rise to an appearance of a conflict of interest in the placement or renewal of mortgage insurance. Paragraph (b)(4) of that section also establishes a rebuttable presumption that such a conflict of interest exists when (1) the insured institution, its service corporation(s) or affiliated persons have an ownership interest in the aggregate of $100,000, or more than two percent of the equity securities of a MIC with assets up to $50 million, or more than one percent of the equity securities of a MIC with assets in excess of $50 million; or (2) the insured institution, a service corporation or affiliated person thereof individually has an ownership interest in excess of $50,000, or more than one percent of the equity securities of a MIC with assets up to $50 million or one-half of one percent (.5%) where the MIC has assets in excess of $50 million.

The limitation is intended to prevent an insured institution with a significant ownership interest in an MIC from basing its loan-making decisions on the potential profits that would be derived from mortgage insurance policies written for such loans by its associated MIC. The interrelationship between the insured institution and the MIC could also cause an insured institution to require unnecessary mortgage insurance in the interest of generating profits and to develop a lack of "discipline" in the the evaluation of loans by both the insured-institution/owner and its "captive" MIC. The Board also was concerned that the "self insurance" aspect of such an arrangement would be inconsistent with the Board's requirement that part of the risk of high down-to-value ratio loans be assumed by other than the lending institution.

When the § 563.44(b)(4) limitation was promulgated in 1976, paragraph (c) of § 563.44 provided an exception for investment in any MIC in existence on March 11, 1976, which was entirely owned, directly or indirectly, by insured institutions, no one of which owned more than twenty-five percent of any class of equity securities of such MIC. The only MIC qualifying for the exception at that time was the Pennsylvania Mortgage Insurance Company ("PAMICO"). The Board grandfathered investment in PAMICO through this exception because of the serious adverse impact the new prohibition would have had on PAMICO and because the Board believed that the concept of an MIC wholly-owned by home mortgage lending institutions was worth studying and monitoring.

In 1978, the Board, by Resolution No. 78-732 (47 FR 60571; December 28, 1978), amended the exception to its present form, which limits investment by new investors to two percent of PAMICO's equity securities and permits an existing investor in PAMICO to make additional investments only if that investor's resulting total investment would be less than two percent of PAMICO's equity securities. The effect of that amendment was to ratchet down the ownership interests of PAMICO's original investors and thereby minimize the risk of spreading it among a greater number of investors.

The Board is now proposing to modify paragraph (c) to grandfather investments that conform with previous versions of this paragraph, and to rescind the authorization for new investment in excess of the levels specified in paragraph (b)(4). If the Board takes final action on this proposal, the date of this proposal (March 3, 1983); this would ensure that additional investments exceeding current (b)(4) levels would not be made during the public comment period, in contravention of the intent of the proposal.

Thus, under the proposal any new or additional investments in PAMICO would have to conform to the levels in paragraph (b)(4). While existing investments in PAMICO under the previous authorization would be grandfathered under the proposal, any reduction in those investments could not subsequently be increased beyond the (b)(4) levels.

As a result of the proposed amendment, PAMICO would no longer be required to be wholly owned by insured institutions, since that requirement is only imposed on investment in PAMICO under paragraph (c) and is not imposed under the general limitations on investments in other MICs

under paragraph (b)(4). Since new investment in PAMICO would only be authorized on the same basis applicable to investment in other MICs under the limitations in paragraph (b)(4), there would no longer by any need for the ownership restriction.

The Board believes that the proposed amendment would create competitive parity among all MICs as to the maximum authorized investment by insured institutions under § 563.44, and at the same time it would relieve PAMICO of the requirement that its stock be wholly owned by insured institutions. As a result of the proposed amendment, the market for PAMICO's stock would be significantly expanded, thereby enhancing its ability to raise capital. In addition, the Board believes that this proposed amendment would continue the "ratcheting" down of the ownership interests of the original owners of PAMICO, enable the ownership base of PAMICO to become diversified, and minimize the potential for conflicts of interest, consistent with the basic thrust of § 563.44 and the 1978 amendment to that regulation.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164 (September 19, 1980), that Board is providing the following regulatory flexibility analysis:

1. *Reasons, objective, and legal basis underlying the proposed rule.* These elements have been incorporated elsewhere into the supplementary information regarding the proposal.

2. *Small entities to which the proposed rule will apply.* The proposed rule will apply to all insured institutions.

3. *Impact of the rule on small businesses.* The rule would not have a disproportionate effect on small businesses. By creating competitive parity between all MICs as to investment by insured institutions, the rule would benefit small insured institutions. Thus, it is expected that the proposed rule would have no significant adverse economic impact on a substantial number of small entities.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that may duplicate, overlap, or conflict with the proposal.

5. *Alternatives to the proposed rule.* The reasons for proposing to change the current limitation have been discussed above; the Board also has not proposed the alternative of an increased investment opportunity in order to avoid the "self insurance" problem and the appearance of conflicts of interest as previously described.

List of Subjects in 12 CFR Part 563

Savings and loan associations, Mortgage insurance companies.

Accordingly, the Board hereby proposes to amend Part 563, Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below:

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

Amend § 563.44 by revising paragraph (c), as follows:

§ 563.44 Loans involving mortgage insurance.

* * * * *

(c) *Exception.* Paragraph (b)(4) of this section does not apply to any previously authorized investment made prior to March 3, 1983, in a mortgage insurance company in existence on March 11, 1976, which was entirely owned, directly or indirectly, by insured institutions on the date of the investment. However, if such investment has been reduced it may not subsequently be increased after March 3, 1983, beyond the levels specified in paragraph (b)(4).

(Secs. 402, 403 407, 48 Stat. 1256, 1257, 1260, as amended 12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981,. 3 CFR 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc.83-6061 Filed 3-8-83; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-262-76]

Partner's Distributive Share

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under section 704 (b) of the Internal Revenue Code of 1954, relating to the determination of a partner's distributive share of income, gains, loss, deduction, or credit. Changes to the applicable law were made by the Tax Reform Act of 1976. The regulations would provide the public with the guidance needed to comply with the law as amended by the Act. The proposed regulations provide rules and examples relating to the substantial economic effect test and to the determination of a partner's interest in the partnership.

DATES: Written comments and requests to speak at the public hearing must be delivered or mailed by April 20, 1983. The amendments are proposed to be generally effective for partnership taxable years beginning after December 31, 1983.

ADDRESS: Send comments and requests to speak at the public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-262-76), Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: John G. Schmalz of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3829).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 704(b) of the Internal Revenue Code of 1954. Generally, these amendments are proposed to conform the Income Tax Regulations to section 213(d) of the Tax Reform Act of 1976 (95 Stat. 1548), and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

In General

Section 704(b), as amended by the Tax Reform Act of 1976, provides that a partner's distributive share of income, gain, loss, deduction, or credit (or item thereof) is determined in accordance with such partner's interest in the partnership (determined by taking into account all facts and circumstances) if either the partnership agreement does not provide for the distributive share, or the allocation to the partner under the partnership agreement does not have substantial economic effect.

These proposed regulations provide rules and examples relating to the substantial economic effect test and to the determination of a partner's interest in the partnership. An allocation that fails to meet the substantial economic effect test will not be disturbed to the extent the allocation is consistent with the partners' interest in the partnership. Special rules provide that certain allocations will be deemed to be consistent with the partners' interests in the partnership without such a showing even though the allocation does not have substantial economic effect.

Substantial Economic Effect

The proposed regulations provide that the determination of whether an allocation has substantial economic

effect involves a two-part test. First, the allocation must have economic effect. An allocation to a partner can have economic effect only if, in the event there is a corresponding economic benefit or burden, the allocation will actually affect the dollar amount received by such partner. Generally, an allocation will not have economic effect unless the allocation is reflected by an appropriate adjustment to the partner's capital account, liquidation proceeds are to be distributed in accordance with the partners' capital account balances, and following the distribution of such proceeds partners are liable to the partnership to restore any deficit in their capital accounts. The proposed regulations provide rules regarding the proper maintenance of the partners' capital accounts and certain optional and required adjustments thereto.

Second, the economic effect must be substantial when weighed against the shifting of tax consequences resulting from the allocation. The proposed regulations provide rules and examples relating to the substantial economic effect test. The fundamental principles contained in the proposed regulations which relate to the substantial economic effect test are generally applicable for partnership taxable years beginning after December 31, 1975. To the extent an allocation fails the substantial economic effect test and is inconsistent with the partners' interests in the partnership it will be reallocated in accordance with the partners' interests in the partnership.

Partner's Interest in the Partnership

The proposed regulations provide rules and examples for determining a partner's interest in the partnership. Section 704(b) provides that this shall be determined by taking into account all the facts and circumstances. The proposed regulations provide that a partner's interest in the partnership is to be determined with reference to the underlying economic arrangement of the partners relating to the particular allocation under consideration. If that economic arrangement cannot be determined, each partner's interest in the partnership will be presumed to be equal. See Uniform Partnership Act section 18 (1914). This presumption can be rebutted by facts and circumstances which show that the economic arrangement is otherwise. The examples contained in the proposed regulations specify how, in certain situations, the Treasury will determine the partners' interests in the partnership. In those examples in which it has not made such a determination, the Treasury is interested in how tax practitioners would assess the partners' interests in the partnership.

In particular, the Treasury seeks comments concerning the proper determination of the partners' interests in the partnership in example (19)(iii) of the proposed regulations, taking into consideration the determination made in example (19)(iv) of the proposed regulations.

Special Rules

The proposed regulations contain special rules concerning allocations where there are disparities between tax and book capital accounts, allocations of credits, percentage depletion, and loss and deduction attributable to nonrecourse debt. Under these rules certain allocations are deemed to be in accordance with the partners' interests in the partnership. The proposed regulations contain rules relating to the determination of the partners' allocable shares of adjusted basis and amount realized under section 613A(c)(7)(D) and paragraph (e) of § 1.613A–3.

Comments and Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing has been scheduled and will be held on May 4, 1983. Notice of the time and place of the hearing appears in the Proposed Rules section of this issue of the **Federal Register**.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of these proposed regulations is John G. Schmalz of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing these regulations both on matters of substance and style.

List of Subjects in 26 CFR Parts 1.701–1—1.771–1

Income taxes, Partnerships.

Proposed Amendments to the Regulations

PART 1—[AMENDED]

The proposed amendments to 26 CFR Part 1 would revise paragraph (b) of § 1.704–1 to read as follows, proposed to be generally effective for partnership taxable years beginning after December 31, 1983:

§ 1.704–1 Partner's distributive share.

* * * * *

(b) *Distributive share determined in accordance with partner's interest in the partnership*—(1) *In general*—(i) *General rules.* Under section 704(b), for partnership taxable years beginning after December 31, 1975, if a partnership agreement makes no specific provision for the allocation of income, gain, loss, deduction, or credit (or any item of income, gain, loss, deduction, or credit), or if the allocation of income, gain, loss, deduction, or credit (of item thereof) does not have substantial economic effect, then each partner's distributive share of such income, gain, loss, deduction, or credit (or item thereof) shall be determined in accordance with such partner's interest in the partnership (determined by taking into account all facts and circumstances). If the partnership agreement provides for an allocation of income, gain, loss, deduction, or credit (or item thereof), there are three ways in which such allocation can satisfy section 704(b) and this paragraph. (Although the provisions of this paragraph are generally effective for partnership taxable years beginning after December 31, 1983, the fundamental principles contained in paragraph (b)(2) of this section relating to the substantial economic effect test are generally applicable for partnership taxable years beginning after December 31, 1975.) First, the allocation can have substantial economic effect in accordance with paragraph (b)(2) of this section. Second, the partner or partners can show that, taking into account all facts and circumstances, the allocation is in accordance with the partners' interests in the partnership. See paragraph (b)(3) of this section. Third, the allocation can be deemed to be in accordance with the partners' interests in the partnership if one of the special

rules contained in paragraph (b)(4) of this section applies. To the extent an allocation of income, gain, loss, deduction, or credit (or item thereof) does not have substantial economic effect, is not in accordance with the partners' interests in the partnership, and is not deemed to be in accordance with the partners' interests in the partnership, such income, gain, loss, deduction, or credit (or item thereof) shall be reallocated in accordance with the partners' interest in the partnership (determined under paragraph (b)(3) of this section). Section 704(b) and this paragraph are applicable to allocations of specific items of income, gain, loss, deduction, or credit and to distributive shares of taxable income or loss under section 702(a)(8).

(ii) *Effect of other sections.* A determination made under section 704(b) and this paragraph does not affect any limitation concerning the tax treatment of a partner with respect to the income, gain, loss, deduction, or credit that is allocated. For example, an allocation of loss or deduction to a partner that is valid under this paragraph may not be deductible by such partner if the partner lacks the requisite profit motive (see, *e.g.*, section 183 and § 1.183–2), or may be disallowed for that taxable year (and held in suspense) if the limitations of section 465 or section 704(d) are applicable, or may be disallowed and reallocated under the provisions of section 704(e)(2) or section 706. If a partnership has a section 754 election in effect, a partner's distributive share of partnership income, gain, loss, or deduction may be affected as provided in § 1.743–1. Section 704(b) and this paragraph do not apply if the recipient of a purported allocation is not a partner of the partnership (see section 7701(a)(2) and paragraph (d) of § 301.7701–3), or is not receiving the purported allocation in his capacity as a partner (see section 707(a) and paragraph (a) of § 1.707–1).

(iii) *Determinations under section 704(c).* Section 704(c) and paragraph (c) of this section provide certain alternatives for determining the partners' distributive shares of depreciation, depletion, or gain or loss with respect to property contributed to the partnership in order to account for the precontribution appreciation or diminution in the value of such property. A determination made in accordance with section 704(c) and paragraph (c) of this section shall not be subject to the provisions of section 704(b) and this paragraph. However, section 704(b) and this paragraph shall govern the determination of the partners' distributive shares of all other income, gain, loss, deduction, or credit (or item thereof) of the partnership.

(2) *Substantial economic effect*—(i) *General rule.* The determination of whether an allocation of income, gain, loss, deduction, or credit (or item thereof) to a partner has substantial economic effect involves a two-part test. First, the allocation must have economic effect (within the meaning of paragraph (b)(2)(ii) of this section). Second, the economic effect must be substantial (within the meaning of paragraph (b)(2)(iii) of this section).

(ii) *Economic effect.* In order to have economic effect an allocation must be consistent with the underlying economic arrangement of the partners. Thus, the partner to whom an allocation is made must receive the economic benefit or bear the economic burden or risk associated with the allocation. An allocation to a partner can have economic effect only if, in the event there is an economic benefit or economic burden which corresponds to the allocation, the allocation will actually affect (to the same extent) the dollar amount received by such partner. Thus, an allocation of income, gain, loss, or deduction (or item thereof) to a partner generally has economic effect only if—

(*a*) The allocation is reflected as an appropriate increase or decrease in that partner's capital account (as described in paragraph (b)(2)(iv)(*a*) of this section), and

(*b*) Liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with the partners' capital account balances, and

(*c*) Any partner with a deficit in his capital account following the distribution of liquidation proceeds is required to restore the amount of such deficit to the partnership, which amount shall be distributed to partners in accordance with their positive capital account balances of paid to creditors.

If these requirements are not complied with, an allocation will nevertheless have economic effect if the capital account equivalence test described in paragraph (b)(2)(iv)(*b*) of this section is satisfied. Rules concerning the proper maintenance of the partners' capital accounts are contained in paragraph (b)(2)(iv)(*a*) of this section. The determination of whether an allocation has economic effect is made as of the end of the partnership taxable year to which the allocation relates. Thus, the fact that a partner is not required to restore the deficit in his capital account (requirement (*c*) above) does not invalidate an allocation (or that portion of an allocation) to such partner to the extent the allocation does not create a deficit in such partner's capital account at the end of the partnership's taxable year provided the other requirements of this subdivision are satisfied. For purposes of the preceding sentence, any cash and property held by the partnership at the end of the taxable year which there is a reasonable expectation will be distributed to a partner (other than in liquidation of the partnership) prior to a corresponding increase in the partner's capital account shall be treated as having been distributed to such partner on the last day of such taxable year. Factors that will be considered in determining whether such reasonable expectation exists include: The terms of the partnership agreement, the partnership's historical practice concerning distributions, and the expected working capital needs of the partnership. An allocation that has economic effect under this subdivision may nevertheless be invalid if that economic effect is not substantial (within the meaning of paragraph (b)(2)(iii) of this section). If a partner receives an economic benefit or bears an economic burden or risk of only a portion of the allocation, that portion shall be recognized as having economic effect and the remainder of the allocation shall, to the extent inconsistent with the partners' interests in the partnership, be reallocated in accordance with the partners' interests in the partnership (within the meaning of paragraph (b)(3) of this section). See examples (1)(iv) and (15) of paragraph (b)(5) of this section.

(iii) *Substantiality*—(*a*) *General rule.* The economic effect of an allocation, when considered together with all prior and expected allocations (for all taxable years), must be substantial. In determining whether the economic effect is substantial, the likelihood and magnitude of a shift in the economic consequences among partners must be weighed against the shifting of tax consequences resulting from the allocation (or allocations), particularly tax consequences which result from the interaction of the allocation (or allocations) with the partners' nonpartnership tax attributes. If at the beginning of the taxable year to which an allocation (or allocations) relates there is a strong likelihood that such allocation (or allocations) would cause a shift in tax consequences that is disproportionately large in relation to the shift in economic consequences, such allocation (or allocations) does not have substantial economic effect. Furthermore, if at the end of the taxable

year to which an allocation (or allocations) relates such allocation (or allocations) has caused a shift in tax consequences that is disproportionately large in relation to the shift in economic consequences it will be presumed that there was a strong likelihood that this would occur, which presumption may be overcome by a showing of facts and circumstances which prove otherwise. See examples (5), (6), and (7)(ii) of paragraph (b)(5) of this section. The economic effect of an allocation (or allocations) which would significantly reduce the overall tax liabilities of the partners shall not be considered substantial if at the time such allocation (or allocations) is provided for in the partnership agreement there is a strong likelihood that the economic effect of the allocation (or allocations) will be transitory due to a largely offsetting allocation (or allocations). See examples (2)(ii) and (8)(ii) of paragraph (b)(5) of this section.

(*b*) *Additional factors.* In weighing the likelihood and magnitude of a shift in the economic consequences against the shifting of tax consequences, the following factors will also be considered: whether the partnership or a partner individually has a non-tax business purpose for the allocation; whether related items of income, gain, loss, deduction, and credit from the same source are subject to the same allocation; whether the allocation was made without recognition of normal business factors; whether the allocation was made only after the amount thereof could reasonably be estimated; the duration of the allocation; and the overall tax consequences of the allocation.

(*c*) *Effect of economic performance.* The substantiality of the economic effect of an allocation is determined by assuming that the corresponding economic benefit or burden will occur without regard to the probability of such occurrence. For example, the fact that an allocation of an accelerated cost recovery deduction to a partner may not be matched by a corresponding decrease in the recovery property's value shall not be considered in determining the substantiality of the economic effect of the allocation. Thus, there cannot be a strong likelihood that the economic effect of an allocation of an accelerated cost recovery deduction to a partner will be transitory due to a largely offsetting allocation to such partner of gain attributable to the disposition of the recovery property since in determining whether the original allocation has substantial economic effect the economic burden of the accelerated cost recovery deduction is deemed to occur. See examples (1)(vii) and (2) of paragraph (b)(5) of this section. Similar principles apply to depreciation, depletion, amortization, and other forms of cost recovery deduction.

(iv) *Capital accounts—*(*a*) *Proper maintenance of capital accounts.* The economic effect test described in paragraph (b)(2)(ii) of this section requires an examination of the capital accounts of the partners of a partnership. Similarly, the rules contained in pargraph (b)(4)(iv) of this section concerning allocations of loss and deduction attributable to nonrecourse debt which is secured by partnership property require an examination of the partners' capital accounts. These are the capital accounts which, under the terms of the partnership agreement, govern the underlying economic arrangement of the partners. Except as provided in paragraphs (b)(2)(iv)(*b*), (b)(2)(iv)(*c*)(*2*), and (b)(4)(i) of this section, an allocation of income, gain, loss, or deduction cannot have economic effect and shall not be deemed to be in accordance with the partner's interests in the partnership unless the governing capital accounts of the partners follow tax accounting principles. Thus, a partner's capital account generally must be credited with the cash and the adjusted basis of property contributed to the partnership (net of liabilities assumed by the partnership and liabilities to which such contributed property is subject), and his distributive share of partnership income (including income exempt from tax) and gain (or item thereof), and must be debited with the cash and the partnership's adjusted basis of property distributed to him (net of liabilities assumed by such partner and liabilities to which such distributed property is subject), his distributive share of partnership loss and deduction (or item thereof), and his distributive share of expenditures of the partnership described in section 705(a)(2)(B) (which share shall be determined in accordance with the partners' interests in the partnership). In addition, paragraph (b)(2)(iv)(*c*) of this section provides for certain mandatory and optional adjustments to the partners' capital accounts.

(*b*) *Capital account equivalence.* If either capital accounts are not maintained for the partners of a partnership in accordance with paragraphs (b)(2)(iv)(*a*) and (b)(2)(iv)(*c*) of this section or capital accounts do not govern the distribution of liquidation proceeds, but the agreement among the partners would in all cases (irrespective of the economic performance of the partnership) produce the same results as if the requirements of paragraph (b)(2)(ii) of this section (or, in the case of allocations of loss or deduction attributable to nonrecourse debt which is secured by partnership property, paragraph (b)(4)(iv) of this section) had been satisfied, then the requirements of paragraph (b)(2)(ii) of this section (or, in the case of allocations of loss or deduction attributable to nonrecourse debt which is secured by partnership property, paragraph (b)(4)(iv) of this section) shall be deemed satisfied. See examples (16)(ii) and (19)(iii) of paragraph (b)(5) of this section.

(*c*) *Special capital account adjustments—*(*1*) *Transfers of partnership interests.* Generally, upon the sale or exchange of a partnership interest the capital account of the transferor partner which is attributable to such interest will carry over to the transferee partner. However, if the transfer causes a termination of the partnership within the meaning of section 708 (b)(1)(B), the capital accounts of the partners shall govern the constructive liquidation under paragraph (b)(1)(iv) of § 1.708–1, and upon constructive reformation the capital account of each partner shall be redetermined in accordance with paragraph (b)(2)(iv)(*a*) of this section. See example (1)(ix) of paragraph (b)(5) of this section. In the case of a nonterminating sale or exchange of an interest in a partnership which has a section 754 election in effect, the partner who receive the benefit or detriment of the special basis adjustment under section 743 may, if authorized under the partnership agreement, make a corresponding adjustment to his capital account. See example (1)(viii) of paragraph (b)(5) of this section However, when a partnership interest is transferred more than once, appropriate adjustments shall be made to avoid double counting of basis adjustments in a partner's capital account. See paragraph (b)(2)(iv) of § 1.743–1.

(*2*) *Preliquidation adjustments.* Upon liquidation and winding up of the partnership, unsold partnership property may be valued to determine the gain or loss which would have resulted if such property were sold, and the governing capital accounts of the partners, which have otherwise been maintained in accordance with this paragraph (b)(2)(iv), may be adjusted to reflect how such gain or loss would have been allocated if such property had been sold at the assigned values. This preliquidation adjustment to capital

accounts shall have no effect on the validity of any allocation recognized under this paragraph so long as partnership property is distributed in accordance with the partners' capital account balances with reference to the assigned values of such property and such assigned values are reasonable and can be supported by the partnership. See example (14)(iii) of paragraph (b)(5) of this section. If it cannot be established that such assigned values are reasonable, the provisions of this paragraph (b)(2)(iv)(*c*)(*2*) shall not apply.

(*3*) *Adjustments relating to section 613A(c)(7)(D).* Notwithstanding the provisions of section 613A(*c*)(7)(D) and § 1.613A–3, solely for purposes of maintaining capital accounts under this paragraph, depletion with respect to oil and gas wells shall be computed at the partnership level. The partnership shall compute a simulated depletion allowance on each oil or gas property using that method, as between the cost depletion method or the percentage depletion method (without regard to limitations which theoretically could apply to less than all the partners such as the quantity limits of section 613A(c)(3)), which results in the greatest simulated depletion allowance. The partnership's simulated depletion allowance shall reduce the partners' capital accounts in the same proportion as such partners (or their predecessors in interest) were allocated adjusted basis under section 613A(c)(7)(D), paragraph (e) of § 1.613A–3, and paragraph (b)(4)(v) of this section with respect to such property. In no event shall the partnership's aggregate simulated depletion allowances with respect to an oil or gas property exceed the partnership's adjusted basis in such property (maintained solely for capital account purposes). Upon the taxable disposition of an oil or gas property by a partnership, such partnership's gain or loss shall be determined (solely for capital account purposes) by subtracting its adjusted basis in such property (maintained solely for capital account purposes) from the amount realized from such disposition. Any resultant simulated gain shall be allocated to the partners in the same manner as that portion of the amount realized from such disposition which exceeds the partnership's adjusted basis in such property (maintained solely for capital account purposes) is allocated to such partners (as determined under paragraph (b)(4)(v) of this section) and shall increase such partners' capital accounts accordingly. Any resultant simulated loss shall be allocated to the partners in the same proportion as such partners (or their predecessors in interest) were allocated adjusted basis under section 613A(c)(7)(D), paragraph (e) of § 1.613A–3, and paragraph (b)(4)(v) of this section with respect to such property and shall reduce such partners' capital accounts accordingly. See example (19)(vi) of paragraph (b)(5) of this section.

(3) *Partner's interest in the partnership.* References in section 704 (b) and this paragraph to a partner's interest in a partnership, or to the partners' interests in the partnership, signify the manner in which the partners have agreed to share the economic benefit or burden with respect to the income, gain, loss, deduction, or credit (or item thereof) that is allocated. This sharing arrangement may or may not correspond to the overall economic arrangement of the partners. Thus, a partner who has a 50 percent interest in the partnership overall may have a 90 percent interest in a particular item of income or deduction. The determination of a partner's interest in a partnership shall be made by taking into account all facts and circumstances relating to the economic arrangement of the partners. All partners' interests in the partnership are presumed to be equal (determined on a per capita basis). However, this presumption may be rebutted by the taxpayer or the Internal Revenue Service proving facts and circumstances which show that the partners' interests in the partnership are otherwise. The following facts and circumstances may be relevant:

(i) The partners' relative contributions to the partnership;

(ii) The interests of the partners in economic profits and losses (if different from that in taxable income or loss);

(iii) The interests of the partners in cash flow and other distributions; and

(iv) The rights of the partners to distributions of capital and other property upon liquidation.

See examples (1)(i) and (v), (4), (5)(i), (10)(ii), (15), (17)(i), and (19)(iv) and (v) of paragraph (b)(5) of this section.

(4) *Special rules*—(i) *Allocations where there are disparities between tax and book capital accounts.* Cases may arise in which, under the economic arrangement of the partners, appreciation or diminution in the value of partnership property (including property which is being contributed to or distributed by the partnership) is reflected by upward or downward adjustments to the capital accounts of the partners prior to the recognition for tax purposes of the taxable gain or loss attributable thereto. When the taxable gain or loss attributable to such adjustments is recognized for tax purposes, allocations thereof cannot, to the extent of the such adjustments, properly give rise to additional adjustments to the partners' capital accounts. Thus, under paragraphs (b)(2)(iv)(*a*) and (b)(2)(ii)(*a*) of this section, such allocations cannot have economic effect. This subdivision shall apply only if such capital account adjustments are made in accordance with sound financial accounting principles, are made principally for a non-tax business purpose, are the sole reason for the disparity between tax capital accounts and the governing book capital accounts, and are made in connection with the contribution of property by a partner, the distribution of property to a partner, the sale, exchange or retirement of all or a portion of a partner's interest, or the admission of a new partner. However, in the case of capital account adjustments made to reflect the appreciation or diminution in the value of property contributed by a partner, this subdivision shall not apply if the depreciation, depletion, or gain or loss with respect to such property is determined under section 704(c)(1) and paragraph (c)(1) of this section. See example (13(i) of paragraph (b)(5) of this section. If this subdivision applies, an allocation of depreciation, depletion, or gain or loss with respect to the property that gave rise to the capital account adjustments, which allocation is not governed by section 704(c)(2) and paragraph (c)(2) of this section, must be made in accordance with the partner's interests in the partnership and shall be deemed to be made in accordance therewith if such allocation is designed to eliminate, to the extent possible, the disparity between tax capital accounts and the governing book capital accounts. Generally, this will require the application of principles the same as those contained in section 704(c)(2) and paragraph (c)(2) of this section. If (*a*) the provisions of this paragraph (b)(4)(i) apply, (*a*) the requirements of the previous two sentences are satisfied, and (*c*) the requirements of paragraph (b)(2)(ii) of this section (or, in the case of allocations of loss or deduction attributable to nonrecourse debt which is secured by partnership property, paragraph (b)(4)(iv) of this section) are satisfied with reference to the governing book capital accounts of the partners, then the upward or downward capital account adjustments referred to in the first sentence of this subdivision shall not affect the validity of any prior allocation recognized under this paragraph. Furthermore, in such cases

subsequent allocations of income, gain, loss, deduction, or credit for item thereof) of the partnership (other than those which are recognized in satisfying requirement (*b*) above) shall be deemed to be made in accordance with the partners' interests in the partnership to the extent the allocation either would have been so deemed or sould have had substantial economic effect if paragraph (b)(2)(iv)(*a*) of this section had permitted such upward or downward adjustments to be made to capital accounts. See examples (13)(ii), (14)(i), and (18) of paragraph (b)(5) of this section. See paragraph (b)(2)(iv)(*c*)(*2*) of this section concerning preliquidation adjustments to capital accounts.

(ii) *Credits.* Allocations of tax credits (and credit recapture) do not properly give rise to adjustments to the partners' capital accounts. Thus, under paragraphs (b)(2)(iv)(*a*) and (b)(2)(ii)(*a*) of this section, such allocations cannot have economic effect and the tax credits (and credit recapture) must be allocated in accordance with the partners' interests in the partnership at the time the tax credit (or credit recapture) arises. For credits other than the investment tax credit provided by section 38, if all income, gain, loss, and deduction (or item thereof) from the property or activity which gives rise to the credit is allocated among the partners in the same manner, and if those allocations have substantial economic effect, then an allocation of the credit (or the cost giving rise to such credit) in such manner shall be deemed to be made in accordance with the partners' interests in the partnership. See example (11) of paragraph (b)(5) of this section. For rules applicable to the allocations with respect to the investment tax credit allowable by section 38, see § 1.46–3(f)(2). Allocations made in accordance with § 1.46–3(f)(2) shall be deemed to be made in accordance with the partners' interests in the partnership.

(iii) *Percentage depletion.* Allocations of percentage depletion after the adjusted basis of the depletable property has been reduced to zero do not properly give rise to adjustments to the partners' capital accounts. Thus, under paragraphs (b)(2)(iv)(*a*) and (b)(2)(ii)(*a*) of this section, such allocations cannot have economic effect and such percentage depletion must be allocated in accordance with the partners' interests in the partnership. (Special rules relating to oil and gas properties are contained in paragraphs (b)(2)(iv)(*c*)(*3*) and (b)(4)(v) of this section.) If all items of income, gain, loss, and deduction from the depletable property are allocated among the partners in the same manner, and if those allocations either have substantial economic effect or are deemed to be in accordance with the partners' interests in the partnership, then an allocation of percentage depletion in excess of the adjusted basis of such property in such manner shall be deemed to be made in accordance with the partners' interests in the partnership. See example (12) of paragraph (b)(5) of this section.

(iv) *Nonrecourse debt.* Allocations of loss or deduction (or item thereof) attributable to nonrecourse debt which is secured by partnership property do not have substantial economic effect since the creditor bears the economic burden of any losses attributable thereto. Thus, such allocations must be made in accordance with the partners' interests in the partnership. A loss or deduction (or item thereof) is attributable to nonrecourse debt which is secured by partnership property to the extent of the excess of the outstanding principal balance of such debt (excluding any portion of such principal balance which would not be treated as an amount realized under section 1001 and paragraph (a) of § 1.1001–2 if such debt were foreclosed upon) over the adjusted basis of such property. This excess represents the minimum taxable gain (whether taxable as capital gain or as ordinary income) which would be recognized by the partnership if the nonrecourse debt were foreclosed upon and the partnership property securing such debt were transferred to the creditor in satisfaction thereof; it is hereinafter referred to as the "minimum gain." Allocations of loss or deduction (or item thereof) attributable to nonrecourse debt which is secured by partnership property shall be deemed to be made in accordance with the partners' interests in the partnership if requirements (*a*), (*b*), and (*c*) of paragraph (b)(2)(ii) of this section are satisfied, or if the capital account equivalence test of paragraph (b)(2)(iv)(*b*) of this section is satisfied, or if requirements (*a*) and (*b*) of paragraph (b)(2)(ii) of this section are satisfied and:

(*a*) The allocation of loss or deduction (or item thereof) attributable to nonrecourse debt which is secured by partnership property does not cause the sum of the deficit capital account balances of the partner or partners receiving such allocations (excluding the portion of such deficit balances that must be restored to the partnership upon liquidation) to exceed the minimum gain (determined at the end of the partnership taxable year to which the allocations relate), and

(*b*) The partnership agreement provides that the partner or partners with deficit capital account balances resulting in whole or in part from allocations of loss or deduction (or item thereof) attributable to nonrecourse debt which is secured by partnership property shall, to the extent possible, be allocated income or gain (or item thereof) in an amount no less than the minimum gain and at a time no later than the time at which the minimum gain is reduced below the sum of such deficit capital account balances. See example (17) of paragraph (b)(5) of this section. If the partners' interests in allocations of loss or deduction (or item thereof) attributable to nonrecourse debt which is secured by partnership property are varied among taxable years in order to reduce the overall tax liabilities of the partners (other than variations resulting solely from the admission or retirement of a partner), allocations made pursuant to such variation shall not be deemed to be in accordance with the partners' interests in the partnership under this subdivision. See example (17)(vi) of paragraph (b)(5) of this section. For purposes of computing the sum of the partners' deficit capital account balances referred to in requirement (*a*) above, if any property (including cash) is held by the partnership at the end of the partnership taxable year and there is a reasonable expectation that such property will be distributed to a partner (other than in liquidation of the partnership) prior to a corresponding increase in such partner's capital account, such property shall be treated as having been distributed to such partner on the last day of such taxable year. Also, for purposes of requirement (*a*) above, the minimum gain shall be reduced by the cost of any capital improvements to be made to the subject property and the amount of any principal payments to be made with respect to the nonrecourse debt secured by such property to the extent there is a reasonable expectation that such improvements or payments will, without regard to this sentence, reduce the minimum gain below the sum of the deficit capital account balances referred to in requirment (*a*) above. If, after the application of the previous two sentences, an event nonetheless causes the sum of the partners' deficit capital account balances referred to in requirements (*a*) above to exceed the minimum gain, requirements (*a*) and (*b*) above shall be deemed satisfied provided partnership income, gain, loss, and deduction (or item thereof) are thereafter allocated in a manner which

reduces and eliminates the excess as rapidly as possible. For purposes of this paragraph, the term "nonrecourse debt" means a partnership liability with respect to which none of the partners has any personal liability as determined under paragraph (e) of § 1.752–1.

(v) *Allocations relating to section 613A(c)(7)(D).* If the partnership agreement provides for an allocation of the adjusted basis of an oil or gas property among the partners, that allocation shall be deemed to be made in accordance with the partners' interests in partnership capital or income under section 613A(c)(7)(D) and paragraph (e) of § 1.613A–3 provided all partnership allocations of income, gain, loss, and deduction (or item thereof) are valid under this paragraph. Otherwise, such adjusted basis must be allocated pursuant to section 613A(c)(7)(D) and paragraph (e) of § 1.613A–3 in accordance with the partners' actual interests in partnership capital or income. In determining the partners' allocable shares of the amount realized from the partnership's taxable disposition of an oil or gas property under paragraph (e) of § 1.613A–3, the portion of the amount realized that represents recovery of the partnership's adjusted basis in the property (maintained solely for capital account purposes) shall be allocated to the partners in the same proportion as such partners (or their predecessors in interest) where allocated adjusted basis with respect to such property. An allocation of the portion of the amount realized which exceeds the partnership's adjusted basis in the property (maintained solely for capital account purposes) shall be deemed to be made in accordance with the partners' allocable shares of such amount realized for purposes of paragraph (e) of § 1.613A–3 provided all partnership allocations of income, gain, loss, and deduction (or item thereof) are valid under this paragraph. Otherwise, the partners' allocable shares of such amount realized shall for purposes of paragraph (e) of § 1.613A–3 be determined in accordance with the partners' interests in the partnership under paragraph (b)(3) of this section. See example (19) of paragraph (b)(5) of this section. Allocations of basis and amount realized under this subdivision shall have no effect on the partners' capital accounts, as capital account adjustments relating to section 613A(c)(7)(D) are made under paragraph (b)(2)(iv)(*c*)(3) of this section.

(vi) *Amendments to partnership agreement.* For purposes of this paragraph the partnership agreement includes all agreements among the partners concerning the affairs of the partnership, whether oral or written, and whether or not embodied in the document referred to as the partnership agreement. If an allocation has substantial economic effect or is deemed to be made in accordance with the partners' interests in the partnership under this paragraph because of the terms of the partnership agreement in effect during the taxable year to which such allocation relates, and the terms of the partnership agreement are thereafter modified, (*a*) the tax consequences of the modification will be closely scrutinized, (*b*) the facts and circumstances surrounding the modification will be closely examined to determine whether it was part of the original agreement, (*c*) prior allocations may be reallocated in a manner consistent with the modified terms of the agreement, and (*d*) subsequent allocations may be reallocated in a manner consistent with the original terms of the partnership agreement. A reallocation made under (*c*) or (*d*) above shall be deemed to be made in accordance with the partners' interests in the partnership. See example (17)(vii) of paragraph (b)(5) of this section.

(vii) *Recapture.* For special rules applicable to the allocation of recapture income or credit, see §§ 1.1245–1(e), 1.1250–1(f), 1.1254–1(c) and 1–47–6(a).

(5) *Examples.* The operation of the rules in this section is illustrated by the following examples:

Example (1). (i) A and B form a general relationship with cash contributions of $40,000 each which are used to purchase depreciable personal property at a cost of $80,000. The partnership agreement provides that A and B will have equal shares of taxable income and loss (computed without regard to cost recovery deductions) and cash flow and that all cost recovery deductions on the property are to be allocated to A. The agreement further provides that all allocations are reflected in the capital accounts of A and B maintained in accordance with paragraph (b)(2)(iv) of this section) but that each partner will be entitled to equal distributions upon liquidation regardless of capital account balances. In the partnership's first taxable year it recognizes no taxable income or loss from operations except for a $20,000 cost recovery deduction which is allocated entirely to A. The fact that A and B will be entitled to equal distributions on liquidation despite the fact that A is allocated the entire $20,000 cost recovery deduction indicates that A does not bear the full risk of loss represented by such deduction. Therefore, the allocation lacks economic effect and will be disregarded. The fact that the partners made equal contributions to the partnership, share equally in other taxable income and loss and cash flow, and will share equally in liquidation proceeds indicates that their actual economic arrangement was to bear the risk imposed by the potential decrease in the value of the property equally. Thus, under paragraph (b)(3) of this section, the partners' interests in the partnership are equal and the cost recovery deduction will be so allocated between A and B.

(ii) Assume the same facts as in (i) except that the partnership agreement provides that liquidation proceeds will be distributed in accordance with capital account balances if the partnership is liquidated during the first five years of its existence but that liquidation proceeds will be distrubuted equally if the partnership is liquidated thereafter. Since capital accounts do not govern the distribution of liquidation proceeds during the entire term of the partnership the partnership allocations have no economic effect and must be reallocated in accordance with the partners' interests in the partnership.

(iii) Assume the same facts as in (i) except that liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with the partners' capital account balances, and that following the liquidation no partner is required to fund any deficit in his capital account for distribution to partners with positive capital accounts balances.

	A	B
Capital account upon formation	$40,000	$40,000
Less: cost recovery deduction	(20,000)	0
Capital account at end of year 1	20,000	40,000

If the property were then sold for $60,000 (its adjusted basis), $40,000 would be distributed to B and $20,000 would be distributed to A. The allocation of the $20,000 cost recovery deduction to A has substantial economic effect.

(iv) Assume the same facts as in (iii) and that in the partnership's second taxable year it again recognizes no taxable income or loss from operations except for a $25,000 cost recovery deduction which is allocated entirely to A. Assume further that the partnership does not expect to make any distributions prior to liquidation.

	A	B
Capital account at beginning of year 2	$20,000	$40,000
Less: cost recovery deduction	(25,000)	0
Capital account at end of year 2	(5,000)	40,000

If the property were then sold for $35,000 (its adjusted basis) the $35,000 would be distributed to B. Since B, and not A, bears the economic burden or risk of $5,000 of the $25,000 cost recovery deduction, that portion will be allocated to B under paragraph (b)(3) of this section. The allocation of $20,000 of the $25,000 cost recovery deduction to A has substantial economic effect since he bears the economic burden or risk associated with that portion of the deduction.

(v) Assume the same facts as in (iv) except that the cost recovery deduction for the year is $20,000 instead of $25,000 and that the property is sold at the end of the year for $35,000 for a $5,000 taxable loss of ($40,000 adjusted basis less $35,000 sales price).

	A	B
Capital account at beginning of year 2	$20,000	$40,000
Less: cost recovery deduction	(20,000)	0
Less: loss on sale	(2,500)	(2,500)
Capital account at end of year 2	(2,500)	37,500

Under the agreement, the $35,000 sales proceeds would be distributed to B. However, since B bears the entire economic burden of the $5,000 loss on the sale of the property, the allocation of $2,500 of that loss to A will not be recognized and the entire $5,000 taxable loss will, under paragraph (b)(3) of this section, be reallocated to B.

(vi) Assume the same facts as in (iv) except that the partnership agreement also provides that, following the distribution of liquidation proceeds, partners are required to restore to the partnership the deficit balance in their capitals accounts (as set forth in paragraph (b)(2)(ii)(*c*) of this section). Thus, if the property were sold for $35,000 at the end of year 2, the $35,000 would be distributed to B, A would contribute $5,000 to the partnership (the deficit balance in his capital account), and an additional $5,000 would be distributed to B. The allocation of the $25,000 cost recovery deduction to A has substantial economic effect. But see section 704(d) and section 456.

(vii) Assume the same facts as in (vi) except that the partnership agreement also provides that any gain (whether ordinary income or capital gain) upon the sale of the property will be charged back to A to the extent of the prior allocations of cost recovery deductions to him, and additional gain will be allocated equally between A and B. The gain chargeback provision affects the economic arangement between A and B even though it means that A will suffer a loss only to the extent that the partnership suffers a loss due to the decrease in the value of the property. Thus, the gain chargeback provision has substantial economic effect and will not render valid or invalid the prior allocations of cost recovery deductions to A. This is the result even if, at the time of the allocations of cost recovery deductions to A, there was a strong likelihood that there will be gain on the sale of the property in an amount sufficient to offset the cost recovery deductions allocated to A.

(viii) Assume the same facts as in (iii) except that the property is not sold and that at the beginning of year 2 A and B each sell 30 percent of their respective partnership interests to LK for $15,000 apiece. If the partnership does not have a section 754 election in effect, A's adjusted capital account will be $14,000 (70 percent of $20,000), B's adjusted capital account will be $28,000 (70 percent of $40,000), and LK's adjusted capital account will be $18,000 (the sum of 30 percent of $20,000 and 30 percent of $40,000). If the partnership has a section 754 election in effect, A's and B's capital accounts will again equal $14,000 and $28,000, respectively, but LK's adjusted capital account may under the partnership agreement be reflected at $30,000 representing the sum of the adjusted capital accounts of the purchased interests ($12,000+$6,000=$18,000) plus the amount of his section 743 basis adjustment ($12,000). Assume that the section 754 election is in effect, the section 743 basis adjustment is reflected in LK's capital account, and prior to the end of year 2 the property is sold for $60,000. Although there is no partnership taxable gain or loss allocable among the partners (since the partnership's common adjusted basis in the property is $60,000), pursuant to section 743 and § 1.743–1 LK will recognize a taxable loss of $12,000 attributable to his special basis adjustment. LK's capital account will be reduced accordingly and the liquidation proceeds of $60,000 will be distributed in accordance with the partners' capital account balances ($14,000 to A, $28,000 to B, and $18,000 to LK). If the partnership agreement does not provide for capital account adjustments to reflect section 743 basis adjustments, LK's capital account will equal $18,000. When the property is sold for $60,000 LK's capital account will not be adjusted downward $12,000 to reflect the loss attributable to his special basis adjustment and the liquidation proceeds will be distributed in accordance with the partners' capital account balances ($14,000 to A, $28,000 to B, and $18,000 to LK).

(ix) Assume the same facts as in (iii) except that the property is not sold and that at the beginning of year 2 A and B each sell 70 percent of their respective partnership interests to LK for $35,000 each. Assume further that the partnership's property is real property and that cost recovery deductions on such property are determined on a straight line basis. The partnership will terminate under section 708(b)(1)(B) and there will be a constructive liquidation and reformation under paragraph (b)(1)(iv) of § 1.708–1. The capital accounts of A, B, and LK in the reconstituted partnership will be redetermined under paragraph (b)(2)(iv)(*c*)(*1*) of this section with reference to the cash and the adjusted basis of the property deemed contributed by each of them. The adjusted basis of the property deemed contributed to the partnership by LK is equal to the $70,000 paid to A and B. The adjusted basis of the property deemed contributed to the partnership by A and B is equal to $6,000 and $12,000, respectively, representing 30 percent of the pre-sale adjusted bases of their respective partnership interests. Thus, the redetermined capital accounts of A, B, and LK will be $6,000, $12,000, and $70,000, respectively.

Example (2). (i) C and D form a general partnership solely to acquire and lease a computer. Each contributes $50,000 and the partnership obtains a $900,000 recourse loan. The partnership agreement provides that the partners may not liquidate the partnership without unanimous consent, that the first $300,000 of taxable loss (determined under section 702(a)(8)) is to be allocated to C, and that all other taxable income and loss (determined under section 702 (a)(8)) is shared equally between C and D. The partnership agreement further provides that the allocation of $300,000 of taxable loss to C and all other allocations will be properly reflected in the partners' capital accounts (maintained in accordance with paragraph (b)(2)(iv) of this section), liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with the partners' capital account balances, and any partner with a deficit balance in his capital account will be liable to the partnership to restore that deficit balance (as set forth in paragraph(b)(2)(ii)(*c*) of this section). The allocation of the $300,000 of losses to C has substantial economic effect. The result would be the same if the liability to restore deficit capital account balances is omitted from the partnership agreement but an identical liability is imposed under state law. The result would be the same if the partnership agreement also provides that upon sale of the computer the first $300,000 of gain (whether ordinary income or capital gain) will be allocated to C.

(ii) Assume the same facts as in (i) except that instead of allocating the first $300,000 of taxable loss (determined under section 702(a)(8)) to C, the partnership agreement provides that taxable loss will be allocated 99 percent to C and one percent to D until such time as the partnership has taxable income (determined under section 702(a)(8)). Thereafter, C will be allocated 99 percent of such taxable income until he has been allocated taxable income equal to the taxable loss previously allocated to him. Assume further that the computer is 3-year property for purposes of section 168. The partnership enters into a 6 year lease with a major corporation under which the partnership expects to have a taxable loss in each of the first 3 taxable years due to accelerated cost recovery deductions attributable to the computer and taxable income in each of the following 3 taxable years due to the absence of such cost recovery deductions. Assume that there is a strong likelihood that the aggregate taxable loss in the second 3 year period will exceed the aggregate taxable loss in the first 3 year period and that the allocations will result in a reduction in the overall tax liabilities of the partners. Under these facts, the allocations have substantial economic effect. There cannot have been a strong likelihood at the time the allocations were provided for in the partnership agreement that the economic effect of such allocations would be transitory due to largely offsetting allocations, since the computer is deemed to decrease in value to zero at the end of year 3 in accordance with its accelerated cost recovery deduction schedule.

Example (3). E and F, each of whom is engaged as a sole proprietor in the business of developing and marketing experimental electronic devices, enter into a partnership agreement to develop and market experimental electronic devices. E contributes $2,500 cash and agrees to devote his full-time services to the partnership. F contributes $100,000 cash and agrees to obtain a loan for the partnership for any

additional capital needs. The partnership agreement provides that the full amount of any research and experimental expenditures and any interest expense on partnership loans are to be allocated to F and will reduce F's capital account. Furthermore, F's distributive share is 90 percent of all other partnership income or loss (computed without regard to such research and experimental expenditures and such interest expense), until F has been allocated income equal to the sum of such research and experimental expenditures, such interest expense, and his share of any partnership losses. During this time, E's distributive share will be 10 percent. Thereafter, E and F will share income and loss equally. These allocations are properly reflected in E's and F's capital accounts (maintained in accordance with paragraph(b)(2)(iv) of this section). The partnership agreement provides that liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with capital account balances and that each partner is liable to restore to the partnership any deficit balance in his capital account (as set forth in paragraph(b)(2)(ii)(*c*) of this section). The allocations described above have economic effect. Furthermore, that economic effect is substantial since there was not a strong likelihood at the time the allocation of research and experimental expenditues and interest expense on partnership loans to F was provided for in the partnership agreement that the economic effect of such allocations would be transitory due to largely offsetting allocations.

Example (4). G and H contribute $75,000 and $25,000, respectively, in forming a general partnership. The partnership agreement provides that income, gain, loss, and deduction will be allocated equally even though cash flow from operations and cash proceeds from a sale or a refinancing of partnership assets will, regardless of capital account balances, be distributed 75 percent to G and 25 percent to H. Partners are not required upon liquidation to restore deficit capital account balances to the partnership for distribution to partners with positive capital accounts balances. The allocations in the partnership agreement do not have economic effect. Because the partnership agreement indicates that all economic profits and losses of the partnership are to be shared in a 75–25 ratio, G's interest in the partnership's income, gain, loss and deduction is 75 percent; H's interest in the partnership's income, gain, loss and deduction is 25 percent.

Example (5). (i) Partners I and J generally share equally in the profits and losses of their general partnership. The partnership agreement provides that liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with the partners' capital account balances (maintained in accordance with paragraph (b)(2)(iv) of this section) and that any partner with a deficit in his capital account following the liquidating distribution must restore the amount of such deficit to the partnership (as set forth in paragraph (b)(2)(ii)(*c*) of this section). For a taxable year in which I expect to have a large amount of income from other sources but J does not, the partnership agreement is amended (at the beginning of the taxable year) to allocate all the capital gain to I and all the ordinary income to J for that year only. The partnership has $4,900 of net capital gain and $5,100 of ordinary income for the taxable year. The partnership makes no distribution during the year. The capital accounts of the partners continue to be adjusted on a 50–50 basis to reflect an increase of $5,000, indicating that I and J are continuing to share equally in the economic proceeds of the partnership. These allocations do not have economic effect because the allocations are not reflected by appropriate adjustments to capital accounts. Therefore, the allocations will be disregarded and both types of income will be reallocated (under paragraph (b)(3) of this section) in accordance with the partners' interests in the partnership. Since I and J generally share equally in the profits and losses of the partnership, and will be entitled to equal distributions upon liquidation, they will each be allocated $2,450 of net capital gain and $2,550 of ordinary income.

(ii) Assume the same facts as in (i) except that I's capital account is credited with $4,900, while J's is credited with $5,100, and the capital accounts are otherwise maintained in accordance with paragraph (b)(2)(iv) of this section. Assume further that at the time the partnership agreement is amended (at the beginning of the taxable year) there is a strong likelihood that the difference between the amount of expected partnership capital gain and the amount of expected partnership ordinary income for the taxable year will be relatively insignificant. Although each partner receives the full economic benefit of the allocation received, the actual dollar amount of the partner's shares is affected by only $200. J has increased receipts of $100, and I has decreased receipts of $100. This is a minor shift in economic consequences when compared to the shift in tax consequences resulting from the allocations (taking into account the partners' nonpartnership tax attributes). Consequently, although the allocations have economic effect, the economic effect is not substantial when weighed against the effect on tax consequences. Therefore, the allocations will be disregarded and both types of income will be reallocated in accordance with the partners' interests in the partnership.

(iii) Assume the same facts as an (ii) except that at the time the partnership agreement is amended (at the beginning of the taxable year) there is not a strong likelihood that the relative difference between the amount of expected partnership ordinary income for the taxable year will be insignificant. (See the presumption described in paragraph (b)(2)(ii)(*a*) of this section.) The allocations of the $4,900 capital gain to I and the $5,100 ordinary income to J have substantial economic effect.

Example (6). (i) K and L are equal partners in a general partnership formed to acquire and operate property described in section 1231(b). For a year in which the partnership expects to incur losses on the sale of a portion of such property, the partnership agreement is amended (at the beginning of the taxable year) to allocate such losses to K, who expects to have no gains from the sale of depreciable property described in section 1231(b), and to allocate an equivalent amount of partnership loss or deduction for that year of a different character to L, who expects to have such gains. Any deductions or losses in excess of these allocations are allocated equally between K and L. The amendment is effective only for that taxable year. All allocations are properly reflected by appropriate adjustments to each partner's capital account (maintained in accordance with paragraph (b)(2)(iv) of this section), the partnership agreement provides that liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with capital account balances and that any partner with a deficit in his capital account following the liquidating distribution must restore the amount of such deficit to the partnership (as set forth in paragraph (b)(2)(ii)(*c*) of this section). Although these provisions signify the presence of economic effect, whether that economic effect is considered substantial depends on the likelihood that the partnership will incur deductions or losses in the taxable year other than from the sale of property described in section 1231(b) in an amount that will largely offset the expected amount of losses from the sale of such property. If at the beginning of the taxable year there is a strong likelihood that this will occur, the economic effect of the allocations will not be considered substantial.

(ii) Assume the same facts as in (i) except that the amendment to the partnership agreement provides that K will be allocated losses attributable to the sale of the property described in section 1231(b) and that all other deductions and losses of the partnership will be allocated to L. Assume further that at the beginning of the taxable year there is not a strong likelihood that there will be little or no difference between the amount of losses from the sale of the property described in section 1231(b) for the taxable year and the amount of other losses and deductions for such year. (See the presumption described in paragraph (b)(2)(ii)(*a*) of this section.) The allocations have substantial economic effect.

Example (7). (i) Rather than impair the credit standing of the MN general partnership by a distribution, the partners agree to invest surplus partnership funds in equal dollar amounts in tax-exampt municipal bonds and corporate stock. The partners further agree that M is to be allocated 90 percent and N 10 percent of the interest income and gain or loss from the sale of the tax-exempt bonds, and that M is to be allocated 10 percent and N 90 percent of the dividend income and gain or loss from the sale of the corporate stock. These allocations will be reflected by appropriate adjustments to capital accounts (maintained in accordance with paragraph (b)(2)(iv) of this section), liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with the partners' capital account balances and any partner with a deficit in his capital account following the liquidating distribution will contribute the amount of such deficit to the partnership (as set forth in paragraph

(b)(2)(ii)(*c*) of this section). These allocations have substantial economic effect.

(ii) Assume the same facts as in (i) except that the partnership agreement provides that the allocations only apply to the first $10,000 of interest income from the municipal bonds and dividend income from the corporate stock and are effective only for the partnership's first taxable year. All other income, gain, loss, and deduction will be allocated equally between M and N. Assume that at the beginning of its first taxable year there is a strong likelihood that in such taxable year the partnership will earn more than $10,000 with respect to both investments. Under these facts, the allocations have economic effect, but the economic effect is not substantial when weighed against the likelihood that the allocation will merely affect the character for tax purposes of the income that is earned by each partner. If at the beginning of its first taxable year there is not a strong likelihood that (*a*) the partnership will earn more than $10,000 of income with respect to both investments in such taxable year, and (*b*) that the relative difference between the amounts of income earned from the two investments in such taxable year will be insignificant, then the economic effect of the allocations is substantial. In this regard, see the presumption described in paragraph (b)(2)(ii)(*a*) of this section.

Example (8). (i) O and P are equal partners in the OP general partnership. Partner O has a net operating loss carryover from another venture which is due to expire in the current taxable year. The partnership agreement provides that liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with the partners' capital account balances and further provides that any partner with a deficit in his capital account following the liquidating distribution will contribute the amount of such deficit to the partnership (as set forth in paragraph (b)(2)(ii)(*c*) of this section). The partnership agreement is amended (at the beginning of the taxable year) to allocate all the taxable income for the year to O. Future losses are to be allocated to O, and future income to P until the excess allocation of income to O is offset. It is further orally agreed that, in the event that the partnership is liquidated prior to such recovery, O's capital account will be adjusted downward to the extent the excess income allocations to O have not been offset and the proceeds of the liquidation will be distributed in accordance with adjusted capital account balances. The allocations described in this example lack economic effect and will be disregarded.

(ii) Assume the same facts as in (i) except that there is no agreement that O's capital account will be adjusted downward to the extent of any unrecovered excess income allocation to O. Assume also that the partnership agreement prohibits a liquidation in the absence of unanimous consent and that the income of the partnership is generated entirely by fixed interest payments received from AAA rated corporate bonds. Notwithstanding the fact that the allocation has economic effect, as evidenced by adjustments to the partners' capital accounts, the allocation would significantly reduce the overall tax liabilities of the partners and at the time the allocation is provided for in the partnership agreement there is a strong likelihood that the economic effect of the allocation will be transitory due to largely offsetting allocations to O and P. Consequently, the economic effect of the allocation of income to O is not substantial. If, based upon the attendant business factors (*e.g.*, rating of the debt instrument, amounts of income stream, agreement concerning liquidation, etc.) there is not a strong likelihood that the economic effect of the allocation of income to O will be offset by allocations to O and P, such allocation has substantial economic effect.

Example (9). Q and R form QR general partnership, a law firm. The partnership agreement provides that fees for acting as a fiduciary are to be allocated 90 percent to Q and 10 percent to R, and all remaining income and loss is to be allocated to Q and R equally. The partnership agreement also provides that all allocations of income and loss will be properly reflected in the partners' capital accounts (maintained in accordance with paragraph (b)(2)(iv) of this section), that liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with the partners' capital account balances, and that any partner with a deficit balance in his capital account following the distribution of such proceeds will contribute the amount of such deficit to the partnership (as set forth in paragraph (b)(2)(ii)(*c*) of this section. The allocations made under the partnership agreement have substantial economic effect.

Example (10). (i) S and T form a general partnership to operate a travel agency. The partnership agreement provides that T, a nonresident alien, is to be allocated all income and loss derived from operations conducted by him within his country, and all remaining income and loss is to be allocated equally. The partnership agreement provides that allocations of income and loss will be reflected in the partners' capital accounts (maintained in accordance with paragraph (b)(2)(iv) of this section), that liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with capital account balances, and that any partner with a deficit balance in his capital account following the distribution of such proceeds will contribute the amount of such deficit to the partnership (as set forth in paragraph (b)(2)(ii)(*c*) of this section). The allocations made under the partnership agreement have substantial economic effect.

(ii) Assume the same facts as in (i) except that the partnership agreement provides that all income and loss is to be shared equally, but that T will be allocated all income and loss from operations conducted by him within such country as a part of his equal share up to the amount of his share. The allocation to T of the foreign source income does not have substantial economic effect. The foreign source income shall, along with the other income of the partnership, be allocated equally between S and T.

Example (11). U and V equally share all the income gain, loss, and deduction of the UV general partnership. The agreement provides that allocations will be reflected by appropriate adjustments to U's and V's capital accounts (maintained in accordance with paragraph (b)(2)(iv) of this section), that liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with capital account balances, and that any partner with a deficit balance in his capital account following the liquidating distribution will restore the amount of such deficit to the partnership (as set forth in paragraph (b)(2)(ii)(*c*) of this section). For one taxable year the partnership has qualified first-year wages of $6,000 and is entitled to a $3,000 targeted jobs tax credit under sections 44B and 51 of the Code. The partnership agreement allocates the credit to U. The allocation lacks substantial economic effect because the wage expenses are shared equally. At the beginning of the next taxable year, the partnership agreement is amended to charge U with all wage payments whether or not such wages qualify for the credit. In that taxable year the UV partnership pays $8,000 in total wages to its employees. Assume that the partnership has no other income, gain, loss, or deduction for the year and that $6,000 of the $8,000 in wages constitutes qualified first-year wages. U is allocated the entire deduction attributable to the $6,000 of qualified first-year wages ($6,000−$3,000 reduction under section 280C=$3,000) as well as the deduction for the other $2,000 in wage expenses. His capital account is debited by that $5,000 ($3,000+$2,000). Assume that the allocations of the wage deductions have substantial economic effect. Under paragraph (b)(4)(ii) of this section, the allocation of the entire wage credit to U will be deemed to be in accordance with the partner's interests in the partnership. In addition, under paragraph (b)(3) of this section, U has a 100 percent interest in the $3,000 section 705(a)(2)(B) adjustment attributable to the $3,000 reduction in the deduction for qualified first-year wages, and his capital account is reduced accordingly.

Example (12). (i) W and X form a general partnership for the purposes of mining iron ore. W makes an initial contribution of $75,000, and X makes an initial contribution of $25,000. The partnership agreement provides that all items of income, gain, loss, and deduction will be allocated 75 percent to W and 25 percent to X, except that the entire percentage depletion deduction will be allocated to W. The agreement provides that the partners' capital accounts (maintained in accordance with paragraph (b)(2)(iv) of this section) will properly reflect these allocations, that liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with the partners' capital account balances, and that any partner with a deficit balance in his capital account following the liquidating distribution must restore the amount of such deficit to the partnership (as set forth in paragraph (b)(2)(ii)(*c*) of this section). Assume that for a taxable year when the adjusted basis of certain depletable property is $1,000, the percentage depletion deduction with respect to that property is $1,500. The allocation of the first $1,000 of such depletion to W has substantial economic effect and will be

recognized because such allocation is properly reflected in W's capital account. The allocation to W of the remaining $500 of depletion, representing the excess of percentage depletion over adjusted basis, does not have economic effect since such amount cannot be properly reflected in the partners' capital accounts. Furthermore, since W is allocated 100 percent of the cost depletion deduction and 75 percent of all other income, gain, loss, and deduction, the allocation to W of the $500 of percentage depletion over adjusted basis does not meet the test of paragraph (b)(4)(iii) of this section for being deemed to be made in accordance with partners' interests in the partnership. Therefore, this $500 excess is reallocated in accordance with the partners' interest in the partnership.

(ii) Assume the same facts as in (i) except that the partnership agreement provides that 90 percent of all income, gain, loss, or deduction from the depletable property is allocated to W. Since the percentage depletion deduction is allocated in a manner consistent with valid allocations of all income, gain, loss, and deduction from the depletable property, the allocation of 90 percent of the percentage depletion in excess of adjusted basis to W will be deemed to be in accordance with his interest in the partnership under paragraph (b)(4)(iii) of this section.

Example (13). (i) Y and Z form a brokerage general partnership for the purpose of investing and trading in stock and securities. Y contributes cash of $10,000 and Z contributes securities of T corporation which have an adjusted basis of $3,000 and a fair market value of $10,000. The initial capital accounts of Y and Z are each fixed at $10,000. The partnership agreement provides that liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with the partners' capital account balances and that any partner with a deficit balance in his capital account following the liquidating distribution will contribute to the partnership an amount equal to such deficit (as set forth in paragraph (b)(2)(ii)(*c*) of this section). The agreement further provides that all income, gain, loss, deduction, and credit shall be shared equally between Y and Z. Thereafter, the partnership sells the securities of T corporation for $12,000, and the $9,000 gain ($12,000−$3,000) is allocated equally between Y and Z. The allocation of $7,000 of the $9,000 gain equally between Y and Z is not subject to section 704(b) or this paragraph but is governed by section 704(c) (1) and paragraph (c)(1) of § 1.704–1 and is valid thereunder. The allocation of the remaining $2,000 gain equally between Y and Z is subject to section 704(b) and this paragraph. Because the governing capital accounts of the partners are not based strictly on tax accounting principles (and thus are not maintained in accordance with paragraph (b)(2)(iv) of this section), the allocation of the $2,000 gain lacks substantial economic effect. Furthermore, since the $7,000 gain is allocated pursuant to section 704(c)(1) the allocation of the remaining $2,000 gain equally between Y and Z is not deemed to be made in accordance with the partners' interests in the partnership under paragraph (b)(4)(i) of this section. The $2,000 gain must be reallocated in accordance with the partners' actual interests in the partnership as determined under paragraph (b)(3) of this section to the extent the original allocation is inconsistent therewith.

(ii) Assume the same facts as in (i) except that the partnership agreement provides that the taxable gain attributable to the precontribution appreciation in the value of the securities of T corporation will be allocated to Z and all other income, gain, loss, deduction, and credit shall be shared equally between Y and Z. When the securities of T corporation are sold for $12,000, $7,000 of the $9,000 gain is allocated to Z and the remaining $2,000 gain is allocated equally between Y and Z. The allocation of $7,000 of the $9,000 gain to Z is not subject to the provisions of section 704 (b) of this paragraph but is governed by section 704 (c)(2) and paragraph (c)(2) of § 1.704–1 and is valid thereunder. The allocation of the remaining $2,000 gain equally between Y and Z is subject to section 704(b) and this paragraph. Because the governing capital accounts of the partners are not based strictly on tax accounting principles (and thus are not maintained in accordance with paragraph (b)(2)(iv) of this section), the allocation of the $2,000 gain lacks substantial economic effect. However, since the $7,000 gain is allocated pursuant to section 704 (c)(2), and the requirements of paragraph (b)(4)(i) of this section are otherwise complied with, the allocation of the $2,000 gain equally between Y and Z is deemed to be made in accordance with the partners' interests in the partnership under paragraph (b)(4)(i) of this section.

(iii) Assume the same facts as in (ii) except that the initial capital accounts of Y and Z (maintained in accordance with paragraph (b)(2)(iv) of this section) are fixed at $10,000 and $3,000, respectively. When the securities of T corporation are sold for $12,000, $7,000 of the $9,000 gain is allocated to Z and the remaining $2,000 gain is allocated equally between Y and Z. The allocation of $7,000 of the $9,000 gain to Z is not subject to the provisions of section 704 (b) or this paragraph but is governed by section 704 (c)(2) and paragraph (c)(2) of § 1.704–1 and is valid thereunder. The allocation of the remaining $2,000 gain equally between Y and Z is subject to 704 (b) and this paragraph and has substantial economic effect.

Example (14). (i) MC and RW form a brokerage general partnership by each contributing $10,000. The $20,000 is invested in securities which appreciate to $50,000. At that time SK makes a $25,000 cash contribution to the partnership in order to become an equal one-third partner, which cash is placed in a bank account. Upon SK's admission to the partnership, the capital accounts of MC and RW (which were $10,000 each prior to SK's admission), are each adjusted upward (to $25,000) to reflect the appreciation in the partnership's assets occurring before SK entered the partnership. The partnership agreement provides that liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with the partners' capital account balances and that any partner with a deficit balance in his capital account following the liquidating distribution will contribute to the partnership an amount equal to such deficit (as set forth in paragraph (b)(2)(ii)(*c*) of this section). Subsequently, when the value of the securities has appreciated to $74,000, they are sold. Of the $54,000 taxable gain on the sale of the securities, $24,000 (the appreciation in value occurring after SK became a partner) is allocated in equal shares to MC, RW, and SK, in accordance with the ratio for sharing profits and losses generally. The $30,000 balance is, under the principles contained in section 704(c)(2) and § 1.704–1(c)(2), allocated to MC and RW in proportion to their interests in the partnership before SK became a partner. These latter allocations attribute to MC and RW the unrealized appreciation in value of the securities occurring before SK became a partner, and accurately reflect the adjustments previously made to the capital accounts upon the entry of SK. Although such allocations have no economic effect (since they will not be reflected in MC's and RW's capital accounts), the allocation will be deemed to be made in accordance with the partners' interests in the partnership under paragraph (b)(4)(i) of this section.

(ii) Assume the same facts as in (i) except that upon the admission of SK the capital accounts of MC and RW are not adjusted upward from $10,000 to $25,000 to reflect the appreciation in the partnership's assets occurring before SK entered the partnership. Rather, upon SK's admission to the partnership the partnership agreement is amended to provide that the first $30,000 of taxable gain upon the sale of such assets will be allocated equally between MC and RW, and that any additional gain will be allocated equally between MC, RW and SK. When the securities are sold for $74,000 the $54,000 of taxable gain is so allocated and the allocations are properly reflected in the partners' capital accounts (maintained in accordance with paragraph (b)(2)(iv) of this section). These allocations of taxable gain have substantial economic effect.

(iii) Assume the same facts as in (ii) except that instead of selling the securities, the partnership is liquidated. In winding up, the partnership makes a liquidating distribution of the securities (valued at $74,000) and the $25,000 cash. Prior to the distribution the partners' capital accounts are adjusted to reflect how the taxable gain ($54,000) would have been allocated if the securities had been sold for the $74,000 assigned value.

	MC	RW	SK
Capital account before adjustment	$10,000	$10,000	$25,000
Deemed sale adjustment	23,000	23,000	8,000
Pre-liquidation capital account	33,000	33,000	33,000

Pursuant to paragraph (b)(2)(iv)(*c*)(*2*) of this section liquidating distributions of the securities (with reference to their assigned values) and cash made in accordance with the preliquidation adjusted capital accounts

shall have no effect on the validity of prior partnership allocations.

Example (15). JB and CC form a limited partnership for the purpose of purchasing and leasing out residential real estate. JB, the limited partner, contributes $18,000, and CC, the general partner, contributes $2,000 and the partnership purchases a building for $100,000, assuming a recourse mortgage of $80,000 which requires the payment of interest only for a period of three years. The partnership agreement provides that JB need not contribute any further capital, that the partners' shares of taxable income and loss (determined under section 702(a)(8)) will be 90 percent for JB and 10 percent for CC, that the allocation of income or loss will be reflected in the partners' capital accounts (maintained in accordance with paragraph (b)(2)(iv) of this section), and that liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with capital account balances. In the partnership's first two taxable years it has no taxable income or loss except for cost recovery deductions of $15,000 in each year. At the end of the partnership's second taxable year it has no cash (or cash equivalents) on hand. Under the partnership agreement JB's and CC's distributive shares of the first year's loss are $13,500 and $1,500, respectively. Thus at the end of the first year the partners' capital accounts will be as follows:

	JB	CC
Capital account upon formation	$18,000	$2,000
Less: distributive share of loss for year 1	(13,500)	(1,500)
Capital account at end of year 1	4,500	500

Since the partnership agreement provides for distributions upon liquidation in accordance with these accounts, each partner will bear the full risk of economic loss which corresponds to the allocations of tax loss. If the actual economic loss is equal to the tax loss, upon liquidation the partnership would have only $5,000 to distribute: $4,500 to JB and $500 to CC. Thus the first year allocations possess substantial economic effect. The effect upon the capital accounts of the second year's allocation would be as follows:

	JB	CC
Capital account at beginning of year 1	$4,500	$500
Less: distributive share of loss for year 2	(13,500)	(1,500)
Capital account at end of year 2	(9,000)	(1,000)

Since JB is not required to contribute any further capital to the partnership, the allocation to JB in excess of his capital account represents a deduction with respect to which CC bears the economic risk of loss. Since JB only bears the risk of loss with respect to $4,500 of the allocation, the remaining $9,000 of the allocation lacks economic effect. The $9,000 loss will be reallocated in accordance with the partners' interests in the partnership. Since under the economic arrangement of the partners CC bears the risk of all other economic loss, such $9,000 of net taxable loss will, under paragraph (b)(3) of this section, be reallocated to CC. Similarly, for following years, absent an increase in JB's capital account, all taxable loss must be allocated (or reallocated) to CC. (But see section 704(d).)

Example (16). (i) KG and HS form a limited partnership for the purpose of investing in improved real estate. KG, the general partner, contributes $10,000 to the partnership and HS, the limited partner, contributes $990,000 to the partnership. The $1,000,000 is used to purchase an apartment building on leased land. Capital accounts are maintained in accordance with paragraph (b)(2)(iv) of this section but upon liquidation the limited partner, HS, is not required to restore any deficit balance in his capital account. The partnership agreement provides that (1) cash will be distributed first to HS until such time as he has received the amount of his original capital contribution ($990,000), next to KG until such time as he has received the amount of his original capital contribution ($10,000), and thereafter equally between HS and KG; (2) income, gain, loss, and deduction from operations will be allocated 99% to HS and 1% to KG until such time as HS has received the amount of his original capital contribution and thereafter will be allocated equally between HS and KG; and (3) upon sale of the property, gain or loss on the sale will (after distributing sales proceeds so that the partners have received, in the aggregate, distributions equal to their original capital contributions) be allocated in a manner which will (to the extent possible) make the partners' positive capital account balances equal. The allocation and distribution provisions may result in HS having a deficit balance in his capital account following liquidation and KG having a positive balance in his capital account following liquidation (in an amount equal to HS' deficit balance). Since HS is not required to restore the amount of such deficit to the partnership (for distribution to KG), the allocations provided in the partnership agreement do not have substantial economic effect.

(ii) Assume the same facts as in (i) except that each partner is liable to restore to the partnership any deficit balance in his capital account (as set forth in paragraph (b)(2)(ii)(*c*) of this section). Although liquidation proceeds are not required to be distributed in accordance with the partners' capital account balances, the capital account equivalence test of paragraph (b)(2)(iv)(*b*) of this section is satisfied. Thus, the allocations provided in the partnership agreement have substantial economic effect.

Example (17). (i) JS and WN form a general partnership to acquire and operate an apartment building. JS and WN each contribute $100,000 to the partnership which obtains an $800,000 nonrecourse mortgage and purchases the apartment building (on leased land) for $1,000,000. No principal payments with respect to the nonrecourse obligation are required for 5 years. The partnership agreement provides that all income, gain, loss, and deduction will be allocated equally between JS and WN, with the exception of cost recovery deductions which will be allocated entirely to JS. The agreement also states that allocations will be reflected by appropriate adjustments to the partners' capital accounts (maintained in accordance with paragraph (b)(2)(iv) of this section), and that liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with capital account balances, but that upon liquidation neither partner is required to restore to the partnership the deficit balance in his capital account for distribution to partners with positive capital account balances. In year 1, there is a $100,000 cost recovery deduction, all of which is charged to JS' capital account, and the partnership has no other taxable income or loss for the year. In year 2 the partnership has another $100,000 cost recovery deduction and no other taxable income or loss. Since the principal balance of the nonrecourse mortgage does not exceed the adjusted basis of the property, neither the year 1 or year 2 cost recovery deduction is attributable to the nonrecourse obligation. The allocation for year 1 has substantial economic effect. The allocation in year 2 of the $100,000 cost recovery deduction to JS does not have substantial economic effect because the economic risk of loss associated with such cost recovery deduction is borne entirely by WN. Therefore, the $100,000 cost recovery deduction in year 2 is reallocated to WN pursuant to paragraph (b)(3) of this section.

(ii) Assume the same facts as in (i) except that the partnership agreement is amended to require any partner with a deficit capital account following the distribution of liquidation proceeds to restore the amount of such deficit to the partnership (as set forth in paragraph (b)(2)(ii)(*c*) of this section). In this case, the allocation of an additional $100,000 cost recovery deduction in year 2 to JS has substantial economic effect. The result in this example would be the same if the liability to restore capital account deficits is omitted from the partnership agreement but an identical liability is imposed under State law.

(iii) Assume the same facts as in (i). In year 3, the partnership has no taxable income or loss except for another $100,000 cost recovery deduction. The allocation of this deduction to JS (or to WN) has no economic effect since the risk of depreciation in excess of the partners' aggregate investment in the property is borne solely by the nonrecourse lender. Since the partnership agreement does not require JS to be allocated subsequent income and gain under the rule contained in paragraph (b)(4)(iv)(*b*) of this section, the allocation of the $100,000 cost recovery deduction to JS will not be deemed to be in accordance with his interest in the partnership, and must be reallocated in accordance with the partners' interests in the partnership.

(iv) Assume the facts in (iii) except that the partnership agreement also provides that pursuant to paragraph (b)(4)(iv) of this section JS will be allocated partnership income and gain in an amount equal to the

deficit balance in JS' capital account and that such allocations will coincide, in amount and time, with any reduction of the principal balance of the nonrecourse debt. Since the principal balance of the nonrecourse obligation ($800,000) exceeds the adjusted basis ($700,000) by $100,000 and JS is bearing the burden of taxation of taxable income and gain in an amount at least equal to the deficit balance of his capital account, requirements (*a*) and (*b*) of paragraph (b)(4)(iv) of this section are satisfied and the allocation of the $100,000 cost recovery deduction to JS in year 3 is deemed to be in accordance with his interest in the partnership.

(v) Assume the same facts as in (iii) except that the partnership agreement is amended to require any partner with a deficit capital account following the distribution of liquidation proceeds to restore the amount of such deficit to the partnership (as set forth in paragraph (b)(2)(ii)(*c*) of this section). If the property were foreclosed upon at the end of year 3, there would be $100,000 gain ($800,000 nonrecourse debt less $700,000 adjusted basis), which would be allocated equally between JS and WN. JS would then have a deficit capital account of $50,000 which he would be required to contribute to the partnership to satisfy WN's positive $50,000 capital account. Accordingly, the allocation of the $100,000 cost recovery deduction to JS in year 3 will, under paragraph (b)(4)(iv) of this section, be deemed to be in accordance with the partners' interests in the partnership.

(vi) Assume the same facts as in (iv) and that in year 4 the partnership has no taxable income or loss except for another $100,000 cost recovery deduction. In order to reduce the overall tax liabilities of the partners, the partnership agreement is amended at the beginning of year 4 to allocate the year 4 cost recovery deduction to WN. In addition, the agreement is amended to allocate partnership income or gain to WN in an amount equal to the deficit balance in his capital account and to require that such allocations coincide, in amount and time, with any principal reduction in the amount of nonrecourse debt. Since the allocations of loss or deduction attributable to nonrecourse debt are varied in year 4 in order to reduce the overall tax liabilities of the partners, the year 4 allocation will not be deemed to be in accordance with the partners' interests in the partnership under paragraph (b)(4)(iv) of this section and the $100,000 cost recovery deduction must be reallocated in accordance with the partners' actual interests in the partnership.

(vii) Assume the same facts as in (iv) except that in a taxable year of the partnership after the cost recovery deductions have been taken by JS, but before the property is disposed of, the partnership agreement is amended by deleting the provisions which require gain and income to be charged back to JS. Thus, under the amended agreement, JS is no longer required to bear the burden of taxation of the taxable income and gain in an amount at least equal to his deficit capital account balance. Under these facts, any allocation of income, gain, loss, or deduction made after deletion of the chargeback provisions has no substantial economic effect. As a result, income, gain, loss, and deductions must be allocated in accordance with the partners' interests in the partnership. Under the rule of paragaraph (b)(4)(vi) of this section, the interest of JS in the partnership taxable gain and income is deemed to be that interest which is consistent with the original gain and income chargeback provisions, and, therefore, gain and income is allocated to JS and WN in accordance with those provisions.

(viii) Assume the same facts as in (ii). Any tax preference under section 57(a)(12) attributable to the partnership's year 1 and year 2 cost recovery deductions shall be taken into account solely by JS. If during year 1 and year 2 the partnership's cost recovery deductions are instead allocated 75 percent to JS and 25 percent to WN (and all other income, gain, loss, and deduction is allocated equally between JS and WN), the tax preference attributable to such cost recovery deductions shall be taken into account 75 percent by JS and 25 percent by WN. If the partnership agreement instead provides that all taxable income or loss is allocated equally between JS and WN, the tax preference attributabe to the cost recovery deductions shall be taken into account equally between JS and WN. In this case, if the partnership has a $100,000 cost recovery deduction in year 1 and an additional operating loss of $100,000 in year 1, and purports to categorize the $100,000 loss allocated to JS as being attributable to the cost recovery deduction and the $100,000 loss allocated to WN as being attributable to the operating loss, such allocations will not be recognized and each partner will be allocated one-half of such operating loss and one-half of such cost recovery deduction, and each partner shall take into account one-half of the tax preference attributable to the cost recovery deduction.

Example (18). (i) WM and JL form a general partnership by each contributing $300,000 thereto. The partnership uses the $600,000 to purchase tangible personal property which it leases out. The partnership agreement provides that (1) allocations of income, gain, loss, and deduction will be appropriately reflected in the partners' capital accounts (maintained in accordance with paragraph (b)(2)(iv) of this section) and liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with the partners' capital account balances, (2) upon liquidation no partner will be required to restore any deficit in his capital account for distribution to partners with positive capital account balances, and (3) all income, gain, loss, and deduction of the partnership will be shared equally. In the partnership's first two taxable years it recognizes no taxable income or loss except for a $200,000 cost recovery deduction in each year which is allocated equally between WM and JL.

	WM	JL
Capital account upon formation	$300,000	$300,000
Less: cost recovery deductions for years 1 and 2	(200,000)	(200,000)
Capital account at end of year 2	100,000	100,000

The allocations of the cost recovery deductions in the partnership's first two taxable years have substantial economic effect.

(ii) Assume the same facts as in (i) except that MK enters the partnership at the beginning of year 3. At the time of his entry all parties agree that the fair market value of the partnership property is $600,000. MK contributes $300,000 to the partnership in exchange for an equal one-third interest in the partnership and the partners' book capital accounts, which will govern liquidating distributions, are each adjusted to $300,000.

	WM		JL		MK	
	Tax	Book	Tax	Book	Tax	Book
Capital account at beginning of year 3	$100,000	$300,000	$100,000	$300,000	$300,000	$300,000

The agreement complies with requirement (*b*) of paragraph (b)(4)(i) of this section, by providing that any gain attributable to the unrealized appreciation in partnership property prior to MK's entry ($600,000 agreed fair market value less $200,000 adjusted basis = $400,000) will, under principles the same as those contained in section 704(c)(2) and § 1.704-1(c)(2), be allocated to WM and JL in the same amounts as they were allocated the cost recovery deductions giving rise to such gain. Any additional gain will be allocated equally among the partners. Thus, if the property is sold for $600,000 immediately after MK's entry to the partnership, the $400,000 of gain will be allocated equally between WM and JL. The $900,000 of cash in the partnership ($600,000 sales proceeds plus $300,000 contributed by MK) will be distributed equally between WM, JL and MK in accordance with their adjusted capital account balances (which will be identical for tax and book purposes).

	WM		JL		MK	
	Tax	Book	Tax	Book	Tax	Book
Capital account at beginning of year 3	$100,000	$300,000	$100,000	$300,000	$300,000	$300,000
Gain chargeback to JL and WM	200,000	0	200,000	0	0	0
Capital account before liquidating distribution	300,000	300,000	300,000	300,000	300,000	300,000

Since the allocation of taxable gain follows the prior booking of the corresponding unrealized appreciation the allocation will, under paragraph (b)(4)(i) of this section, be deemed to be in accordance with the partners' interests in the partnership. If the property were instead sold for $900,000 the additional $300,000 of gain would be allocated equally among the partners and the partners would each receive a $400,000 distribution in satisfaction of their respective capital account balances.

(iii) Assume the same facts as in (ii) except that after MK enters the partnership the property devalues and is sold for $450,000 yielding a taxable gain of $250,000 ($450,000 less $200,000 adjusted basis) but a book loss of $150,000. WM and JL would each be allocated $125,000 of the $250,000 gain. Since these allocations are designed to eliminate, to the extent possible, the disparity between tax and book capital accounts, pursuant to paragraph (b)(4)(i) of this section such allocations will be deemed to be in accordance with the partners' interests in the partnership.

	WM		JL		MK	
	Tax	Book	Tax	Book	Tax	Book
Capital account at beginning of year 3	$100,000	$300,000	$100,000	$300,000	$300,000	$300,000
Plus: Gain chargeback	125,000	0	125,000	0	0	0
Less: Book loss		(50,000)		(50,000)		(50,000)
Capital account prior to liquidating distribution	225,000	250,000	225,000	250,000	300,000	250,000

The discrepancy between book and tax capital accounts is attributable entirely to the ceiling rule of § 1.704–1(c)(2). Under paragraph (b)(4)(i) of this section, the partnership may distribute liquidation proceeds ($675,000) in accordance with book capital account balances and no determination will be required as to whether the allocations made in year 1 and year 2 are in accordance with the partners' interests in the partnership.

(iv) Assume the same facts as in (iii) except that the property devalues and is sold for its adjusted basis of $200,000, yielding no taxable gain or loss and a book loss of $400,000.

	WM		JL		MK	
	Tax	Book	Tax	Book	Tax	Book
Capital account at beginning of year 3	$100,000	$300,000	$100,000	$300,000	$300,000	$300,000
Plus: Gain chargeback	0	0	0	0	0	
Less: Book loss		(133,333)		(133,333)		(133,333)
Capital account before liquidation distribution	100,000	166,667	100,000	166,667	300,000	166,667

Again, the discrepancy between book and tax capital accounts is attributable entirely to the ceiling rule of § 1.704–1(c)(2). Under paragraph (b)(4)(i) of this section, the partnership may distribute liquidation proceeds ($500,000) in accordance with book capital accounts and no determination will be required as to whether the allocations made in year 1 and year 2 are in accordance with the partners' interests in the partnership.

(v) Assume the same facts as in (iv) except that the property is not sold at the beginning of year 3. Assume further that during that year the partnership has no taxable income or loss except for a $100,000 Cost recovery deduction and a 300,000 book depreciation deduction attributable to the property purchased by the partnership in year 1. Although the book capital accounts of the partners are adjusted equally to reflect the book depreciation, pursuant to the partnership agreement MK is allocated cost recovery deductions under principles the same as those contained in § 1.704–1(c)(2). Under those principles, MK would be entitled to cost recovery deductions of $200,000 over the remaining recovery period of the property because the value of the property was for book purposes determined to be $600,000 upon MK's admission to the partnership. Since upon such admission the adjusted tax basis of the property is $200,000, all further cost recovery deductions attributable to the property are allocated to MK, and under paragraph (b)(4)(i) of this section such allocations will be deemed to be in accordance with the partners' interests in the partnership.

(vi) Assume the same facts as in (v) and that in year 3 the partnership purchases a second item of tangible personal property for $300,000. Such property produces no taxable income of loss that year except for a cost recovery deducction of $125,000 which is allocated intirely to WM and a book depreciation deduction of $125,000 which is charged to WM's book capital account.

	WM		JL		MK	
	Tax	Book	Tax	Book	Tax	Book
Capital account at beginning of year 3	$100,000	$300,000	$100,000	$300,000	$300,000	$300,000
Less: Cost recovery deduction (a) attributable to year 1 property		(100,000)		(100,000)	(100,000)	(100,000)
(b) Attributable to year 3 property	(125,000)	(125,000)				
Capital Account at end of year 3	(25,000)	75,000	100,000	200,000	200,000	200,000

At the end of year 3 the adjusted tax bases of the partnership properties acquired in years 1 and 3 are $100,000 and $175,000, respectively. If the properties are disposed of at the beginning of year 4 for their adjusted bases, there would be no taxable gain or loss, there would be a book loss of $200,000, and there would be cash of $275,000.

	WM		JL		MK	
	Tax	Book	Tax	Book	Tax	Book
Capital account end of year 3	($25,000)	$75,000	$100,000	$200,000	$200,000	$200,000
Less: Book loss		(66,666)		(66,667)		(66,667)
Capital account following dispositions	(25,000)	8,334	100,000	133,333	200,000	133,333

If the partnership is then liquidated, the liquidation proceeds ($275,000) would be distributed in accordance with the partners' book capital accounts. Since the allocation of the $125,000 cost recovery deduction to WM would have had substantial economic effect if paragraph (b)(2)(iv)(*a*) of this section had permitted upward adjustments to be made to the capital accounts of WM and JL upon MK's admission to the partnership, and since the other requirements of paragraph (b)(4)(i) of this section are satisfied, such allocation will be deemed to be made in accordance with the partners' interests in the partnership.

(vii) Assume the same facts as in (vi) except that the properties are not disposed of at the beginning of year 4 and that the partnership agreement is amended to make WM liable for any deficits in his capital account (as set forth in paragraph (b)(2)(ii)(*c*) of this section). In year 4 the partnership again has no taxable income or loss except for cost recovery deductions. The cost recovery deductions in year 4 for the properties purchased in years 1 and 3 are $100,000 and $75,000, respectively, and are allocated to MK and WM, respectively. The Book depreciation deduction attributable to the property purchased in year 1 is $300,000 and is charged equally to the partners' book capital accounts and the book depreciation deduction attributable to the property purchased in year 3 is $75,000 and is charged to WM's book capital account.

	WM		JL		MK	
	Tax	Book	Tax	Book	Tax	Book
Capital account at beginning of year 4	($25,000)	$75,000	$100,000	$200,000	$200,000	$200,000
Less: Cost recovery deduction (a) attributable to year 1 property		(100,000)		(100,000)	(100,000)	(100,000)
(b) Attributable to year 3 property	(75,000)	(75,000)				
Capital account at end of year 4	($100,000)	($100,000)	$100,000	$100,000	$100,000	$100,000

At the end of year 4 the adjusted tax bases of the partnership properties acquired in years 1 and 3 are zero and $100,000, respectively. If the properties are disposed of at the beginning of year 5 for their adjusted basis, there would be no taxable gain or loss, no book gain or loss, and there would be cash of $100,000. If the partnership is then liquidated, the $100,000 cash plus the $100,000 which WM would be required to contribute to the partnership (the deficit in his book capital account) would be distributed equally between JL and MK (in accordance with their book capital accounts). Since the allocation of the $75,000 cost recovery deduction to WM would have substantial economic effect if paragraph (b)(2)(iv)(*a*) of this section had permitted upward adjustments to be made to the captial accounts of WM and JL upon MK's admission to the partnership, and since the other requirements of paragraph (b)(4)(i) of this section are satisfied, such allocation will be deemed to be made in accordance with the partners' interests in the partnership.

Example (19). (i) DG and JC form a general partnership for the purpose of drilling oil wells on various tracts of land. DG contributes an oil lease with an adjusted basis of $100,000 and a fair market value of $1,000,000. JC contributes $1,000,000 in cash which is used to finance the drilling operations. The partnership agreement provides that DG is credited with a capital account of $100,000 and JC is credited with a capital account of $1,000,000 (which capital accounts are maintained in accordance with paragraph (b)(2)(iv) of this section), that liquidation proceeds are, throughout the term of the partnership, to be distributed in accordance with the partners' capital account balances, and that any partner with a deficit balance in his capital account following the liquidating distribution will contribute to the partnership an amount equal to such deficit (as set forth in paragraph (b)(2)(ii)(*c*) of this section). The agreement further provides that the deductions attributable to the contributions made by each partner shall be allocated to such partner, that all other income, gain, loss, and deduction shall be allocated equally between DG and JC, that all cash from operations shall be distributed equally between DG and JC, and that in the event oil is not found the oil lease will be distributed to the partners (in liquidation of the partnership) with reference to the adjusted basis of such lease. Pursuant to these terms, $800,000 of partnership intangible drilling expenses and $200,000 of cost recovery deductions on partnership equipment are allocated to JC, and the $100,000 basis of the lease is, for purposes of the depletion allowance under sections 611 and 613A(c)(7)(D), allocated to DG. Based on these facts, the allocations of income, gain, loss, and deduction provided in the partnership agreement have substantial economic effect. Furthermore, since such allocations have substantial economic effect the allocation of the adjusted basis of the lease to DG is, under paragraph (b)(4)(v) of this section, deemed to be in accordance with the partners' interests in partnership capital or income under section 613A(c)(7)(D) and paragraph (e) of § 1.613A–3. Since based on these facts no partner can have a deficit balance in his capital account during the term of the partnership, the results would be the same even if the agreement provides that no partner is required to contribute the deficit balance in his capital account following liquidation for distribution to partners with positive capital account balances. In addition, the results would be the same if DG's adjusted basis in the lease is $1,000,000 and his capital account is so credited.

(ii) Assume the same facts as in (i) except that the partnership agreement provides that the first $1,000,000 of cash from operations shall be distributed to JC and that until JC receives such $1,000,000 all income, gain, loss, and deduction will be allocated to him. All other cash from operations will be distributed and all other income, gain, loss, and deduction will be allocated equally between DG and JC. Under these facts, the allocations of income, gain, loss, and deduction provided in the partnership agreement have substantial economic effect. Furthermore, since such allocations have substantial economic effect the allocation of the adjusted basis of the lease to DG is, under paragraph (b)(4)(v) of this section, deemed to be in accordance with the partners' interests in partnership capital or income under section 613A(c)(7)(D) and paragraph (e) of § 1.613A–3.

(iii) Assume the same facts as in (i) except that all distributions, including those made upon liquidation of the partnership, will be distributed equally between DG and JC and that no partner is required to contribute the deficit balance in his capital account to the partnership following the liquidating

distribution. Since liquidation proceeds will be distributed equally between DG and JC irrespective of their capital account balances and no partner is required to contribute to the partnership the deficit balance in his capital account upon liquidation, the allocations of income, gain, loss, and deduction provided in the partnership agreement do not have substantial economic effect and must be reallocated in accordance with the partners' interests in the partnership. Furthermore, since such allocations lack substantial economic effect the allocation of the adjusted basis of the lease to DG is not deemed to be in accordance with the partners' interests in partnership capital or income under paragraph (b)(4)(v) of this section, and such basis must be reallocated under section 613A(c)(7)(D) and paragraph (e) of § 1.613A-3 in accordance with the partners' actual interests in partnership capital or income.

(iv) Assume the same facts as in (iii) except that DG's adjusted basis in the lease is $1,000,000. For the same reasons specified in (iii) the allocations of income, gain, loss, and deduction provided in the partnership agreement do not have substantial economic effect and must be reallocated in accordance with the partners' interests in the partnership. Similarly, the allocation of the adjusted basis of the lease entirely to DG is not deemed to be in accordance the partners' interests in partnership capital or income under paragraph (b)(4)(v) of this section, and such basis must be reallocated under section 613A(c)(7)(D) and paragraph (e) of § 1.613A-3 in accordance with the partners' actual interests in partnership capital or income. Assume that under section 613A(C)(7)(D) and paragraph (e) of § 1.613A-3 the adjusted basis of the lease is allocated equally between DG and JC and that the partnership's only net taxable income or loss is the $1,000,000 net loss attributable to the intangible drilling expenses and cost recovery deductions. Since the partners made equal capital contributions to the partnership and since the economic arrangement of the partners is to share all proceeds equally, under paragraph (b)(3) of this section all partnership income, gain, loss, and deduction (or item thereof) shall be reallocated equally between DG and JC.

(v) Assume the same facts as in (i) and that for its first taxable year the partnership's depletion deduction with respect to the lease (determined solely for capital account purposes under the method elected by the partnership) is $10,000. Since DG was properly allocated the entire depletable basis of the lease (such allocation having been deemed to be in accordance with the partners' interests in partnership capital or income), under paragraph (b)(2)(iv)(*c*)(*3*) of this section the partnership's $10,000 simulated depletion deduction shall be allocated to DG and shall reduce his capital account accordingly. If, prior to any additional partnership depletion deductions, the lease is sold for $100,000, the partnership gain of $10,000 (determined solely for capital account purposes) shall be allocated to the partners in the same manner as that portion of the amount realized which exceeds the partnership's adjusted basis in the property is allocated to the partners and shall increase the partners' capital accounts accordingly. The first $90,000 realized on the sale of the least (*i.e.*, the partnership's adjusted basis in the lease for capital account purposes) shall be allocated to DG. Since the allocations of income, gain, loss, and deduction provided in the partnership agreement have substantial economic effect the $10,000 of amount realized which exceeds the partnership's adjusted basis in the lease may be allocated as provided in the partnership agreement. If the lease is sold for $50,000, the $40,000 partnership loss (determined solely for capital account purposes) shall be allocated to DG and shall reduce his capital account accordingly, and the entire amount realized on the sale of the lease shall be allocated to DG.

* * * * *

(26 U.S.C. 704(b))

James I. Owens,

Acting Commissioner of Internal Revenue.

March 3, 1983.

[FR Doc. 83-5874 Filed 3-4-83; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 1

[LR-262-76]

Determination of Partner's Distributive Share Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to determination of partner's distributive share.

DATES: The public hearing will be held on May 4, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by April 20, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-262-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 704(b) of the Internal Revenue Code of 1954. The proposed regulations appear in the Proposed Rules section of this issue of the **Federal Register** (See FR Doc. 83-5874.)

The rules of § 601.601(a)(3) of the "Statement of Procedural Rule" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who desire to present oral comments at the hearing on the proposed regulations should submit not later than April 20, 1983 an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83-5875 Filed 3-4-83; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 6E1736/P285; PH-FRL 2318-2]

4-(2,4-Dichlorophenoxy)Butyric Acid Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the herbicide 4-(2,4-dichlorophenoxy)-butyric acid and its metabolite in or on the raw agricultural commodity mint hay. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before April 8, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM #2,

1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 6E1736 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Oregon.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the 4-(2,4-dichlorophenoxy)butyric acid (2,4-DB) and its metabolite 2,4-dichlorophenoxyacetic acid (2,4-D) in or on the raw agricultural commodity peppermint hay at 1.5 ppm. The petition was later amended to propose a tolerance for the combined residues of the herbicide and its metabolite in or on the raw agricultural commodity mint hay at 0.2 ppm.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance included a 90-day dog feeding study with a no-observed effect level (NOEL) at 316 ppm (7.9 mg/kg/day) and a 90-day rat feeding study with a NOEL of 316 ppm (15.8 mg/kg/day). A teratology study on mice at a dosage level of 400 ppm (60 mg/kg/day) showed no potential to induce teratogenic effects but fetotoxic effects were observed at a higher level (2,000 ppm fed).

The acceptable daily intake (PADI), based on the 90-day dog feeding study (NOEL of 7.9 mg/kg/day) and using a 2000-fold safety factor, is calculated to be 0.004 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.2370 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0038 mg/day; the current action will increase the TMRC by 0.00009 mg/day (2.34 percent). Published tolerances utilize 1.61 percent of the ADI; the current action will utilize an additional 0.04 percent. Although chronic studies for 2,4-DB are lacking, they are not considered necessary to support the tolerance since the Agency has concluded that the amount of 2,4-DB and its metabolite 2,4-D added to the diet from the proposed use will not significantly increase dietary exposure in humans. Thus, the tolerance that will be established by this proposed rule is considered to pose a negligible increment in risk.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography, is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency and the fact that there is no reasonable expectation of secondary residues of 2,4-DB in meat and milk and the fact that currently established tolerances for residues of 2,4-D in meat and milk are adequate to cover any residues resulting from mint hay used as animal feed, the tolerance established by amending 40 CFR 180.331 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [PP 6E1736/P285]. All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: February 28, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.331 be revised to read as follows:

§ 180.331 4-(2, 4-dichlorophenoxy) butyric acid; tolerances for residues.

Tolerances are established for combined residues of the herbicide 4-(2, 4-dichlorophenoxy) butyric acid and its metabolite 2, 4-dichlorophenoxyacetic acid in or on the following raw agricultural commodities:

Commodities	Parts per million
Alfalfa	0.2N
Clover	0.2N
Mint, hay	0.2
Peanuts	0.2N
Soybeans	0.2N
Soybeans, hay	0.2N
Trefoil, birdsfoot	0.2N

[FR Doc. 83-6042 Filed 3-8-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2E2739/P286; PH-FRL 2316-1]

Ametryn; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the residues of the herbicide ametryn in or on the raw agricultural commodity cassava roots. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before April 18, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716B, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 2E2739 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Puerto Rico.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide ametryn, 2-(ethylamino)-4-(isopropylamino)-6-(methylthio)-*s*-triazine, in or on the raw agricultural commodity cassava roots at 0.1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance included a subacute 90-day dog feeding study with a no-observed-effect level (NOEL) of 25 mg/kg/day (1,000 ppm); a subacute 90-day rat feeding study with a NOEL of 50 mg/kg/day (1,000 ppm); a subacute 90-day rat intubation study with a NOEL of 5 mg/kg/day (100 ppm); a rat teratology study with a NOEL of 5 mg/kg; and mutagenicity studies which were negative for mutagenic potential using microbial reverse mutation and rec-assay techniques. A 24-month rat feeding study, a 2-year dog feeding study, and a 3-generation reproduction study, all of which were conducted at Industrial Bio-Test, have been reviewed and judged invalid.

Studies considered desirable but currently lacking include long-term oncogenic studies for two species, a 3-generation reproduction study, a second teratology study, and a mammalian mutagenicity study. Although there are significant data gaps for the chemical, the available toxicity data are adequate to support the proposed tolerance because the proposed use will result in an insignificant increase (0.07 percent) in the theoretical maximum residue contribution (TMRC) to the human diet. As stated in the **Federal Register** issue of May 11, 1979 (44 FR 27932), the Agency will generally consider as insignificant an increase in the TMRC of 1.0 percent or less.

The provisional acceptable daily intake (PADI), based on the 90-day dog feeding study (NOEL of 25.0 mg/kg/day) and using a 2000-fold safety factor, is calculated to be 0.0125 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.75 mg/day. The TMRC from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0543 mg/day; the current action will increase the TMRC by 0.00004 mg/day. Published tolerances utilize 7.24 percent of the ADI; the current action will utilize an additional 0.005 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. The product contains less than 1.0 ppm of nitrosoamines (i.e., below validated sensitivity of the analytical method). Based on an Agency policy that was published in the **Federal Register** of June 15, 1980 (45 FR 42854), this level of nitrosoamine falls below the currently acceptable risk criteria. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency and the fact that residues are not expected in meat, milk, poultry and eggs as a result of this use, the tolerance established by amending 40 CFR 180.258 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulations. Comments must bear a notation indicating the document control number (PP 2E2739/P286). All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: February 24, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.258 be amended by adding and alphabetically inserting the raw agricultural commodity cassava roots to read as follows:

§ 180.258 Ametryn; tolerance for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Cassava, roots	0.1
* * * * *	

[FR Doc. 83–5581 Filed 3–8–83; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 9E2142/P284; PH–FRL 2315–8]

Sodium Chlorate; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that the defoliant, desiccant, and fungicide sodium chlorate be exempted from the requirement of a tolerance for residues when used on the raw agricultural commodities flaxseed and flax straw. The proposed regulation to exempt this chemical from the requirement to establishment maximum permissible levels for residues in or on the commodities was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before April 8, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716B, CM No. 2,

1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 9E2142 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Minnesota and North Dakota.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of an exemption from the requirement of a tolerance for residues of sodium chlorate in or on flaxseed, wheat, and their fodder, forage, and straw when it is used in accordance with good agricultural practice as a desiccant in flaxseed and wheat production. The petition was later amended by withdrawing the request for wheat and proposing the exemption for flaxseed and flax straw only.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the exemption is sought.

Flaxseed is used primarily as the source material in the production of linseed oil, a non-edible product. While the straw could conceivably be used as animal feed, residues of sodium chlorate would not be expected to occur in meat, milk, poultry, and eggs from this use.

The metabolism of sodium chlorate is adequately understood for the proposed use. The analytical method is nonspecific and unsuitable for enforcement purposes. However, little need for enforcement action is anticipated under an exemption and the analytical method is suitable for determination of gross misuse. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the exemption from the requirement of a tolerance for residues of sodium chlorate in or on flaxseed and flax straw established by amending 40 CFR 180.1020 would protect the public health. It is proposed, therefore, that the exemption be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number (PP 9E2142/P284). All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: February 24, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.1020 be revised to read as follows:

§ 180.1020 Sodium chlorate; exemption from the requirement of a tolerance.

Sodium chlorate is exempted from the requirement of a tolerance for residues in or on the following raw agricultural commodities when used as a defoliant, desiccant, or fungicide in accordance with good agricultural practice in the production of chili peppers, corn, cotton, flax, guar beans, rice, safflower seed, sorghum, soybeans, and sunflower seed.

Commodities	
Chili peppers	Cottonseed
Corn fodder	Flaxseed
Corn forage	Flax straw
Corn grain	Grain sorghum
Guar beans	Sorghum fodder
Rice	Sorghum forage
Rice straw	Soybeans
Safflower seed	Sunflower seed

[FR Doc. 83–5550 Filed 3–8–83; 9:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Docket No. 21010]

UHF Television Receiver Noise Figures; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Extension of comment/reply comment period.

SUMMARY: Comment and reply comment dates are extended in order to afford interested parties an opportunity to review a forthcoming staff report regarding UHF television receiver noise figures.

DATES: Comments must be received on or before May 2, 1983 and Reply Comments must be received on or before June 1, 1983.

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

FOR FURTHER INFORMATION CONTACT: Philip B. Gieseler, (202) 653–5940.

SUPPLEMENTARY INFORMATION:

Adopted: February 24, 1983.

Released: February 25, 1983.

1. On November 18, 1982, the Commission adopted a *Notice of Proposed Rulemaking* in this proceeding, and set comment and reply comment dates for March 1 and March 31, 1983, respectively. 47 FR 55251 (December 8, 1982).

2. We have received a request from the Consumer Electronics Group of the Electronic Industries Association (EIA/CEG) to extend the dates for comments and reply comment in this proceeding. In support of its request, EIA/CEG points out that the original comment dates were predicated in part on the belief that a Commission staff report on current noise figure performance would be available for review and comment prior to the comment date. This report, however, has not yet been released, and EIA/CEG has requested that the Commission extend the comment period to thirty days following the release of the report.

3. We wish to receive public comment on the results of the forthcoming staff report, which we expect to be available

in approximately one month. Therefore we will extend the comment periods to afford reasonable time for interested parties to consider the report when they submit their views. Accordingly, IT IS ORDERED that the deadline for comments in the Notice of Proposed Rulemaking be set for May 2, 1983, and the reply comment date set for June 1, 1983. This action is taken pursuant to Section 4(i) of the Communications Act of 1934, as amended.

Federal Communications Commission,

Peter K. Pitsch,

Chief, Office of Plans and Policy.

[FR Doc. 83-5940 Filed 3-8-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 2, 81 and 83

[PR Docket No. 83-90; FCC 83-58]

Commission's Rules To Provide for Facsimile Communications in the Maritime Mobile Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: This document proposes rules for the introduction and use of facsimile communications in the maritime mobile service and requests that interested persons provide certain information. This action was initiated by the Commission and is intended to extend the communications services available to the maritime industry.

DATES: Comments must be received by April 4, 1983, and reply comments must be received by April 19, 1983.

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

FOR FURTHER INFORMATION CONTACT: Walter E. Weaver, Private Radio Bureau (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Radio.

47 CFR Part 81

Coast stations, Communications equipment.

47 CFR Part 83

Communications equipment, Ship stations.

In the Matter of: Amendment of Parts 2, 81 and 83 to provide for facsimile communications in the maritime mobile service PR Docket No. 83-90.

Adopted: February 9, 1983.

Released: March 3, 1983.

1. In this Notice of Proposed Rule Making we are proposing to provide for facsimile communications between coast stations and vessels on the high seas. We are particularly interested in comments concerning the frequencies to be assigned to coast stations and the technical standards to be included in the rules to assure intercommunication capability between ship and coast stations.

Nature of Facsimile Service

2. Facsimile essentially involves the electronic transmission and reproduction of documents.[1] An image is scanned at the input terminal, transmitted to a receiving station and duplicated on paper. Section 2.201 of the Commission's rules provides two modes for the transmission of facsimile.[2] Whichever mode is used, the received signal is demodulated by the receiver to provide audio input to the facsimile machine for the reproduction of the document. Thus, for facsimile to be successfully employed in the maritime mobile service the facsimile equipment installed at coast stations and aboard ship must be capable of communicating one with the other. To be compatible the facsimile equipment at both terminals must do a substantial number of functions in the same way, at the same time, and in synchronization. Since equipment currently used aboard ship and at coast stations employs single sideband suppressed carrier (2.8F4 emission), we are proposing this mode for marine facsimile.

Ship Station Facsimile Frequencies

3. Currently, except for Government weather facsimile broadcasts, there are no provisions in the maritime mobile service for document transmission by facsimile between coast stations and vessels on the high seas. We have received a number of informal inquiries from the maritime industry concerning facsimile service for vessels on the high seas. We believe there is a need for facsimile communications in this service.[3] Therefore, we propose that two families of assigned frequencies be made available for use by ship stations for transmission to public coast stations as follows: Family #1: 2070.5, 4160.6, 6238.6, 8326, 12485, 16654 and 22186 kHz; and Family #2: 2076.5, 4168, 6242.6, 8341.5, 12489, 16658 and 22190 kHz.[4] Particulars of the emission are: occupied bandwidth, 3.0 kHz, emission designator 2.8F4 (suppressed carrier single sideband, modulated by a frequency-shifted sub-carrier of 1900 Hz). The two families of frequencies are in band which are currently allocated by FCC and ITU regulations to the maritime mobile service.[5] They will be available to government and industry on a coequal shared basis.

Coast Stations Facsimile Frequencies

4. As to which frequencies should be used by coast stations for transmission of facsimile to ship stations, we are describing two possible arrangements, although there may be others. First, there are the bands designated in Appendix 31 (App. 15 Mar2) of the ITU Radio Regulations as "Frequencies assignable to coast stations for wide-band A1A or A1B Morse telegraphy, facsimile, special and data transmission systems and direct-printing telegraphy systems". However, these were long ago assigned and registered for use by the world's coast stations for A1 Morse telegraphy. Clearing usable 3 kHz slots in these bands for facsimile appears to be impractical at this time. Second, there are the bands which were designated in the proceeding to implement the Final Acts of the World Administrative Radio Conference, Geneva, 1979,[6] available for use by stations in the maritime mobile service (Part 81). Generally, these band are shared with the Fixed Service, as well as with other services. These shared bands would become available upon finalization of the proceeding in General Docket 80-739. Regardless of whether frequencies are taken from the coast telegraph or from the shared bands (referred to above), responsibility for initial selection would rest with the public coast station licensee. However, if the selected frequency is determined

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[1] The ITU Radio Regulations define facsimile as: "A system of telecommunication for the transmission of fixed image, with or without half-tones, with a view to their reproduction in a permanent forum." The IEEE Dictionary provides more detail: "The process, or the result of the process, by which fixed graphic material including pictures or images is scanned and the information converted into signal waves that are used either locally or remotely to produce, in record form, a likeness (facsimile) of the subject copy."

[2] By modulation of the main carrier with a frequency-modulated audio frequency subcarrier or by direct frequency-modulation of the main carrier.

[3] We are presently investigating the possibility of permitting facsimile, data and other transmissions over non-exclusive maritime radiotelephone frequencies. For example, it may be possible to use any transmission mode that can be contained within a 3.0 kHz occupied bandwidth of a radiotelephone channel provided such transmissions do not increase interference.

[4] Carrier frequencies: 2019, 4159.2, 6237.2, 8324.6, 12483.6, 16652.6, 22184.6; 2075, 4166.6, 6241.2, 8340.1, 12487.6, 16656.6, 22188.6.

[5] See Section 2.106 Table of Frequency Allocations in the Commission's Rules.

[6] Gen. Docket No. 80-739, Implementation of the Final Acts of the 1979 WARC, released December 30, 1982 (FCC 82-506).

to be unavailable the staff will endeavor to suggest an alternate frequency. Therefore, at this time we have not included provision in the attached Appendix regarding the frequencies to be used by public coast stations. Comments on these two arrangements as well as other suggested arrangements are invited.

Transmission and Equipment Standards

6. As indicated in paragraph 2 above, sending and receiving terminals must share some common system parameters for successful document transmission. Comments are requested, however, as to what degree specified standards are necessary to provide compatability. We note that compatability on land line circuits exists in spite of multiple facsimile standards. Given the competitive pressures users face to provide adequate communications services, the investment in existing equipment, the availability of translation devices, and the speed with which technology changes, the advantages of mandated standards might be outweighed. Thus, we seek comments on which, if any, technical standards for facsimile equipment should be included in the rules. Commenters are also requested to examine the specifications listed in the Appendix and respond to the following questions:

(a) What level of compatability is necessary or desirable for facsimile systems? For example, it is noted that meteorological systems use a high modulating frequency to represent black and a low frequency to represent white while document systems use the reverse. CCIR Report 588–1 does not standardize this particular characteristic since most facsimile recorders can receive both. Similarly, CCITT Recommendations permit the use of more than one scanning line frequency, which affects document transmission speed. To what extent would the proposed standards unnecessarily limit operational flexibility?

(b) If standards are considered necessary, what are the advantages/disadvantages of establishing a "sunset" date after which the specified standards would no longer be effective?

Proposal

7. Accordingly, we propose to amend Parts 2, 81, and 83 of the Commission's rules as set forth in the attached Appendix to provide for the use of facsimile in the maritime mobile service. The amendment to Part 2, Section 2.106, will add a new U.S. footnote (USXX6). Footnote USXX6 covers the agreement with the Government regarding shared use of the facsimile frequencies proposed in the Appendix in Section 83.332(b). Interested parties are requested to provide comments in response to the specific subjects set forth in paragraphs 3 and 6 above. Other relevant comments are also welcome.

8. The proposed amendments to the Commission's rules set forth in the attached Appendix are issued under the authority contained in Sections 4(i) and 303 (b), (c), (3), (g) and (r) of the Communications Act of 1934, as amended.

Comments

9. Under procedures set out in Section 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before April 4, 1983, and reply comments on or before April 19, 1983. 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.

10. 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.

11. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any writtten 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 the 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.

12. The rules proposes herein would provide for facsimile service in the Maritime Mobile Service. It is intended that the communications offered by public coast stations and available to ships at sea be extended by the addition of facsimile. However, no additional equipment or expanded service would be mandated by their rules. Therefore, the Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–254) do not apply to this rulemaking proceeding, because the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

13. Regarding questions on matters covered in this document contact Walter E. Weaver, Private Radio Bureau, (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 2, 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. In § 2.106, under the heading "United States Footnotes", add a new USXX6, to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

USXX6 In the Bands designated for ship wideband telegraphy, facsimile and special transmission systems, the following assignable frequencies are available to non-Government stations on a shared basis with Government stations: 2070.5, 2072.5, 2074.5, 2076.5, 4160.6, 4168, 6238.6, 6242.6, 8326, 8341.5, 12485, 12489, 16654, 16658, 22186 and 22190 kHz.

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

1. In § 81.131, paragraphs (b)(2) and (b)(3) are amended to read as follows:

§ 81.131 Authorized frequency tolerance.

* * * * *

(b)(2) From 1605 to 4000 kHz:

For A3A, A3H, A3J and F4 emissions.....20 Hz
For other than A3A, A3H, A3J and F4 emissions.....50 Hz

(b)(3) From 400 to 27,500 kHz:

For A3A, A3B, A3H, A3J and F4 emissions.....20 Hz
For narrow-band direct-printing telegraph and data transmission systems.....15 Hz

* * * * *

2. In § 81.132, paragraph (a)(1) is amended and a new paragraph (g) is added, to read as follows:

§ 81.132 Authorized classes of emission.

(a) * * *

Frequency band	Classes of emission
(1) Coast stations using telegraphy:	
14 to 160 kHz	A1.
	A1, A2 or A2H for distress urgency and safety signals or any communications preceded by one of these signals.
400 to 535 kHz	A1 and A2 or A2H.
2035 to 27,500 kHz	A1 on frequencies listed in § 81.206; F1 on frequencies listed in § 81.204(c); only as authorized by the Commission on frequencies listed in § 81.206; and F4 on frequencies listed in § 81.213.

* * * * *

(g) For the purpose of this part, 2.8F4 emission means facsimile transmitted by a suppressed carrier single sideband, carrier modulated with a frequency-shifted audio frequency subcarrier.

3. In § 81.133, emission F4 (2.8F4) is added to the table of paragraph (a), to read as follows:

§ 81.133 Authorized bandwidth.

(a) * * *

Classes of emission	Emission designator	Authorized band width (kHz)
A1	0.16A1	0.4
A2	2.66A2	2.8
A3	6A3	8.0
F1	[1]0.3F1	[1]0.5
F1	[2]16F1	[2]20
F3	[2]16F3	[2]20
F4	[4]16F4	[4]20
F4	[5]2.8F4	[5]3.0
P0	Variable	Variable
A3A	2.8A3A	[3]3.0
A3H	2.8A3H	[3]3.0
A3J	2.8A3J	[3]3.0

[1] Narrow-band direct-printing telegraph and data transmission systems.
[2] Radiotypewriter in the band 216–220 MHz.
[3] Applicable when maximum authorized frequency deviation is 5 kHz.
[4] Facsimile in the band 216–220MH.
[5] Facsimile in the band 2035 to 27,500 kHz.
[6] Transmitters type accepted prior to December 31, 1969, for emissions A3A, A3H, and A3J and an authorized bandwidth of 3.5 kHz may continue to be operated. These transmitters will not be authorized in new installations.

* * * * *

4. A new § 81.144 is added to read as follows:

§ 81.144 Facsimile equipment.

Facsimile equipment operating on frequencies between 2035 kHz and 27,500 kHZ designated for use for facsimile shall fulfill the following conditions:

(a) Frequency-shifted audio frequency subcarrier: center frequency of 1900 Hz; frequency 2300 Hz corresponding to black; and frequency 1500 Hz corresponding to white. The frequency 1500 Hz is also used for the phasing signal.

(b) A drum diameter of 70 millimeters with a drum rotation speed of 90 revolutions per minute.

(c) Index of cooperation: 264.

(d) Factor of cooperation: 829.

(e) Scanning density: 3.77 lines per millimeter.

(f) Total length of scanning line: 220 millimeters.

(g) Total number of scanning lines for a document 297 millimeters in length: 1120.

(h) Synchronization: Standard of frequency which is better than $\pm$ 5 parts in 10^6.

(i) Phasing: As set forth in CCITT Recommendation T. 1.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.131, subparagraphs (b)(4)(i), (b)(4)(ii), (b)(7)(iii) are amended to read as follows:

§ 83.131 Authorized frequency tolerance.

* * * * *

(b) * * *

(4) Ship stations from 1605–2070 and 2080 to 3500 kHz:

(i) For transmitters using other than A3A, A3H, A3J and F4 emissions, type accepted or type approved before November 30, 1977.....200
(ii) For transmitters using A3A, A3H, A3J, and F4 emissions, type accepted or type approved before November 30, 1977.....50Hz

* * * * *

(7) Stations when using frequencies within the band 4000–27500 kHz:

* * * * *

(iii) Ship stations using A3A, A3H, A3J, or F4 emissions with transmitter type accepted or type approved:
(a) Before November 30, 1977.....50Hz
(b) After November 30, 1977.....20Hz

* * * * *

2. In § 83.132, subparagraph (a)(1)(i) is amended and a new paragraph (g) is added, to read as follows:

§ 83.132 Authorized classes of emission.

* * * * *

(a) * * *

Frequency band	Classes of emission
(1) Stations using radiotelegraphy:	
(i) 100 to 160 kHz	A1.
160 to 525 kHz	A1 and A2, or A2H.
2080 to 27,500 kHz	A1 or F4 Survival Craft stations may in addition use A2 or A2H.
2070 to 2080	F4. Wide-band telegraphy and special transmission systems. Manual International Morse code and telephony are excluded.
1605 to 2080 kHz in Alaska.	A1.

* * * * *

(g) For the purpose of this part, 2.8F4 emission means facsimile transmitted by a suppressed carrier single sideband, carrier modulated with a frequency-shifted audio frequency subcarrier.

3. In § 83.133, emission F4 (2.8F4) is added to the table of paragraph (a), to read as follows:

§ 83.133 Authorized bandwidth.

(a) * * *

Classes of emission	Emission designator	Authorized bandwidth (kHz)
A1	0.16A1	0.4
A2	2.66A2	2.8
A3	6A3	8.0
A9	[1]3.2A9	[1]25.0
F1	[2]0.3F1	[2]0.5
F1	[2]16F1	[2]20.0
F3	[2]16F3	[2]20.0

Classes of emission	Emission designator	Authorized bandwidth (kHz)
F4	[8]16F4	[9]20.0
F4	[4]2.8F4	[4]3.0
F9	[1]14.4F9	[1]20.0
F9	[5]20,000F9	[5]20,000
P0	[6]Variable	[6]Variable
A3A	2.8A3A	[7]3.0
A3H	2.8A3H	[7]3.0
A3J	2.8A3J	[7]3.0

[1] Applicable only to emergency position-indicating radiobeacon stations.
[2] Narrow-band direct-printing telegraph and data transmission systems.
[3] Radiotoletypewriter in the band 216–220 MHz.
[4] Applicable when maximum authorized frequency deviation is 5 kHz. See paragraph (c) of this Section.
[5] Facsimile in the band 216–220 MHz.
[6] Facsimile within the band 2070 to 27,500 kHz.
[7] Transmitters type accepted prior to December 31, 1969, for emissions A3A, A3H, and A3J and an authorized bandwidth of 3.5 kHz may continue to be operated. These transmitters will not be authorized in new installations.
[8] Applicable to marine hand held radars.

4. A new § 83.147 is added to read as follows:

§ 83.147 Facsimile equipment.

Facsimile equipment operating on frequencies between 2070 kHz and 27,500 kHz designated for use for facsimile shall fulfill the following conditions:

(a) Frequency-shifted audio frequency subcarrier: center frequency of 1900 Hz; frequency 2300 Hz corresponding to black; and frequency 1500 Hz corresponding to white of 2300 Hz. The frequency 1500 Hz is also used for the phasing signal.

(b) A drum diameter of 70 millimeters with a drum rotation speed of 90 revolutions per minute.

(c) Index of cooperation: 264.

(d) Factor of cooperations: 829.

(e) Scanning density: 3.77 lines per millimeter.

(f) Total length of scanning line: 220 millimeters.

(g) Total number scanning lines for a document 297 millimeter in length: 1120.

(h) Synchronization: Standard of frequency which is better than ± 5 parts in 10^6.

(i) Phasing: As set forth in CCITT Recommendation T.1.

§ 83.324 [Amended]

5. In § 83.324, paragraph (h) is removed.

6. A new § 83.332 is added to read as follows:

§ 83.332 Assignable frequencies—Facsimile.

(a) Ship radiotelegraph working frequencies—facsimile—non-paired with coast station frequencies, for use in the bands between 2070 and 27,500 kHz are set forth in paragraph (b), below. The frequencies are available for use by radiotelegraph ship stations authorized to employ facsimile and are subject to the applicable provisions of Subpart E of this part.

(b) Ship transmit only:

Family No. 1 (kHz)		Family No. 2 (kHz)	
Carrier	Assigned	Carrier	Assigned
2069.1	2070.5	2075.1	2076.6
4159.Z	4160.6	4166.6	4168
6327.2	6238.6	6241.2	6242.6
8324.6	8326	8340.1	8341.5
12483.6	12485	12487.6	12489
16652.6	16654	16656.6	1665
21184.6	22186	22188.6	22190

[FR Doc. 83-6063 Filed 3-8-83; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the U.S. Breeding Population of the Wood Stork

Correction

In FR Doc. 83–5010 beginning on page 8402 in the issue of Monday, February 28, 1983, make the following correction:

On page 8402, third column, under "B. *Overutilization for commercial, recreational, scientific or educational purposes*", the words "Not available" should have read "Not applicable".

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 48, No. 47
Wednesday, March 9, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Federally Licensed Cotton Warehouses; Waiver of Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of Waiver of Fees for Federally Licensed Cotton Warehouses.

SUMMARY: This action serves as notice to the warehousemen licensed under Regulations for Cotton Warehouses, U.S. Warehouse Act (7 U.S.C. 251) and all other interested parties that pursuant to section 156(d) of the Omnibus Budget Reconciliation Act (95 Stat. 374), the Secretary of Agriculture has determined that fees for cotton warehouses licensed pursuant to the U.S. Warehouse Act should be waived for fiscal year 1983 to insure that the licensing and inspection procedures for cotton warehouses are preserved.

FOR FURTHER INFORMATION CONTACT: Orval Kerchner, Chief, Warehouse Development Branch, Warehouse Division, Agricultural Marketing Service, Department of Agriculture, Washington, DC 20250 (202–447–3616).

SUPPLEMENTARY INFORMATION: On December 30, 1981, the Department of Agriculture published regulations 46 FR 63198 specifying fees to be charged warehousemen under provisions of the U.S. Warehouse Act for licenses and examination or inspection of warehouses. Such fees were mandated by section 158 of the Omnibus Budget Reconciliation Act of 1981—Pub. L. 97–35 (95 Stat. 375) which amended the U.S. Warehouse Act to require that such fees should be assessed for and should cover the costs of licensing persons to classify, inspect, grade, sample or weigh agricultural products and the examination or inspection of warehouses, annual warehouse licenses issued to warehousemen, and any changes thereto. The fees are to cover as nearly as practicable, the costs of providing such services or licenses, including administrative and supervisory costs.

Fee schedules were published for all commodities for which there were effective regulations as of October 1, 1981, execpt cotton. Pursuant to section 156(d) of the Omnibus Budget Reconciliation Act (95 Stat. 374), the Secretary determined that such fees and charges relating to the warehousing of cotton pursuant to the U.S. Warehouse Act should not be charged for fiscal year 1982 to insure that the licensing and inspection procedures for cotton warehouses were preserved. Appropriated funds were provided to accomplish this. Therefore, the proposal to amend Part 101 of the Regulations for Cotton Warehouses published in the September 4, 1981, issue of the Federal Register (46 FR 44680) was withdrawn.

The Secretary has reviewed the situation expected to exist in fiscal year 1983 and has determined that fees and charges to cotton warehouses licensed pursuant to the U.S. Warehouse Act should not be charged for fiscal year 1983 to insure that the licensing examination and inspection procedures for cotton warehouse are preserved. Appropriated funds have been provided to permit this; therefore, any such fees relating to the warehousing of cotton are not required for fiscal year 1983. Fees relating to the warehousing of other agricultural commodities will be charged as published at 46 FR 63198.

Done at Washington, D.C. March 3, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-5999 Filed 3-8-83; 8:45 am]
BILLING CODE 3410-02-M

Office of the Secretary

Forms Under Review by Office of Management and Budget

March 4, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Marshall L. Dantzler, Acting Statistical Clearance Officer, (202) 447–6201.

Extension

• Soil Conservation Service
Conservation Plan of Operations
SCS–CPA–11, 11d and 12
On occasion
Farms: 21,000 responses; 10,500 hours; not applicable under 3504(h)
Glen E. Black (202) 382–1842
• Rural Electrification Administration
Uniform System of Accounts Prescribed for REA Electric Borrowers
REA Bulletin 181–1
On occasion
Businesses: 985 responses; 4,097,600 hours; not applicable under 3504(h)
Roland Heard (202) 382–5227
• Rural Electrification Administration
Manual for Preservation of Borrowers Records (Electric)
REA Bulletin 180–2
On occasion
Businesses: 985 responses; 1,024,400 hours; not applicable under 3504(h)
Roland Heard (202) 382–8227

Reinstatement

• Agricultural Stabilization and Conservation Service
Supplemental Qualification Statement—Agricultural Program Specialist GS 1145–5/7
ASCS 650

On occasion
Individuals: 1,000 responses; 2,000 hours; not applicable under 3504(h)
Donald L. Samuels (202) 447–7517

Marshall L. Dantzler,

Acting Statistical Clearance Officer.

[FR Doc. 83-5938 Filed 3-8-83; 8:45 am]

BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

[Docket 41077]

American International Airways, Inc., Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to him.

Dated at Washington, D.C., March 3, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-6017 Filed 3-8-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41306]

Unicorn Air, Ltd., Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on March 21, 1983, at 9:30 a.m. (local time), Room 1027, Main Universal Building, 1825 Connecticut Ave., NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., March 4, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-6018 Filed 3-8-83; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

New Jersey Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Jersey Advisory Committee to the Commission will convene at 6:30 p.m. and will end at 8:30 p.m., on March 24, 1983, at the Ramada Inn, Naricon Avenue, East Brunswick, New Jersey. The purpose of this meeting will be to discuss the program plans for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Clyde Allen, 620 Sheridan Avenue, Plainfield, New Jersey, 07060, (212) 572–7577 or the Eastern Regional Office, Jacob K. Javits Building, 26 Federal Plaza, Room 1639, New York, N.Y. 10278, (212) 264–0400.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 3, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-5961 Filed 3-8-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 2-83; Foreign-Trade Zone 27]

Application for Expansion; Boston, Massachusetts

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Massachusetts Port Authority (Massport), grantee of Foreign-Trade Zone 27 in Boston, Massachusetts, requesting authority to expand its zone project in Boston, within the Boston Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u) and the regulations of the Board (15 CFR Part 400). It was formally filed on March 1, 1983. The applicant is authorized to make this proposal under Chapter 711 of the Acts of the Commonwealth of Massachusetts, 1971.

On April 5, 1977, Massport received authority to establish a foreign-trade zone project (Board Order 116, 42 FR 18901, 4–11–77). The zone was expanded in 1979 (Board Order 144, 44 FR 19502, 4–3–79), and now involves public warehousing and 20-acres of open space in the Commonwealth Pier area and nearby Boston Marine Industrial Park. Since activation in September 1980, the zone has been used by a number of firms for a variety of items ranging from textiles to electronic products.

Massport now requests an expansion to include a site at the airport. It will cover 20 acres within the 90-acre Bird Island Flats section of Logan International Airport, which is being developed as a high-tech industrial park for the electronics and computer industries, called the Mass Tech Center. The proposed zone site is regarded as an important feature to serve the international trade needs of the Center.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, Massachusetts 02110; and Colonel Carl B. Sciple, Division, Engineer, U.S. Army Engineer Division New England, 424 Trapelo Road, Waltham, Massachusetts 02154.

Comments concerning the proposed zone expansion are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before April 8, 1983.

A copy of the application is available for public inspection at each of the following locations:

Office of the Director, U.S. Dept. of Commerce District Office, 441 Stuart Street, 10th Floor, Boston, Massachusetts 02116 Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania, NW., Room 1872, Washington, D.C. 20230.

Dated: March 4, 1983.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 83-5989 Filed 3-8-83; 8:45 am]

BILLING CODE 3510-25-M

[Docket No. 3-83; Foreign-Trade Zone 23, Erie County, New York]

Application for Subzone at Xerox Plant in Webster, New York

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Erie, New York, grantee of Foreign-Trade Zone 23, requesting authority for a special-purpose subzone at the photocopier manufacturing plant of Xerox Corporation in Webster, Monroe County, New York, adjacent to the Rochester Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 1, 1983. Both Erie and Monroe Counties have authority to apply for zones within their jurisdictions under New York law. Because there is no public zone project in the latter county, the President of the Monroe County

Legislature requested that Erie make the application. County counsel for Erie issued an opinion that Erie has authority to apply under these circumstances.

The subzone would cover 102 acres of the Xerox Corporation's 465-acre photocopier manufacturing plant, located at 800 Phillips Road in the Village of Webster. The plant employs some 6,400 persons, one-fourth of which are involved in export-related operations. Although, the plant produces a full range of copiers, the subzone would be used primarily for production of small ones, for which 90 percent of the parts are imported. Foreign components include power supply and transformers, clutches, springs, lenses and other specialized copier components.

Zone procedures would exempt Xerox from duty payment on foreign components used for its exports, which now account for about 20 percent of plant production and is projected to amount to 40 percent by the end of 1984. On its domestic sales, the company will be able to take advantage of the same duty rate available to importers of complete copiers. The average duty rate for the copier parts Xerox imports is 6.1 percent, whereas the duty rate for complete copiers is 4.5 percent. This duty differential is one of the factors which is causing the company to consider importing small copiers rather than producing them domestically. Subzone status, would rationalize Customs costs, improving the competitiveness of this plant in relation to copier plants abroad.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The committee consists of Dennis Puccinelli (Chairman), Foerign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, Massachusetts 02110; and Colonel Robert R. Hardiman, District Engineer, U.S. Army Engineeer District Buffalo, 1776 Niagara Street, Buffalo, New York 14207.

Comments concerning the proposed zone expansion are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before April 8, 1983.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 100 State Street, Room 611 Rochester, New York 14614

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania, NW, Room 1872, Washington, D.C. 20230

Dated: March 4, 1983.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 83-5968 Filed 3-8-83; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance; Frank Walter Sportswear Contractors, Inc., et al.

Petitions have been accepted for filing from the following firms: (1) Frank Walter Sportswear Contractors, Inc., 801 Crocker Street, Los Angeles, California 90021, producer of women's and girls' blouses, men's shirts, and girls' dresses and pants (accepted January 24, 1983); (2) B.C. Breakfield Enterprises, Inc., 265 Via Del Monte, Oceanside, California 92054, producer of women's coats (accepted January 25, 1983); (3) Gym Master Company, 3200 South Zuni Street, Englewood, Colorado 80110, producer of gymnasium equipment and outhouses (accepted January 31, 1983); (4) Boston Machine Works Company, 17 Willow Street, Lynn, Massachusetts 01903, producer of footwear machinery and parts (accepted January 31, 1983); (5) Plasco, Inc., 4080 Morrison Drive, Gurnee, Illinois 60031 producer of disposable plastic medical products (accepted February 2, 1983); (6) Seventeen South Garment Company, Inc., Box 1468, Elizabeth City, North Carolina 27909, producer of children's coats, jackets and rompers (accepted February 2, 1983); (7) Outdoor Venture Corporation, P.O. Box 337, Stearns, Kentucky 42647, producer of tents, awnings, canopies, screen houses and sleeping bags (accepted February 4, 1983); (8) Lakeside Vineyard, Inc., 13581 Red Arrow Highway, Harbert, Michigan 49115, producer of wine (accepted February 4, 1983); (9) Harry Levine Corporation, 20 West 33rd Street, New York, New York 10001, producer of handbags (accepted February 7, 1983); (10) Alloy Casting of Louisiana, Inc., P.O. Box 9389, Shreveport, Louisiana 71109, producer of steel casting for valves, pumps and fittings (accepted February 7, 1983); (11) Antietam Footwear, Inc., 113 Summit Avenue, Hagerstown, Maryland 21740, producer of men's, women's and children's footwear (accepted February 7, 1983); (12) Boston Digital Corporation, 86 South Street, Hopkinton, Massachusetts 01748, producer of machine tools (accepted February 7, 1983); (13) Cinderella Clothing Industries, Inc., 640 Allendale Road, King of Prussia, Pennsylvania 19406, producer of children's dresses, pants, tops and shorts (accepted February 7, 1983); (14) Quaker Stove Company, P.O. Box E, Trumbauersville, Pennsylvania 18970, producer of stoves and fireplace inserts (accepted February 7, 1983); (15) Vatco Industries Corporation, 184 Everett Street, Allston, Massachusetts 02134, producer of automobile seat covers and cushions (accepted February 7, 1983); (16) Vineland Fireworks Company, Inc., Main & Garden Roads, Vineland, New Jersey 08360, producer of fireworks (accepted February 7, 1983; (17) J.W. Gold Sculptors International, Inc., 1421 South Beretania Street, Honolulu, Hawaii 96814, producer of jewelry (accepted February 8, 1983); (18) Dame Belt & Bag Company, Inc., 636 11th Avenue, New York, New York 10036, producer of handbags and belts (accepted February 8, 1983); (19) Soundmates, Inc., 796 29th Avenue, S. E., Minneapolis, Minnesota 55414, producer of loudspeakers (accepted February 10, 1983); (20) Forest Hill Sportswear Company, Inc., 63 Endicott Street, Boston, Massachusetts 02113, producer of women's blazers (accepted February 10, 1983); (21) Western Stoneware Company, 521 West Sixth Street, Monmouth, Illinois 61462, producer of stoneware dishes (accepted February 11, 1983); (22) First Embroidery Corporation, P.O. Box 4499, Carolina, Puerto Rico 00628, producer of women's and girls' underwear, blouses and dresses (accepted February 14, 1983); (23) Sims Castings Corporation, 2170–76 East Erie Boulevard, Syracuse, New York 13224, producer of aluminum castings (accepted February 14, 1983); (24) Bullard Manufacturing Company, Inc., 726 Hiawatha Boulevard West, Syracuse, New York 13204, producer of stoves and fireplace inserts (accepted February 15, 1983); (25) Tel Ray Electronics Manufacturing Company, Inc., 6855 Vineland Avenue, North Hollywood, California 91605, producer of sound modification equipment (accepted February 14, 1983); (26) Isley Knitting Mills, Inc., P.O. Drawer 207, Graham, North Carolina 27253, producer of men's and women's sweaters and shirts (accepted February 16, 1983); (27) Page Accessories, Inc., 132 Dale Street,

West Babylon, New York 11704, producer of metal apparel belts and chains (accepted February 22, 1983); (28) Carolina Tables of Hickory, Inc., P.O. Box 2690, Hickory, North Carolina 28603, producer of household tables (accepted February 23, 1983); and (29) Mi-Li, Inc., 182 Washington Street, Quincy, Massachusetts 02169, producer of women's skirts (accepted February 23, 1983).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A-95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,

Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 83-5987 Filed 3-8-83; 8:45 am]

BILLING CODE 3510-25-M

National Institutes of Health et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

Correction

In FR Doc. 83-4724 beginning on page 8102 in the issue of Friday, February 25, 1983, make the following corrections:

1. On page 8102, third column, the entry for the University of Illinois now designated "Docket No. 81-00049" should have been designated "Docket No. 82-00049".

2. In the same column, the entry for Harvard University now designated "Docket No. 81-00071" should have been designated "Docket No. 82-00071".

3. On page 8103, first column, the entry for the University of Washington now designated "Docket No. 81-00088" should have been designated "Docket No. 82-00088".

BILLING CODE 1505-01-M

Canned Mushrooms From the People's Republic of China; Postponement of Preliminary Antidumping Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of Preliminary Antidumping Determination.

SUMMARY: The preliminary determination of canned mushrooms from the People's Republic of China is being postponed, and we intend to issue it not later than May 16, 1983.

EFFECTIVE DATE: March 9, 1983.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Michael Ready, 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) 377-3963 or 377-2613.

SUPPLEMENTARY INFORMATION: On November 8, 1982, we announced our initiation of an antidumping investigation to determine whether canned mushrooms from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value within the meaning of the antidumping law. The notice stated that we would issue a preliminary determination by March 28, 1983, if the investigation proceeded normally.

As detailed in the notice of initiation of the antidumping investigation, the petition alleges that imports from the People's Republic of China of canned mushrooms are being, or are likely to be, sold in the United States at less than fair value. On February 17, 1983, counsel for the petitioner, the Four "H" Company, requested that the Department extend the period for the preliminary determination until 210 days after the date of receipt of the petition in accordance with section 733(c)(1)(A) of the Tariff Act of 1930, as amended.

We have determined that additional time is necessary to make the preliminary determination. Accordingly, the period for determination in this case is hereby extended. We intend to issue a preliminary determination not later than May 16, 1983.

This notice is published pursuant to section 733(c)(2) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration

March 1, 1983.

[FR Doc. 83-6022 Filed 3-8-83; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Determination of Sales at Less Than Fair Value; Greige Polyester Cotton Printcloth From the People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Determination of Sales at Less than Fair Value: Greige Polyester/Cotton Printcloth from the People's Republic of China.

SUMMARY: We have preliminarily determined that Greige Polyester/Cotton Printcloth from the People's Republic of China is being sold,or is likely to be sold, in the United States at less than fair value. Therefore, we have notified the United States International Trade Commission (ITC) of our determination, and we have directed the United States Customs Service to suspend the 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 the posting of a bond for each such entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by May 27, 1983.

EFFECTIVE DATE: March 9, 1983.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Michael Ready, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-3963 or 377-2613.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminary determined that there is a reasonable basis to believe or suspect that griege polyester/cotton printcloth (printcloth) from the People's Republic of China (PRC) is being sold, or is likely to be sold, in the United States

at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

For the printcloth sold by China National Textiles Import and Export Corporation (Chinatex) the only exporter of the subject merchandise, we have found that the foreign market value exceeded the United States price on 100.0 percent of sales compared. These margins ranged from 20.0 percent to 30.8 percent. The weighted-average margin on all sales compared is 23.1 percent.

If this investigation proceeds normally, we will make a final determination by May 27, 1983.

Case History

On August 5, 1982, we received a petition from the American Textile Manufacturers Institute and certain member companies, filed on behalf of the United States industry producing greige polyester/cotton printcloth. The petition alleged that greige polyester/cotton printcloth from the People's Republic of China is being sold in the United States at less than fair value, and that such sales are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation on greige polyester/cotton printcloth. We notified the ITC of our action and intitiated this investigation on August 26, 1982 (47 FR 38569). The ITC informed the Department on September 20, 1982, that there is a reasonable indication that imports of greige polyester cotton/printcloth from the People's Republic of China are materially injuring, or are threatening to materially injure, a United States industry. Therefore, we proceeded with this investigation. On December 9, 1982, we determined this case to be "extraodinarily complicated," as defined in section 733(c) of the Act. Therefore, we extended the period for making a preliminary determination from January 12, 1983, until March 3, 1983 (47 FR 56376).

Questionnaires were presented to counsel for Chinatex on November 17, 1982, and to counsel for Hauafang Trading Company (an importer related to Chinatex within the meaning of section 771(13) of the Act) on November 30, 1982. Responses of both companies were received January 17, 1983. As discussed under Foreign Market Value, we determined that the PRC is a state-controlled-economy country for the purpose of this investigation. On January 17, 1983, a questionnaire was presented to a printcloth manufacturer in Thailand who agreed to act as a surrogate for this investigation.

Scope of Investigation

The product covered by this investigation is unbleached and uncolored printcloth fabric (other than 80 x 80 type) in chief value of cotton, containing polyester, and currently provided for in items 326.26 through 326.40 of the Tariff Schedules of the United States. As of January 1, 1983, the appropriate statistical suffix is 32. Previously the appropriate statistical suffixes were 32 and 92. The term "printcloth" refers to plain-woven fabric, not napped, not fancy or figured, of singles yarn, not combed, of average yarn numbers 26 to 40, weighing not more than 6 ounces per square yard, of a total count of more than 85 yarns per square inch, of which the total count of the warp yarns per inch and the total count of the filling yarns per inch are each less than 62 percent of the total count of the warp and filling yarns per square inch.

Since Chinatex is the only exporter of greige polyester/cotton printcloth from the People's Republic of China, we limited our investigation to that company.

This investigation covers the period from March 1, 1982 through August 31, 1982.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used both the purchase price and the exporter's sales price of the subject merchandise to represent United States price. For sales by Chinatex made to unrelated purchasers prior to the importation of the merchandise into the United States, purchase price was used. For sales made through Huafang, the related trading company, the first sale to an unrelated purchaser occurred after importation of the merchandise into the United States; therefore, exporter's sales price was used.

We calculated purchase price based on the C&F price to the purchasers. Where appropriate, we made deductions for inland freight, ocean freight, and dock storage.

All exporter's sales price transactions were made from stock. We calculated exporter's sales price based on the price Huafang sold the merchandise to unrelated purchasers. Where appropriate, we made deductions from and adjustments to this price for commissions, customs duty, insurance, inland and ocean freight, and for selling expenses incurred by Huafang in the United States.

In the case of purchase price transactions, conversions of Chinese to United States currency were based on the rate of exchange in effect on the date of purchase. In the case of exporter's sales price transactions, currency conversions were based on the rate of exchange in effect on the date of exportation.

Foreign Market Value

In accordance with section 773 of the Act, we used surrogate country prices to third countries to determine foreign market value. Petitioners alleged that the economy of the People's Republic of China is state-controlled to the extent that sales of the subject merchandise from that country do not permit a determination of foreign market value under 19 U.S.C. 1677b(a). After an analysis of PRC's economy, and careful consideration of the briefs submitted by the parties, the Commerce Department concluded that the PRC is a state-controlled-economy country for purposes of this investigation. Some of the factors that were involved in determining the state-controlled issue are that the major input, cotton, has production targets and prices set or heavily influenced by the state, and that the textile industry has a dual pricing structure that is heavily influenced by the state.

As a result, section 773(c) of the Act requires us to use prices or the constructed value of such or similar merchandise in a "non-state-controlled-economy" country. Our regulations establish a preference for foreign market value based upon sales prices. They further stipulate that, to the extent possible, we should determine sales prices on the basis of prices in a "non-state-controlled-economy" country at a stage of economic development comparable to the country with the state-controlled economy.

It was determined, after an analysis of countries which produce printcloth, that Thailand would be the most appropriate surrogate. We then secured the cooperation of a producer of printcloth in Thailand.

We based foreign market value on the prices at which the Thai producer sold printcloth to third country markets, because the producer made no sales of such or similar merchandise for

consumption in the home market of Thailand. The terms of sale for all third country sales were C&F. From the C&F price we made deductions, where applicable, for inland freight in Thailand, ocean freight, foreign inland freight in the country of destination, and sales commissions to unrelated parties. In the case of exporter's sales price comparisons, a further adjustment was made for directly related sales expenses incurred by the Thai producer in making third country sales. This adjustment was made pursuant to § 353.15(c) of the Commerce Regulations to offset the adjustment made for Huafang's selling expenses in the United States.

Some of the third country sales were preliminarily found to be made at prices which were less than the cost of producing the merchandise. These sales were therefore disregarded in the determination of foreign market value pursuant to § 353.7(a) of the Commerce Regulations. The remaining sales above the cost of production were determined to be adequate as a basis for determining foreign market value. A weighted-average of these above-cost prices was then calculated.

The product sold by the Thai producer to third country markets and the preponderence of the PRC product sold to the United States were both greige printcloth, 50 percent polyester and 50 percent cotton, of construction 78 x 54, with average yarn numbers of 35s, both warp and filling. The only difference in the two products was width.

The Thai sales to third countries were in 62 and 64 inch widths, whereas the PRC sales to the United States were of 48 inch width. Therefore, the net foreign market value and the United States prices were converted from a linear yard basis to a square yard basis for the purpose of making our comparisons.

Verification

We verified the information received from the Thai producer used in this preliminary determination. In accordance with section 776(a) of the Act, we will verify all data used in reaching a final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of greige polyester/cotton printcloth from the People's Republic of China subject to this investigation which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register.** The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted-average margin for greige polyester/cotton printcloth is 23.1 percent.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on March 30, 1983, at the United States Department of Commerce, room 4830, 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 10 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; (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by March 23, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

March 3, 1983.

[FR Doc. 83-6021 Filed 3-8-83; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determination; Certain Carbon Steel Pipe and Tube Products 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 certain carbon steel pipe and tube products, as described in the "Scope of Investigation" section of this notice. We estimate the amount of the benefits to be 19.5 percent of the f.o.b. value of the merchandise for Tubemakers of South Africa and 23.3 percent for all other South African manufacturers of this 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 May 23, 1983.

EFFECTIVE DATE: March 9, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Morrison, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377-3965.

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 certain carbon steel pipe and tub products, as described in the "Scope of Investigation" section of this notice. We find the net bounty or grant to be as represented in the following table and consisting of the following benefit amounts:

	Manufacturer (percent)	
	Tube-makers of South Africa	All others (including Brollo)
• Export incentive program—category B	0.0	3.8
• Export incentive program—category D	0.0	0.0
• Iron/Steel Export Promotion Scheme	19.5	19.5
• Total	19.5	23.3

Case History

On October 6, 1982, we received a petition from counsel for the Committee on Pipe and Tube Imports. The Committee consists of domestic companies which produce carbon steel pipe and tube products. The petition alleged that manufacturers, producers, or exporters in South Africa of certain carbon steel pipe and tube products receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. We found the petition to be sufficient, and on October 26, 1982, we initiated a countervailing duty investigation (47 FR 49057).

Since South Africa is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise under investigation 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, D.C., to the South African government of October 26, 1982. On November 19, 1982, we amended the scope of investigation and published notice of this amendment in the Federal Register (47 FR 53440). On December 10, 1982, we found that the case was extraordinarily complicated (47 FR 56377). The questionnaire response was received on January 31, 1983.

Scope of Investigation

For purposes of this investigation, the term "certain carbon steel pipe and tube products" includes electric resistance welded (ERW) carbon steel pipes and tubes with walls not thinner than 0.065 inch, of circular cross section, with an outside diameter of 0.375 inch or more but not exceeding 4.5 inches, as currently provided for in items 610.3241 and 610.3244 of the Tariff Schedules of the United States Annotated (TSUSA); ERW cold rolled carbon steel pipes and tubes with walls not thinner than 0.065 inch or not exceeding 0.1 inch, of any circular cross-sectional diameter with an outside diameter of 0.375 amd more, as currently provided for in item 610.3227 of the TSUSA; and ERW carbon steel pipes and tubes of any square or rectangular dimension with a wall thickness not less than 0.156 inch, as currently provided for in item 610.3955 of TSUSA; and ERW carbon steel pipes and tubes not suitable for use in the manufacture of ball or roller bearings of any square or rectangular dimension as currently provided for in item 610.4975 of the TSUSA.

Excluded from this investigation are ERW carbon steel pipes and tubes suitable for use in boilers, superheaters, heat exchangers condensers, feedwater heaters, or ball or rollers bearings, or conforming to A.P.I. specifications for oil well tubing and casing, or cold drawn pipes and tubes, or ERW carbon steel pipes and tubes imported with couplings.

Tubemakers of South Africa Limited (TOSA) and Brollo Africa Limited (Brollo) are the only known producers of products within the scope of investigation exported to the United States. According to responses from the respondents, no exports to the United States have been made of pipe and tube from South Africa under item 610.3227 of the TSUSA.

Analysis of Programs

The period for which subsidization is being measured is the corporate fiscal year ending September 30, 1982.

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 Maufacturers, producers, or Exporters of certain Carbon Steel Pipe and Tube Products

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in South Africa of certain steel pipe and tube products under the programs listed below:

Export Incentive Program

The South African Department of Industries, Commerce and Tourism has a general export incentive program, two parts of which were used in 1982. these 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 carbon steel pipe and tube products. 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 multipled 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.

Brollo receives a benefit under category B which was calculated to be 3.8 percent *ad valorem*. TOSA stated that it did not benefit from category B. 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 pecent *ad valorem* for TOSA.

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. As we have found in previous investigations of this program, 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. Brollo stated that it did not benefit from this program. Stewarts and Lloyds and its subsidiary TOSA stated that no benefit was received because they had a tax loss. However, we understand that under this circumstance, the tax deduction can be carrried forward. 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*.

Iron/Steel Export Promotion Scheme

The Iron/Steel Export Promotion Scheme rebate a fixed percentage of the f.o.b value of exports containing rolled, drawn, or forged steel to secondary producers if the exported product meets a value-added criterion. It is admistered by the South African Iron and Steel Industrial Corporation (ISCOR). The Department considers the Scheme to have provided an export subsidy, and therefore a countervailable bounty or grant under section 303(a)(1) of the Act. Section 771(5) of the Act equates "subsidy" with "bounty or grant" and provides illustrative examples of

subsidies. In the legislative history of the Act, the Senate Finance Committe in discussing section 771(5) said: "As under current law . . . a subsidy may be provided either by a government or governmental entity, subdivision, or customs union, or by a private party or group of private parties." Primary steel producers in South Africa manage a special fund levied at a rate of 4 Rand per ton of steel sold in the domestic market. 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 the assistance is 19.5 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 consititutes a bounty or grant. We have found that Brollo and TOSA take full advantage of this program on its exports of carbon steel pipe and tube.

II. Programs Preliminarily Determined Not to Confer Bounties of Grants to Manufacturers, producers, or Exporters of Certain Carbon Steel Pipe and Tube

We preliminarily derermine that no bounties or grants are being provided to manufacturers, producers or exporters in South Africa of certain carbon steel pipe and tube products under the programs listed below:

Preferential Prices for Primary Steel From ISCOR

ISCOR is South Africa's largest producer of primary steel. Over 99 percent of its stock is owned by the government of South Africa. We have no information that ISCOR sells primary steel to exporters at any rate other than that sold to manufacturers for domestic uses. The respondents purchase steel from ISCOR in arm's length transactions and are not related to ISCOR. Therefore, purchases of primary steel from ISCOR are preliminarily determined not to confer bounties or grants.

Reduced Ocean Freight Rates

The petition alleges that South African shippers benefitted from a program for reduced ocean freight rates if the products are disadvantaged with respect to foreign competition. We found no evidence of ocean freight rates for carbon steel pipe and tube products being reduced because of any program. In the Final Affirmative Countervailing Duty Determination on Certain Steel Products from South Africa, we said, "We did find evidence of variable ocean freight rates due to rate negotiation between shippers and carriers; however this variability does not constitute a bounty or grant under the Act," (47 FR 39379).

Preferential Railroad Rates

The South African Transport Services (SATS), a government-owned corporation, maintains a rate schedule that generally provides railroad rates for shipments of the pipe and tube products under investigation destined for export that are lower than domestic rates. These rates are charged per unit weight of cargo. The amount charged the shipper, the rate times the weight, is subject to a minimum weight requirement. The minimum weight associated with the export rate substantially exceeds the minimum weight for the domestic rate.

SATS has made the export rate available to all shippers after January 1, 1983, subject to the larger minimum weight requirement applicable to this rate. We determine that the rates afforded by SATS to exporters of certain carbon steel pipe and tube products are not provided on terms more favorable than those for domestic shippers and that they do not constitute a bounty or grant.

III. Program Preliminarily Determined Not To Be Used by Manufacturers, Producers, or Exporters of Certain Carbon Steel Pipe and Tube Products

We preliminarily determine that the followng programs are not used by the manufacturers, producers or exporters in South Africa of certain carbon steel pipe and tube products.

- Export incentive program—category A
- Allowances on harbor rates
- Pre- and Post-shipment financing
- Beneficiation allowances for base mineral processing, and
- Homeland develoment

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 all manufactured goods. The rebate was equal to 25 percent of the interest costs for financing exports.

The progam was discontinued on April 1, 1982. There is little likelihood that there are any exports of the subject merchandise shipped prior to that date, but not yet entered. Therefore, the benefit, it any, received for this program in the first quarter of 1982 is not included in the calculation of total estimated bounties or grants.

No other programs were found to confer 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 certain carbon steel pipe and tube products 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 the percentage of the f.o.b. value of the merchandise indicated at the beginning of this notice.

Public Comment

In accordance with § 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 April 14, 1983, 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 10 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 10 copies must be submitted to the Deputy Assistant Secretary by April 7, 1982. Oral presentation will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.43, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

March 4, 1983.

[FR Doc. 83-6023 Filed 3-8-83; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Results of Administrative Review of Countervailing Duty Order; Non-Rubber Footwear From Brazil

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on non-rubber footwear from Brazil. The review covers the period December 7, 1979 through December 31, 1980. As a result of the review, the Department has preliminarily determined the amount of the net subsidy to be 4.77 percent of the f.o.b. invoice price of the merchandise for the period December 7, 1979 through December 31, 1979 and 3.48 percent for 1980. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 9, 1983.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Laura Kneale, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On September 12, 1974, the Department of the Treasury ("Treasury") published in the **Federal Register** (39 FR 32903) a final countervailing duty determination concerning non-rubber footwear from Brazil. The notice stated that the Government of Brazil had provided bounties or grants on the manufacture, production or exportation of such merchandise within the meaning of section 303 of the Tariff Act of 1930 ("the Tariff Act").

On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from Treasury to the Department of Commerce ("the Department").

On January 4, 1980, T.D. 80-13 was published in the **Federal Register** (45 FR 1013) announcing the suspension of liquidation of all entries of such footwear exported from Brazil on or after December 7, 1979, and entered, or withdrawn from warehouse, for consumption on or after January 4, 1980. The Department published in the **Federal Register** of May 13, 1980 (45 FR 31455), a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Tariff Act, the Department has now conducted an administrative review of the countervailing duty order on non-rubber footwear from Brazil.

Scope of the Review

The merchandise covered by the review is non-rubber footwear, imported directly or indirectly from Brazil. Such imports are currently classifiable under items 700.0500 through 700.4575, 700.5400 through 700.5673, and 700.7200 through 700.9500 of the Tariff Schedules of the United States Annotated.

The review covers the period December 7, 1979, through December 31, 1980, and four programs found countervailable in the original investigation: preferential financing for exports, income tax exemptions for export earnings, and two export credit premiums, for the Goods Circulation Tax ("ICM") and the Industrial Products Tax ("IPI"). The review also covers eight programs which, although not included in the original investigation, are now alleged by the petitioner to confer subsidies on exports of non-rubber footwear from Brazil.

Analysis of Programs

(1) Preferential Financing for Exports. Under this program companies are declared eligible by the Department of Foreign Commerce of the Banco Central do Brasil ("CACEX") to receive working capital loans at preferential rates. These loans have a duration of up to one year. Each firm producing non-rubber footwear can obtain preferential financing for up to 40 percent of the value of its previous year's exports.

We calculated the subsidy under this program by multiplying the value of loans outstanding under the program during the period by the differential between the commercial interest rate and the preferential interest rate for each loan. In the absence of specific export data for the last three weeks of 1979, we calculated the outstanding principal for all of 1979 and included the portion of loans granted prior to 1979 that extended past January 1 of that year. For 1980, we prorated loans extending past December 31, 1980.

The commercial rate for short-term working capital is the rate established by the Banco do Brasil for discounting sales of accounts receivable. We choose this as the benchmark rate because information provided by the Government of Brazil indicates that working capital is normally raised within the Brazilian financial system through the sale of accounts receivable. The commercial rate includes the tax on financial transactions, from which loans under the preferential financing program are exempt, and varied from 26.40 to 37.98 percent during the period January 1, 1978, through December 31, 1980.

During the period of review, firms exporting non-rubber footwear had loans outstanding under Resolutions 515 (effective February 8, 1979), 602 (effective March 5, 1980) and 641 (effective October 22, 1980) of the Banco Central do Brasil. The effective annual rate for loans taken out under these resolutions ranged from 8.70 to 31.75 percent and the differential between the commercial and preferential rates ranged from 6.23 to 17.70 percent. We calculated the benefit conferred by the program to be 4.00 percent *ad valorem* for the period December 7, 1979 through December 31, 1979, and 2.32 percent *ad valorem* for the period December 7, 1979 through December 31, 1979, and 2.32 percent *ad valorem* for the period January 1, 1980 through December 31, 1980.

With the publication of successor Resolution 674 effective January 22, 1981, there was an increase in potential benefits under the program. The effective rate of interest for loans under this resolution is 44 percent. The comparable rate for discounting sales of accounts receivable is 72.00 percent plus the 4.60 percent tax on financial transactions. The differential is 32.6 percent.

To estimate the potential benefit and cash deposit of estimated countervailing duties for this program, we summed the prorated value of loans outstanding during the review period, and found an actual use rate of 22.46 percent. We then multiplied the differential between the new benchmark commercial and preferential interest rates by the loan use rate to find a potential benefit under this program of 7.32 percent *ad valorem*.

(2) Income Tax Exemptions for Export Earnings. Exporters of non-rubber footwear are eligible under this program for exemption from income tax of the percentage of profit attributable to export revenue. The Brazilian government calculates the tax-exempt fraction of profit as the ratio of export revenue to total revenue. The benefit equals the product of the amount of tax-exempt profit and the prevailing 35 percent corporate income tax rate. We therefore preliminarily determine the benefit from this program to be 0.43 percent *ad valorem* for the period December 7, 1979 through December 31, 1979, and 9.82 percent *ad valorem* for the period January 1, 1980 through December 31, 1980.

(3) IPI Export Credit Premium. The Brazilian government eliminated the IPI credit premium on December 7, 1979, but reinstated it on April 1, 1981. As a result, this program provided no benefit during the review period. Currently, the

Government of Brazil collects a tax on exports of non-rubber footwear to the United States which fully offsets the benefit received under this program. Therefore, for purposes of the cash deposit of estimated countervailing duties, the potential subsidy under this program is zero percent.

(4) ICM Export Credit Premium. This program, which provided Brazilian companies with an overrebate of a state value-added tax on goods destined for export, was eliminated by Convention 01–79 on January 12, 1979. Therefore, this program provided no benefit during the review period.

(5) Tax Reductions on Equipment Used in Export Production. Decree Law No. 1248 of December 2, 1975, authorizes the Commission for Export Incentives ("CIEX") to provide a reduction of up to 90% of the import duty and IPI tax on equipment and machinery imported by a company that makes minimum export commitments. One footwear exporter received a benefit under this program in 1980. Dividing this benefit by total exports of non-rubber footwear in 1980, we preliminarily determine an *ad valorem* benefit of 0.03 percent from this program. Because we have no information with regard to this program for 1979, we preliminarily applied the 0.03 percent benefit to that period as the best information available.

(6) Preferential Export Financing under CIC–CREGE 14–11. CIC–CREGE 14–11 is a program operated by the Banco do Brasil which provides preferential financing to exporters, who are then required to maintain a minimum fixed level of foreign exchange contracts with the Banco do Brasil. Exporters of non-rubber footwear participated in this program in 1980.

The Government of Brazil, in its questionnaire response, argues that the Banco do Brasil operates this program as a commercial endeavor in which it can make a profit and ensure access to foreign currency, satisfying its government-mandated foreign exchange obligations. However, the Brazilian government has not yet provided the Department with sufficient evidence to enable us to determine whether this program is operated in a manner consistent with commercial considerations. Therefore, we preliminarily determine this program to confer a subsidy.

To calculate the amount of benefit conferred under the program, we multiplied the prorated value of loans outstanding during 1980 by the differential between the commercial and preferential interest rates on each loan. Using the preferential rates for each loan (provided by the Brazilian government) and again using the rates for discounting accounts receivable as the commercial rates, the differential between the commercial and preferential rates ranged from 6.98 to 43.5 percent. We preliminarily determine the benefit conferred by the program to be 0.30 percent *ad valorem* for the period January 1, 1980 through December 31, 1980. We once again applied the 1980 rate to the portion of 1979 covered by the review as the best information available.

(7) Incentives for Trading Companies. Under Resolution 643, trading companies can obtain preferential export financing. One exporter of non-rubber footwear used the services of a trading company in 1980. However, the Government of Brazil did not provide us with information on whether the trading company received preferential financing on this transaction. Therefore, we calculated the benefit by multiplying the estimated loan amount by the estimated preferential interest rate differential. We estimated the loan amount by multiplying the amount of exports which the footwear exporter shipped through the trading company by the rate of maximum eligibility for preferential financing on exports of non-rubber footwear (40 percent). For the interest rate differential, we used the weighted-average differential for loans received in 1980 under Resolutions 602 and 641 (7.54 percent). We preliminarily determine the *ad valorem* benefit under this program to be 0.01 percent in 1980 and applied that figure to 1979.

(8) Fundo de Democratizacao do Capital das Empresas. This program, which provided Brazilian companies with export financing, was funded by the U.S. government through the Alliance for Progress. Under section 701(a) of the Tariff Act, the Department must determine whether "a country under the Agreement" or "a person who is a citizen or national of such a country, or a corporation, association, or other organization organized in such a country" is providing a subsidy with respect to a class or kind of merchandise. The United States, however, is not a "country under the Agreement," as defined by section 701(b). Therefore, the program is not countervailable.

(9) Other Programs. We also examined the following programs and preliminarily find them not to have been used by exporters of non-rubber footwear during the period of review:

a. The Commission for the Granting of Fiscal Benefits for Special Export Programs ("BEFIEX").

b. Preferential Financing for the Storage of Merchandise Destined for Export under Resolution 330.

c. Gold Draft of Exportation.

d. Export Credit Financing ("FINEX").

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the aggregate net subsidy conferred during the period December 7, 1979 through December 31, 1979 is 4.77 percent *ad valorem*, and 3.48 percent *ad valorem* for the period January 1, 1980 through December 31, 1980. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 4.77 percent of the f.o.b. invoice price on all shipments of Brazilian non-rubber footwear exported on or after December 7, 1979 and on or before December 31, 1979. The Department will instruct the Customs Service to assess countervailing duties of 3.48 percent for the f.o.b. invoice price on all shipments exported on or after January 1, 1980 and on or before December 31, 1980.

All unliquidated entries of this merchandise which were exported from Brazil before December 7, 1979 shall be liquidated at the applicable rates set forth in **Federal Register** notices dated May 17, 1977 (44 FR 28791), July 3, 1979 (44 FR 38839), September 28, 1979 (44 FR 55825), and February 26, 1980 (45 FR 12413).

Effective July 26, 1982, the Government of Brazil subjected exports of non-rubber footwear to the United States to an offseting export tax of 8 percent of the f.o.b. invoice price. Because of the increase in potential benefits under the preferential financing program and the reduction under the offsetting export tax, we calculate the potential aggregate net subsidy to be 0.48 percent. The Department considers this rate, since it is less than 0.50 percent, to be *de minimis*.

Therefore, the Department intends to instruct the Customs Service to waive the collection of a cash deposit of estimated countervailing duties, as provided by section 751 (a)(1) of the Tariff Act, on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10

days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: March 4, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-6020 Filed 3-8-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council's Salmon Plan Development Team; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Pacific Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended). The Council has established a Salmon Plan Development Team which will meet to discuss recreational and troll fishery management options for the 1983 season.

DATES: The public meetings will convene on Wednesday, March 9, 1983, at approximately 10 a.m. to 6 p.m.; reconvene on Thursday, March 10, and Friday, March 11, at approximately 8:30 a.m., adjourning at approximately 6 p.m., both days. Oral comments or questions by the public will be invited beginning at approximately 5 p.m., on March 9 and 10, and at approximately noon, on March 11.

ADDRESS: The public meetings will take place at the Oregon Department of Fish and Wildlife, Beaver Room, 520 S.W. Mill Street, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201; Telephone: (503) 221-6352.

Dated: March 7, 1983.

Richard B. Stone,

Acting Chief, Operations Coordination Group, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 83-6117 Filed 3-7-83; 1:44 pm]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on April 13-14, 1983, from 9:00 a.m. to 5:00 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to naval aspects of national security policy and related intelligence. These matters constitute classified information that is specially authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Commander K. M. Cummings, Executive Secretary, CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Telephone (703) 756-1205.

Dated: March 4, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-5971 Filed 3-8-83; 8:45 am]

BILLING CODE 3810-AE-M

Privacy Act of 1974; Addition of Systems of Records

AGENCY: Department of the Navy, Defense.

ACTION: Addition of a notice for system of records.

SUMMARY: The Department of the Navy proposes to add a new system of records to its inventory of systems of records subject to the Privacy Act of 1974.

DATES: The proposed action will be effective without further notice on April 8, 1983 unless comments are received which would result in a contrary determination.

ADDRESS: Any comments, to include written data, views or arguments concerning the action proposed should be addressed to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (Op-09B1P), Department of the Navy, The Pentagon, Washington, DC 20350. Telephone: (202) 694-2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy inventory of systems of records notices as prescribed by the Privacy Act have been published in the Federal Register at:

FR Doc. 81-674 (47 FR 2574) January 18, 1982
FR Doc. 81-9204 (47 FR 14944) April 7, 1982
FR Doc. 82-9844 (47 FR 15636) April 12, 1982
FR Doc. 82-12593 (47 FR 20018) May 10, 1982
FR Doc. 82-15596 (47 FR 25041) June 9, 1982
FR Doc. 82-23533 (47 FR 37948) August 27, 1982
FR Doc. 82-27420 (47 FR 44134) October 6, 1982
FR Doc. 82-27692 (47 FR 44381) October 7, 1982
FR Doc. 83-805 (48 FR 1338) January 12, 1983

The Navy submitted a new system report for this system under the provisions of 5 U.S.C. 552a(o) on February 3, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

March 4, 1983.

N01770-3

SYSTEM NAME:

Naval Academy Cemetery Records

SYSTEM LOCATION:

U.S. Naval Academy, Administration Building, Annapolis, Maryland 21402

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those eligible to reserve a lot for future burial in the Naval Academy Cemetery. Deceased individuals interred in the Naval Academy Cemetery.

CATEGORIES OF RECORDS IN THE SYSTEM:

State of Maryland Burial Transit Permit, Cemetery Interment Record (NDM-USNA-PWO-1170), U.S. Naval Academy Cemetery Records (NDW-USNA-DMC-5360/11) and correspondence to and from individuals.

Specifically, information contained on the forms or correspondence may be: full name, home address, rank, service, social security number, date and place of birth, date and place of death, marital status, name of father and mother, date and place of burial, lot number and other information relating to burial arrangements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5031; Title 10, Secs 1481–88; 44 U.S.C. 3101

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To maintain official records of individuals holding gravesite reservations in the Naval Academy Cemetery. Records are used to respond to general inquiries from individuals holding gravesites reservations. Verifications of eligibility of widows of an officer or enlisted man of the Navy or Marine Corps who is buried in the Naval Academy Cemetery.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Alphabetically by last name.

SAFEGUARDS:

Records are kept in a building not open to general visiting and are maintained in an area accessible only to authorized personnel. Buidling is under surveillance of security personnel during non-working hours.

RETENTION AND DISPOSAL:

Records are permanent. They are retained after the individual is deceased.

SYSTEM MANAGER(S) AND ADDRESS:

Superintendent, U.S. Naval Academy, Annapolis, Maryland 21402.

NOTIFICATION PROCEDURE:

Written requests may be made to the system manager.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual to whom it applies and from the Register of Alumni.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-5943 Filed 3-8-83; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held 24–28 April 1983 at the Hotel Washington, Washington, D.C.

The purpose of the DACOWITS Committee is to assist and advise the Secretary of Defense on matters relating to women in the Services. The Committee meets semiannually.

Sessions will be conducted daily as indicated and will be open to the public. The agenda will include the following meetings and discussions:

Sunday, 24 April 1983—Hotel Washington
- 10:00 a.m.—3:00 p.m.—Registration
- 1:30 p.m.—Executive Committee Meeting
- 2:30 p.m.—3:30 p.m.—Chair's Orientation and Procedural Session for DACOWITS Members
- 3:30 p.m.—5:30 p.m.—Overview of the Military Services for DACOWITS Members and Military Representatives
- 5:30 p.m.—7:00 p.m.—Subcommittee Meetings
- 7:00 p.m.—8:30 p.m.—"No-Host" Cocktail Buffet

Monday, 25 April 1983—Pentagon/Hotel Washington
- 8:00 a.m.—8:30 a.m.—Official Opening
- 8:30 a.m.—12:05 p.m.—Keynote Addresses by Service Chiefs of Staff
- 12:45 p.m.—2:15 p.m.—Official Department of Defense Luncheon (By invitation only)
- 2:15 p.m.—3:45 p.m.—OSD/Service Briefings
- 3:45 p.m.—6:15 p.m.—Subcommittee Meetings

Tuesday, 26 April 1983—Hotel Washington
- 8:30 a.m.—12:30 p.m.—Briefings by Service Personnel Directors
- 12:30 p.m.—2:00 p.m.—"No Host" Luncheon
- 2:00 p.m.—4:00 p.m.—OSD/Service Briefings
- 4:00 p.m.—4:30 p.m.—Presentations by Members of the Public
- 4:30 p.m.—7:00 p.m.—Subcommittee Meetings

Wednesday, 27 April 1983—Pentagon/Hotel Washington
- 8:00 a.m.—11:30 a.m.—Field Trip to National Military Command Center (By invitation only)
- 12:00 noon—1:30 p.m.—"No Host" Luncheon
- 1:30 p.m.—4:30 p.m.—Subcommittee Meetings
- 7:00 p.m.—10:30 p.m.—Official Department of Defense Reception and Dinner (By invitation only)

Thursday, 28 April 1983—Hotel Washington
- 8:00 a.m.—9:45 a.m.—General Business Session—Adjourn

The following rules and regulations wilkl govern the participation by members of the public at the meeting:

(1) Members of the public will not be permitted to go on the field trip or attend the official social functions.

(2) All business sessions, to include the Executive Committee Meetings, will be open to the public.

(3) Interested persons may submit a written statement and/or make an oral presentation for consideration by the Committee during the meeting.

(4) Persons desiring to make an oral presentation or submit a written statement to the Committee must notify Captain Mary J. Mayer, USAF, DACOWITS Executive Secretary, OASD (Manpower, Reserve Affairs and Logistics), Room 3D769, the Pentagon, Washngton, D.C. 20301; (202) 697–2122 by 15 April 1983.

(5) Length and number of oral presentations to be made will depend on the number of requests received from the members of the public.

(6) Oral presentations by members of the public will be permitted only from 4:00 p.m. to 4:30 p.m. on Tuesday, 26 April 1983, before the full Committee.

(7) Each person desiring to make an oral presentation or submit a written statement must provide the DACOWITS Secretariat with 60 copies of the presentation/statement by 15 April 1983.

(8) Persons submitting a written statement only for inclusion in the minutes of the meeting must submit one (1) copy either before or during the meeting or within five (5) days after the close of the meeting.

(9) Any new items from the Tuesday Members of the Public Session MAY be added to the subcommittee agendas, after consideration and approval by the Executive Committee.

(10) Other new items from members of the public may be presented in writing to any DACOWITS member for transmittal to the DACOWITS Chair or Executive Secretary to consider, as feasible.

(11) Members of the public will not be permitted to enter into oral discussion conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by the members of the Committee.

days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: March 4, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-6020 Filed 3-8-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council's Salmon Plan Development Team; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Pacific Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended). The Council has established a Salmon Plan Development Team which will meet to discuss recreational and troll fishery management options for the 1983 season.

DATES: The public meetings will convene on Wednesday, March 9, 1983, at approximately 10 a.m. to 6 p.m.; reconvene on Thursday, March 10, and Friday, March 11, at approximately 8:30 a.m., adjourning at approximately 6 p.m., both days. Oral comments or questions by the public will be invited beginning at approximately 5 p.m., on March 9 and 10, and at approximately noon, on March 11.

ADDRESS: The public meetings will take place at the Oregon Department of Fish and Wildlife, Beaver Room, 520 S.W. Mill Street, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201; Telephone: (503) 221-6352.

Dated: March 7, 1983.

Richard B. Stone,

Acting Chief, Operations Coordination Group, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 83-6117 Filed 3-7-83; 1:44 pm]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on April 13-14, 1983, from 9:00 a.m. to 5:00 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to naval aspects of national security policy and related intelligence. These matters constitute classified information that is specially authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Commander K. M. Cummings, Executive Secretary, CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Telephone (703) 756-1205.

Dated: March 4, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-6071 Filed 3-8-83; 8:45 am]

BILLING CODE 3810-AE-M

Privacy Act of 1974; Addition of Systems of Records

AGENCY: Department of the Navy, Defense.

ACTION: Addition of a notice for system of records.

SUMMARY: The Department of the Navy proposes to add a new system of records to its inventory of systems of records subject to the Privacy Act of 1974.

DATES: The proposed action will be effective without further notice on April 8, 1983 unless comments are received which would result in a contrary determination.

ADDRESS: Any comments, to include written data, views or arguments concerning the action proposed should be addressed to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (Op-09B1P), Department of the Navy, The Pentagon, Washington, DC 20350. Telephone: (202) 694-2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy inventory of systems of records notices as prescribed by the Privacy Act have been published in the Federal Register at:

FR Doc. 81-674 (47 FR 2574) January 18, 1982
FR Doc. 81-9204 (47 FR 14944) April 7, 1982
FR Doc. 82-9844 (47 FR 15636) April 12, 1982
FR Doc. 82-12593 (47 FR 20018) May 10, 1982
FR Doc. 82-15596 (47 FR 25041) June 9, 1982
FR Doc. 82-23533 (47 FR 37948) August 27, 1982
FR Doc. 82-27420 (47 FR 44134) October 6, 1982
FR Doc. 82-27692 (47 FR 44381) October 7, 1982
FR Doc. 83-805 (48 FR 1338) January 12, 1983

The Navy submitted a new system report for this system under the provisions of 5 U.S.C. 552a(o) on February 3, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

March 4, 1983.

N01770-3

SYSTEM NAME:

Naval Academy Cemetery Records

SYSTEM LOCATION:

U.S. Naval Academy, Administration Building, Annapolis, Maryland 21402

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those eligible to reserve a lot for future burial in the Naval Academy Cemetery. Deceased individuals interred in the Naval Academy Cemetery.

CATEGORIES OF RECORDS IN THE SYSTEM:

State of Maryland Burial Transit Permit, Cemetery Interment Record (NDM-USNA-PWO-1170), U.S. Naval Academy Cemetery Records (NDW-USNA-DMC-5360/11) and correspondence to and from individuals.

Specifically, information contained on the forms or correspondence may be: full name, home address, rank, service, social security number, date and place of birth, date and place of death, marital status, name of father and mother, date and place of burial, lot number and other information relating to burial arrangements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5031; Title 10, Secs 1481–88; 44 U.S.C. 3101

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To maintain official records of individuals holding gravesite reservations in the Naval Academy Cemetery. Records are used to respond to general inquiries from individuals holding gravesites reservations. Verifications of eligibility of widows of an officer or enlisted man of the Navy or Marine Corps who is buried in the Naval Academy Cemetery.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Alphabetically by last name.

SAFEGUARDS:

Records are kept in a building not open to general visiting and are maintained in an area accessible only to authorized personnel. Buidling is under surveillance of security personnel during non-working hours.

RETENTION AND DISPOSAL:

Records are permanent. They are retained after the individual is deceased.

SYSTEM MANAGER(S) AND ADDRESS:

Superintendent, U.S. Naval Academy, Annapolis, Maryland 21402.

NOTIFICATION PROCEDURE:

Written requests may be made to the system manager.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual to whom it applies and from the Register of Alumni.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-5943 Filed 3-8-83; 8:45 am]
BILLING CODE 3810-01-M

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held 24–28 April 1983 at the Hotel Washington, Washington, D.C.

The purpose of the DACOWITS Committee is to assist and advise the Secretary of Defense on matters relating to women in the Services. The Committee meets semiannually.

Sessions will be conducted daily as indicated and will be open to the public. The agenda will include the following meetings and discussions:

Sunday, 24 April 1983—Hotel Washington
- 10:00 a.m.—3:00 p.m.—Registration
- 1:30 p.m.—Executive Committee Meeting
- 2:30 p.m.—3:30 p.m.—Chair's Orientation and Procedural Session for DACOWITS Members
- 3:30 p.m.—5:30 p.m.—Overview of the Military Services for DACOWITS Members and Military Representatives
- 5:30 p.m.—7:00 p.m.—Subcommittee Meetings
- 7:00 p.m.—8:30 p.m.—"No-Host" Cocktail Buffet

Monday, 25 April 1983—Pentagon/Hotel Washington
- 8:00 a.m.—8:30 a.m.—Official Opening
- 8:30 a.m.—12:05 p.m.—Keynote Addresses by Service Chiefs of Staff
- 12:45 p.m.—2:15 p.m.—Official Department of Defense Luncheon (By invitation only)
- 2:15 p.m.—3:45 p.m.—OSD/Service Briefings
- 3:45 p.m.—6:15 p.m.—Subcommittee Meetings

Tuesday, 26 April 1983—Hotel Washington
- 8:30 a.m.—12:30 p.m.—Briefings by Service Personnel Directors
- 12:30 p.m.—2:00 p.m.—"No Host" Luncheon
- 2:00 p.m.—4:00 p.m.—OSD/Service Briefings
- 4:00 p.m.—4:30 p.m.—Presentations by Members of the Public
- 4:30 p.m.—7:00 p.m.—Subcommittee Meetings

Wednesday, 27 April 1983—Pentagon/Hotel Washington
- 8:00 a.m.—11:30 a.m.—Field Trip to National Military Command Center (By invitation only)
- 12:00 noon—1:30 p.m.—"No Host" Luncheon
- 1:30 p.m.—4:30 p.m.—Subcommittee Meetings
- 7:00 p.m.—10:30 p.m.—Official Department of Defense Reception and Dinner (By invitation only)

Thursday, 28 April 1983—Hotel Washington
- 8:00 a.m.—9:45 a.m.—General Business Session—Adjourn

The following rules and regulations wilkl govern the participation by members of the public at the meeting:

(1) Members of the public will not be permitted to go on the field trip or attend the official social functions.

(2) All business sessions, to include the Executive Committee Meetings, will be open to the public.

(3) Interested persons may submit a written statement and/or make an oral presentation for consideration by the Committee during the meeting.

(4) Persons desiring to make an oral presentation or submit a written statement to the Committee must notify Captain Mary J. Mayer, USAF, DACOWITS Executive Secretary, OASD (Manpower, Reserve Affairs and Logistics), Room 3D769, the Pentagon, Washngton, D.C. 20301; (202) 697–2122 by 15 April 1983.

(5) Length and number of oral presentations to be made will depend on the number of requests received from the members of the public.

(6) Oral presentations by members of the public will be permitted only from 4:00 p.m. to 4:30 p.m. on Tuesday, 26 April 1983, before the full Committee.

(7) Each person desiring to make an oral presentation or submit a written statement must provide the DACOWITS Secretariat with 60 copies of the presentation/statement by 15 April 1983.

(8) Persons submitting a written statement only for inclusion in the minutes of the meeting must submit one (1) copy either before or during the meeting or within five (5) days after the close of the meeting.

(9) Any new items from the Tuesday Members of the Public Session MAY be added to the subcommittee agendas, after consideration and approval by the Executive Committee.

(10) Other new items from members of the public may be presented in writing to any DACOWITS member for transmittal to the DACOWITS Chair or Executive Secretary to consider, as feasible.

(11) Members of the public will not be permitted to enter into oral discussion conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by the members of the Committee.

(12) Members of the public will be permitted to orally question the scheduled speakers if recognized by the Chair and if time allows after the official participants have asked questions and/or made comments.

(13) Questions from the public will not be accepted during the Subcommittee Sessions, the Executive Committee Meetings, or the Business Session on Thursday, 28 April 1983.

Additional information regarding the Committee and/or this meeting may be obtained by contacting the DACOWITS Executive Secretary, OASD (MRA&L), the Pentagon, Room 3D769, Washington, D.C. 20301; (202) 697-2122.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

March 4, 1983.

[FR Doc. 83-6019 Filed 3-8-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Intergovernmental Advisory Council on Education; Hearing Changes

AGENCY: Interegovernmental Advisory Council on Education.

ACTION: Amendment of Notice.

SUMMARY: This document is intended to notify the public of changes in the Notice of Hearing of the Intergovernmental Advisory Council on Education, published Wednesday, February 23, 1983, on page 7629.

The times, location, and agenda remain the same except the Executive Committee of the Intergovernmental Advisory Cooucil on Education will meet in closed session from 4 p.m. to 6 p.m. in Suite 2221, Department of Education, 101 Marietta Tower Building, Atlanta, Georgia 30323, to discuss issues involving Council personnel, including performance and qualifications of Council staff. These discussions will touch upon matters that would disclose information of a personal nature, which disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. The public is being given fewer than 15 days' notice of this meeting due to the aforementioned personnel issues which have arisen subsequent to the publication of the original notice.

The meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C., Appendix (1) and under exemptions (2) and (6) contained in the Government in the Sunshine Act (Pub. L. 94-409; 5 U.S.C. 552b(c) (2) and (6)).

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b(c) will be available to the public within 14 days of the meeting.

Signed at Washington, D.C., on March 3, 1983.

Wendy Borcherdt,

Acting Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 83-5970 Filed 3-8-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Hawthorne Oil & Gas Corp.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Hawthorne Oil and Gas Corporation and provides an opportunity for public comment on the proposed Consent Order.

DATE: Comments By: April 8, 1983.

ADDRESS: Send comments to: Sandra K. Webb, Director, Houston Office, Economic Regulatory Administration, One Allen Center, 500 Dallas Street, Suite 610, Houston, Texas 77002.

FOR FURTHER INFORMATION CONTACT: Sandra K. Webb, Director, Houston Office, Economic Regulatory Administration, One Allen Center, 500 Dallas Street, Suite 610, Houston, Texas 77002, [phone] (713) 229-3715. Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On February 3, 1983, the ERA executed a proposed Consent Order with Hawthorne Oil and Gas Corporation of Lafayette, Louisiana. Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Hawthorne Oil and Gas Corporation (Hawthorne), with its home office located in Lafayette, Louisiana, is a firm engaged in the production and marketing of crude oil, and was subject to the Mandatory Petroleum Price and Allocation Regulations during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Price and Allocation Regulations and related regulations, 10 CFR Parts 205, 210, 211 and 212, in connection with Hawthorne's transactions involving the sale of crude oil during the period September 1, 1973 through November 30, 1976 ("the period covered by this Consent Order"), the ERA and Hawthorne entered into a Consent Order, the significant terms of which are as follows:

Hawthorne was engaged in the production and marketing of crude oil during the period September 1, 1973 through November 30, 1976 and was subject to the price regulations codified in 10 CFR Part 212 and its predecessors.

DOE has conducted an audit to determine the Hawthorne's compliance with the regulations, which audit resulted in the issuance of a Remedial Order. (10 DOE ¶ 83,005).

Nothwithstanding DOE's view as to the application of the regulations to Hawthorne's activities during the settlement period, Hawthorne maintains that it calculated its costs and determined its prices in accordance with the applicable statutes and regulations. In order to avoid the expense of additional litigation and disruption of its business functions, however, Hawthorne agreed to enter into a Consent Order. Execution of the Consent Order does not constitute an admission by Hawthorne.

II. Refund

Under the Consent Order, Hawthorne will pay the sum of $520,000 to the U.S. Department of Energy. That sum is payable in 18 monthly payments, although the company may prepay the balance at any time. Installment interest on the unpaid balance wil be based upon the average prime rates.

III. Submission of Written Comments

Interested parties are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation "Comments on Hawthorne Oil and Gas Corporation Consent Order." The ERA will consider all

comments it receives by 4:30 p.m., local time April 8, 1983. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f).

Issued in Houston, Texas, on the 15th day of February, 1983.

Sandra K. Webb,

Director, Houston ERA Office.

[FR Doc. 83-5907 Filed 3-8-83; 8:45 am]

BILLING CODE 6450-01-M

The Parade Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration hereby gives notice of a Proposed Remedial Order which was issued to The Parade Company of Shreveport, Louisiana.

The Proposed Remedial Order charges this company with pricing violations in the amount of $1,716,465.25, plus accrued interest, in sales of propane and natural gas liquids during the period of February 1975 through January 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kanses City, Missouri 64106-2466. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objections with the Office of Hearings and Appeals, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri on the 11th day of February, 1983.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 83-5909 Filed 3-8-83; 8:45 am]

BILLING CODE 6450-01-M

Petro-Thermo Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Petro-Thermo Corporation at Suite 260, Broadmoor Building, Hobbs, New Mexico 88240. This proposed Remedial Order alleges pricing violations in the amount of $314,261.34 plus interest in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR Parts 205, 210, and 212, Subparts F and L during the time period November 1973 through December 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James F. Murphy, Manager, Crude Reseller Program, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75237, or by calling (214) 767-7432. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Federal Building, Room 3304, 12th & Pennsylvania Ave., N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 18th day of February, 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83-5908 Filed 3-8-83; 8:45 am]

BILLING CODE 6450-01-M

Record of Decision for New England Power Company Salem Harbor Generating Station Units 1, 2 and 3

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Decision to issue final floodplain statement of findings and final prohibition orders to Salem Harbor Units 1, 2 and 3.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR Part 1505) implementing the procedural provisions of the National Environmental Policy Act (NEPA) and the Department of Energy's (DOE) NEPA guidelines (45 FR 20694, March 28, 1980), the Economic Regulatory Administration (ERA) of DOE is issuing a Record of Decision on the environmental impact statement (EIS) prepared for the Salem Harbor Generating Station Units 1, 2, and 3. DOE is also issuing the floodplain statement of findings for the proposed action pursuant to 10 CFR 1022.18.

Decision

The DOE will finalize and issue prohibition orders for Units 1, 2 and 3 of the Salem Harbor Generating Station, located in Salem, Massachusetts as requested by the New England Power Company (NEP). The final prohibition orders will prohibit using either natural gas or petroleum as the primary energy source for the three units. The owner of the generating station plans to return the three units to burning low-sulfur coal.

Project Description

On April 3, 1980 (45 FR 22183), DOE published proposed prohibition orders for Salem Harbor Units 1, 2 and 3 under the Powerplant and Industrial Fuel Use Act of 1978 (FUA) as amended. Following enactment of the Omnibus Budget Reconciliation Act of 1981 (OBRA), which amended FUA to allow powerplant owners and operators to certify to FUA's required technical and economic feasibility findings, to convert to coal as fuel, NEP elected to so certify. DOE then reissued proposed prohibition orders to Units 1, 2 and 3 on December 7, 1981. The final prohibition orders will prohibit NEP from using either natural gas or petroleum as a primary energy source in the affected units. On March 1, 1982, NEP began limited coal burning at the plant under the provisions of a Clean Air Act Delayed Compliance Order (DCO) issued by the U.S. Environmental Protection Agency (EPA) on February 9, 1982 (47 FR 5893).

A Massachusetts Draft Environmental Impact Report pursuant to the Massachusetts Environmental Policy Act was filed with the Massachusetts Office of Environmental Affairs in January 1982 and was publicly available on March 22, 1982.

DOE published a Draft Environmental Impact Statement (DEIS) (DOE/EIS-0086-D) in February 1982 and a Final Environmental Impact Statement (FEIS) in October 1982 (DOE/EIS-0086-F).

Description of Alternatives

In the EIS, DOE has assessed the environmental impacts of:

A. No DOE action, i.e., no prohibition order—NEP elects to continue burning oil, or retire the plant.

B. DOE issues prohibition order—NEP elects to convert to another fuel (low sulfur coal).

The "no action" alternative would allow NEP continued use of oil at the units, and so would not change the present impacts to the environment. Thus the "no action" alternative is considered the environmentally preferable alternative. However, continued operation with oil would not satisfy the purpose and goal of FUA to use energy other than oil or gas.

Fuels other than low sulfur coal considered as potential major energy sources under the B option were high-sulfur coal, coal-oil mix, refuse-derived fuel and wood/wood chips. None of these is considered preferable to the use of low sulfur coal either because they are not available in sufficient quantities or because they necessitate additional construction, transportation, or storage, or create environmental concern while reducing oil consumption by only 20%.

The major issues of concern in the environmental impact assessment were air and water quality, noise, increased traffic, and land use problems due to ash

disposal. Impacts to regional or site geology, aquatic or terrestrial biota, housing labor market or other socioeconomic factors were of lesser significance.

A prohibition order has enabled NEP to obtain a DCO allowing the use of coal as fuel under prescribed conditions while refurbishing the existing electrostatic precipitators.

Air Quality

Conversion to coal under the DCO allows slightly negative impacts due to the increased particulate matter emission for up to 46 months (during refurbishing of the precipitator). Following the DCO period particulate emissions will again be within Clean Air Act state implementation plan limits. SO_2 emissions remain within allowable limits and equivalent to current SO_2 emissions on oil firing. NO_2 emissions were estimated to increase by 180 tons per year, well under the 250 tons per year exemption allowed by the Massachusetts Department of Environmental Quality Engineering. Mitigative measures such as wetting down of construction areas and the coal pile to reduce impacts of increased dust will be taken.

Water Quality

The Salem Harbor Generating Station currently operates under a National Pollutant Discharge Elimination System (NPDES) permit which will remain essentially unchanged. Conversion to coal will increase the size of the existing coal pile, and therefore increase the potential for contamination of ground water from coal pile runoff.

The principal sources of wastewater will include coal pile runoff, excess water from the bottom ash sluice water treatment system, and an increased solids content in equipment washwaters and boiler seal water, due to the larger amounts of ash involved in coal firing. Each of these sources will be routed through the existing wastewater treatment system.

Solid Waste Disposal

Approximately 164 tons of fly and bottom ash per day will be produced at Salem Harbor after conversion to coal. The utility will either market the ash or dispose of it in permitted commercial landfills located within 30 miles of the plant.

Transportation

Various methods of transportation of coal to the site were analyzed. The plant does not now have rail facilities, and reactivation of such rail routes would be difficult. No coal-slurry pipelines were available or planned in this area during the life of the plant. There are existing dock facilities currently in use. While converson will result in a slight net increase in dock use, existing facilities remain sufficient due to the more rapid unloading rate for coal. Conversion of Units 1, 2, and 3 will result in 25 unloadings per year of the 36,000 ton collier. Due to the displacement of oil by coal, about one half of the present barge/tanker unloadings will be eliminated to be replaced by collier unloadings. No dredging or other work requiring a permit from the U.S. Army Corps of Engineers is required.

Floodplain Determination

Since the generating station is an existing facility whose dock and tank farm portions are located within the 100-year floodplain, as delineated on the appropriate HUD floodplain map for the City of Salem, DOE was required to comply with its floodplain management regulations (10 CFR Part 1022).

DOE prepared a preliminary floodplain assessment which is included as Section 2.5 of the FEIS for Salem Harbor (October 1982). Alternatives to this proposed action were identified, environmental impacts evaluated and mitigation measures were proposed. In addition, the preliminary floodplain statement of findings concluded that no practicable alternatives exist to the continued location of the generating station in the floodplain. No substantive comments on this issue, either during the review period for the DEIS or during the 30 day hold period of the FEIS were received by DOE.

Several of the modifications to the facility necessary to allow conversion to coal involved existing structures which are built in the floodplain, including the coal pile and settling basins. The structures cannot be relocated within the generating site boundary.

The proposed action includes all practicable measures to minimize harm to the floodplain. Facilities constructed in the floodplain that are subject to hurricane storm waves (V3 zone) will be floodproofed to withstand wave forces and inundation. Floodproofing will include such items as diking and reinforcement to reduce storm damage.

Since October 1982 DOE has further evaluated the matter and has determined that the proposed conversion will not change the existing character of the floodplain or alter the risk of loss due to flooding of adjacent property.

The Department has determined, based on the floodplain assessment, that there is no practicable alternative to the continued use of the existing facilities. The Floodplain Statement of Findings is attached.

Basis for Decision

NEP is desirous of converting Salem Harbor, Units 1, 2, and 3 as evidenced by its certification pursuant to Section 1021 of OBRA and its current burning of coal by those units pursuant to the DCO issued in February 1982.

Conclusion

While the no-action alternative can be described as environmentally preferred (40 CFR 1505.2), benefits derived from this conversion have been balanced against the potential environmental impacts. In addition, reasonably available alternatives have been considered. As a result of these evaluations, the proposed conversion to coal is the preferred alternative of the EIS, and DOE will issue the final prohibition orders to Salem Harbor Units 1, 2, and 3. In addition, as a result of its review of alternatives and evaluation of the environmental impacts, DOE has determined there is no practicable alternative to the existing location of the generating station in the 100-year floodplain. All practical means to avoid or mitigate harm in the floodplain will be used.

Issued in Washington, D.C., on March 3, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

Department of Energy, Floodplain Statement of Findings

The Department of Energy proposes to finalize prohibition orders under the Powerplant and the Industrial Fuel Use Act of 1978 (FUA) for the Salem Harbor Generating Station Units 1, 2, and 3. The final prohibition orders will prohibit using either natural gas or petroleum as the primary energy source for the three units. The owner of the generating station plans to return the units to burning low-sulfur coal.

The generating station is located in Salem, Massachusetts on a 60 acre site adjacent to the Harbor (See Attachment A). The station has been in operation since 1952. The units were designed to burn coal, and did burn coal until 1969. Most of the facilities needed to handle coal already exist. This includes the unloading pier, the coal storage area, and the ash settling basins.

Conversion of the units to burning coal will necessitate modification of existing facilities, including the coal storage area and the settling basins, which are located in a 100-year floodplain and which, because of

physical constraints, cannot be relocated within the site to avoid the floodplain (See Attachment B). Accordingly, the Department prepared a floodplain assessment for the proposed action pursuant to 10 CFR Part 1022. The floodplain assessment is incorporated in the final environmental impact statement the Department prepared for the proposed finalization of the prohibition orders (DOE/EIS–0066, October 1982).

As part of the floodplain assessment, the Department considered alternate locations within the site and "no action" as alternatives to locating the proposed action in the floodplain. Alternate locations within the site that would avoid the floodplain are precluded by physical constraints. The "no action" alternative would not serve the purposes of FUA. In addition, it would not necessarily avoid the floodplain action since the utility could convert to coal without the final prohibition orders.

The necessary modifications to the coal pile and settling basins will not change the existing character of the floodplain nor alter the risk of loss due to flooding. Facilities in the floodplain will be flood-proofed to withstand wave action and inundation in conformance with applicable floodplain protection standards. Flood-proofing will include such measures as diking and structural reinforcement.

The Department has determined, on the basis of the floodplain assessment, that there is no practicable alternative to the proposed facility modifications in the floodplain and that the proposed action has been designed to minimize potential harm to or within the floodplain.

Issued in Washington, D.C. on March 2, 1983.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Environmental Preparedness.

BILLING CODE 6450-01-M

Reference: USGS 1:25,000 Quadrangles
Lynn, MA., 1970

FIGURE 2.0-1
LOCATION MAP-SALEM HARBOR GENERATING STATION

Attachment A
Taken from p. 3 of FEIS

[FR Doc. 83-6063 Filed 3-8-83; 8:45 am]
BILLING CODE 6450-01-C

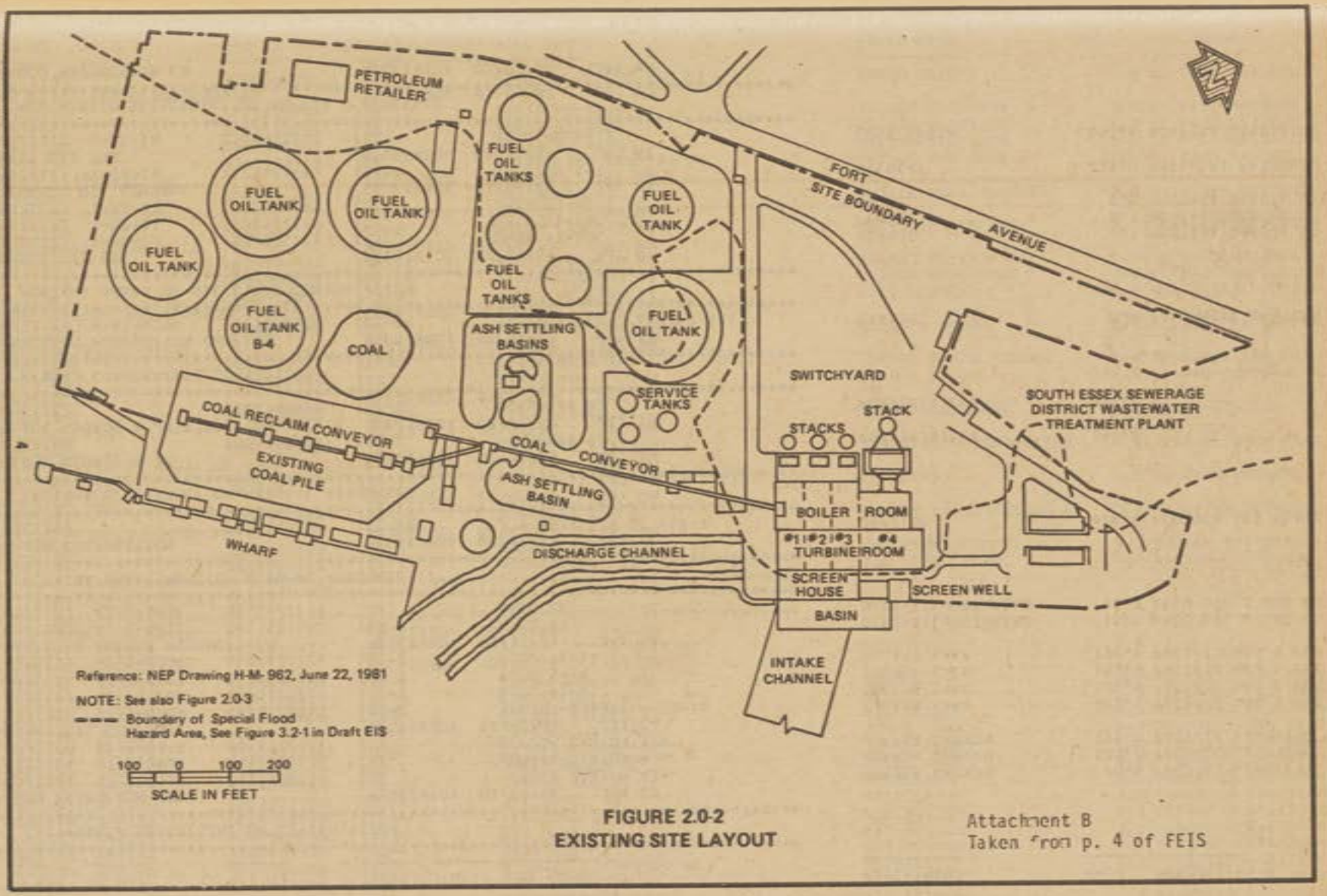

FIGURE 2.0-2
EXISTING SITE LAYOUT

Attachment B
Taken from p. 4 of FEIS

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 2, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-ARGO PETROLEUM CORP				RECEIVED:	02/07/83	JA: CA			
8321182	82-2-0013	0411100218		103		HOPPER CANYON #14	HOPPER CANYON	26.0	PACIFIC LIGHTING
8321184	82-2-0014	0411120926		103		HOPPER CANYON #28	HOPPER CANYON	105.0	PACIFIC LIGHTING
8321183	82-2-0015	0411120981		103		HOPPER CANYON #29	HOPPER CANYON	95.0	PACIFIC LIGHTING
-HUSKY OIL COMPANY				RECEIVED:	02/07/83	JA: CA			
8321178	82-5-0003	0403120210		102-2		"HUSKY-BOSWELL" 22-16	TULARE LAKE	107.0	PACIFIC GAS & ELE
8321177	82-5-0006	0403120238		102-2		KCDC 41-8	TULARE LAKE	190.0	PACIFIC GAS & ELE
8321176	82-5-0005	0403120334		102-2		KCDC 54-8	TULARE LAKE	190.0	PACIFIC GAS & ELE
8321179	82-5-0004	0403120224		102-2		KCDC 71-17	TULARE LAKE	190.0	PACIFIC GAS & ELE
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	02/07/83	JA: CA			
8321180	82-2-0011	0411121192		103		ARCO 15	OIAI-SILVERTHREAD	15.0	ARCO OIL & GAS CO
8321181	82-2-0012	0411121188		103		ARCO 28	OJAI-SILVERTHREAD	95.0	ARCO OIL & GAS CO
FLORIDA DEPARTMENT OF NATURAL RESOURCES									
-EXXON CORPORATION				RECEIVED:	02/07/83	JA: FL			
8321185		0911320200		107-OP		J B JOHNSTON JR #19-7	JAY/LEC	620.0	FLORIDA GAS TRANS
INDIANA DEPARTMENT OF NATURAL RESOURCES									
-BLACK GEORGE A JR				RECEIVED:	02/08/83	JA: IN			
8321188		1302700000		102-2		HORNADAY #2	PORTERSVILLE	146.0	
-BLACK GEORGE A JR & EMERSON NEIL B				RECEIVED:	02/08/83	JA: IN			
8321187		1302700000		102-2		HORNADAY #1	PORTERSVILLE	365.0	
KANSAS CORPORATION COMMISSION									
-ANADARKO PRODUCTION COMPANY				RECEIVED:	02/07/83	JA: KS			
8321186	K-82-0394	1517500000		108-ER		SANTA FE LAND IMP CO A-1	EVALYN	0.0	PANHANDLE EASTERN
MONTANA BOARD OF OIL & GAS CONSERVATION									
-SHELL OIL CO				RECEIVED:	02/07/83	JA: MT			
8321171	1-82-23	2502521193		103		UNIT 31-30C	PENNEL	2.5	MONTANA DAKOTA UT
8321173	1-82-21	2502521180		103		UNIT 31-32C	PENNEL	1.7	MONTANA DAKOTA UT
8321175	1-82-22	2502521195		103		UNIT 33-6B	PENNEL	5.5	MONTANA DAKOTA UT
-TENNECO OIL COMPANY				RECEIVED:	02/07/83	JA: MT			
8321174	1-82-20	2509121439		102-2		SUNSTED 1-7	WILDCAT	229.0	PHILLIPS PETROLEU
-WEST GAS INC				RECEIVED:	02/07/83	JA: MT			
8321172	1-82-18	2509521157		103		NORDAHL 5-13	LAKE BASIN	163.6	MONTANA DAKOTA UT
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMOCO PRODUCTION CO				RECEIVED:	02/07/83	JA: NM			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8321193		3004507996		108		GARCIA GAS COM "B" #1	BASIN DAKOTA	18.0	EL PASO NATURAL G
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	02/07/83	JA: NM			
8321195		3002520798		108		SANTA FE #104	VACUUM GLORIETA	5.0	EL PASO NATURAL G
8321196		3002520799		108		SANTA FE #106	VACUUM/GLORIETA	1.0	EL PASO NATURAL G
8321197		3002520801		108		SANTA FE #108	VACUUM/GLORIETA	1.0	EL PASO NATURAL G
8321194		3002508543		108		VACUUM ABO UNIT #6-71	VACUUM ABO REEF	13.0	EL PASO NATURAL G
-READ & STEVENS INC				RECEIVED:	02/07/83	JA: NM			
8321201		3001524043		103		DARTMOUTH #5	BUNKER HILL PENROSE	55.0	PHILLIPS PETROLEU
-SANDERS PETROLEUM CORP				RECEIVED:	02/07/83	JA: NM			
8321204		3000561127		102-2		MCKAY SAMEDAN #1	UNDESIGNATED ABO	100.0	TRANSWESTERN PIPE
-SOUTHLAND ROYALTY CO				RECEIVED:	02/07/83	JA: NM			
8321207		3004500000		108-PB		ALBINO CANYON #1	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8321206		3004500000		108-PB		ALBINO CANYON #1	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8321203		3003923072		103		SIMMS FEDERAL #3	EAST BLANCO	180.0	NORTHWEST PIPELIN
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	02/07/83	JA: NM			
8321208		3002500000		108		S LEONARD UNIT #12	LEONARD SOUTH	0.4	EL PASO NATURAL G
-TENNECO OIL COMPANY				RECEIVED:	02/07/83	JA: NM			
8321209		3001523727		102-1		STATE HL 2 1-Y	TURKEY TRACK MORROW	0.0	TRANSWESTERN PIPE
8321198		3004525419		103		STATE N1M	DAKOTA BASIN	100.0	EL PASO NATURAL G
-TEXACO INC				RECEIVED:	02/07/83	JA: NM			
8321191		3002500000		108-ER		J C ESTLACK #1	TUBB - BLINEBRY	23.0	GETTY OIL CO
-W A MONCRIEF JR				RECEIVED:	02/07/83	JA: NM			
8321205		3002500000		103		SOMBRERO STATE #1	SOMBRERO UNDESIGNATED	0.0	TRANSWESTERN PIPE
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	02/07/83	JA: NM			
8321202	10440	3002525657		103		A L CHRISTMAS (NCT-C) #15	BLINEBRY	0.0	EL PASO NATURAL G
-WARRIOR INC				RECEIVED:	02/07/83	JA: NM			
8321192		3002503402		108-ER		STATE AK #1	EUMONT (YATES-SEVEN R	7.6	PHILLIPS PETROLEU
-YATES PETROLEUM CORPORATION				RECEIVED:	02/07/83	JA: NM			
8321200		3002527963		103		WOODPECKER "SQ" ST #5	UND PERMO PENN	0.0	WARREN PETROLEUM
8321199		3002527942		103		WOODPECKER "SY" ST #4	UND PERMO PENN	0.0	WARREN PETROLEUM
**********									
TENNESSEE OIL & GAS BOARD									
**********									
-ACE PETROLEUM CO INC				RECEIVED:	02/03/83	JA: TN			
8321075	A-2208	4104920912		102-4		GLENN COOPER UNIT #1	BURRVILLE	3.0	
-AMTEX RESOURCES INC				RECEIVED:	02/03/83	JA: TN			
8321092	A-2257	4104921008		102-2		BRYAN RAMSEY #1	GRIMSLEY	3.0	FENTRESS GAS TRAN
8321153	A-2324	4104921019		102-2		CASPER HALL #1	GRIMSLEY	1.0	FENTRESS GAS TRAN
8321059	A-2254	4104921003		102-4		ELBERT WILSON #1	BIG BRANCH	2.5	FENTRESS GAS TRAN
8321156	A-2327	4104921013		102-2		GARY RODGERS #1	JONES KNOB	0.2	FENTRESS GAS TRAN
8321157	A-2328	4104921202		102-2		GARY RODGERS #4	JONES KNOB	1.5	FENTRESS GAS TRAN
8321155	A-2326	4104921025		102-2		JAMES HENRY #1	JONES KNOB	0.2	FENTRESS GAS TRAN
8321090	A-2255	4104921004		102-2		JOE LA RUE #1	GRIMSLEY	2.0	FENTRESS GAS TRAN
8321091	A-2256	4104921005		102-2		JOE LARUE #2	GRIMSLEY	2.0	FENTRESS GAS TRAN
8321058	A-2252	4104920991		102-4		LEE HULL #2	BIG BRANCH	3.5	FENTRESS GAS TRAN
8321093	A-2251	4104920990		102-4		LEE HULL #2	BIG BRANCH	3.5	FENTRESS GAS TRAN
8321079	A-2242	4104920978		102-4		OBRA RICH #1	BIG BRANCH	3.5	FENTRESS GAS TRAN
8321154	A-2325	4104921036		102-2		RICHARD SUFFRIDGE #1	GRIMSLEY	0.2	FENTRESS GAS TRAN
8321159	A-2253	4104921000		102-4		TROY CONATSER #1	BIG BRANCH	2.5	FENTRESS GAS TRAN
8321028	A-2329	4104921001		102-4		TROY CONATSER #2	BIG BRANCH	2.0	FENTRESS GAS TRAN
8321137	A-2330	4104921002		102-4		TROY CONATSER #3	BIG BRANCH	1.0	FENTRESS GAS TRAN
-B & W OIL CO				RECEIVED:	02/03/83	JA: TN			
8321018	A-2295	4112920506		108		CARL ROBBINS #1	DOUGLAS BRANCH	10.0	EAST TENNESSEE NA

JD NO	JA UKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8321022	A-2302	4112920519		108		CHESTER HULING #1	GLADES EAST	7.0	EAST TENNESSEE NA
8321027	A-2294	4112920507		108		ENOS ROBBINS #1	DOUGLAS BRANCH	1.0	EAST TENNESSEE NA
8321017	A-2317	4112905714		102-2		GLADYS DAVIS-JOYCE JONES #1	DOUGLAS BRANCH	10.0	EAST TENNESSEE NA
8321026	A-2296	4112920298		108		GORDON M BURGHARD #1	GLADES EAST	5.0	EAST TENNESSEE NA
8321021	A-2299	4112920442		108		OLMSTEAD - OVERTON #1	GLADES EAST	7.0	EAST TENNESSEE NA
8321149	A-2316	4112921179		102-2		PATRICIA GIBSON #1	DOUGLAS BRANCH	10.0	EAST TENNESSEE NA
8321025	A-2303	4112920480		108		ROY DUNCAN - V NEEDHAM #1	GLADES EAST	4.0	EAST TENNESSEE NA
8321020	A-2300	4112920532		108		SAMUEL W JONES #2	GLADES EAST	6.0	EAST TENNESSEE NA
8321024	A-2297	4112920483		108		TRUMAN MELTON #2	GLADES EAST	1.0	EAST TENNESSEE NA
8321023	A-2298	4112920294		108		VICTOR NEEDHAM #1	GLADES EAST	12.0	EAST TENNESSEE NA
8321019	A-2301	4112910526		108		WHITEHEAD #1	GLADES EAST	7.0	EAST TENNESSEE NA
-B-J INC				RECEIVED:	02/03/83	JA: TN			
8321161	A-2238	4104920157		102-2		CARSON HULL #1	RUGBY	21.9	INTRASTATE ENERGY
8321163	A-2239	4112920953		102-4		CECIL DAVIDSON-OTTO HURST EGI #1	BURRVILLE	32.1	INTRASTATE ENERGY
-CATOOSA EXPLORATION CORP				RECEIVED:	02/03/83	JA: TN			
8321162	A-2211	4104920105		102-4		ARNOLD COLDITZ #1	GRIMSLEY	0.3	FENTRESS GAS TRAN
8321049	A-2212	4104920118		102-4		ARNOLD COLDITZ #2	GRIMSLEY	3.5	FENTRESS GAS TRAN
8321082	A-2175	4104920369		102-4		JESS VAUGHN #1	BURRVILLE	3.5	FENTRESS GAS TRAN
8321076	A-2176	4104920472		102-4		JESS VAUGHN #2	BURRVILLE	3.5	FENTRESS GAS TRAN
-COLLINS ALVEY B JR				RECEIVED:	02/03/83	JA: TN			
8321099	A-2024	4115100000		108		FREE NEWPORT #1	GEORGE WEST BRANCH	18.0	INTRASTATE ENERGY
8321100	A-2023	4115110008		108		FREE NEWPORT #3	GEORGE WEST BRANCH	18.0	INTRASTATE ENERGY
-COMMERCE OIL CO				RECEIVED:	02/03/83	JA: TN			
8321033	A-2320	4112921170		102-2		BUMBY-DAVIS UNIT #1	TWIN BRIDGES	10.9	GAS LINES OF TENN
8321032	A-2323	4104920946		102-2		GARY ROGERS #11	JONES KNOB	21.9	FENTRESS GAS TRAN
8321128	A-2293-A	4104920354		102-2		GARY ROGERS #13	JONES KNOB	109.5	FENTRESS GAS TRAN
8321031	A-2322	4104920958		102-2		GARY ROGERS #14	JONES KNOB	21.9	FENTRESS GAS TRAN
8321119	A-2209	4112920645		102-2		ORA AUSTIN #1	TWIN BRIDGES	21.9	GAS LINES OF TENN
8321030	A-2321	4104920975		102-2		ROGERS-ATKINSON UNIT #1	JONES KNOB	7.3	FENTRESS GAS TRAN
-CUMBERLAND OIL PRODUCING CO INC				RECEIVED:	02/03/83	JA: TN			
8321051	A-2009	4112920610		108		H KACENSKI #1	DOUGLAS BRANCH	12.0	EAST TENNESSEE NA
-DELOY MILLER				RECEIVED:	02/03/83	JA: TN			
8321095	A-2201	4104920939		102-2		PLATEAU PROPERTIES (LEWALLEN) #2	SHIRLEY	1.0	INTRASTATE ENERGY
8321138	A-2319	4104920993		102-2		PLATEAU PROPERTIES (LEWALLEN) #3	SHIRLEY	4.0	INTRASTATE ENERGY
-DICK HYDE				RECEIVED:	02/03/83	JA: TN			
8321133	A-2268	4112920785		102-4		BROWN-LARUE-MASSENGILL #1	BURRVILLE	65.3	INTRASTATE ENERGY
-DIXIE-SHAMROCK OIL & GAS INC				RECEIVED:	02/03/83	JA: TN			
8321120	A-2229	4104920952		102-2		CHARLES GERNT #2	STOCKTON SW	3.7	TENNESSEE GAS PIP
8321152	A-2315	4104921007		102-4		CHARLES GERNT #5	STOCKTON SW	10.0	TENNESSEE GAS PIP
8321078	A-2226	4104920950		102-4		ESTATE OF BRUNO GERNT #47	STOCKTON SW	15.7	TENNESSEE GAS PIP
8321134	A-2221	4104920953		102-2		ESTATE OF BRUNO GERNT #48	STOCKTON SW	52.0	TENNESSEE GAS PIP
8321151	A-2313	4104920997		102-4		GERNT-GERNT #10	STOCKTON SW	2.5	TENNESSEE GAS PIP
8321158	A-2314	4104920992		102-4		GERNT-GERNT #9	STOCKTON SW	1.9	TENNESSEE GAS PIP
8321097	A-2228	4112921134		102-2		HEDWIG DITZ #3	WILDCAT	28.7	TENNESSEE GAS PIP
-EDDIE HOOD				RECEIVED:	02/03/83	JA: TN			
8321131	A-2180	4104920438		102-4		CON BLAIR OVA BLAIR PETE TINCH #1	BURRVILLE	24.0	FENTRESS GAS TRAN
8321130	A-2179	4104920438		102-4		RUP BLAIR PETE TINCH CONRAD BLAIR #	BURRVILLE	30.0	FENTRESS GAS TRAN
-ERBERT JAMES				RECEIVED:	02/03/83	JA: TN			
8321122	A-2237	4112921032		102-2		WILLIAM SCHWAB UNIT #1	STOWERS NW	20.0	GAS LINES OF TENN
-FRANCIS PETROLEUM CORP				RECEIVED:	02/03/83	JA: TN			
8321089	A-2250	4115121044		102-2		CRAWFORD-MILLS UNIT #1	ROBBINS	3.0	
8321086	A-2207	4115121026		102-2		GROVER PEMBERTON #1	RUGBY	3.5	NOT CONTRACTED AT
8321062	A-2304	4115121025		102-2		MANUS WRIGHT #1	RUGBY	3.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8321065	A-2241	4115121034		102-2		MANUS WRIGHT #1-A	RUGBY	3.5	
8321101	A-2206	4104920974		102-2		MORRIS DUNCAN UNIT #1		3.5	
8321124	A-2196	4115121010		102-2		OVERTON-PEMBERTON UNIT #1	RUGBY	3.5	
8321034	A-2199	4112921130		102-2		OVID TOMPKINS #1-A	RUGBY	2.5	
8321035	A-2200	4112921131		102-2		OVID TOMPKINS #2-A	RUGBY	3.0	
-GO INC				RECEIVED:	02/03/83	JA: TN			
8321165	A-2162	4104920933		102-4		RICKY RAINES-GERNT #4	BURRVILLE	50.0	FENTRESS GAS TRAN
-HUDSON RESOURCES				RECEIVED:	02/03/83	JA: TN			
8321054	A-2260	4112920766		102-4		C R JANSCH #1	WILDCAT	0.1	INTERSTATE ENERGY
8321136	A-2291	4115120906		102-2		JAMES R SNEAD	WILDCAT	0.1	INTRASTATE ENERGY
8321135	A-2231	4112920889		102-2		LINDSEY-EDWARDS #1	WILDCAT	0.1	INTRASTATE ENERGY
-JAMES R NORMAN DRILLING CO				RECEIVED:	02/03/83	JA: TN			
8321121	A-2230	4104920921		102-2		UPCHURCH-GERNT #1	STOCKTON SW	36.5	
-JOHNSON & LINDLEY INC				RECEIVED:	02/03/83	JA: TN			
8321053	A-2661	4104920985		102-2		LEWALLEN EDITH #4	SHIRLEY	0.8	INTRASTATE ENERGY
-JOHNSON ENERGY INC				RECEIVED:	02/03/83	JA: TN			
8321052	A-2249	4104921010		102-2		CAROL GARRETT #1	JONES KNOB	3.0	FENTRESS GAS TRAN
8321063	A-2306	4104921037		102-2		M V HALL #1A	JONES KNOB	20.0	FENTRESS GAS TRAN
8321064	A-2305	4104921015		102-2		TEDDY GARRETT #1A	JONES KNOB	5.0	FENTRESS GAS TRAN
-JON E JONES				RECEIVED:	02/03/83	JA: TN			
8321029	A-2331	4104920932		102-4		JOE DUNKELBERG #1	BIG BRANCH	2.0	
-KENTENTEX DRILLING PROGRAM #1				RECEIVED:	02/03/83	JA: TN			
8321039	A-2198	4115120999		103		ARLIE LAY-KENTENTEX #1	ONEIDA WEST	21.0	INTERSTATE ENERGY
-KIMBERLY OIL & GAS INC				RECEIVED:	02/03/83	JA: TN			
8321143	A-2243	4112921100		102-2		CONWAY JOHNSON #3		50.0	GAS LINES OF TENN
8321144	A-2227	4112920838		103		OLLIE BROCK #1	BURRVILLE	50.0	INTRASTATE ENERGY
8321094	A-2163	4104920868		102-2		SHIRLEY BOW #5	UNKNOWN	20.0	FENTRESS GAS LINE
-KOPPERS CO INC				RECEIVED:	02/03/83	JA: TN			
8321072	A-2236	4112921157		102-2		CLETUS BERRY ETAL #1	RUGBY	56.9	INTRASTATE ENERGY
-LELAND PETROLEUM PRODUCTION INC				RECEIVED:	02/03/83	JA: TN			
8321129	A-2262	4112921107		103		R C HUTCHENS #2	GATEWOOD SCHOOL FIELD	8.9	B & W OIL CO
-MATHIS CLEM				RECEIVED:	02/03/83	JA: TN			
8321037	A-2266	4103520063		102-2		OTHEL HOUSTON #1	WILDCAT	0.2	
8321056	A-2265	4103520105		102-2		OTHEL HOUSTON #2	WILDCAT	0.2	
8321055	A-2263	4103520109		102-2		OTHEL HOUSTON #3	WILDCAT	0.2	
8321038	A-2264	4103520114		102-2		OTHEL HOUSTON #4	WILDCAT	0.2	
8321036	A-2267	4103520115		102-2		OTHEL HOUSTON #5	WILDCAT	0.2	
-PATRICK PETROLEUM CORP (MI)				RECEIVED:	02/03/83	JA: TN			
8321060	A-2248	4112920145		102-4		BOYLE PLANTATION #1	BURVILLE	15.0	INTRASTATE ENERGY
-PAUL STEFFANSON				RECEIVED:	02/03/83	JA: TN			
8321139	A-306	4115170060		108		KELLY TERRY BROMLEY #1	ONEIDA WEST FIELD	5.0	INTRASTATE ENERGY
-PRAIRE CORP				RECEIVED:	02/03/83	JA: TN			
8321042	A-2190	4115120670		108		CHARLES & LARRY JEFFERS #1	JOHN HALL FLATS	16.0	INTRASTATE ENERGY
8321041	A-2194	4115120683		108		CHARLES & LARRY JEFFERS #2	JOHN HALL FLATS	7.7	INTRASTATE ENERGY
8321043	A-2189	4115120713		108		CHARLES & LARRY JEFFERS #3	JOHN HALL FLATS	1.1	INTRASTATE ENERGY
8321077	A-2187	4115120550		108		CURTIS SEXTON #1	JOHN HALL FLATS	3.0	INTRASTATE ENERGY
8321044	A-2197	4115120681		108		JEFFERS-THOMPSON #1	JOHN HALL FLATS	8.6	INTRASTATE ENERGY
8321117	A-2193	4115120681		108		JERRY WILLARD THOMPSON #1	JOHN HALL FLATS	17.0	INTRASTATE ENERGY
8321116	A-2192	4115120586		108		LEWIS MEYER #1	RUGBY	3.7	INTRASTATE ENERGY
8321115	A-2183	4112920630		108		OVID TOMPKINS #1	RUGBY	2.0	INTRASTATE ENERGY
8321114	A-2182	4112920630		108		OVID TOMPKINS #2	RUGBY	2.0	INTRASTATE ENERGY
8321113	A-2188	4115120587		108		OVID TOMPKINS #4	RUGBY	5.0	INTRASTATE ENERGY
8321096	A-2186	4112920630		108		OVID TOMPKINS #7	RUGBY	2.0	INTRASTATE ENERGY

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8321045	A-2185	4115120584		108		RICH-SEXTON UNIT #1	JOHN HALL FLATS	0.9	INTRASTATE ENERGY
8321112	A-2181	4115120653		108		RUGBY-DAVIS #1	RUGBY	5.5	INTRASTATE ENERGY
8321047	A-2191	4115120607		108		WANDA SEXTON #1	JOHN HALL FLAT	1.2	INTRASTATE ENERGY
8321046	A-2184	4115120749		108		WANDA SEXTON #2	JOHN HALL FLATS	1.2	INTRASTATE ENERGY
-RATLIFF FARMS INC				RECEIVED:	02/03/83	JA: TN			
8321142	A-2310	4112920275		102-4		J F YOUNG #1 - PERMIT NUMBER 1148	INDIAN CREEK	0.1	INTRASTATE ENERGY
8321140	A-2312	4112920574		102-4		L E YOUNG #3 PERMIT #2798	INDIAN CREEK	100.0	INTRASTATE ENERGY
8321141	A-2311	4112920909		102-2		SELLERS-REED UNIT 1 - PERMIT 4184	INDIAN CREEK	0.5	INTRASTATE ENERGY
-RED FEATHER GAS & OIL INC				RECEIVED:	02/03/83	JA: TN			
8321170	A-2224	4104920936		102-2		BOBBY TAUBERT NO 2	SHIRLEY	60.0	INTRASTATE ENERGY
-ROGERS RICHARD R				RECEIVED:	02/03/83	JA: TN			
8321081	A-2259	4112921010		103		BILLY G GARRETT #3	PILOT MOUNTAIN	28.6	INTRASTATE ENERGY
8321150	A-2318	4112920771		103		BILLY GARRETT #2	PILOT	21.9	INTRASTATE ENERGY
8321080	A-2258	4112921067		103		HENRY HEIRS #1	PILOT MOUNTAIN	91.2	INTRASTATE ENERGY
-SAINT JOSEPH PETROLEUM INC				RECEIVED:	02/03/83	JA: TN			
8321166	A-2205	4104920947		102-4		BROWN ET AL #1	STOCKTON S W	184.8	B & W OIL CO
8321167	A-2204	4104920920		102-4		WALLACE #1	STOCKTON S W	135.4	B & W OIL CO
-SHEPHERD OIL INC				RECEIVED:	02/03/83	JA: TN			
8321118	A-2213	4104920782		103		PARKER-PEAVYHOUSE #1	STOCKTON	36.5	B & W OIL CO
-SOLDNER BILL SEBASTIN				RECEIVED:	02/03/83	JA: TN			
8321126	A-871	4112920371		102-2		ALEXANDER HEIRS #1	INDIAN CREEK	12.5	
8321125	A-873	4112920648		102-2		B YORK-ALEXANDER HEIRS #1	INDIAN CREEK	12.5	
8321168	A-872	4112920418		102-2		YOUNG-SOLDNER-ALEXANDER #1	INDIAN CREEK	12.5	
-SRI DRILLING CO				RECEIVED:	02/03/83	JA: TN			
8321066	A-2288	4112920717		108		G C PEMBERTON - R PEMBERTON #2	PLEASANT RIDGE	11.0	EAST TENNESSEE NA
8321147	A-2280	4112920975		108		G C PEMBERTON #1	PLEASANT RIDGE	13.0	EAST TENNESSEE NA
8321148	A-2278	4112920998		108		G C PEMBERTON #4-A	PLEASANT RIDGE	30.0	EAST TENNESSEE NA
8321068	A-2276	4112921008		108		G C PEMBERTON #6-A	PLEASANT RIDGE	1.8	EAST TENNESSEE NA
8321067	A-2275	4112921019		108		G C PEMBERTON #8-A	PLEASANT RIDGE	1.8	EAST TENNESSEE NA
8321069	A-2277	4112921002		108		G C PEMBERTON 5-A	PLEASANT RIDGE	3.7	EAST TENNESSEE NA
8321146	A-2290	4112920658		108		RALPH PEMBERTON - G C PEMBERTON #1	PLEASANT RIDGE	0.0	EAST TENNESSEE NA
8321145	A-2287	41129207b1		108		RALPH PEMBERTON - G C PEMBERTON #2	PLEASANT RIDGE	3.0	EAST TENNESSEE NA
-SUNBRIGHT OIL & GAS INC				RECEIVED:	02/03/83	JA: TN			
8321048	A-2202	4112921129		102-2		CLYDE FREELS #9	RUGBY	35.0	INTRASTATE ENERGY
-T H GRASSO OIL & GAS DEVELOPMENT IN				RECEIVED:	02/03/83	JA: TN			
8321127	A-2203	4115120991		103		ALTON TERRY ET AL #1	ONEIDA WEST	41.5	INTRASTATE ENERGY
-TARTAN OIL COMPANY				RECEIVED:	02/03/83	JA: TN			
8321061	A-2307	4112921190		102-2		CONWAY JOHNSON #3 (PERMIT #5661)	TWIN BRIDGES	7.5	GAS LINES OF TENN
8321111	A-2308	4115120979		102-2		DUNCAN HRS UNIT #1 (PER #5208)	STANLEY JUNCTION	9.1	
8321110	A-2309	4115120518		102-2		HARRY VESTAL #1	STANLEY JUNCTION	70.0	
8321164	A-2235	4112921156		102-2		PAUL WITMER #2	DAN BRANCH	15.0	GAS LINES OF TENN
-TENNESSEE GAS & OIL CO INC				RECEIVED:	02/03/83	JA: TN			
8321169	A-2225	4112920817		102-2		WENTLAND UNIT 3A	DAN BRANCH	40.0	GAS LINES OF TENN
-THREE G'S DRILLING CO				RECEIVED:	02/03/83	JA: TN			
8321073	A-2178	4104920944		102-4		CHARLES ANDREWS #1	GRIMSLEY	3.5	FENTRESS GAS TRAN
8321074	A-2177	4104920885		102-4		GUY BEATY & GUY DALE BEATY #2	GRIMSLEY	4.0	FENTRESS GAS TRAN
-TOMNER PETROLEUM CO				RECEIVED:	02/03/83	JA: TN			
8321040	A-2195	4112920350		103		DUNKLEBURG H #1	BOONE CAMP NORTH	18.0	
8321083	A-2168	4112920769		103		PEMBERTON F-28	COON HOLLOW	3.5	
8321098	A-2214	4115120422		102-2		PEMBERTON K-5	ROBBINS	11.0	
8321084	A-2169	4112920834		103		PEMBERTON/WALKER #1	COON HOLLOW	52.0	
8321123	A-2167	4115120070		102-2		RUGBY LAND CO #8	GUM BRANCH	5.4	
-UNITED AMERICAN ENERGY INC				RECEIVED:	02/03/83	JA: TN			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8321071	A-2247	4112920388		102-2		BOBBY YORK #3	DAN BRANCH	0.3	GAS LINES OF TENN
8321070	A-2244	4112920389		102-2		BOBBY YORK #4	DAN BRANCH	0.3	GAS LINES OF TENN
8321050	A-2246	4112920409		102-2		BOBBY YORK #8	DAN BRANCH	0.2	GAS LINES OF TENN
8321132	A-2245	4112920382		102-2		YORK #1	DAN BRANCH	30.0	GAS LINES OF TENN
-VOLUNTEER DRILLING CO INC				RECEIVED:	02/03/83	JA: TN			
8321107	A-2222	4104920659		102-2		HOMER CHAMBERS UNIT #1	BURRVILLE	25.0	INTRA STATE ENERG
8321106	A-2220	4104920654		102-2		KYLE POORE UNIT #1	BURRVILLE	25.0	INTRASTATE ENERGY
8321105	A-2219	4104920653		102-2		LEONARD JONES #1	BURRVILLE	25.0	INTRASTATE ENERGY
8321057	A-2215	4104920651		102-2		LEONARD JONES UNIT #1	BURRVILLE	0.3	INTRA STATE ENERG
8321104	A-2217	4104920663		102-2		LUCIAN POORE #1-A	BURRVILLE	25.0	INTRASTATE ENERGY
8321102	A-2216	4104920660		102-2		LUCIAN POORE UNIT #3	BURRVILLE	25.0	INTRA STATE ENERG
8321108	A-2223	4104920639		102-2		LUCIAN POORE UNIT #4	BURRVILLE	25.0	INTRA STATE ENERG
8321103	A-2218	4104920657		102-2		RHODA GARRETT UNIT #1	BURRVILLE	25.0	INTRASTATE ENERGY
8321109	A-2272	4104920793		102-2		TOM COLEMAN UNIT #1	SHIRLEY	25.0	INTRA STATE ENERG
-WILLIAMS & BLALOCK RESOURCES INC				RECEIVED:	02/03/83	JA: TN			
8321160	A-2240	4104920313		102-4		SHELLY BOWDEN-GUY WILLIAMS UNIT #1	BIG BRANCH	3.5	FENTRESS GAS TRAN
-WORLD OIL INC				RECEIVED:	02/03/83	JA: TN			
8321085	A-2232	4103520100		102-2		J E HILL & CLAUDE LITTE UT 2A	CROSSVILLE	3.0	
8321088	A-2234	4103520047		102-2		JAMES E HILL #5	CROSSVILLE	2.0	
8321087	A-2233	4103520097		102-2		JAMES E HILL OLD #7	CROSSVILLE	2.5	
**********									
UTAH DIVISION OF OIL,GAS, & MINING									
**********									
-AMOCO PRODUCTION CO				RECEIVED:	07/22/82	JA: UT			
8258127	K-121-11	4304330136		102-2		CHAMPLIN 458 AMOCO D #2	ANSCHUTZ RANCH EAST -	30.0	
-CIG EXPLORATION INC				RECEIVED:	08/21/81	JA: UT			
8151029	K-129-9	4304730866		103		CIGE 67A-2-10-22P	NATURAL BUTTES	383.0	COLORADO INTERSTA
-COSEKA RESOURCES (USA) LIMITED				RECEIVED:	04/20/81	JA: UT			
8151027	K-105-4	4301930641		103		4-30-16S-24	WILDCAT	58.4	NATURAL GAS CORP
-GULF OIL CORPORATION				RECEIVED:	07/22/82	JA: UT			
8258128	K-125-4	4301330573		103		GERITZ-MURPHY 1-6-C4	ALTAMONT	72.0	SHELL OIL CO
-HARRISON THOMAS D				RECEIVED:	08/21/81	JA: UT			
8151030	K-139-1	4301900791		103		PIONEER #1	GREATER CISCO AREA	75.0	NORTHWEST PIPELIN
-ODEGARD RESOURCES INC				RECEIVED:	07/22/82	JA: UT			
8258129	K-146-1	4301921220		103		STATE 16-9	WILDCAT	350.0	
-SNYDER OIL CO				RECEIVED:	07/22/82	JA: UT			
8258131	K-147-2	4304730878		103		WEST WALKER STATE 1-32	HORSESHOE BEND	266.0	NORTHWEST PIPELIN
8258130	K-147-1	4304730977		103		WEST WALKER STATE 2-32	HORSESHOE BEND	137.0	NORTHWEST PIPELIN
-THE ANSCHUTZ CORPORATION				RECEIVED:	04/20/81	JA: UT			
8151028	K-126-2	4304330121		102-2		ANSCHUTZ RANCH 4-1	ANSCHUTZ RANCH	340.0	NATURAL GAS PIPEL
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, LOS ANGELES,CA									
**********									
-UNION OIL COMPANY OF CALIF				RECEIVED:	02/07/83	JA: CA 2			
8321189	OCS-P 1-83	0431120513		102-5		SANTA CLARA UNIT S-7	CALIFORNIA OFFSHORE	0.0	PACIFIC LIGHTING
8321190	OCS-P 2-83	0431120516		102-5		SANTA CLARA UNIT WELL S-8	CALIFORNIA OFFSHORE	0.0	PACIFIC LIGHTING

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161; OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-6009 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-C

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
COLORADO OIL & GAS COMMISSION									
-AMERICAN PETROLEUM ENERGY CO INC				RECEIVED:	02/07/83	JA: CO			
8321255	82-425	0506706270		107-TF		ARGENTA UTE #10	IGNACIO-BLANCO	72.0	NORTHWEST PIPELIN
8321335	82-927	0506706164		108		ARGENTA UTE #2	IGNACIO-BLANCO	0.0	NORTHWEST PIPELIN
8321337	82-928	0506706199		108		ARGENTA UTE #7	IGNACIO-BLANCO	0.0	NORTHWEST PIPELIN
8321338	82-926	0506706198		108		ARGENTA UTE #8	IGNACIO-BLANCO	0.0	NORTHWEST PIPELIN
8321336	82-925	0506706200		108		ARGENTA-UTE #6	IGNACIO-BLANCO	0.0	NORTHWEST PIPELIN
8321254	82-424	0506706269		107-TF		ARGENTA-UTE #9	IGNACIO-BLANCO	90.0	NORTHWEST PIPELIN
-AMOCO PRODUCTION CO				RECEIVED:	02/07/83	JA: CO			
8321256	82-366	0500107878		107-TF		CHAMPLIN 248 AMOCO "C" #1	RADAR	56.5	PANHANDLE EASTERN
8321257	82-365	0500107885		107-TF		CHAMPLIN 248 AMOCO "C" #2	RADAR	30.0	PANHANDLE EASTERN
8321258	82-364	0512309751		107-TF		CHAMPLIN 366 AMOCO "E" #1	WATTENBERG	35.0	PANHANDLE EASTERN
8321225	82-356	0503906406		103		CHAMPLIN 548 AMOCO "A" #2	DEADEYE	30.0	AMOCO PRODUCTION
8321226	82-358	0503906404		103		CHAMPLIN 569 AMOCO "E" #6	COMMANCHE CREEK	30.0	AMOCO PRODUCTION
8321259	82-373	0512310289		107-TF		DAKOTA WARNER GAS UNIT #1	WATTENBERG	126.0	PANHANDLE EASTERN
8321260	82-367	0500107530		107-TF		R HORTH #1	UNKNOWN	73.0	PANHANDLE EASTERN
8321261	82-368	0500107531		107-TF		R HORTH #2	UNKNOWN	140.0	PANHANDLE EASTERN
8321227	82-357	0500108034		103		UPRR 23 PAN AM "N" #1	JAMBOREE	35.0	PANHANDLE EASTERN
8321262	82-363	0512309891		107-TF		UPRR 38 PAN AM "K" #2	WATTENBERG	248.0	PANHANDLE EASTERN
8321263	82-370	0512310053		107-TF		UPRR 38 PAN AM "M" #1	WATTENBERG	143.0	PANHANDLE EASTERN
-BIG FOUR PETROLEUM CO				RECEIVED:	02/07/83	JA: CO			
8321217	82-489	0509906169		102-2		NEVIUS B #4-29	BERRY PATCH	319.0	PEOPLES NATURAL G
-CENTENNIAL PETROLEUM INC				RECEIVED:	02/07/83	JA: CO			
8321264	82-362	0501306046		107-TF		FUTHEY #1	BOULDER VALLEY	36.0	PANHANDLE EASTERN
8321218	82-381	0501306079		102-2		HEATHERWOOD 1-7	WILDCAT	21.0	PANHANDLE EASTERN
8321265	82-380	0501306079		107-TF		HEATHERWOOD 1-7	WILDCAT	21.0	PANHANDLE EASTERN
8321266	82-593	0512310498		107-TF		KERBS 1-20	WATTENBERG	54.0	PANHANDLE EASTERN
8321228	82-456	0512310507		103		YEAGER 22-16	WILDCAT	24.0	DAMSON OIL CORP
-COORS ENERGY CO				RECEIVED:	02/07/83	JA: CO			
8321267	82-607	0507708436		107-TF		HARVEY 2-25	PLATEAU-DEEP	138.0	INTER NORTH INC
8321268	82-481	0507708404		107-TF		MEADOR 5-24	PLATEAU FIELD	428.0	INTER NORTH INC
-ENERGY MINERALS CORPORATION				RECEIVED:	02/07/83	JA: CO			
8321219	82-623	0512310270		102-2		HOMER #1	SLOAN	19.0	PHILLIPS PETROLEU
8321220	82-625	0512310230		102-2		JAKEL #1	SLOAN	31.0	PHILLIPS PETROLEU
8321210	82-744	0500108000		102-4		KUGEL #1	FENCE POST	9.0	KOCH HYDROCARBON
8321269	82-339	0512506680		107-TF		LEBSOCK #1	WHISPER	23.0	KANSAS/NEBRASKA N
8321270	82-384	0512310475		107-TF		LEONA #1	WATTENBERG	60.0	COLORADO INTERSTA
8321271	82-386	0512310408		107-TF		LISA #1	WATTENBERG	47.0	COLORADO INTERSTA
8321272	82-385	0512310476		107-TF		RHOADES #1	WATTENBERG	69.0	COLORADO INTERSTA
8321211	82-745	0500107959		102-4		STROH #1	FENCE POST	12.0	KOCH HYDROCARBON
8321341	82-581	0512310524		107-TF		WILLIAM #1	WATTENBERG	150.0	PANHANDLE EASTERN
-ENERGY OIL INC				RECEIVED:	02/07/83	JA: CO			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8321231	82-347	0512310555		103		ALLES #1	WATTENBERG	225.0	PANHANDLE EASTERN
-EXCEL ENERGY CORP				RECEIVED:	02/07/83	JA: CO			
8321273	82-341	0512310453		107-TF		DOMENICO #1	WATTENBERG	0.0	PANHANDLE EASTERN
8321232	82-340	0512310453		103		DOMENICO #1	WATTENBERG	0.0	PANHANDLE EASTERN
8321233	82-342	0512310159		103		FREAUFF #1	WATTENBERG	0.0	PANHANDLE EASTERN
8321274	82-352	0512310425		107-TF		FT ST VRAIN #16	WATTENBERG	0.0	PANHANDLE EASTERN
-GRIFFIN PETROLEUM CORP				RECEIVED:	02/07/83	JA: CO			
8321221	82-391	0512310447		102-2		CATHY #1	BANNER LAKES	21.9	DAMSON OIL CORP
-HAMILTON BROTHERS OIL CO				RECEIVED:	02/07/83	JA: CO			
8321213	82-904	0512310458		102-4		CARROLL #1-30	BAXTER LAKE	68.4	PANHANDLE EASTERN
-JOHN P LOCKRIDGE				RECEIVED:	02/07/83	JA: CO			
8321275	82-448	0512506637		107-TF		ALLEN 14-19	BONNY FIELD	9.0	CITIES SERVICE GA
8321276	82-401	0512506686		107-TF		ALLEN 34-19	BONNY FIELD	48.0	CITIES SERVICE GA
8321277	82-415	0512506462		107-TF		DEVLIN 1-21	BONNY FIELD	18.0	CITIES SERVICE GA
8321278	82-418	0512506460		107-TF		DEVLIN 1-33	BONNY FIELD	24.0	CITIES SERVICE GA
8321281	82-443	0512506666		107-TF		DEVLIN 12-32	BONNY FIELD	24.0	CITIES SERVICE GA
8321282	82-399	0512506715		107-TF		DEVLIN 12-33	BONNY FIELD	24.0	CITIES SERVICE GA
8321279	82-452	0512506660		107-TF		DEVLIN 12-4	BONNY FIELD	36.0	CITIES SERVICE GA
8321280	82-451	0512506657		107-TF		DEVLIN 12-5	BONNY FIELD	18.0	CITIES SERVICE GA
8321283	82-423	0512506667		107-TF		DEVLIN 14-28	BONNY FIELD	24.0	CITIES SERVICE GA
8321285	82-447	0512506649		107-TF		DEVLIN 32-19	BONNY FIELD	36.0	CITIES SERVICE GA
8321286	82-396	0512506717		107-TF		DEVLIN 32-28	BONNY FIELD	24.0	CITIES SERVICE GA
8321287	82-441	0512506661		107-TF		DEVLIN 32-32	BONNY FIELD	18.0	CITIES SERVICE GA
8321284	82-449	0512506655		107-TF		DEVLIN 32-5	BONNY FIELD	36.0	CITIES SERVICE GA
8321288	82-395	0512506716		107-TF		DEVLIN 34-32	BONNY FIELD	24.0	CITIES SERVICE GA
8321289	82-398	0512506685		107-TF		DUTT 12-20	BONNY FIELD	11.0	CITIES SERVICE GA
8321290	82-442	0512506656		107-TF		EBELER/DEVLIN 14-32	BONNY FIELD	24.0	CITIES SERVICE GA
8321291	82-450	0512506663		107-TF		EBELER/PETERSON 14-5	BONNY FIELD	24.0	CITIES SERVICE GA
8321292	82-446	0512506664		107-TF		GROSECLOSE 14-29	BONNY FIELD	24.0	CITIES SERVICE GA
8321293	82-393	0512506668		107-TF		GROSECLOSE 32-30	BONNY FIELD	50.0	CITIES SERVICE GA
8321294	82-444	0512506665		107-TF		GROSECLOSE 34-30	BONNY FIELD	24.0	CITIES SERVICE GA
8321295	82-392	0512506719		107-TF		GROSECLOSE/HELLING 14-21	BONNY FIELD	18.0	CITIES SERVICE GA
8321296	82-417	0512506463		107-TF		HELLING 1-8	BONNY FIELD	24.0	CITIES SERVICE GA
8321297	82-400	0512506700		107-TF		HELLING 32-21	BONNY FIELD	48.0	CITIES SERVICE GA
8321298	82-445	0512506640		107-TF		LIPPERT 14-30	BONNY FIELD	36.0	CITIES SERVICE GA
8321299	82-453	0512506643		107-TF		LIPPERT 34-25	BONNY FIELD	9.0	CITIES SERVICE GA
8321300	82-414	0512506458		107-TF		MOELLENBERG 1-5	BONNY FIELD	12.0	CITIES SERVICE GA
8321301	82-413	0512506557		107-TF		MOELLENBERG 1-6	BONNY FIELD	9.0	CITIES SERVICE GA
8321302	82-455	0512506653		107-TF		PETERSON/BOWMAN 12-25	BONNY FIELD	9.0	CITIES SERVICE GA
8321303	82-454	0512506652		107-TF		PETERSON/BOWMAN 14-25	BONNY FIELD	9.0	CITIES SERVICE GA
8321304	82-416	0512506464		107-TF		PINCKARD 1-17	BONNY FIELD	20.0	CITIES SERVICE GA
8321305	82-397	0512506720		107-TF		PINCKARD 12-17	BONNY FIELD	11.0	CITIES SERVICE GA
8321306	82-422	0512506651		107-TF		PINCKARD 34-18	BONNY FIELD	9.0	CITIES SERVICE GA
8321307	82-394	0512506691		107-TF		STATE 32-36	BONNY FIELD	18.0	CITIES SERVICE GA
-MACEY & MERSHON OIL INC				RECEIVED:	02/07/83	JA: CO			
8321310	82-402	0512310450		107-TF		BOHLENDER #1	WATTENBERG "J"	58.0	PANHANDLE EASTERN
8321237	82-749	0512310430		103		CONNER 24-34	SPINDLE	44.0	PANHANDLE EASTERN
8321311	82-602	0500108056		107-TF		JOSEPHINE #1	WATTENBERG	80.0	PANHANDLE EASTERN
8321312	82-751	0512310119		107-TF		LEBSACK #1	WATTENBERG "J"	5.0	PANHANDLE EASTERN
8321238	82-403	0512310415		103		PARKER #1	WATTENBERG "J"	130.0	COLORADO INTERSTA
-MARTIN EXPLORATION MGMT CORP				RECEIVED:	02/07/83	JA: CO			
8321313	82-375	0501306090		107-TF		CULVER #3-17	WATTENBERG	36.0	PANHANDLE EASTERN
8321314	82-488	0501306100		107-TF		CULVER #4-9	WATTENBERG	65.0	PANHANDLE EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8321315	82-406	0507708192		107-TF		FEDERAL #1-3
8321316	82-404	0507708207		107-TF		FEDERAL #2-1
8321317	82-405	0507708178		107-TF		FEDERAL #35-1
8321239	82-606	0512310650		103		MCKINNEY-KNAUB #2-6
-MGF OIL CORP				RECEIVED:	02/07/83	JA: CO
8321308	82-429	0512310397		107-TF		DIPAOLO 22-30
8321236	82-412	0500107950		103		HOSMER 21-32
8321309	82-758	0500107960		107-TF		LEWIS 14-11
8321214	82-426	0512310604		102-4		MANDY #1
8321222	82-750	0512310651		102-2		WILDFONG 11-23
-NATOMAS NORTH AMERICA INC				RECEIVED:	02/07/83	JA: CO
8321318	82-506	0506706564		107-TF		STATE-ROYCE #1-36
-NIELSON ENTERPRISES INC				RECEIVED:	02/07/83	JA: CO
8321240	82-574	0512309296		103		GAULKE #2
8321241	82-558	0512310548		103		MILLARD #2
-NIOBRARA ILLUMINATING GAS ASSOCIATE				RECEIVED:	02/07/83	JA: CO
8321319	82-411	0512109780		107-TF		ALLEN #4
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	02/07/83	JA: CO
8321223	82-376	0508106469		102-2		MOFFAT COUNTY #1
-PUCKETT-WARREN OIL				RECEIVED:	02/07/83	JA: CO
8321320	82-487	0512506465		107-TF		DAY 1-8
8321321	82-486	0512506400		107-TF		MCCASLAND 1-10
-R E HIBBERT				RECEIVED:	02/07/83	JA: CO
8321235	82-359	0512310327		103		MILLER 1-21
-RAYMOND T DUNCAN				RECEIVED:	02/07/83	JA: CO
8321229	82-338	0500100000		103		LARSON 1-10
8321230	82-337	0500100000		103		LARSON 2-10
-ROCK OIL CORP				RECEIVED:	02/07/83	JA: CO
8321224	82-479	0500108070		102-2		HUTTNER #1
8321322	82-478	0500108070		107-TF		HUTTNER #1
-SAMUEL GARY OIL PRODUCER				RECEIVED:	02/07/83	JA: CO
8321234	82-686	0500107974		103		HAND MUEGGE 1-32
8321212	82-688	0500107974		102-4		HAND MUEGGE 1-32
-SKYLINE OIL COMPANY				RECEIVED:	02/07/83	JA: CO
8321242	82-419	0507708400		103		SKYLINE HITTLE DUCRAY #4
8321215	82-420	0507708400		102-4		SKYLINE HITTLE DUCRAY #4
8321328	82-354	0507708414		107-TF		SKYLINE HITTLE DUCRAY #4-A
8321243	82-353	0507708414		103		SKYLINE HITTLE DUCRAY #4-A
8321327	82-355	0507708285		107-TF		SKYLINE HITTLE-DUCRAY #2
-SOLAR PETROLEUM INC				RECEIVED:	02/07/83	JA: CO
8321216	82-388	0507508956		102-4		KIRK #4-A
-TEXAS AMERICAN OIL CORP				RECEIVED:	02/07/83	JA: CO
8321246	82-493	0500107240		103		ALICE WIGGETT #1
8321247	82-492	0500107241		103		ALICE WIGGETT #2
8321248	82-491	0500107242		103		ALICE WIGGETT #3
8321249	82-490	0500107243		103		ALICE WIGGETT #4
8321244	82-439	0500107280		103		H ELRICK #1
8321245	82-440	0500107281		103		R L WALLACE #1
-THE SAND HILLS SOCIETY				RECEIVED:	02/07/83	JA: CO
8321323	82-408	0512109772		107-TF		BURNS #1
8321324	82-407	0512109770		107-TF		DRAEGERT #1
8321325	82-409	0512109771		107-TF		G SMALL #1
8321326	82-410	0512109769		107-TF		R SMALL #1

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FIELD NAME	PROD	PURCHASER
SHIRE GULCH	36.0	NORTHWEST PIPELIN
SHIRE GULCH	36.5	NORTHWEST PIPELIN
SHIRE GULCH	36.0	NORTHWEST PIPELIN
HAMBERT	61.0	PANHANDLE EASTERN
WATTENBERG "J" SAND	217.8	PANHANDLE EASTERN
JAMBOREE	75.6	PANHANDLE EASTERN
WATTENBERG	108.0	PANHANDLE EASTERN
BANNER LAKES	365.0	DAMSON OIL CORP
N E RIVERSIDE II	147.9	DAMSON OIL CORP
IGNACIO-BLANCO	0.0	NORTHWEST PIPE LI
SPINDLE	20.0	PANHANDLE EASTERN
SPINDLE	20.0	PANHANDLE EASTERN
DE NOVA	54.8	NATURAL GAS PIPEL
GREAT DIVIDE LEWIS	0.0	NORTHWEST PIPELIN
BUCKBOARD	17.5	CITIES SERVICE GA
BUCKBOARD	115.0	CITIES SERVICE GA
GRANNY	182.5	KANSAS-NEBRASKA N
UNDESIGNATED	0.0	(COLORADO INTERST
UNDESIGNATED	0.0	(COLORADO INTERST
WILDCAT	1.3	PANHANDLE EASTERN
WILDCAT	1.3	PANHANDLE EASTERN
GAMBREL C SWSE 32-T3S	465.0	PANHANDLE EASTERN
GAMBREL C SWSE 32-T3S	465.0	PANHANDLE EASTERN
PLATEAU FIELD	0.0	NORTHWEST PIPELIN
PLATEAU	0.0	NORTHWEST PIPELIN
PLATEAU	64.0	NORTHWEST PIPELIN
PLATEAU	64.0	NORTHWEST PIPELIN
PLATEAU	0.0	NORTHWEST PIPELIN
MOUNT HOPE	0.0	KANSAS NEBRASKA N
SPINDLE FIELD	5.5	PANHANDLE EASTERN
SPINDLE FIELD	6.2	PANHANDLE EASTERN
SPINDLE FIELD	5.0	PANHANDLE EASTERN
SPINDLE FIELD	4.9	PANHANDLE EASTERN
SPINDLE FIELD	39.1	PANHANDLE EASTERN
SPINDLE FIELD	4.3	PANHANDLE EASTERN
LONG KNIFE	21.9	NATURAL GAS PIPEL
LONG KNIFE	21.9	NATURAL GAS PIPEL
DAPPER	36.5	NATURAL GAS PIPEL
DAPPER	36.5	NATURAL GAS PIPEL

JO NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-UNIOIL				RECEIVED:	02/07/83	JA: CO			
8321329	82-330	0512307599		107-TF		GREAT WESTERN SUGAR CO #1	WATTENBERG	0.0	PANHANDLE EASTERN
-VESSELS OIL & GAS CO				RECEIVED:	02/07/83	JA: CO			
8321334	82-554	0500107799		107-DP		TRUPP MITCHEM #2	ZUNNAMED	220.0	PANHANDLE EASTERN
-VESSELS OIL & GAS COMPANY				RECEIVED:	02/07/83	JA: CO			
8321330	82-361	0512310535		107-TF		BOCC "A" UNIT #2	WATTENBERG	310.0	PANHANDLE EASTERN
8321332	82-569	0501306122		107-TF		DEASON "F" UNIT #1	WATTENBERG	438.0	PANHANDLE EASTERN
8321331	82-421	0512310001		107-DP		EDWARD P COSTIGAN #1	"J" SAND	401.0	PANHANDLE EASTERN
8321250	82-377	0512310536		103		GRANT BROTHERS "C" UNIT #1	WATTENBERG	182.0	ADOLPH COORS CO
8321339	82-949	0512300000		108		GRENEMEYER-WAGNER #1	WATTENBERG	5.0	PANHANDLE EASTERN
8321333	82-495	0501306109		107-TF		LABER "K" UNIT #1	WATTENBERG	401.0	PANHANDLE EASTERN
8321340	82-948	0512308041		108		MOSER #1	WATTENBERG	14.0	PANHANDLE EASTERN
8321251	82-592	0512310488		103		MOSER "C" UNIT #1	WATTENBERG	365.0	PANHANDLE EASTERN
8321252	82-743	0512310628		103		WANDELL "E" UNIT #1	WATTENBERG	607.0	ADOLP COORS CO
-WELLS ENERGY CORP				RECEIVED:	02/07/83	JA: CO			
8321253	82-494	0501106126		103		EARL-HOFFMAN #1		180.0	
**********									
KANSAS CORPORATION COMMISSION									
**********									
-HELMERICH & PAYNE INC				RECEIVED:	02/07/83	JA: KS			
8321384	K-79-105-4	1508100000		108-ER		TRIMPA "A" #2		0.0	INTER NORTH INC
**********									
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
**********									
-ROBERT KLABZUBA				RECEIVED:	02/08/83	JA: MI			
8321390		2102500000		102-4		WEST #1 DNR #30207	CONVIS	30.0	MOBIL OIL CORP
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	02/08/83	JA: MI			
8321388		2108735235		103		RICH FIELD UNIT #15-1	RICH	5.0	SOUTHEASTERN MICH
8321389		2108735549		103		RICH FIELD UNIT #16-1	RICH	20.0	SOUTHEASTERN MICH
8321386		2108735233		103		RICH FIELD UNIT #18-3	RICH	23.0	SOUTHEASTERN MICH
8321385		2108735342		103		RICH FIELD UNIT #37-2	RICH	6.0	SOUTHEASTERN MICH
8321387		2108735232		103		RICH FIELD UNIT #6-1	RICH	3.0	SOUTHEASTERN MICH
**********									
OKLAHOMA CORPORATION COMMISSION									
**********									
-B & H EXPLORATION CO				RECEIVED:	02/07/83	JA: OK			
8321358	16024	3513120741		108		STATE-VAN PELT #2	WEST TALALA	2.5	DIAMOND S GAS SYS
-C J CASSELMAN				RECEIVED:	02/07/83	JA: OK			
8321362	18170	3511123690		103		KINZER #1	MORRIS	10.3	PHILLIPS PETROLEU
-CRAWLEY PETROLEUM CORPORATION				RECEIVED:	02/07/83	JA: OK			
8321381	19705	3507323033		103		VINCENT #2	EAST HENNESSEY	90.0	OKLAHOMA GAS & EL
-EARTH ENERGY RESOURCES INC				RECEIVED:	02/07/83	JA: OK			
8321361	17111	3511921457		103		GARDNER #1	NORTH RAMSEY	6.4	SUN GAS TRANSMISS
-F C O OIL CORP				RECEIVED:	02/07/83	JA: OK			
8321375	19734	3505320890		103		HAZEL 1-20	SOUTH POND CREEK	54.8	C R A INC
-FIRST NATIONAL OIL INC				RECEIVED:	02/07/83	JA: OK			
8321356	15163	3502520420		103		MCCRACKEN #1	MIDWELL	2.6	PHILLIPS PETROLEU
-GRAHAM EXPLORATION LTD DRILLING PAR				RECEIVED:	02/07/83	JA: OK			
8321382	19707	3501121716		103		MCGOWAN #1		49.3	OKLAHOMA GAS & EL
-HARPER OIL COMPANY				RECEIVED:	02/07/83	JA: OK			
8321378	19701	3507322159		108		DROKE #1	SOONER TREND	10.0	PHILLIPS PETROLEU
-JEFFERSON-WILLIAMS ENERGY CORP				RECEIVED:	02/07/83	JA: OK			
8321374	19733	3510321681		103		HERMAN FEKEN #1	POLO	36.0	ARCO OIL & GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8321373	19732	3510321741		103		#K A SPAULDING #3	CERES SOUTH	36.0	ARCO OIL & GAS CO
8321372	19731	3510321673		103		MAY LAU #1	LONE ELM NORTHWEST	100.0	AMINOIL USA INC
-KEY DRILLING CO				RECEIVED:	02/07/83	JA: OK			
8321364	18538	3511121398		108		TIGER #3	HECTORVILLE	0.0	PHILLIPS PETROLEU
-LEAR PETROLEUM EXPLORATION INC				RECEIVED:	02/07/83	JA: OK			
8321355	22934	3501521503		107-DP		HART #1-36	NORTH EAKLY	1.9	EL PASO NATURAL G
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	02/07/83	JA: OK			
8321370	14808	3510937834		108-ER		EDMOND #1	WEST EDMOND	14.0	OKLAHOMA NATURAL
8321365	13326	3504721463		108		GEORGE "A" #1	SOONER TREND	12.5	TRANSOK PIPELINE
8321383	19788	3500700000		108		GUYMON AH #1	COMO FLORIS GAS AREA	0.0	INTER NORTH INC
8321376	19786	3513900000		108		HARLEY #1	OKLAHOMA HUGOTON	0.0	PANHANDLE EASTERN
-RICKS EXPLORATION CO				RECEIVED:	02/07/83	JA: OK			
8321357	15281	3502720534		102-4 103		HELEN 32A	N W NORMAN	891.0	SUN GAS CO
-ROYAL OIL & GAS CORPORATION				RECEIVED:	02/07/83	JA: OK			
8321359	16383	3511921509		102-4		STATE OF OKLAHOMA (102) #1	NORTHWEST SCHLEGEL	60.0	PARKS ENERGY INVE
-STRIKE ENERGY CORP				RECEIVED:	02/07/83	JA: OK			
8321380	19703	3505320818		103		FRANI #3	NORTH WEBB FIELD	99.0	EL-GRANDE PIPE LI
-SUNRISE EXPLORATION INC				RECEIVED:	02/07/83	JA: OK			
8321360	16849	3501521107		103		ELSIE HOLLIS #1-11	HINTON	91.0	
-TEXACO INC				RECEIVED:	02/07/83	JA: OK			
8321379	19702	3508520645		103		G E CAMERON #1	ENVILLE S W POOL	0.0	0
-THE WIL-MC OIL CORP				RECEIVED:	02/07/83	JA: OK			
8321371	19717	3510721295		103		FITZGERALD #1	SOUTHWEST WELEETKA	273.6	TRANS OK PIPELINE
-WESSELY ENERGY CORPORATION				RECEIVED:	02/07/83	JA: OK			
8321377	19700	3504321548		103		SANDER #1-25	N E TALOGA	275.0	OKLAHOMA GAS & EL
-WESTERN OIL RESOURCES LTD				RECEIVED:	02/07/83	JA: OK			
8321369	14726	3511720909		108		FRITCHMAN #2	WEST JENNINGS	4.0	MID-AMERICA GAS L
8321367	14724	3511720769		108		NEJ 1-01	WEST JENNINGS	3.5	MID-AMERICA GAS L
8321368	14725	3511720854		108		NEJ 2-04	WEST JENNINGS	3.3	MID-AMERICA GAS L
8321366	14722	3511720762		108		WJ 1-01	WEST JENNINGS	6.0	MID-AMERICA GAS L
-WHITEHEAD DAVID W				RECEIVED:	02/07/83	JA: OK			
8321363	18468	3503700000		108		WHITEHEAD #2		5.0	ARCO OIL & GAS CO
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, WASHINGTON,DC									
**********									
-MARATHON OIL COMPANY				RECEIVED:	02/08/83	JA: AK 7			
8321346		5013320304		103		KENAI BELUGA UNIT #13-8	KENAI GAS	2792.0	ALASKA PIPELINE C
8321350		5013320347		103		KENAI BELUGA UNIT #31-7	KENAI GAS	3024.0	ALASKA PIPELINE C
8321352		5013320327		103		KENAI BELUGA UNIT #41-7	KENAI GAS	1360.0	ALASKA PIPELINE C
8321353		5013320341		103		KENAI DEEP UNIT #42-30	KENAI GAS	4804.0	ALASKA PIPELINE C
8321342		5013320319		103		KENAI DEEP UNIT #5	KENAI GAS	3648.0	ALASKA PIPELINE C
8321343		5013320320		103		KENAI DEEP UNIT #6	KENAI GAS	4574.0	ALASKA PIPELINE C
8321354		5013320328		103		KENAI TYONEK UNIT #43-6X	KENAI GAS	2102.0	ALASKA PIPELINE C
8321344		5013320357		103		KENAI UNIT #11-8	KENAI GAS	6019.0	ALASKA PIPELINE C
8321345		5013320356		103		KENAI UNIT #13-6	KENAI GAS	5837.0	ALASKA PIPELINE C
8321347		5013320351		103		KENAI UNIT #14-32	KENAI GAS	5472.0	ALASKA PIPELINE C
8321348		5013320358		103		KENAI UNIT #24-5	KENAI GAS	4742.0	ALASKA PIPELINE C
8321349		5013320352		103		KENAI UNIT #24-7	KENAI GAS	6566.0	ALASKA PIPELINE C
8321351		5013320348		103		KENAI UNIT #34-32	KENAI GAS	5906.0	ALASKA PIPELINE C

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

[FR Doc. 83-6009 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-C

[Docket No. TC83-4-000]

Arkansas Louisiana Gas Company, a Division of Arkla, Inc.; Tariff Filing

March 4, 1983.

Take notice that on February 22, 1983, Arkansas Louisiana Gas Company, a Division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, tendered for filing in Docket No. TC83-4-000 6th Revised Sheet No. 3B, superseding 5th Revised Sheet No. 3B, to Arkla's FERC Gas Tariff, First Revised Volume No. 1, to be effective 30 days after filing.

The tariff sheet is said to change the definition of the two interruptible priorities in Arkla's curtailment plan in order to modify the order of curtailment as among interruptible customers only and is said to make no changes in any of the firm priorities. The present curtailment plan is said to distinguish between the two interruptible priorities solely on a volumetric basis, the dividing point being 3,000 Mcf of gas per day. The new definitions would place in Priority 7 interruptible customers who have agreed to purchase at least a specified minimum volume of gas if it is tendered to them and would place in Priority 8 interruptible customers who have not agreed to purchase a specified minimum volume of gas if it is tendered to them.

Arkla states that although it presently has only one interruptible customer, it is attempting to negotiate additional interruptible sales to replace lost industrial loads upon which the efficient operation of its system has been historically dependent. These interruptible industrial loads are contemplated to be a benefit to Arkla in that it may have industrial sale outlets for its gas as needed from time to time while at the same time it may maintain control over the magnitude of such interruptible deliveries as and when it is desirable to reduce those deliveries in the course of monitoring their impact on Arkla's firm retail customers.

Any person desiring to be heard or to make any protest with reference to said tariff sheet should on or before March 21, 1983, 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). 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-6001 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-336-000]

Consumers Power Co.; Filing

March 4, 1983.

Take notice that Consumers Power Company (Consumers) on February 18, 1983, tendered for filing Amendment No. 7 to the Operating Agreement dated March 1, 1966 among Consumers, The Detroit Edison Company (Detroit) and The Toledo Edison Company (Toledo). Consumers and Detroit will be collectively denoted "Michigan Companies". The Operating Agreement dated March 1, 1966 was amended July 28, 1975, August 1, 1979, July 1, 1980, May 1, 1981, March 1, 1982 and June 1, 1982 by Amendments Nos. 1, 2, 3, 4, 5 and 6, respectively.

Amendment No. 7 does not contain a change in terms and conditions; the demand charge for Weekly Short Term Power remains at $0.85 per kilowatt per week as contained in Amendment No. 3 and as filed in Docket No. ER80-600 and made effective August 1, 1980 by letter Order dated December 5, 1980. The Amendment includes a new provision which shall allow either party to sell Short Term Power on a daily basis at the rate of one-fifth of the existing weekly demand rate. The supplying party may be either party named in the Operating Agreement or may be parties not directly part of this Agreement.

Consumers states that the terms and conditions of the provision to allow either party to sell Short Term Power on a daily basis at the rate of one-fifth of the current weekly Short Term Power demand rate are substantially the same as the recently filed Operating Agreement, Amendment No. 22, among Consumers, Detroit and Indiana & Michigan Electric Company (Docket No. ER82-431-000) which has been accepted by the Commission and made effective March 10, 1982 by letter Order dated June 2, 1982.

Consumers requests an effective date of April 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon Detroit, Toledo and the Michigan Public Service Commission.

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 March 21, 1983. 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. 83-6002 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-328-000]

CP National Corp.; Filing

March 4, 1983.

Take notice that on February 17, 1983, CP National Corporation (CP National) tendered for filing its Phase II rate—a rate decrease—for transmission service to the Fort Mohave Indian Tribe.

CP National requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

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 March 18, 1983. 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. 83-6003 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-333-000]

Dayton Power and Light Co.; Filing

March 4, 1983.

Take notice that on February 18, 1983, the Dayton Power and Light Company (Dayton) tendered for filing proposed changes in rates and terms and conditions to its FERC Electric Tariffs, Original Volumes No. 1 and 2, applicable for firm service to municipal resale customers. The proposed changes would increase revenues from jurisdictional sales and service by approximately $3,735,055, based on the 12-month period ending December 31, 1983. Dayton proposes that the rates and charges and terms and conditions of service revised by this filing become effective April 19, 1983; however, in order to make the proposed increases coincide with Dayton's currently pending, general retail rate increase presently anticipated to become effective in late April 1983.

Dayton requests that the effectiveness of this increase be suspended until the date the rates established in that decision become effective, if later than April 19, 1983.

Copies of the filing were served upon each affected customer and mailed to the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the 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 March 21, 1983. 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. 83-6004 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-337-000]

Edison Sault Electric Co.; Filing

March 4, 1983.

Take notice that on February 18, 1983, Edison Sault Electric Company (Edison) tendered for filing a Supplemental Agreement No. 8, between Edison and Upper Peninsula Power Company (Upper Peninsula), dated February 1, 1983, which agreement will supplement an existing Contract for Electric Service, dated September 10, 1976, between same two parties. The contract between the parties, dated September 10, 1976, has been designated FPC Rate Schedule No. 7 (Docket No. ER77-98). The proposed supplemental agreement provides for a change in Section 12, TERM, for termination of Agreement under new conditions and provisions for recovery of cost to Edison.

Copies of the filing were served upon Upper Peninsula Power Company and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the 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 March 21, 1983. 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. 83-6005 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-138-000]

Genstar Gas Recovery System Inc., Application for Commission Certification of Qualifying Status of a Small Power Production Facility; Correction

March 3, 1983.

In Docket No. QF83-138-000 appearing in the **Federal Register** issue of February 8, 1983 on page 5790, make the following correction: on page 5790 in the first column, in the fourth complete paragraph, line one:

"On December 10, 1982, Genstar Gas Recovery System Inc.," is corrected to read "On December 16, 1982, Genstar Gas Recovery System Inc.,".

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-6006 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-338-000]

New York State Electric & Gas Corporation; Filing

March 4, 1983.

Take notice that New York State Electric & Gas Corporation (NYSEG), on February 22, 1983, tendered for filing proposed changes in its FERC Rate Schedule Nos. 27, 28, 30, 33 and 35. It is estimated that the proposed changes would increase revenues from jurisdictional sales and service by about $10,300 based on the 12 month period ended December 31, 1982.

NYSEG states that after the extensive hearings in Case No. 28167, "New York State Electric & Gas Corporation Electric Rates", and pursuant to Opinion 83-1 issued by the Public Service Commission of the State of New York on January 11, 1983, NYSEG filed revised leaves to Schedule PSC No. 115—Electricity, which the above Opinion allowed to become effective January 18, 1983. Rate Schedule PSC No. 115 is incorporated in the previously noted FERC schedules.

NYSEG requests an effective date of January 18, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon NYSEG's jurisdictional customers.

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 Practic and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 21, 1983. 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. 83-6007 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-321-000]

Portland General Electric Company; Filing

March 4, 1983.

Take notice that Portland General Electric Company (PGE) on February 14, 1983, tendered for filing a Peak Sale-

Energy Exchange Agreement and rate schedule under which PGE has agreed to supply City of Seattle, City Light Department (Seattle), at Seattle's request, 125 megawatts of firm peaking capacity not to exceed 10,500 megawatt hours during any seven-day period. The term of the agreement is from December 1, 1982 to February 28, 1983. Seattle shall pay PGE $441,750 in installments of $147,250 per month for firm peaking capacity plus an amount equal to $1.50 times each kilowatt of capacity scheduled. Energy delivered to Seattle shall be returned within seven days and Seattle shall be obligated to schedule such returns at a time within seven days of delivery when PGE's decremental cost savings equal or exceed PGE's incremental cost for the energy delivered. PGE will deliver energy at PGE's interconnection points with Bonneville Power Administration.

PGE requests an effective date of December 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon City of Seattle.

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 March 18, 1983. 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. 83-6008 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-335-000]

Public Service Company of New Mexico; Filing

March 4, 1983.

Take notice that Public Service Company of New Mexico (PNM), on February 18, 1983, tendered for filing as an initial rate schedule an Interconnection Agreement, Service Schedules A, B and D, thereto, between PNM and Southwestern Public Service Company (SPS).

PNM states that the Interconnection Agreement provides for the installation of approximately 200 miles of 345 kV alternating current back-to-back converter to complete an asynchronous intertie of the PNM and SPS electric systems. Commencing in 1985 and continuing through 1989, SPS will purchase 200 MW of interruptible energy from PNM. During the period June 1, 1991, through April 30, 1995, PNM will purchase 100 MW of interruptible power and energy from SPS. This purchase will increase to 200 MW on May 1, 1995, and is anticipated to remain at this level for the remaining term of the agreement, May 31, 2011. Additionally, the Interconnection Agreement provides for emergency service and economy energy transactions between the two parties.

Copies of the filing were served upon the SPS and the New Mexico Public Service Commission.

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 March 21, 1983. 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. 83-6009 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2789-001]

Raft River Rural Electric Cooperative, Inc.; Intent To Prepare Environmental Impact Statement, and Notice of Scoping Session and Public Hearing

March 4, 1983.

The Raft River Rural Eelectric Cooperative, Inc. filed on February 25, 1982 an application for license for the Eagle Rock Hydroelectric Project, FERC Project No. 2789-001. The project would be located on the Snake River near American Falls, Idaho.

Public notice of the application was issued by the Commission on November 2, 1982. The application has been mailed to interested agencies for their review and comment. The Commission's staff has determined that issuance of a license for the proposed hydroelectric project would constitute a major federal action significantly affecting the quality of the human environment. The staff therefore intends to prepare an environmental impact statement in accordance with the National Environmental Policy Act. Possible alternatives to the proposed action will be addressed.

Scoping Session

Interested persons and agencies are invited to participate in a scoping meeting to discuss the environmental impacts expected from the proposed Eagle Rock Hydroelectric Project. The scoping session will be held on Thursday, April 20, 1983, commencing at 10:00 a.m., and will be held at the Power County Senior Citizens Center, 180 Idaho Street, American Falls, Idaho 83211. The scoping session will be convened by the Commission's staff. The purpose of the scoping session is to enable interested persons and agencies to discuss with the Commission staff environmental impacts and other matters which they believe should be included in the environmental impact statement.

Public Hearing

Interested officials and members of the public are invited to express their views about the project in a public hearing. The public hearing will be held on Wednesday evening, April 20, 1983, commencing at 6:30 p.m., and will be held at the Hillcrest Elementary School Multipurpose Room, 100 Bennett Avenue, American Falls, Idaho. The public hearing will be conducted by the Commission's staff.

At the public hearing, persons may give their statements orally or in writing. The hearing will be recorded by a stenographer, and all statements (oral and written) will become part of the public hearing record. In addition, the public hearing record will remain open until May 20, 1983, and anyone may submit written comments on the project until that time. Comments should be addressed to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should clearly show the project name and number (Project No. 2789-001) on the first page.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-6010 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EF82-3041-000]

Southeastern Power Administration (Kerr-Philpott Projects); Order Confirming and Approving Rates

Issued: March 4, 1983.

By letter filed on September 3, 1982, the Assistant Secretary of Energy for Conservation and Renewable Energy (AS/CE), on behalf of the Southeastern Power Administration (SEPA), submitted a request for final confirmation and approval of Rate Schedule JHK-1-D (which replaces Rate Schedule JHK-1-C) and an extension of Rate Schedules KP-1-B and KP-2-B.[1] These rate schedules apply to wholesale power marketed by SEPA from the Corps of Engineers' multiple purpose reservoir projects known as the John H. Kerr and Philpott projects. By Rate Order SEPA-14, issued on September 2, 1982, the AS/CE confirmed and approved these rate schedules on a interim basis. Final approval is requested for the period October 1, 1982, through March 31, 1983.

SEPA is a Federal power marketing agency responsible for marketing power from a number of reservoir projects, including the integrated Kerr-Philpott projects located on the Roanoke and Smith Rivers, respectively, in Southern Virginia. The total installed hydroelectric capacity of the project is 218,000 kilowatts. SEPA owns no transmission facilities, relying, instead, on the facilities of Virginia Electric and Power Company (VEPCO) and Carolina Power and Light Company (CP&L) to transmit power to its preference customers. Rates previously in effect were approved by the Commission by order dated January 29, 1981. A one-year extension through September 30, 1982, was approved by the Acting Director of the Commission's Office of Electric Power Regulation by order dated March 19, 1982.

Rate Schedule KP-1-B is applicable to public bodies and cooperatives which operate within 150 miles of the Kerr project and receive power through VEPCO transmission facilities. Rate Schedule KP-2-B is applicable to power and energy sold to CP&L and to VEPCO. The AS/CE has requested that these rate schedules be extended for a six-month period without change or modification.

Rate Schedule JHK-1-D governs sales to public bodies and cooperatives operating within 165 miles of the interconnection point for the VEPCO and CP&L systems and which are served by CP&L's transmission facilities. Rate Schedule JKH-1-D is identical to Rate Schedule JKH-1-C (which it supersedes) except that the monthly wheeling charge has been increased from $0.56 per kilowatt of contract demand to $0.72 per kilowatt of contract demand to cover additional transmission costs imposed by CP&L. This results in an increased wheeling charge of $60,000, which will be paid by SEPA to CP&L. SEPA will pass the added wheeling costs directly through to its affected customers.

Public notice of the filing was published in the **Federal Register** on September 22, 1982, with comments due on or before October 1, 1982. No interventions or protests were filed.

Discussion

The basic support for this filing is a June 1982 System Power Repayment Study (PRS), which includes supplementary information that explains the basis for the data, criteria, and assumptions used in the PRS. The PRS is basically an update of SEPA's System PRS dated June 1981, upon which existing rates are predicated. However, the June 1982 PRS shows a deficit of $5,521,000 in repayment of the capital investment at the end of the 50-year repayment period. This deficit occurs primarily because (1) future project replacement costs were indexed from a 1982 price level to a higher 1983 price level, (2) SEPA applied a current interest rate (increased from 8.5 to 9.0 percent) on all future project replacements, and (3) after fiscal year 1982, increased electric operating expenses exceed increased project revenues. The deficit is also partially attributable to additional interest expense on future project replacements because of a deferral of repayment of portions of project replacement costs during the latter years of the repayment period. Portions of the $5,521,000 deficit occur throughout the 23-year period between fiscal year 1982 and 2004. Therefore, there is not a large deficit occurring in any one year.

The AS/CRE states in Rate Order No. SEPA-14:

> SPEA's Power Repayment Study, prepared in June 1982, for the Kerr-Philpott projects, shows that the rate schedules proposed for the six-month extension will not produce revenues on a long-term basis sufficient to meet repayment criteria. However, because the shortfall is very moderate and of definite short duration, and because SEPA is engaged in a definite course of action to extricate itself from difficult and complex policy problems, the proposal to extend two of the existing rate schedules and to modify the third to pass on additional wheeling charges applicable to the Carolina Power and Light Company area appears, under the circumstances, to be reasonable and justifiable. Furthermore, SEPA's representation that it will develop and present rate schedules during the requested extension period which will produce revenues adequate to recover on a timely basis all project power costs appears realizable and will be accepted.

In exercising our delegated authority to confirm and approve Federal power marketing agency rates, the Commission must insure that such rates satisfy the standards established under the applicable power marketing statutes. Those statutes, including Section 5 of the Flood Control Act of 1944, require, *inter alia*, that rates be set at levels which encourage the most widespread use of project power and energy, which are as low as possible consistent with sound business principles, and which provide sufficient revenues to recover operating costs and to repay the Federal investment within a reasonable time.

While the SEPA PRS provided in this docket indicates some revenue deficiency over a 23 year period, we believe it significant that no large deficit is projected to occur in any given year. Furthermore, given the representations by the AS/CE that SEPA is developing and will shortly file rates providing for full cost recovery, and considering the relatively short duration of the requested approval period, we cannot conclude that the AS/CE's request to extend SEPA's two rate schedules and implement the third is unreasonable or inconsistent with the relevant statutory criteria. We note, however, that our approval is predicated on the short term nature of the request and contains the caveat that we expect SEPA to submit its new rates in a timely fashion with no further requests for extension.

The Commission orders:

(A) SEPA's Rate Schedules JHK-1-D, KP-1-B, and KP-2-B are hereby confirmed and approved on a final basis for the six-month period, October 1, 1982, through March 31, 1983.

(b) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-6011 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[1] The submittal was tendered pursuant to the Secretary of Energy's Delegation Order No. 0204-33 (43 FR 60636, December 28, 1978), and the Flood Control Act of 1944, 16 U.S.C. 825s.

[Docket No. QF83-102-000]

University of San Francisco; Application for Commission Certification of Qualifying Status of a Cogeneration Facility; Correction

March 3, 1983.

In Docket No QF83-102-000 appearing in the **Federal Register** issue of February 7, 1983 on page 5596, make the following correction: on page 5596, in the first column, in the first complete paragraph, line one:

"On December 6, 1982, University of San Francisco" is corrected to read "On December 16, 1982, University of San Francisco".

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-6012 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4344-001]

City of Cedar Rapids, Iowa; Exemption From Licensing

March 3, 1983.

A notice of exemption from licensing of a small hydroelectric project known as Five-in-One Dam Hydro, Project No. 4344, was filed on February 7, 1983, by City of Cedar Rapids, Iowa. The proposed hydroelectric project would have an installed capacity of 1,600 kW and would be located on the Red Cedar River near Cedar Rapids, Linn County, Iowa.

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 March 9, 1983.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 83-5992 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6920-001]

DCH Development Co.; Exemption From Licensing

March 3, 1983.

A notice of exemption from licensing of a small hydroelectric project known as the Cascade Dam Hydroelectric, Project No. 6920, was filed on January 21, 1983, by DCH Development Company. The proposed hydroelectric project would have an installed capacity of 300 kW and would be located on the South Fork of Deer Creek at the Cascade Dam in Nevada County, California.

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 February 20, 1983.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 83-5993 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7001-000]

James Sungar; Exemption From Licensing

March 3, 1983.

A notice of exemption from licensing of a small hydroelectric project known as Shasta Hydroelectric Facility, Project No. 7001, was filed on January 17, 1983, by James Sungar. The proposed hydroelectric project would have an installed capacity of 0.5 kW and would be located on an existing drainage tunnel in the South Fork Cordinices Creek basin in Alameda County, California.

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 February 16, 1983.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 83-5994 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3617-002]

Middle Tennessee Electric Membership Corp.; Exemption From Licensing

March 3, 1983.

A notice of exemption from licensing of a small hydroelectric project known as Walterhill Dam Water Power Project, Project No. 3617, was filed on February 3, 1983, by the Middle Tennessee Electric Membership Corporation. The proposed hydroelectric project would have an installed capacity of 508 kW and would be located on the East Fork Stones River, Walterhill Dam, Rutherford County, Tennessee.

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 March 6, 1983.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 83-5995 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5713-001]

Owens-Corning Fiberglas Corp.; Surrender of Preliminary Permit

March 2, 1983.

Take notice that the Owens-Corning Fiberglas Corporation (Owens-Corning), Permittee for the proposed Ashton Dam Project No. 5713, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 9, 1982, and would have expired on December 31, 1983. The project would have been located on the Blackstone River in Providence County, Rhode Island. Owens-Corning states that the project is not economically feasible.

Owens-Corning filed its request on February 14, 1983, and the surrender of its permit for Project No. 5713 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5998 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4271-002]

Vidler Tunnel Water Co.; Surrender of Preliminary Permit

March 2, 1983.

Take notice that the Vidler Tunnel Water Company, Permittee for the proposed Vidler Tunnel Project No. 4271, has requested that its preliminary permit be terminated. The permit was issued on August 21, 1981, and would have expired on July 31, 1983. The project would have been located on Peru Creek in Summit County and on Leavenworth Creek in Clear Creek County, Colorado.

Vidler Tunnel Water Company has determined that the lack of flow at the site and the difficulty of construction and operation of this project make the economics very poor. It was concluded that this project would be economically unfeasible at this time.

Permittee filed its request on February 10, 1983. The surrender of the preliminary permit for Project No. 4271

is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-5997 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7047-000]

White Oak Water Power; Exemption From Licensing

March 3, 1983.

A notice of exemption from licensing of a small hydroelectric project known as the Halls Brook, Project No. 7047, was filed on February 1, 1983, by White Oak Water Power. The proposed hydroelectric project would have an installed capacity of 32 kW and would be located on Halls Brook in Orange 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 March 3, 1983. 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. 83-5996 Filed 3-8-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of implementation of second-stage refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the distribution of the consent order funds obtained from Ethyl Corporation in settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1220 Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633-8377.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the decision and order set out below. The decision and order relates to a consent order between Ethyl Corporation, a petroleum products reseller, and the DOE's Economic Regulatory Administration. The consent order settled all disputes between the DOE and the firm with regard to Ethyl's compliance with the DOE price regulations. Under the terms of the consent order, Ethyl has deposited $14,535 into an escrow account for distribution by the Office of Hearings and Appeals through its special refund procedures.

On May 20, 1982, the Office of Hearings and Appeals issued a Decision and Order establishing special refund procedures for distributing the Ethyl consent order funds. *See* 47 FR 23015 (1982). In that decision, the OHA held that it would accept for a period of 90 days from the publication of the Decision in the **Federal Register** applications for refund from persons who purchased No. 2 fuel oil from Ethyl during the period covered by the consent order. The OHA also stated that it would reserve judgment on the disposition of any funds remaining after all successful refund applicants had been paid. No applications for refund were filed by August 24, 1982, the deadline for filing refund applications. Consequently, the present Decision and Order, published concurrently with this notice, reflects the OHA's determination as to the appropriate disposition of the entire Ethyl settlement fund.

After analyzing the circumstances underlying the consent order and the comments submitted by interested parties, the OHA has determined that the settlement money should be paid to Gulf States Utilities Company of Beaumont, Texas, the ultimate consumer of the No. 2 fuel oil. Gulf States will be required to pass on the benefits of the refund to its utility customers as reduced fuel costs. Accordingly, the OHA has ordered the DOE's Office of Controller to disburse the entire proceeds of the Ethyl consent order fund to Gulf States Utilities Company.

Dated: March 1, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Supplemental Order

Name of Petitioner: Office of Enforcement, Economic Regulatory Administration: In the Matter of Ethyl Corporation

Date of Filing: January 10, 1983

Case No.: HQF-0013

On May 20, 1982, the Office of Hearings and Appeals of the Department of Energy issued a Decision and Order establishing special refund procedures for distributing funds obtained by the DOE through consent orders entered into with Panhandle Eastern Pipeline Company, PVM Oil Associates, Inc., Loveladdy Oil Company, Armstrong and Associates, and Ethyl Corporation (Ethyl). *Office of Enforcement*, 9 DOE ¶ 82,589 (1982) (hereinafter cited as *Panhandle*). Under the terms of the consent orders, each firm placed money into a DOE escrow account to be distributed, together with interest, in accordance with the directives of the OHA pursuant to special refund proceedings. While the common legal and factual issues in these cases made it appropriate to consolidate them for the purpose of establishing special refund procedures, the consent order funds have remained separate, and the refund proceedings in each case have been handled separately. The present Decision concerns only the Ethyl consent order fund.

The May 20 Decision established a two-stage process for the distribution of the Ethyl consent order fund. In the first stage, applications for refund would have been accepted from claimants who purchased No. 2 diesel fuel which was marketed by Ethyl during the period January 17, 1974 through May 31, 1974. The deadline for the submission of refund applications was August 24, 1982. The May 20 Decision also suggested that any funds remaining after qualified claimants had been paid would be distributed to entities which would pass through the benefits of any refunds to the group of persons who were likely injured as a result of the allegedly improper pricing practices.

The deadline for the submission of claims has now passed, and we have not received any refund applications. Under these circumstances, any possible claimant has waived its right to receive a refund during the first stage claim process. This Decision will therefore address the procedures to be instituted for distribution of the Ethyl consent order funds in the second stage of the refund process. Under the facts of the present proceeding Gulf States Utilities Company of Beaumont, Texas, the end-user of the fuel oil covered by the Ethyl consent order, appears to be the most appropriate entity through which the benefits of the Ethyl settlement fund may be distributed to injured parties.

Background

Ethyl is a "reseller" of petroleum products, as that term was defined in 10 CFR 212.31, and is engaged in operations in the Houston, Texas area. During the relevant time period, Ethyl was subject to the Mandatory Petroleum Price Regulations set forth in 10 CFR Part 212, Subpart F, which governed the maximum prices that could lawfully be charged by resellers in the sale of fuel oil and other covered products. A DOE audit of Ethyl revealed possible pricing violations with respect to the firm's sale of No. 2 fuel oil in the State of Texas during the period January 17 through May 13, 1974. All of the fuel oil covered by the audit was purchased by Stinnes Oil & Chemical Company (Stinnes). In order to settle all claims and disputes between Ethyl and the DOE regarding Ethyl's

sales of No. 2 fuel oil, Ethyl and the DOE entered into a consent order on July 30, 1979, in which Ethyl agreed to remit $14,535 to the DOE. Notice of the consent order was published in the **Federal Register** on August 13, 1979. *See* 44 FR 47394 (1979). Interested parties were invited to submit written notice to the DOE of potential claims against the settlement amount. No claim was received by the DOE in response to that notice. The ERA was unable either to identify the persons, if any, who were entitled to the Ethyl settlement funds or to ascertain the amounts of refunds that such persons were entitled to receive. Accordingly, it filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals on July 21, 1981.

Following the issuance of a final determination on the ERA's Petition in connection with the Ethly fund in the *Panhandle* case, we mailed written notice of the opportunity to file applications for refund for a portion of the Ethyl refund moneys to Stinnes and to Gulf States Utilities Company. We also published the *Panhandle* Decision and Order in the **Federal Register.** *See* 47 FR 23015 (1982). However, no applications for refund for a portion of the Ethyl fund had been filed by the time the deadline for filing, August 24, 1982, had passed.

Second Stage Refund Procedures

As we have stated in a number of previous Decisions, the primary purpose of Subpart V special refund procedures is to provide restitution to persons injured by alleged regulatory violations. *See generally, Office of Enforcement,* 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*); *Sauder v. DOE,* 648 F.2d 1341 (Temp. Emer. Ct. App. 1981). Second stage refund procedures permit the fashioning of distribution programs to compensate injured persons who are unable for one reason or another to submit valid claims. *See Armstrong and Associates/City of San Antonio,* 10 DOE ¶ 85,050 (1983). Although we did not establish second-stage procedures in the *Panhandle* Decision we suggested several possible distribution mechanisms: (1) first purchasers, who are in the best position to channel refunds to downstream purchasers, would be invited to formulate plans for distribution; (2) refunds might be made in the form of lowered energy or energy-related costs in Ethyl's market area, through special programs formulated by state governments; and (3) in the event that other distribution mechanisms proved infeasible or inappropriate, we proposed that the remaining funds be deposited into the United States Treasury.(*1*)

Following the issuance of the *Panhandle* Decision, we were informed by the Ethyl Corporation that all of the fuel covered by the consent order was sold to Stinnes Oil Company of Houston, Texas, which in turn sold it to Gulf States, an investor-owned public utility doing business in the States of Texas and Louisiana. As a public utility, Gulf States would be required to report any refunds which it received to the state regulatory agencies which oversee its operations. These funds would be accounted for as a reduction in fuel oil costs, which would result in the refunds being passed on to Gulf States' utility customers in the form of lower rates for electricity. *See* January 19, 1983 Letter from John Creighton III, counsel for Gulf States, to Terry Johnson, Deputy Assistant Director, Office of Hearings and Appeals.

A distribution of the Ethyl funds through Gulf States would have several advantages. It would channel the funds through the ultimate purchaser of all the Ethyl products covered by the consent order to the same class of persons who were injured by the alleged overcharges. Moreover, the administrative costs for Gulf States of passing on the benefit of the refund to its customers would be *de minimus,* since it could be accomplished as part of the utility's routine regulatory reports. This is an important consideration in light of the relatively small amount of the fund—only $21,098.67 including interest accrued to January 31, 1983. Finally, this distribution satisfies the concerns expressed by the commenters in their general remarks about the appropriate distribution of residual funds. (*2*) Consequently, we shall direct the DOE Office of the Controller to disburse the entire Ethyl Corporation consent order fund to Gulf States Utilities Company.

It is Therefore Ordered That:

(1) The Director of the Office of Finance and Accounting, Washington Financial Services Division, of the DOE Office of the Controller shall take appropriate action to disburse $14,535 plus 100 percent of accrued interest on the Ethyl Corporation account from the deposit fund escrow account established at the Department of the Treasury for this purpose to: Gulf States Utilities Company, c/o John Creighton III, Esq., Orgain, Bell & Tucker, 470 Orleans Street, Beaumont, Texas 77701.

This disbursement shall be made upon receipt of this Decision and Order.

(2) This is a final Order of the Department of Energy.

Dated: March 1, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

Notes

(*1*) In response to our request for comments on the appropriate second-stage refund procedure, we received submissions from nine state governments contending that residual funds should be distributed through them. *See, e.g.,* Attorneys General of the States of Delaware, *et al.,* 10 DOE ¶ 82,536 (1982). We also received a submission from the Transportation Group, an organization representing four public transportation trade associations, in which the group maintained that all funds should be distributed only to direct purchasers of the petroleum products covered by the consent order. All of the comments which we received in this proceeding were generic rather than case-specific. We disagree with the premise advocated by the state governments and the Transportation Group that the OHA should adopt a single approach to the disposition of second-stage funds in all special refund cases. As we have repeatedly stated, the appropriate solution to the question of what should be done with funds remaining after all first-stage claims have been adjudicated depends upon the factual circumstances involved in each case. *See* Vickers at 85,397; Office of Special Counsel, 10 DOE ¶ 85,048 (1982) at 88,217. Thus, the amount of money remaining, the product involved, and any information available about the probable disribution of the product or about the transactions underlying the consent order are all factors which we consider in determining the appropriate recipient or recipients for second-stage refunds.

(*2*) Both the Transportation Group and the states maintain that second-stage funds should be distributed to a party with some nexus to the transactions underlying the consent order in order to benefit those persons who were likely injured. It is clear that under the facts in the present proceeding, a distribution to Gulf States satisfied this concern.

[FR Doc. 83-5910 Filed 3-8-83; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

National Petroleum Council; Coordinating Subcommittee of the Committee on Enhanced Oil Recovery; Location Change for Meeting

The location of the March 22, 1983 meeting of the Coordinating Subcommittee of the Committee on Enhanced Oil Recovery, which was noticed on December 21, 1982, (47 FR 56892) has been changed. The new location should read: The Venice Room, Guest Quarters Galleria West, 5353 Westheimer, Houston, Texas.

Issued at Washington, D.C., on March 2, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83-5912 Filed 3-8-83; 8:45 am]

BILLING CODE 6450-01-M

Costs and Economics Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Costs and Economics Task Group of the Committee on Enhanced Oil Recovery will meet in March 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Costs

and Economics Task Group meeting follows:

The Costs and Economics Task Group will hold its fourth meeting on Friday, March 18, 1983, starting at 9:00 a.m., in the Research Conference Room, Cities Service Company, Cities Service Technology Center, 4500 South 129th East Avenue, Tulsa, Oklahoma.

The tentative agenda for the Costs and Economics Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.

2. Review progress of Task Group study assignments.

3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Costs and Economics Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Costs and Economics Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas, and Shale Technology, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on March 2, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83-5911 Filed 3-8-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66099; PH-FRL 2317-4]

Certain Pesticide Products; Intent To Cancel Registrations; Empire International et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the name of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: April 8, 1983.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lela Sykes, Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 706, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7406).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
5-34	EM 815	Empire International, P.O. Box 29805, Atlanta, GA 30359	Jan. 23, 1970.
148-782	De-Pester General Weed and Brush Killer	TH Agriculture and Nutrition Co., P.O. Box 2700, Kansas City, KS 66110.	Jan. 16, 1968.
264-36	Weedar MCPA	Union Carbide, Agricultural Products Co., Inc., P.O. Box 12014, Research Triangle Park, NC 27709.	Sept. 25, 1961.
264-228	Technical MCPA Acid	do	Mar. 4, 1968.
1706-104	Nalkil 2727 Liquid With Endrift Weed Killer	Nalco Chemical Co., 2901 Butterfield Road, Oak Brook, IL 60521	Oct. 7, 1970.
1706-105	Nalkil 2728 Liquid With Endrift Weed Killer	do	Sept. 28, 1970.
1706-107	Nalkil 2726 Liquid With Endrift Weed Killer	do	Jan. 20, 1971.
1926-39	Quick Vegetation Killer and Soil Sterilant	Navy Brand Manufacturing Co., 5111 Southwest Ave., St. Louis, MO 63110.	Nov. 22, 1967.
2342-817	4% Cyprex Dust	Kerr McGee Chemical Corp., Kerr McGee Building, Oklahoma City, OK 73102.	Aug. 9, 1973.
2342-859	9% Cyprex Dust	do	May 15, 1967.
5197-32	Norken 600	Kem Manufacturing Corp., Kem International Bldg., Tucker, GA 30084.	Dec. 4, 1968.
5778-22	Super Chinch Ethion Dust	Gro Chemical Co., 3530 N.W. 31st St., Miami, FL 33142	Aug. 29, 1967.
6962-20	Soar 21 Plus	Madison Bionics, P.O. Box 29805, Atlanta, GA 30359	Sept. 4,1967.
9779-168	Brush—Ex Weed and Brush Killer	Riverside Chemical Co., P.O. Box 1828, Sioux City, IA 51102	Dec. 23, 1971.

The Agency has agreed that such cancellation shall be effective April 8, 1983 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for 1 year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66099]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office, Room E-107, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended, 86 Stat. 973, 89 Stat. (751, 7 U.S.C. 136))

Dated: February 25, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83-5858 Filed 3-8-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50589; PH-FRL 2314-7]

Issuance of Experimental Use Permits; Abbott Laboratories, et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

275-EUP-29. Extension. Abbott Laboratories, 14th and Sheridan Rd., North Chicago, IL 60064. This experimental use permit allows the use of the remaining supply of the originally authorized 3,650 BIUs of the biological insecticide *Bacillus thuringiensis*, serotype H-14 on estuarine areas, intermittently flooded pastures, irrigation ditches, natural marshes, rice paddies, roadside ditches, and sewage lagoons to evaluate the control of blackfly and mosquito larvae. A total of 2,000 acres are involved. This program and the one above are authorized in the States of Alabama, Arkansas, California, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, and Washington. This experimental use permit is effective from May 1, 1983 to May 1, 1984. (Franklin Gee, PM 17, Rm. 207, CM#2, (703-557-2690))

275-EUP-30. Extension. Abbott Laboratories, 14th and Sheridan Rd., North Chicago, IL 60064. This experimental use permit allows the use of the remaining supply of the originally authorized 816.3 BIUs of the biological insecticide *Bacillus thuringiensis*, serotype H-14 on estuarine areas, intermittently flooded pastures, irrigation ditches, natural marshes, rice paddies, roadside ditches, and sewage lagoons to evaluate the control of blackfly and mosquito larvae. A total of 500 acres are involved; the program is authorized in all 50 States. This experimental use permit is effective from May 1, 1983 to May 1, 1984. The permits will use the same active ingredient but different formulations (Franklin Gee, PM 17, Rm. 207, CM#2, (703-557-2690))

8730-EUP-11. Extension. Health-Chem Corporation, 1107 Broadway, New York, NY 10010. This experimental use permit allows the use of 495 additional pounds of the pheromone (Z)-11-hexadecenal on artichokes to evaluate the control of the artichoke plume moth. A total of 40 acres are involved; the program is authorized only in the State of California. The experimental use permit is effective from July 26, 1983 to July 26, 1984. A permanent exemption from the requirement of a tolerance for residues of the active ingredient in or on artichokes has been established (40 CFR 180.1069). (Franklin Gee, PM 17, Rm. 207, CM#2, (703-557-2690))

4581-EUP-28. Extension. Pennwalt Corporation, Three Parkway, Philadelphia, PA 19102. This experimental use permit allows the use of the remaining supply of approximately 1,831 pounds (1,878 pounds originally authorized) of the insecticide mixture *O,O*-diethyl-*O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate and aromatic petroleum solvent on additional ornamental trees and shrubs to evaluate the control of various insects. The program is authorized in all 50 States and the District of Columbia. The experimental use permit is effective from October 15, 1982 to October 15, 1984. (George LaRocca, PM 15, Rm. 204, CM#2, (703-557-2400))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136))

Dated: February 23, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-5342 Filed 3-8-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30225; PH-FRL 2314-8]

Application To Register a Pesticide Product Containing a New Active Ingredient; Sevana Co.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by April 8, 1983.

ADDRESS: Written comments, identified by the document control number [OPP-30225] and the file symbol, should be submitted to: William Miller, Product Manager (PM) 16, Registration Division (TS-767C), Office of Pesticide Programs, CM#2, Rm. 211, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22201.

FOR FURTHER INFORMATION CONTACT: William Miller, 703-557-2600.

SUPPLEMENTARY INFORMATION: Sevana Co., 5336 E. Easterby Dr., N. Fresno, CA 93727, has submitted an application to EPA to register the pesticide product Sevana Bird Repellent, EPA File Symbol 47319-R, containing the active ingredient allium satiuum (garlic) at 4 percent, containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 2(c)(4) of FIFRA. The application proposes that the product be classified for general use to control horned larks, house finches, house sparrows, and starlings. Notice of receipt of this application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will

be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing such comments telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: February 23, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-5343 Filed 3-8-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240026; PH-FRL 2315-7]

State Registration of Pesticides; Alabama, et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from 47 states. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

DATE: The last entry for each item is the date the State registration of the product became effective.

FOR FURTHER INFORMATION CONTACT: Sandra English, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1122, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2126).

SUPPLEMENTARY INFORMATION: Most of the registrations listed below were received by EPA in August 1982. Receipts by EPA of State registrations will be published periodically. Except as indicated by (CUP) in two of the registrations listed below, there is no changed use pattern involved in any of these registrations.

Alabama

EPA SLN No. AL 82 0033. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 15G Aldicarb Pesticide, to be used on pecans to control aphids and mites. August 16, 1982.

Arkansas

EPA SLN No. AR 82 0029. Monsanto Co. Registration is for Roundup Herbicide, to be used on roadside Bermuda grass to control Johnson grass. August 30, 1982.

EPA SLN No. AR 82 0030. O. M. Scott and Sons Co. Registration is for Proturf Insecticide 4, to be used on fairways and putting green turf to control white grubs, Japanese beetles, masked chafers, European chafers, black turfgrass ataenius, chinch bugs, mole crickets, sod webworms, and *Hyperodes* weevils. August 30, 1982.

EPA SLN No. AR 82 0031. Burroughs Wellcome Co. Registration is for Atroban 11% EC, to be used on livestock and their premises to control hog lice, mange mites, house flies, and stable flies. August 30, 1982.

California

EPA SLN No. CA 82 0026. Lewis F. Blumberg, Inc. Registration is for Trithion 4.0 Miscible, Benlate, to be used on date offshoots to control Banks grass mites, *Diplodia* disease, and black scorch. (CUP). April 26, 1982.

EPA SLN No. CA 82 0061. Del Norte County Agriculture Commissioner. Registration is for Pocket Gopher Bait Strychnine Treated Grain (0.29%), to be used in burrows to control pocket gophers. August 4, 1982.

EPA SLN No. CA 82 0062. Wilbur-Ellis Co. Registration is for Wilbur-Ellis Malathion 25 Spray Powder, to be used on fruit crops, to control Mediterranean fruit flies. July 21, 1982.

EPA SLN No. CA 82 0063. Wilbur-Ellis Co. Registration is for Wilbur-Ellis Malathion 8 Spray, to be used on fruit crops to control Mediterranean fruit flies. July 21, 1982.

EPA SLN No. CA 82 0064. FMC Corp. Registration is for Phoskil 25 Spray, to be used on citrus fruit to control red scale, yellow scale, citricola scale, and cottony cushion scale. July 20, 1982.

EPA SLN No. CA 82 0065. Imperial County Court House. Registration is for Ortho Wettable Sulfur, to be used on radishes to control powdery mildew. (CUP). July 23, 1982.

EPA SLN No. CA 82 0066. Glen County Dept. of Agriculture. Registration is for Paraquat CL, to be used on sunflowers to control broadleaf weeds and grasses. August 2, 1982.

EPA SLN No. CA 82 0068. E. I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L Insecticide/Nematicide, to be used on onions and garlic to control nematodes. July 28, 1982.

EPA SLN No. CA 82 0069. Yolo County Dept. of Agriculture. Registration is for Temik, to be used on experimental seed crops (greenhouse grown) to control aphids, spider mites, and white flies. August 9, 1982.

EPA SLN No. CA 82 0070. Yolo County Dept. of Agriculture. Registration is for Treflan EC, to be used on garlic to control annual grasses and broadleaff weeds. August 9, 1982.

EPA SLN No. CA 82 0071. California Dept. of Health Services. Registration is for Citco Copper Sulfate Granular Crystals, to be used on recreational lakes, reservoirs, and ponds to control schistosome-infected fresh water snails. August 9, 1982.

EPA SLN No. CA 82 0072. Imperial County Agriculture Dept. Registration is for Bayleton 50 WP, to be used on Bermuda grass grown for seed to control Bermuda rust. August 9, 1982.

EPA SLN No. CA 82 073. Solano County Dept. of Agriculture. Registration is for Lorsban 4 E and Lorsban 15 G, to be used on dill to control cutworms and beet armyworms. August 9, 1982.

EPA SLN No. CA 82 0074. California Dept. of Food and Agriculture. Registration is for Vertifume, to be used on conifer seeds to control internal seed feeders. August 9, 1982.

EPA SLN No. CA 82 0075. California Dept. of Food and Agriculture. Registration is for DZN Diazinon 50 W Volck Supreme Spray, to be used on tulip trees and deciduous magnolias in the dormant stage to control tulip tree scale. August 9, 1982.

EPA SLN No. CA 82 0076. FMC Corp. Registration is for Furadan 4F, to be used on strawberries to control root weevils. August 6, 1982.

EPA SLN No. CA 82 0077. Dow Chemical U.S.A. Registration is for Lorsban 4 E Insecticide, to be used on sugar beets to control armyworms and cutworms. August 6, 1982.

EPA SLN No. CA 82 0080. FMC Corp. Registration is for Pounce 3.2 EC, to be used on field grown roses to control tobacco budworms and cotton bollworms. August 10, 1982.

EPA SLN No. CA 82 0081. FMC Corp. Registration is for Pounce 3.2 EC, to be used on seed alfalfa to control spotted alfalfa aphids. August 11, 1982.

EPA SLN No. CA 82 0082. FMC Corp. Registration is for Pounce 3.2 EC, to be used on greenhouse roses to control beet

armyworms, cabbage loopers, and omnivorous leafrollers. August 11, 1982.

EPA SLN No. CA 82 0083. Uniroyal Chemical. Registration is for Comite, to be used on cotton to control the two-spotted mite complex. August 11, 1982.

EPA SLN No. CA 82 0084. Brea Agricultural Service, Inc. Registration is for N-Tac Herbicide, to be used on onions (green and dry bulb), leeks, shallots, spring onions, and garlic to control weeds. August 16, 1982.

EPA SLN No. CA 82 0085. Plumas County Dept. of Agriculture. Registration is for Rodent Bait Diphacinone Treated Grain (0.005%), to be used in dry locations such as concealed places, in corners, and along walls to control Norway rats, house mice, ground squirrels, muskrats, and jack rabbits. August 13, 1982.

EPA SLN No. CA 82 0086. Pfizer, Inc. Registration is for Mycoshield Brand of Agricultural Terramycin, to be used on pears to control fire blight. August 24, 1982.

EPA SLN No. CA 82 0087. Glenn County Dept. of Agriculture. Registration is for Orthene 75 Soluble Powder, to be used on non-bearing pistachio orchards to control thrips. August 16, 1982.

EPA SLN No. CA 82 0090. County of San Luis Obispo County Dept. of Agriculture. Registration is for Starling and Blackbird Bait Starlicide Mealworm Solution (1.92%), to be used on desirable locations for bait exposure to control starling and blackbirds. August 17, 1982.

EPA SLN No. CA 82 0091. Lassen County Dept. of Agriculture. Registration is for Rodent Bait Chlorophacinone Treated Grain, to be used in buildings and burrows, and on runways to control rodents. August 30, 1982.

EPA SLN No. CA 82 0092. Contra Costa County Dept. of Agriculture. Registration is for Bayleton 50 WP, to be used on Christmas trees to control gall rust. August 30, 1982.

EPA SLN No. CA 82 0093. Mobay Chemical Corp. Registration is for Dylox Liquid Concentrate, to be used on cotton to control pink adult bollworms. August 30, 1982.

EPA SLN No. CA 82 0094. Mobay Chemical Corp. Registration is for Dylox 80% Soluble Powder, to be used on cotton to control pink adult bollworms. August 30, 1982.

Florida

EPA SLN No. FL 82 0045. Rhone-Poulenc Inc. Registration is for Chipco Ronstar G Herbicide, to be used on leatherleaf fern grown under shade cloth structures or wooden slat structures to control annual broadleaf weeds and annual grassy weeds. August 11, 1982.

EPA SLN No. FL 82 0046. Mobay Chemical Corp. Registration is for Bolstar 6, to be used on chrysanthemums (grown for stock plants) to control beet armyworms. August 17, 1982.

EPA SLN No. FL 82 0047. Chevron Chemical Co. Registration is for Diquat Water Weed Killer, to be used on fresh water ponds, lakes, rivers, drainage and flood control canals, ditches, reservoirs, and bayous to control *Hydrilla*. August 20, 1982.

EPA SLN No. FL 82 0048. Sandoz, Inc. Registration is for Solicam 80 WP, to be used on tree fruit and nut crops to control weeds. August 26, 1982.

Georgia

EPA SLN No. GA 82 0013. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 15G Aldicarb Pesticide, to be used on pecans to control aphids, mites and leaf phylloxeras. May 25, 1982.

EPA SLN No. GA 82 0017. Mobay Chemical Corp. Registration is for Bolstar 6, to be used on cotton to control tobacco budworms and cotton bollworms. August 24, 1982.

Illinois

EPA SLN No. IL 82 0015. Hopkins Agricultural Chemical Co. Registration is for Hopkins Zinc Phosphide Mouse Bait, to be used on corn to control prairie and meadow voles. August 17, 1982.

EPA SLN No. IL 82 0016. E. I. du Pont de Nemours and Co. Registration is for Du Pont Benlate Fungicide, to be used on soybeans grown for seed to control stem and pod diseases. August 30, 1982.

Indiana

EPA SLN No. IN 82 0013. Merck and Co., Inc. Registration is for Mertect 340-F Fungicide, to be used on soybeans grown for seed to control pod and stem blight, anthracnose, brown spot, frog eye leaf spot, and purple seed stain. August 10, 1982.

Kansas

EPA SLN No. KS 82 0014. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone Weed Killer, to be used on TAM W101, TAM 105, Eagle, and Newton dryland winter wheat to control chickweed, Japanese brome, cheat, henbit, mustards, pigweed, annual pepperweed, shepard's purse, field pennycress, and rescue grass and for partial control of downy brome and wild buckwheat. August 21, 1982.

EPA SLN No. KS 82 0015. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone 4L Weed Killer, to be used on TAM W101, TAM 105, Eagle, and Newton dryland winter wheat to control chickweed, Japanese brome, cheat, henbit, mustards, pigweed, annual pepperweed, shepard's purse, field pennycress, and rescue grass and for partial control of downy brome and wild buckwheat. August 20, 1982.

EPA SLN No. KS 82 0016. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lexone DF Weed Killer, to be used on TAM W101, TAM 105, Eagle, and Newton dryland winter wheat to control chickweed, Japanese brome, cheat, henbit, mustards, pigweed, annual pepperweed, shepard's purse, field pennycress, and rescue grass and for partial control of downy brome and wild buckwheat. August 20, 1982.

Louisiana

EPA SLN No. LA 82 0031. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lannate Insecticide, to be used on tomatoes in greenhouses to control tomato pinworms. August 27, 1982.

Maryland

EPA SLN No. MD 82 0015. Hopkins Agricultural Chemical Co. Registration is for Hopkins Sevin Carbaryl Bait, to be used on sweet potatoes to control cutworms. August 27, 1982.

Michigan

EPA SLN No. MI 82 0021. Diamond Shamrock Corp. Registration is for Ectrin Insecticide 10 Water Dispersible Liquid, to be used on livestock and their premises to control flies, lice, and ticks. August 18, 1982.

EPA SLN No. MI 82 0022. E. I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L Insecticide/Nematicide, to be used on carrots to control carrot weevils. August 18, 1982.

Mississippi

EPA SLN No. MS 82 0031. Platte Chemical Co. Registration is for Clean Crop Methyl P, to be used on cotton to control Lygus bugs, cabbage loopers, armyworms, bollworms, tobacco budworms, boll weevils, and pink bollworms. August 2, 1982.

EPA SLN No. MS 82 0034. Mobay Chemical Corp. Registration is for Bolstar 6, to be used on cotton to control tobacco budworms, cotton bollworms, and Lygus bugs (nymphs). August 2, 1982.

EPA SLN No. MS 82 0035. Shell Chemical Co. Registration is for Pydrin Insecticide 4 ULV Concentrate, to be used on cotton to control cotton bollworms, tobacco budworms, Lygus bugs, cabbage loopers, beet armyworms,

boll weevils, and white flies. August 2, 1982.

EPA SLN No. MS 82 0036. Philips Roxane, Inc. Registration is for Anchor Permectrin 25% WP Long Lasting Barn and Premise Fly Spray, to be used on livestock and poultry premises to control house flies, stable flies, and false stable flies. August 25, 1982.

EPA SLN No. MS 82 0037. Philips Roxane, Inc. Registration is for Bio-ceutic Overtime 25% WP Long Acting, Livestock Premise Insecticide to be used on livestock and poultry premises to control house flies, stable flies, and false stable flies. August 25, 1982.

EPA SLN No. MS 82 0038. Gustafson, Inc. Registration is for Gustafson Lorsban 30 FL, to be used on stored planting seeds of cotton to control red flour beetles, rice weevils, sawtoothed grain beetles, Indian meal moths, angoumois grain moths, and cigarette bettles. August 31, 1982.

Montana

EPA SLN No. MT 82 0009. Monsanto Co. Registration is for Far-Go, to be used on winter wheat to control cheatgrass. August 25, 1982.

Nebraska

EPA SLN No. NE 82 0020. ICI Americas Inc. Registration is for Gramoxone, to be used on no-till sunflowers to control emerged annual broadleaf weeds and grasses. August 23, 1982.

Nevada

EPA SLN No. NV 82 0013. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on soil planted to potatoes to control nematodes. August 27, 1982.

New Hampshire

EPA SLN No. NH 82 0003. O.M. Scott and Sons Co. Registration is for Proturf Insecticide 4, to be used on golf course fairways, tees, greens, and roughs to control white grubs (cold season grasses only), sod webworms, chinch bugs, mole crickets, and *Hyperodes* weevils. August 13, 1983.

New Jersey

EPA SLN No. NJ 82 0015. Interchem, Inc. Registration is for Resmethrim EC, to be used on edges of fields and open areas to control deer flies. August 3, 1982.

EPA SLN No. NJ 82 0016. Hopkins Agricultural Chemcial Co. Registration is for Hopkins Sevin Carbaryl Bait, to be used on sweet potatoes to control cutworms. August 10, 1982.

New Mexico

EPA SLN No. NM 82 0020. Burroughs Wellcome Co. Registration is for Atroban 11% EC, to be used on livestock and poultry premises to control house flies and stable flies. August 11, 1982.

New York

EPA SLN No. NY 82 0011. New York Dept. of Environmental Conservation. Registration is for Bayluscide 5% GR Sea Lamprey Larvicide, to be used on lakes to control sea lamprey larvae. August 30, 1982.

Ohio

EPA SLN No. OH 82 0018. FMC Corp. Registration is for Furadan 4F Insecticide, to be used on soybeans to control nematodes (root-knot, cyst, stunt, ring, spiral, lesion, lance, dagger, and stubby-root). August 27, 1982.

Oklahoma

EPA SLN No. OK 82 0021. Diamond Shamrock Corp. Registration is for Ectrin Insecticide 10 Water Dispersible Liquid, to be used on livestock and their premises to control flies, lice, and ticks, August 2, 1982.

EPA SLN No. OK 82 0022. Philips Roxane, Inc. Registration is for Anchor Permectrin 25% WP Long Lasting Barn and Premise Fly Spray, to be used on livestock and poultry premises to control house flies, coastal flies, stable flies, and false stable flies. August 2, 1982.

EPA SLN No. OK 82 0023. Philips Roxane, Inc. Registration is for Bio-ceutic Overtime 25% WP Long Acting Livestock Premise Insecticide, to be used on livestock and poultry premises to control house flies, coastal flies, stable flies, and false stable flies. August 2, 1982.

EPA SLN No. OK 82 0024. Monsanto Co. Registration is for Roundup Herbicide, to be used on roadside Bermuda grass release to control Johnson grass. August 26, 1982.

EPA SLN No. OK 82 0025. Ciba-Geigy Corp. Registration is for Diazinon 14G, to be used on wheat to control grubs. August 27, 1982.

EPA SLN No. OK 82 0026. Ciba-Geigy Corp. Registration is for Diazinon AG500, to be used on wheat to control grubs. August 27, 1982.

EPA SLN No. OK 82 0027. Ciba-Geigy Corp. Registration is for Diazinon 50W, to be used on wheat to control grubs. August 27, 1982.

Oregon

EPA SLN No. OR 82 0058. Aceto Agricultural Chemicals Corp. Registration is for Aceto Phorate 15G, to be used on potatoes to control aphids, leafhoppers, leaf miners, psyllids, wireworms, and flea beetle larvae. August 2, 1982.

EPA SLN No. OR 82 0059. Biochem Products. Registration is for Bactimos WP, to be used on orchards and pastures to control mosquito larvae. August 19, 1982

EPA SLN No. OR 82 0060. Fairfield American Corp. Registration is for Pyrenone Corp Spray, to be used on dill to control aphids. August 27, 1982.

South Carolina

EPA SLN No. SC 82 0025. American Hoechst Corp. Registration is for Hoelon 3 EC Herbicide, to be used on fall seeded wheat to control annual ryegrass. August 24, 1982.

EPA SLN No. SC 82 0026. Stauffer Chemical Co. Registration if for Dyfonate 10–G, to be used on soybeans to control lesser cornstalk borers. August 25, 1982.

EPA SLN No. SC 82 0026. Stauffer Chemical Co. Registration if for Dyfonate 4–EC, to be used on soybeans to control lesser cornstalk borers. August 25, 1982.

South Dakota

EPA SLN No. SD 82 0007. Mansanto Co. Registration is for Roundup Herbicide, to be used in post-harvest tillage to control fall quackgrass. August 6, 1982.

EPA SLN No. SD 82 0008. O.M. Scott and Sons Co. Registration is for Proturf Insecticide 4, to be used on golf course fairways, tees, greens, and roughs to control white grubs (cool season grasses only), sod webworms, chinch bugs, mole crickets, and *Hyperodes* weevils. August 31, 1982.

EPA SLN No. SD 82 0009. FMC Corp. Registration is for Furadan 4 F, to be used on small grains, (wheat, oats, and barley) to control greenbugs. August 31, 1982.

Tennessee

EPA SLN No. TN 82 0019. Diamond Shamrock Corp. Registration is for Ectrin Insecticide 10 Water Dispersible Liquid, to be used on livestock and their premises to control flies, lice, and ticks. August 19, 1982.

EPA SLN No. TN 82 0020. FMC Corp. Registration is for Furadan 4 FL, to be used at seeding time on alfalfa to control clover root and curculio potato leafhoppers, crickets, and grasshoppers. August 14, 1982.

Utah

EPA SLN No. UT 82 0010. Mobay Chemical Corp. Registration is for Mesurol 50% Hopper-Box Treater, to be

used on newly planted corn to control depredating birds. August 10, 1982.

Virginia

EPA SLN No. VA 82 0029. Shell Chemical Co. Registration is for Pyridine Insecticide 2.4 EC, to be used on soybeans to control Mexican bean beetles, green cloverworms, velvet bean caterillars, and potato leafhoppers. August 23, 1982.

Washington

EPA SLN No. WA 82 0058. All Pure Chemical Co. Registration is for Purechlor Sanitizer, to be used on pear, apple, cherry, peach, plum, prune, quince, nectarine, and apricot tanks to control fungus spores and bacteria. August 18, 1982.

EPA SLN No. WA 82 0059. Fairfield American Corp. Registration is for Pyrenone Crop Stray, to be used on dill to control aphids. August 30, 1982.

Dated: February 24, 1983.

Robert V. Brown,

Acting Director, Registration Division.

[FR Doc. 83-5553 Field 3-6-83; 8:45 am]

BILLING CODE 6560-50-M

[SA-FRL 2317-8]

Science Advisory Board; High-Level Radioactive Waste Disposal Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the High-Level Radioactive Waste Disposal Subcommittee of the Science Advisory Board will be held in the 6th Floor Conference Room, EPA Region IX, 215 Fremont Street, San Francisco, CA, on March 24-25, 1983. The meeting will begin at 9:00 a.m. and last until 5:00 p.m. each day.

The purpose of the meeting will be to continue the review of the scientific and technical basis of the Agency's proposed rules for the management and disposal of high-level radioactive wastes. The members of the Subcommittee, and the principal issues for the Subcommittee's consideration, were announced in the Federal Register, Wednesday, January 5, 1983, page 509.

The agenda for the meeting, which is the third in a series of meetings on the proposed rules, will include review of the environmental pathways analyses supporting the proposed rules, briefings on the health effects analyses and on the engineering aspects of waste forms, canisters and mining technologies, and discussions on the outline for the Subcommittee's final report.

The meeting is open to the public. Any member of the public wishing to attend or obtain further information about the meeting should contact Harry C. Torno, Executive Secretary, at (202) 382-2552, or Dr. Terry F. Yosie, Staff Director, Science Advisory Board, at (202) 382-4126. Public comment will be accepted at the meeting. Written comment will be accepted in any form, and there will be opportunity for brief oral statements. Anyone wishing to make such comment must contact Mr. Torno prior to March 18, 1983, in order to be placed on the agenda.

Dated: March 2, 1983.

Terry F. Yosie,

Staff Director, Science Advisory Board.

[FR Doc. 83-5691 Filed 3-8-83; 8:45 am]

BILLING CODE 6560-50-M

[PP 2G2638/T404; PH-FRL 2318-3]

Mobay Chemical Corporation; Establishement of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the fungicide, 1-(4-Clorophenoxy)-3, 3-dimethyl-1-(1*H*-1, 2, 4-triazol-1-1-yl)-2-butanone and its metabolite, beta-(4-Chlorophenoxy)-alpha-(1, 1-dimethylethyl)-1H-1, 2, 4-triazol-1-1-ethanol, in or on certain raw agricultural commodities. These temporary tolerances were requested by Mobay Chemical Corporation.

DATE: These temporary tolerances expire December 31, 1984.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 229 CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-1900).

SUPPLEMENTARY INFORMATION: Mobay Chemical Corporation, Agricultural Chemicals Division, P.O. Box 4913, Kansas City, MO 64120, has requested, in pesticide petition PP 2G2638 the establishment of temporary tolerances for residues of the fungicide, 1-(4-Chlorophenoxy)-3, 3-dimethyl-1-(1*H*-1, 2, 4-triazol-1-yl)-2-butanone and its metabolite, beta-(4-chlorophenoxy)-alpha-(1, 1-dimethylethyl)-1H-1, 2, 4-triazol-1-ethanol, in or on the raw agricultural commodities apricots, peaches and nectarines at 10.0 parts per million (ppm), almonds (meat) at 0.1 ppm, and almonds (hulls) at 1.0 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 3125-EUP-177 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Mobay Chemical Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire December 31, 1984. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant

economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408 (j), 68 Stat. 516, (21 U.S.C. 346a (j)))

Dated: February 25, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-5990 Filed 3-8-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180619; PH-FRL 2318-4]

Emergency Exemptions: Arizona et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests in the States listed below. Also listed is a crisis exemption initiated by California.

DATES: See each specific and crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific and crisis exemption for the name of the contact person. the following information applies to all contact people: Registration Division (TS-767C) Office of Pesticide Programs, Environmental Protection Agency, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arizona Commission of Agriculture and Horticulture for the use of acephate on citrus to control citrus thrips; March 1, 1983 to October 15, 1983 (Jim Tompkins)

2. California Department of Food and Agriculture for the use of oxylfuorfen on dry bulb onions to control various weeds (little mallows, common groundsel and mustard); January 6, 1983 to December 9, 1983. EPA completed a rebuttable presumption against registration (RPAR) on this chemical; the final determination was published in the Federal Register on June 23, 1982 (47 FR 27118). (Gene Asbury)

3. California Department of Food and Agriculture for the use of acephate on citrus to citrus to control citrus thrips; January 31, 1983 to January 30, 1984. (Jim Tompkins)

4. California Department of Food and Agriculture for the use of imazalil on cottonseed to control *Thielaviopsis basicola*; March 13, 1983 to February 28, 1984. (Jack E. Housenger)

5. California Department of Food and Agriculture for the use of permethrim on citrus to control the Japanese bayberry whitefly; January 28, 1983 to May 10, 1983. (Jack E. Housenger)

6. Florida Department of Agriculture and Consumer Services for the use of triadimefon on squash to control powdery mildew: February 1, 1983 to December 20, 1983 (Libby Welch)

7. Florida department of Agriculture and Consumer Services for the use of thiobencarb on lettuce, endive, and escarole to control barnyardgrass and purslane; January 23, 1983 to June 1, 1983. (Jack E. Housenger)

8. Office of governor of Kansas for the use of permethrin on wheat to control army cutworms and/or pale western cutworms; February 1, 1983 to June 1, 1983. (Libby Welch)

9. Office of Governor of Kansas for the use of chlorpyrifos on wheat to control army cutworms and/or pale western cutworms; February 1, 1983 to June 1, 1983. (Libby Welch)

10. Michigan department of Agriculture for the use of permethrin on asparagus to control the climbing cutworm complex; January 20, 1983 to June 30, 1983. (Gene Asburn)

11. Ohio Department of Agriculture for the use of metalaxyl on soybeans (seed) to control *phytophthora* damping off; January 19, 1983 to December 31, 1983. (Libby Welch)

12. Oregon Department of Agriculture for the use of methocarb on barley, clover, oats, wheat, and grass grown for seed; January 13, 1983 to May 1, 1983. Oregon had initiated a crisis exemption for this program. (Gene Asbury)

13. West Virginia Department of Agriculture for the use of fenamiphos on peaches to control stem pitting; January 14, 1983 to April 30, 1983. (Gene Asbury)

14. West Virginia Department of Agriculture for the use of fenamiphos on bearing apple orchards to control American dagger nematodes; February 4, 1983 to April 30, 1983. (Gener Asbury)

A crisis exemption was initiated by the California Department of Food and Agriculture on January 25, 1983, for the use of methiocarb on tomato and cucurbit seeds to control bird damage. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. (Libby Welch)

Dated: February 25, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83-5989 Filed 3-8-83; 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); Meeting

March 1, 1983.

Task Group B-4 of Working Group B: Institutional Accommodations of New Services and Technologies:

Chairman: S. A. Levy (202) 331-2624.
Date: Friday, March 4, 1983.
Time: 9:30 a.m.—1:00 p.m.
Location: Hogan & Hartson, 7th Floor, 815 Connecticut Avenue, NW., Washington, D.C. 20006.

William J. Tricarico,

Secretary,

Federal Communications Commission.

[FR Doc. 83-5933 Filed 3-8-83; 8:45 am]

BILLING CODE 6712-01-M

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; Meeting

March 2, 1983.

Working Group C: Available U.S. Options and Strategies:

Chairman: P. G. Ackerman (213) 648-4134.
Date: Thursday, March 17, 1983.
Time: 9:30 a.m.-4:00 p.m.
Location: Communications Satellite Corporation, 950 L'Enfant Plaza, SW., Room 3262, Washington, D.C.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-5932 Filed 3-8-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 80-286]

Joint Board Jurisdictional Separations Proceeding; Meeting

February 28, 1983.

The Federal-State Joint Board in CC Docket No. 80-286, *Amendment of Part 67 of the Commission's Rules*, also known as the *Jurisdictional Separations Proceeding*, will meet March 17, 1983, at 9:30 a.m. in Room 856, 1919 M Street NW., Washington, D.C. The Joint Board will discuss methods for allocating non-traffic sensitive (NTS) local exchange plant between the intrastate and interstate jurisdictions as well as a number of other issues concerning the allocation of local exchange plant which

remain to be resolved in this proceeding. If you have any questions concerning this matter, please call Claudia Pabo at (202) 632–9342.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–5935 Filed 3–8–83; 8:45 am]

BILLING CODE 6712–01–M

Mobile Services Advisory Committee; Meeting

Supplemental Information

March 3, 1983.

By Public Notice dated February 9, 1983, (February 17, 1983; 48 FR 7006) the Commission announced that the Mobile Services Advisory Committee would meet on March 29 to consider various issues involving common carrier pager codes. The Notice specifically mentioned the POCSAG code. It was not the intention of the Commission to exclude consideration of other codes, such as NEC and Golay, or to otherwise limit the relvant areas of discussion. All issues pertinent to the topic of the meeting may be explored.

William J. Tricarico,

Ssecretary, Federal Communications Commission.

[FR Doc. 83–6013 Filed 3–8–83; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1397]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

February 28, 1983.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to (CFR 1.429e). 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: Overseas Communications Services. (CC Docket No. 80–632).

Filed by: Charles M. Lehrhaupt & Alexander P. Humphrey, Attorneys for RCA Global Communications, Inc., on 2–4–83.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–5936 Filed 3–8–83; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group Plant Accounts Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Plant Accounts Subcommittee scheduled to meet on Wednesday, March 23, 1983. The meeting will begin at 9:30 a.m. in Conference Room A (10th Floor) of AT&T's offices located at 1120 20th Street, NW., Washington, D.C., and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Review of Minutes of Previous Meeting
III. Report by Subcommittee Members
IV. Discussion of Reports
V. Further Assignments
VI. Other Business
VII. Presentation of Oral Statements
VIII. Adjournment

With prior approval of Subcommittee Chairman Gyles Norwood, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Norwood (202/887–3266) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–5934 Filed 3–8–83; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket No. 83–151; File No. BPCT–820810KJ, etc.]

Filmway of Wisconsin and Janesville Broadcasting Co.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: February 28, 1983.

Released: March 4, 1983.

In re applications of Filmway of Wisconsin, Janesville, Wisconsin; MM Docket No. 83–151, File No. BPCT–820810KJ; Janesville Broadcasting Co., Janesville, Wisconsin; MM Docket No. 83–152, File No. BPCT–821008KI for construction permit.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Filmway of Wisconsin (Filmway) and Janesville Broadcasting Co. (Janesville) for authority to construct a new commercial television broadcast station on Channel 57, Janesville, Wisconsin.

2. No determination has been reached that the tower height and location proposed by each of the applicants would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

Filmway of Wisconsin

3. Section 73.682(a)(15) of the Commission's rules states that the effective radiated power of the aural transmitter shall not be less than 10 percent nor more than 20 percent of the peak radiated power of the visual transmitter. Filmway's aural power is 52% of the visual. The applicant will be required to correct this situation by an appropriate amendment.

4. Applicant's response to Section V–C, Items 11 and 15, FCC Form 301, and its Exhibit V–1, purport to show that the proposed station would encompass Janesville within the required city grade (80 dBu) contour. However, at the proposed power and height, the city grade contour would extend only 6 miles from the transmitter site. Operating in this fashion, the predicted city grade contour would not encompass all of Janesville and thus is a violation of § 73.685(a) of the Commission's rules. The Commission has not received a request for waiver. Accordingly, an issue regarding this matter will be specified.

Janesville Broadcasting Co.

5. Janesville indicates in Section V–C, Item 7, FCC Form 301, that it will use mechanical beam tilt. Section 73.685 (e) and (f) of the Commission's Rules requires that information be submitted to verify the nature of the proposed mechanical beam tilt. The applicant has not submitted this information. Accordingly, applicant will be required to submit an appropriate engineering amendment within 20 days of the release of this order.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

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, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by each of the applicants would constitute a hazard to air navigation.

2. To determine whether the application of Filmway is consistent with § 73.685(a) of the Commission's Rules with respect to City Grade coverage and, if not, whether circumstances exist which would warrant a waiver of the rule.

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.

8. It is further ordered, That the Federal Aviation Administration is made a party respondent with respect to Issue 1.

9. It is further ordered, That Filmway shall submit, pursuant to § 73.682(a)(15) of the Commission's Rules, to the presiding Administrative Law Judge within 20 days after the date of release of this Order, an appropriate engineering amendment to correct the aural effective radiated power.

10. It is further ordered, That Janesville shall submit, pursuant to § 73.685(e) and (f) of the Commission's Rules, to the presiding Administrative Law Judge within 20 days after the date of release of this Order, an appropriate engineering amendment to verify the nature of the proposed mechanical beam tilt.

11. 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 the hearing and to present evidence on the issues specified in this Order.

12. 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.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-5931 Filed 3-8-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 83-109, et al.]

BA Co. et al.; Hearing

Adopted: February 14, 1983.

Released: February 22, 1983.

In re Applications of: Robert A. Gordon d.b.a. the BA Company, CC Docket No. 83-109; File No. 439-CM-P-80; and Video Communications Systems, CC Docket No. 83-110; File No. 655-CM-P-80; and Microband Corporation of America, CC Docket No. 83-111; File No. 3743-CM-P-80; for Construction Permits in the Multipoint Distribution Service for a New Station at Clewiston, Florida; Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order.

1. For consideration are the above-referenced applications.[1] These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Clewiston, Florida. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as a result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and Section 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[3]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Robert A. Gordon, d.b.a. The BA Company, Video Communications Systems, Microband Corporation of America and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-5922 Filed 3-8-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-147, et al]

Caribbean Broadcasters et al.; Hearing

Adopted: February 28, 1983.

Released: March 2, 1983.

In re applications of: Jose Cordero and Nayda Nicolau de Colon, d/b/a Caribbean Broadcasters; San Sebastian, Puerto Rico; MM Docket No. 83-147; File No. BPCT-8209110KE; Nydia Toro Gonsalez d/b/a Mothers for Television; San Sebastian, Puerto Rico; MM Docket No. 83-148; File No. BPCT-821105KE; Designating Applications for Consolidated Hearing on Stated Issues; Hearing Designation Order.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to

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[1] On August 18, 1980, Tymshare, Inc. (Tymshare) and Arthur Lipper Corporation (ALC) executed a contract whereby ALC agreed to transfer control of Microband Corporation of America to Tymshare. *Transfer of Control/MDS*, 85 FCC 2d 1023 (1981).

[2] By Memorandum Opinion and Order adopted June 28, 1981 and released July 2, 1981 Mimeo No. 001863, Microband was granted an exemption from the Commission's "cut-off" rules pursuant to Section 21.31 of the Rules, 47 CFR 21.31, to preserve the status of its pending mutually exclusive application.

[3] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

delegated authority, has before it the above-captioned mutually exclusive applications of Caribbean Broadcasters (Caribbean) and Mothers for Television (Mothers) for authority to construct a new commercial television broadcast station on Channel 38, San Sebastian, Puerto Rico.

2. Mothers' response to Section V–C, Item 7, FCC Form 301, purports to show the azimuths of the main lobes of its proposed station. However, the information submitted does not match the directional pattern submitted with the application (Figure 1). Section 73.685(f)(1)(2) of the Commission's Rules requires a description of the proposed antenna system and the orientation of the directional pattern with respect to True North. The applicant will be required to correct this discrepancy by an appropriate amendment.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

5. It is further ordered, that Mothers shall submit, pursuant to § 73.685(f)(1)(2) of the Commission's rules to the presiding Administrative Law Judge within 20 days after the date of release of this Order, an appropriate engineering amendment to correct the azimuths of the main lobes of its proposed station.

6. 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.

7. 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.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-6629 Filed 3-8-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-132, et al.]

Clevenger, Linda D., et al.; Hearing

Adopted: February 24, 1983.

Released: March 3, 1983.

In re Applications of: Linda D. Clevenger, Lincoln, Nebraska; MM Docket No. 83–132, File No. BPCT–820727RF; Native American Communications Corp., Lincoln, Nebraska, MM Docket No. 83–133, File No. BPCT–821008KK; for Construction Permit, Designating Applications for Consolidated Hearing on Stated Issues; Hearing Designation Order.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Linda D. Clevenger (Clevenger) and Native American Communications Corp. (NACC) for a new commercial television station to operate on Channel 45, Lincoln, Nebraska.

Linda D. Clevenger

2. The geographical coordinates submitted by Clevenger in Section V–C of FCC Form 301 are incorrect. Clevenger will be required to submit the correct coordinates to the presiding Administrative Law Judge within 15 days after the release date of this Order.

3. The effective radiated visual power, antenna height above average terrain and other technical data submitted by Clevenger indicate that there would be a significant difference in the size of the area and population that it proposes to serve and the size of the area and population that NACC proposes to serve. Consequently, for the purposes of comparison, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of 64 dBu (Grade B) or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

Native American Communications Corporation

4. The Commission is not in receipt of the Federal Aviation Administration's determination for the antenna structure proposed by NACC.[1] Consequently, no determination has been made that the tower height and location proposed would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

5. The material submitted in NACC's 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 release 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).[2]

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the application are designated for hearing in a consolidated proceeding, to be held before an Administrative Law

[1] NACC proposes to mount on the proposed AM tower in BP–820409AD. The tower was cleared for 216 feet; however, NACC proposes to increase the height to 545 feet.

[2] NACC states that its construction and operating funds will come from various sources (grants, loans, donations). However, NACC has not certified or indicated that it has firm commitments from any of its sources.

Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Native American Communications Corporation whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, better 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.

8. It is further ordered, That Linda D. Clevenger shall amend Section V–C, FCC Form 301, to show the correct coordinates and submit it to the presiding Administrative Law Judge within 15 days after the release date of this Order.

9. It is further ordered, That Native American Communications Corporation 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.

10. It is further ordered, That the Federal Aviation Administration is made a Party Respondent to this proceeding with respect to issue. 1.

11. 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 Rule, in persons 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 present evidence on the issues specified in this Order.

12. It is further ordered, That the applicants herein shall, pursuant to section 311a(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 Communication Commission.

Roy J. Stewart,

Chief, Video Services Divisions, Mass Media Bureau.

[FR Doc. 83–5929 Filed 3–8–83; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket No. 83–127, et al.]

H & S, Ltd., et al.; Hearing

Adopted: February 24, 1983.

Released: March 3, 1983.

In re Applications of Davenport Television, Inc. and Janet T. Lee d/b/a H&S, LTD.[1] Davenport, Iowa; MM Docket No. 83–127, File No. BPCT–820816KH; Eian, Inc., Davenport, Iowa; MM Docket No. 83–128, File No. BPCT–821101KE; Davenport Communications Limited Partnership, Davenport, Iowa; MM Docket No. 83–129 File, No. BPCT–821109KE; Independence Broadcasting, Corporation, Davenport, Iowa; MM Docket No. 83–130, File No. BPCT–821109KK; Channel 18, Limited,[2] Davenport, Iowa; MM Docket No. 83–131, File No. BPCT–821109KL; For Construction Permit; Designating Applications for Consolidated Hearing on Stated Issues; Hearing Designation Order.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 18, Davenport, Iowa.

2. No determination has been made that the tower heights and locations proposed by H&S, Ltd., [3] Davenport Communications Limited Partnership, The Independence Broadcasting Corporation and Channel 18, Limited would not constitute a hazard to air navigation. An appropriate issue will be specified.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant well serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, is 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 H&S, Ltd., Davenport Communications Limited Partnership, The Independence Broadcasting Corporation and Channel 18, Limited, 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.

5. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

6. 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 Commisssion, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

7. 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.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc.83–5925 Field 3–8–83; 8:45 am]

BILLING CODE 6712–01–M

[1] H&S, Ltd. amended its application to change its limited partner. Since the transfer of the limited partner's interests does not affect control of the partnership, the amendment does not constitute a transfer of negative control and it is not, therefore, a major amendment. *Anax Broadcasting, Incorporated*, 87 FCC 2d 483 (1981).

[2] Applicant amended its application on January 7, 1983, to change its name from Channel 18, Inc.

[3] The overall height above ground and the height above mean sea level shown in the application do not agree with those heights approved by FAA.

[CC Docket No. 83–112, et al.]

Digital Paging Systems, Inc., et al.; Hearing

Adopted February 15, 1983.

Released February 22, 1983.

In re Applications of Digital Paging Systems, Inc.; CC Docket No. 83–112, File No. 50083–CM–P–74; and M.C.C.A. Service Corporation; CC Docket No. 83–113, File No. 50017–CM–P–75; for Construction Permits in the Multipoint Distribution Service for a New Station at Birmingham, Alabama; Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 2 at Birmingham, Alabama. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as a result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.[1]

3. Accordingly, it is hereby ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[2]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Digital Paging Systems, Inc., M.C.C.A. Service Corporation and the Chief, Common Carrier Bureau, ARE MADE PARTIES to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of Section 1.221 of the Commission's Rules, 47 CFR 1.221.

6. It is further ordered, That any authorization granted to Digital Paging Systems, Inc., a wholly-owned subsidiary of Graphic Scanning Corporation, as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold an MDS license following a decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

7. This Order is effective on its release date. Petitions for reconsideration under § 1.106 or applications for review under Section 1.115 of the Rules may be filed within the time limits specified in those sections. *See also* Rule 1.4(b)(2).

8. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-6023 Filed 3-8-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-144, et al.]

Educational Television of the Southwest, Inc., et al.; Hearing

In re applications of Educational Television of the Southwest, Inc., Fort Worth, Texas; MM Docket No. 83-144, File No. BPET-820524KF; Texas Educational Network, Inc.; Fort Worth, Texas; MM Docket No. 83-145, File No. BPET-820824KQ; for Construction Permit; Designating Applications for Consolidated Hearing on Stated Issues; Hearing Designation Order.

Adopted: February 24, 1983.

Released: March 3, 1983.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Educational Television of the Southwest, Inc. (ETS) and Texas Educational Network, Inc. (TENI) for authority to construct a new noncommercial educational television station on Channel 31, Fort Worth, Texas.

Texas Educational Network, Inc.

2. Applicants for new broadcast stations are required by Section 73.3580 of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission certification of compliance with the requirements as described in Section 73.3580(h). We have no evidence that TENI has published the required local notice. To remedy this, TENI will be required to file with the presiding Administrative Law Judge certification of compliance with Section 73.3580 within 30 days after the date of release of this Order.

3. The material submitted in the application does not demonstrate the applicant's financial qualifications.[1] Although the financial standards are unchanged, the Commission is changing FCC Form 340 to require only certification as to financial qualifications.[2] Accordingly, the applicant will be given 30 days from the date of release 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 same manner as called for in the December 13, 1982 Public Notice, 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.

4. Since we have not received a determination from the Federal Aviation Administration that TENI's proposed tower height and location would not constitute a hazard to air navigation, an issue regarding this matter will be specified.

Conclusion and Order

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications 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:

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[1] This finding is subject to paragraph 6, *infra*.

[2] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

[1] The bank requires a pledge of TENI's assets and guaranties of principals; however, the principals have not indicated a willingness to furnish such guaranties.

[2] In the interim, non-commercial educational TV applicants will be allowed to certify. Public Notice released December 13, 1982, FCC 82-557.

1. To determine, with respect to Texas Educational Network, Inc., whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

2. To determine the extent to which each applicant's proposed operation will be integrated into the overall cultural and educational objectives of the respective applicants;

3. To determine the manner in which each applicant's proposed operation meets the needs of the community to be served;

4. To determine whether the factors in the record demonstrate that one applicant will provide a superior non-commercial educational broadcast service.

5. 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 Texas Educational Network, Inc. shall file certification with the presiding Administrative Law Judge that it has or will publish local notice of the filing of its application within 30 days after the date of release of this Order.

8. It is further ordered, that Texas Educational Network, Inc. shall submit a financial certification in the same form as 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.

9. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with regard to Issue 1.

10. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants and 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.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-5928 Filed 3-8-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket NO. 83-137, et al.]

Family Televison 55, Ltd., et al.; Hearing

In re Applications of; Family Television 55, Ltd., Kenosha, Wisconsin, MM Docket No. 83-137, File No. BP-820714KF; Chicage Communications Service, Inc.; Kenosha, Wisconsin, MM Docket No. 83-138, File No. BPCT-820908KE; Frank Edward Kavenik and Frances M. Kavenik d/b/a Midwest Broadcast Associates Kenosha, Wisconsin, MM Docket No. 83-139, File No. BPCT-820909KG, for Construction Permit; Designating Applications for; Consolidated Hearing on Stated Issues; Hearing Designation Order.

Adopted: February 25, 1983.
Released: March 2, 1983.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Family Television 55, LTD. (Family), Chicago Communications Service, Inc. (CCS) and Frank Edward Kavenik and Frances M. Kavenik d/b/a Midest Broadcast Associates (Midwest) for authority to constuct a new commercial television station on Channel 55, Kenosha, Wisconsin.

Chicago Communications Service, Inc.

2. The applicant submitted to the Federal Aviation Administration a request for clearance of a tower of 482 feet AGL and obtained a determination of no hazard for that height, but its application to the Commission specifies a tower height of 483 feet AGL. We will not specify an air hazard issue. CCS, however, will be required to submit an appropriate amendment to specify the correct tower height to the presiding Administrative Law Judge within 30 days of the release of this Order.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as propoosed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convneience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, It is ordered, that, pursuant to Section 309(e) of the Commuinications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. to determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

5. It is further ordered, that within 30 days of the release of this Order, Chicago Communications Service, Inc. shall submit the correct figure for its tower height to the presiding Administrative Law Judge.

6. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 says 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.

7. It is further ordered, that the applicants herein shall, purusuant 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.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-5927 Filed 3-8-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 83-146, et al.]

LIN Cellular Communications Corp. et al.; Hearing

In re Applications of; LIN Cellular Communications Corporation; CC Docket No. 83-146, File No. 26147-CL-P-(27)82; ICS/MCI, File No 26109-CL-P-(23)- 82; Cellular Mobile Systems of California, Inc., File No. 26189-CL-P-(48)-82; Los Angeles Cellular Corporation, File No. 26083-CL-P.(24)-82; for a Construction Permit to establish a Cellular System to operate on frequency Block A in the Domestic Public Cellular Radio

Telecommunications Service to serve the Los Angeles, California, Standard Metropolitan Statistical Area; Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order Designating Applications for Hearing.

Adopted February 25, 1983.

Released March 4, 1983.

1. Presently before the Chief, Common Carrier Bureau, under delegated authority are the captioned applications, filed by LIN Cellular Communications Corporation (LIN), ICS/MCI, Cellular Mobile Systems of California, Inc. (CMS) and Los Angeles Cellular Corporation (LACC). The applicants propose to construct cellular systems to serve the Los Angeles, California, Standard Metropolitan Statistical Area (SMSA).[1] Petitions to Deny have been filed against all the applications and responsive pleadings have been filed.

2. Except with respect to the application of LIN,[2] we find that the petitions fail to raise any substantial and material issues requiring designation for hearing. Since the four applications are mutually exclusive, we are designating them for a comparative hearing in accordance with the Commission's *Report and Order* in CC Docket No. 79-318, 86 FCC 2d 469 (1981), *modified*, 89 FCC 2d 58 (1982), *further modified*, 90 FCC 2d 592 (1982). We are also requiring that CMS modify its application as set forth below.

ICS/MCI Application

3. LIN and CMS filed petitions to deny ICS/MCI's application, alleging that ICS/MCI has failed to adequately describe its basis for determining system congestion; that it has failed to demonstrate a reliable method for the coordinated expansion of its system in response to changing service demand; and that it is not financially qualified because it has not included all relevant costs in its projections or demonstrated the availability of sufficient funds.

4. *System congestion.* We reject CMS' allegations that ICS/MCI's response to § 22.913(a)(5) of the rules is insufficient. In Exhibits 4, 5, 25 and 30 of the application, ICS/MCI has discussed its system for monitoring traffic and evaluating that data and described its projected grade of service for the system and methodology for expansion to maintain that quality of service. This information adequately satisfies the requirements of § 22.913(a)(5) of the rules.

5. *System Expansion.* LIN maintains that ICS/MCI has not properly determined its level of subscriber demand and thus, has not adequately demonstrated a method for system expansion pursuant to § 22.913(a)(4) of the rules. ICS/MCI's description of its cellular design concept and methodology for system expansion, contained in Exhibits 3 and 5 of the application, fulfill our requirements contained in § 22.913(a)(4) of the Rules. Whether the proposal is sufficient to meet anticipated demand for service may be examined in the comparative portion of this proceeding to the extent it is relevant to the issues specified in para. 29. below. Likewise, the applicant's underlying marketing and demographic analysis are also issues which will be examined during the comparative portion of this proceeding.

6. *Financial Issue.* Petitioners allege ICS/MCI's cost projections fail to include landline costs and itemized construction costs for each cell and that ICS/MCI has not demonstrated the availability of sufficient funds for its Los Angeles cellular commitment.[3]

7. We find the first allegation to be without merit since ICS/MCI has explicitly listed its telephone interconnect charges as operating expenses in its financial business plan (Exhibit 36, pp. 36-8, 36-9). Second, in Exhibits 13 and 14, ICS/MCI has adequately itemized its construction and operating expenses for one year. We do not require applicants to demonstrate itemized costs for each cell; therefore, ICS/MCI has fully complied with our rule requirements. *See Advanced Mobile Phone Service, Inc., et al. (Buffalo Order)*, CC Mimeo 1320, released December 14, 1982, at para. 9

8. The aggregate of ICS/MCI's construction and first year operating expenses for the Los Angeles cellular system is $41,836,000. ICS has demonstrated the availability of $750,000 based upon a line of credit with the Imperial Bank in Los Angeles, CA. MCI indicates that it will incur all of the Los Angeles costs and its commitments in eleven other SMSA's totaling $204,957,000. To meet these expenses MCI is relying on a $300 million line of credit from the First National Bank of Chicago. In *Advanced Mobile Phone Service, Inc., et al., (Pittsburgh Order)*, CC Mimeo 1169, released December 6, 1982, the Common Carrier Bureau found that MCI had demonstrated reasonable assurance of the $300 million line of credit. We concluded therefore, that MCI has sufficient funds available to construct its twelve cellular systems,[4] and that no financial issues should be designated for hearing against any MCI Communications Corporation subsidiary based on its ability to finance commitments for twelve cellular applications in the top-30 markets. Because petitioners have not raised any allegations particular to the Los Angeles application, the finding in the *Pittsburg Order* are fully dispositive of the arguments here.

CMS Application

9. ICS/MCI and LIN filed petitions to deny CMS' application alleging that CMS is not financially qualified; that it has underestimated its costs; that it has failed to demonstrate a projected method for system expansion; that CMS has not made adequate provisions for maintenance, repair and operation of the system; and that CMS does not have the requisite character qualifications to be a Commission licensee. In addition, we will raise on our own motion the extension of CMS' Cellular Geographic Service Area (CGSA) into another central SMSA.

10. *Financial Issue.* First, the CMS cost estimates do not appear unreasonable, the they include the full costs of constructing the forty-eight cell sites [5] and the channel equipment necessary for the first year of operation. The Commission has long found that the general allegation that one applicant's estimated costs are lower than another's

[1] Three applications were also filed requesting the wireline allocation (frequency block B) in this SMSA. On November 22, 1982, the three applicants filed a settlement agreement for this SMSA. We will consider the wireline allocation in a separate order.

[2] *See* para. 27, *infra.*

[3] ICS/MCI was a partnership of subsidiaries of ICS Communications and MCI Communications Corporation. On January 31, 1983, ICS/MCI filed an amendment pursuant to Section 1.65 of the Commission's Rules, notifying the Commission that on January 5, 1983, a transfer of control of ICS Communications to Metromedia, Inc., was consummated. We will accept this as a minor amendment consistent with our policies on this issue. *Order*, FCC 82-409, 47 FR 39.685 (1982), because this change in ownership does not result in a trenafer of control. MCI had control and will retain control of the cellular radio partnership. ICS had a 20% interest in ICS/MCI; therfore, Metromedia will hold a minority ownership in the ICS/MCI cellular radio partnership. We emphasize that ICS/MCI has not claimed, nor will we accord it, any comparative credit for the change in ownership.

[4] MCI has filed applications in the following SMSA's either as part of a joint venture or independently: ICS/MCI—Los Angeles; MCI/Mobile Radio Communications—Kansas City; MCI Cellular Telephone Company—Philadelphia, Pittsburgh, Minneapolis, Dallas, Houston, Miami, Cleveland, Denver, Tampa, and Portland.

[5] We also reject LIN's allegations that CMS should have itemized construction costs for each cell site. Our rules do not reqüire this degree of specificity. *See* Buffalo Order, *supra*, at para 9. Further, contrary to LIN's allegation, Section 22.917 of our Rules does not require that the cost of mobile equipment be included in an applicant's financial projections. *See* Metrocom of St Louis, *et al.* (St. Louis Order), CC Mimeo 2045, released January 28, 1983.

is insufficient to warrant the addition of a financial issue.[6] Second, CMS' projected costs of construction and operation of its system for one year are estimated at $32.117 million. To finance these costs CMS is relying on a letter of commitment from its parents, Graphic Scanning Corp. (Graphic), to advance $35.5 million. This letter of commitment from Graphic to CMS specifically states that none of the funds have been committed to other cellular system applications or to other projects. We find that this satisfies Rule § 22.917(b) which requires that resources used to demonstrate financial ability regarding one cellular system may not include funds committed elsewhere. Moreover, in the *Chicago Order, supra,* the Commission found that Graphic and its cellular subsidiaries have provided reasonable assurance that they will have sufficient funds available to cover construction of 30 cellular systems in the top 30 markets. The Commission further concluded that no financial issues should be designated for hearing against any Graphic subsidiary based on the ability of Graphic to finance the construction and operation for one year of 30 cellular systems. Because petitioners have not raised any substantial allegations particular to the Los Angeles application, the findings in the Commission's *Chicago Order* control the disposition of the allegations here. Thus, we find CMS to be financially qualified.

11. We have also considered the other objections made against CMS' application and we find that they raise no substantial issues. First, contrary to LIN's allegations, CMS has submitted an adequate frequency plan (Volume I, Exhibit 4), and has described its plan for system expansion at Volume I, Exhibit III, Section C of its application. This fulfills our filing requirements contained in § 22.913 (a)(4) and (a)(6). As discussed with respect to ICS/MCI's application, the sufficiency of these proposals may be examined in the comparative portion of this proceeding. *Report and Order, supra,* at 502–03. Second, CMS has submitted exhibits describing its service and maintenance proposal which meet the requirements of our rules. *See* Volume I, Exhibit VII, Section C, E and Appendix D. These proposals may also be examined in the comparative portion of this proceeding to the extent they are relevant to the issues specified in para. 29 below. Finally, the Commission has held that the character of Graphic would be examined in the *ASD* proceeding [7] and would not be included in the cellular comparative hearing process. *Chicago Order, supra,* at n. 19. Consistent with that decision, the Commission reserves the right to reexamine and reconsider the qualifications of CMS to hold a cellular license should *ASD* be resolved against any of CMS' affiliates, parent companies or against any of their principals. Therefore, we decline to designate any of these issues for hearing.

12. *Extension of CGSA.* Review of CMS' application reveals that CMS' proposed CGSA extends into the central San Diego SMSA. Pursuant to Rule 22.903(a), a CGSA may not extend into another central SMSA. Therefore, we will require that CMS file a conforming amendment to bring the nonconforming CGSA and 39 dBu contour for cell #6, San Juan Capistrano, into compliance with the rules. The amended 39 dBu contour shall not cover any area in the SMSA not previously covered by the nonconforming 39 dBu contour. This amendment should consider the effects, if any, that this change may have on other parts of the application. Due to this circumstance, brief extensions of time may be granted at the discretion of the Administrative Law Judge.[8]

LACC Application

13. LIN and ICS/MCI filed petitions to deny LACC's application alleging that LACC has failed to provide an adequate plan for staffing, maintaining and operating its proposed system pursuant to § 22.15(e); that LACC has not detailed its construction costs with respect to individual cell sites; that mobile equipment costs have not been included in the projected expenses; that LACC has not included construction costs to be incurred after year one; and that LACC has not demonstrated the availability of sufficient funds for its Los Angeles system.

14. *Staffing and Maintenance Proposal.* LIN's allegation in this regard is without merit. In Exhibits 23 and 24 of the application LACC described its service and maintenance proposals as required by our rules. Whether these proposals are sufficient may be examined in the comparative portion of this proceeding to the extent they are relevant to the issues specified in para. 29 below. Accordingly, we will not designate a basic qualifying issue with respect to this matter.

15. *Financial Issue.* Allegations concerning LACC's cost projections are also without merit because we do not require construction costs for individual cell sites, *Buffalo Order, supra,* nor do we require that mobile equipment expenses be included in financial projections. *St. Louis Order, supra.,* at para. 10. In any event, LACC has included mobile equipment costs in its estimated costs, *See* Exhibit 22, Attachment 22–C, p. 2. Further, we reject CMS' allegation that LACC should have demonstrated its financial qualifications for more than one year. The Commission only requires that cellular applicants demonstrate financial ability to operate for one year. *See* 47 CFR 22.917 and *Buffalo Order,* at para. 16.

16. Finally, we find that LACC has demonstrated reasonable assurance of the availability of $28,560,000 to cover its aggregate construction and first year operating expenses of $27,670,000.[9] To meet these expenses LACC is relying on (1) an escrow account of $3,575,000 from American Cellular, (2) $6,000,000 debt financing from the First National Bank of Chicago, and (3) $18,785,000 from Westel and its principal shareholder, FMI Financial Corporation (FMI). Petitioners challenge the bank letter and the availability of sufficient funds from Westel/FMI.

17. *Bank letter.* LIN argues that the letter from the First National Bank of Chicago does not constitute a firm commitment because it is conditioned on "the participation of substantially all of the stockholders named in the cellular application" and because the terms of the loan were made contingent upon the exact credit conditions prevailing at the time of the commitment. The Commission does not require a legally binding loan commitment but "reasonable assurance" that a loan or similar financing will be available to the applicant if it secures a construction permit. *Multi-State Communications, Inc.* v. *FCC,* 590 F. 2d 1117 (D.C. Cir. 1978), *cert. denied,* 440 U.S. 959 (1979). In fact the bank letter which the Commission found sufficient in *Multi-*

[6] *See e.g.,* Advanced Mobile Service, Inc., *et al. (Chicago Order,* FCC 82–452, released November 1, 1982, at para. 13, and Gross Broadcasting Co., 46 RR 2d 1091, 1097–98 (1979).

[7] A.S.D. Answer Service, Inc., *et al.,* FCC 82–391, released August 24, 1982.

[8] On September 13, 1982, CMS resubmitted an amendment to modify its Cellular Geographic Service Area. Since we are directing a specific amendment to cover this problem, we are returning this amendment under separate cover.

[9] LACC's common stock is owned 43.5% by Westel-Los Angeles Company (Westel) and 56.5% by Los Angeles RCCs, Inc. (LAR). LAR is owned 70% by American Cellular Communications Corporation (American Cellular), a wholly owned subsidiary of Mobile Communications Corporation of America, and 5% by six companies with existing RCC operations in Los Angeles. The six companies are American Mobile Radio, Inc., Intrastate Radio Telephone, Inc. of San Bernardino, Mobilfone, Inc., Orange County Radio Telephone Service Inc., R.L. Mohr d/b/a/ Radiocall Corporation and Radio Dispatch Corporation.

State, supra, contained the same terms and conditions which LIN has challenged here. Accordingly, we find that the letter from the First National Bank of Chicago contains all the necessary terms and conditions and provides reasonable assurance that $8,000,000 is available to LACC for its Los Angeles cellular system.

18. *Westel/FMI financing.* FMI Financial Corporation (FMI) has agreed pursuant to the Joint Venture Agreement between FMI and the Western Union Telegraph Company to assure the compliance of Westel-Los Angeles with the financial terms of the shareholder's agreement.[10] Therefore, FMI will incur Westel's $18,785,000 commitment to LACC. In addition, FMI has agreed to contribute $33,624,000 to four cellular systems in the top thirty markets, including Los Angeles. FMI claims that it has at least $51,954,000 to meet its commitment to the four systems. It is relying on (1) $13,610,000 cash and short term government securities, (2) $10,000,000 from an existing loan agreement, (3) $20,700,000 in mortgage loans, and (4) future corporate earning projections of $7,624,000. FMI also argues that it has substantial real estate holdings which could be made available if these properties were either sold or pledged for further borrowings.

19. LIN has challenged FMI's $10,000,000 loan agreement with American Financial Corporation (AFC) arguing that the letter does not set forth essential terms such as interest payments and collateral requirements. It claims that although the letter refers to the terms underlying the original loan agreement, the agreement containing these terms was not submitted with the application. CMS argues that FMI has not earmarked its funds for cellular financing, and that the mortgage loans and land assets do not meet the Commission's criteria for liquidity. CMS also argues that FMI's projected earnings are too speculative to be relied upon.

20. First, with respect to the $10,000,000 loan agreement, LACC replies that all of the essential terms and conditions, including rate of interest and collateral requirements are set forth in the application, Exhibit 22, Attachment 22-B. In addition, LACC attaches the original loan agreement to its response. Second, LACC argues that FMI's mortgage loans are in a current paying status and are readily marketable. It attaches an affidavit from David R. Winstel, Vice President and Treasurer of FMI, who testifies that the type of mortgage loans which FMI possesses are highly marketable. Mr. Winstel states that FMI has first mortgage loans on hotels, apartment projects and single family residential properties which are five to ten years in age and have maturities ranging from eight to twenty years. LACC also attaches a letter from the Salomon Brothers, Inc., a major investment banking firm which engages in secondary trading of mortgage loans. This letter states that "first mortgage loans on commercial property are readily marketable if the mortgages are current, if the underlying properties are sound and if the value of the properties is sufficient to justify the amounts outstanding in the loans." It states that "investor appetite is greatest for loans which have a high degree of certainty that the remaining term of the mortgage loan will be at least five years and as long as fifteen years." According to LACC, this letter confirms Winstel's allegation that FMI's mortgage loans are readily marketable and that there is an active secondary trading market in such assets.

21. Third, LACC attempts to demonstrate the marketability of FMI's land assets. It states that FMI has undeveloped land holdings with an aggregate book value of $8,950,200 as of July 31, 1981. These assets were appraised during 1979 and 1980 at $20,702,000 and those appraisals are attached to the reply. LACC also states that five of FMI's hotel properties having an aggregate book value of $35,960,000 for the year ended January 31, 1982, had an aggregate appraised value of $54,745,000 as of December 31, 1979. It also attaches those appraisal letters. Finally, LACC argues that FMI's earning projections are highly realistic and are based on conservative assumptions regarding the nature of FMI's future operations.

22. We find that FMI has clearly demonstrated the availability of $13,610,000 in cash and short term government securities.[11] Moreover, LACC has demonstrated reasonable assurance of the availability of $10,000,000 from AFC. As stated in LACC's reply, the essential terms and conditions of the $10,000,000 loan were set forth in the application and the original loan agreement was attached to the reply. Therefore, the above assets total $23,610,000 and FMI needs an additional $10,014,000 to meet its $33,624,000 commitment.

23. With respect to FMI's $20,720,000 mortgage loan portfolio and assets aggregately appraised at $75,447,000, we are persuaded that these assets are sufficiently marketable so that FMI could rely on them for at least an additional $10 million. There is precedent in the broadcast area that reliance can be placed on nonliquid assets if the marketability of those assets is documented. In *Dodge-Point Broadcasting Co.*, 13 PR 2d 274 (1968), the applicant intended to rely on his ownership of a hotel and motel to demonstrate his financial qualifications. He had these assets appraised by experts and stated his intention to sell these properties if the funds were needed. The Commission allowed these assets to be considered in assessing the applicants financial qualifications and it reduced the amount by one-third to provide for unanticipated fluctuations in the market. Similarly, in *Enterprise Broadcasting, Inc.*, 56 FCC 2d 352 (Rev. Bd. 1975), the Commission allowed the applicant to rely on his wife's land to meet the deficiency in his financial proposal.

24. In light of the Winstel affidavit and Salomon Brothers letter, we are persuaded that FMI's $20,870,000 mortgage loans are marketable. LACC explains that these mortgage loans bear interest at an average rate of 10.7%, so they would have to sold at a discount from face value in order to bring a yield in line with current market interest rates. Even if the loans were discounted by as much as 40%, the proceeds would still be sufficient, when added to FMI's other assets, to cover FMI's financial commitments. Finally, since FMI appears to have sufficient funds without relying on projected corporate cash flow, we need not consider that aspect of FMI's financial showing. Moreover, unlike LIN's deficient financial showing, as discussed below, LACC has demonstrated the availability of sufficient funds without relying on projected cellular revenues. In light of the above, we decline to designate a financial issue against LACC.

LIN Application

25. CMS petitions to deny LIN's application arguing that LIN is not financially qualified. CMS claims that LIN has underestimated costs and failed to demonstrate the availability of sufficient funds to build and operate its proposed cellular systems in Los Angeles, New York, Dallas/Fort Worth

[10] Westel-Los Angeles is owned 20% by the Western Union Telegraph Company and 80% by FMI Communications Corporation (which is wholly owned by FMI).

[11] Contrary to CMS' allegations that FMI's funds are not committed to cellular, LACC emphasizes in its Reply that FMI will meet its cellular obligations and it has no other corporate projects which would require the use of these funds.

and Houston.[13] In addition, ICS/MCI submitted a late filed petition against LIN.[14]

26. *Financial Issue.* CMS claims that LIN does not have sufficient funds for its four cellular systems because LIN attempts to rely, in part, on $34,680,000 from projected first year cellular revenues. CMS argues that LIN cannot rely on projected revenues to meet its first year construction and operation costs because it did not submit commitments for service and it failed to proffer any probative support for its revenue estimates.

27. In the *New York Order,*[15] the Bureau examined similar arguments and found them to raise a substantial and material question of fact about LIN's financial ability. In view of this conclusion, the Bureau designated for hearing an issue concerning LIN's overall financial package. We wil not designate an identical issue here because we want to avoid duplicative litigation. However, we will consider the ultimate finding as to LIN's financial qualifications in the *New York* proceeding to be dispositive of the issue, and we will reserve the right to reexamine and reconsider any authorization to LIN in the event that LIN's Los Angeles application is granted as a result of the comparative hearing.[16]

Conclusions

28. Based on our analysis of the applications and our resolution of the contested issues in this order, we find the applicants to be legally, technically, financially and otherwise qualified to construct and operate their proposed cellular systems except to the extent discussed here. As indicated above, the captioned CMS application does not comply with one of the cellular rules. In the *Chicago Order,* at para. 17, the Commission determined that inflexible application of the rules to applications in the 30 largest markets would not be in the public interest. Accordingly, we are requiring CMS to bring its application into conformance with the rules as specified in this order. The applicants who filed mutually exclusive applications may address this amendment in their rebuttal cases. We emphasize that the amendment ordered here may not be used to give CMS a comparative advantage in the hearing proceeding. As the Commission stated in the *Chicago Order,* in markets for which applications have not yet been filed, strict conformance with the rules will be required, and absent unusual circumstances, the applicants will not be allowed to amend nonconforming applications.

29. Accordingly, It is ordered that pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of LIN Cellular Communications Corporation, ICS/MCI, Cellular Mobile Systems of California, Inc., and Los Angeles Cellular Corporation are designated for hearing in a consolidated proceeding upon the following issues:[17]

(a) to determine on a comparative basis the geographic area and population that each applicant proposes to serve;[18] to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service;[19]

(b) to determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated increasing demand for local and roamer service;

(c) to determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's rates, charges, maintenance, personnel, practices, classifications, regulations and facilities including switching capabilities;[20] and

(d) to determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

30. It is further ordered that the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding.[21]

31. It is further ordered that the applicants shall file written notices of appearances under § 22.916(b)(3) of the

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[13] On October 1, 1982, LIN resubmitted an amendment to its cellular radio market study, which had been proffered on September 14, 1982. The staff had determined that the amendment pertained to LIN's affirmative direct case and should be submitted after designation to the presiding Administrative Law Judge. LIN contends that although the market study is contained in the direct case, it is incorporated by reference to the application (Exhibit 6, page 1, n. 1). Therefore, it argues that this amendment really amends the application. We reject LIN's argument LIN is in fact amending the market study which is contained in the direct case. The incorporation by reference contained in the application has not been changed. Therefore, we will return this amendment, and allow LIN to submit it to the presiding Administrative Law Judge.

[14] LIN challenged ICS/MCI's petition as untimely and unauthorized, and urged the Common Carrier Bureau to disregard it. We will consider it as an informal objection pursuant to § 22.30(c) of the Rules. ICS/MCI argues that LIN's application is deficient because its maps were not properly drawn to scale as required by § 22.903(a) of the Rules. We find that these allegations are moot because LIN filed a minor amendment on September 7, 1982, containing identical maps in terms of information, but drawn to the proper scale.

[15] Advanced Mobile Phone Service, Inc., *et al. (New York Order)* CC Mimeo 2418, released February 18, 1983.

[16] However, the petitioners in this proceeding may file a motion for limited intervention in the New York proceeding, on the financial issue. *See New York Order,* at note 22.

[17] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of all of the applicants. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 2d 469, 501–02 (1981). Except for LIN, we have found all of the applicants included in the comparative hearing to be financially qualified. However, LIN's financial qualifications will be determined during the New York comparative hearing. The second issue not to be considered is the qualifications of Cellular Mobile Systems of California, Inc., or its parent Graphic, to the extent that such qualifications may be affected by the issues included in the Commission's order designating certain 35 and 43 MHz paging applications for hearing. A.S.D. Answer Service, Inc., *et al.* (ASD), FCC 82–391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. The Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of California, Inc. to hold a cellular license should *ASD* be resolved adversely to any of CMS' affiliate or parent companies or to any of their principals. *See Chicago Order,* at n. 19.

[18] For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 39 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area and the relevant Standard Metropolitan Statistical Area. Consideration should be given to the presence of densely populated regions, highways and areas likely to have high mobile usage characteristics as well as indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

[19] In making this comparison, perference should be given to designs entailing efficient frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502–03.

[20] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[21] Members of the Separated Trial Staff are non-decision making personnel and they will not participate in decision making or agency review on an *ex parte* basis in this case, either directly or through contact with other Common Carrier Bureau personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision-making and they may advise the Commission as to the ultimate disposition of any appeal of an initial decision in this proceeding. See Communications Act of 1934 as amended section 409(c) (47 U.S.C. 409(c); Administrative Procedure Act section 554(d) (5 U.S.C. 554(d); § 1.221 of the Commission's Rules.

Commission's Rules within 10 days after publication of this order in the **Federal Register.**

32. It is further ordered that the hearing shall be held according to the procedures specified in § 22.916 of the Rules, except as otherwise noted here, at a time and place and before an Administrative Law Judge to be specified in a later order.

33. It is further ordered that exceptions to the initial decision of the Administrative Law Judge under § 1.276 of the Commission's Rules shall be taken directly to the Commission.

34. It is further ordered that CMS is directed to file the conforming amendment specified in this order within 15 days after publication of this order in the **Federal Register** and that all applicants are directed to file rebuttal cases under § 22.916(b)(4) of the Rules within 45, rather than 30 days after publication of this order in the **Federal Register.**

35. It is further ordered that, except to the extent granted here, the Petitions to Deny filed by the parties against the captioned applications are denied.

36. It is further ordered that any authorization granted to CMS as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold a cellular license following a decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82–391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

37. It is further ordered, that any authorization granted to LIN as a result of the comparative hearing shall be conditioned on, and without prejudice to reexamination and reconsideration of that company's financial qualifications as determined in *Advanced Modile Phone Service, Inc., et al.* (*New York Order*), CC Mimeo 2418, released February 18, 1983.

38. It is further ordered, that any authorization granted as a result of this proceeding shall be conditioned upon obtaining the appropriate antenna structure clearances.

39. This order is issued under Section 0.291 of the Commission's Rules and *Order Delegating Authority*, FCC 82–435, released October 6, 1982, and is effective on its release date. Applications for review under § 1.115 of the Rules of this order may be filed within 30 days of the date of public notice of this order (see Rule 1.4(b)(2)).

40. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83-5930 Filed 3-8-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 83-104, et al.]

Mathis, James E., et al.; Hearing

Adopted: February 8, 1983.

Released: February 22, 1983.

In re Applications of: James E. Mathis, CC Docket No. 83–104, File No. 901–CM–P–80; and Microband Corporation of America, CC Docket No. 83–105, File No. 4159–CM–P–80; For Construction Permits in the Multipoint Distribution Service for a New Station at Gainesville, Georgia; Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order.

1. For consideration are the above-referenced applications.[1] These applications are for: construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at Gainesville, Georgia. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as a result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.[2]

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(e) and Section 0.291 of the Commission's Rules, 47 CFR § 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [3]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That James E. Mathis, Microband Corporation of America and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of Section 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-5921 Filed 3-8-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-116, File No. BPH-790130AC]

Santa Monica Broadcasting, Inc., et al.; Hearing

Adopted: February 17, 1983.

Released: March 1, 1983.

In re application of: Santa Monica Broadcasting, Inc, KSFR–FM, Santa Monica, California, MM Docket No. 83–116, File No. BPH–7901AC; HAS: 103.1 MHz Channel 276A 1.85 kW (H&V), 95 feet HAAT; Requests: 103.1 MHz, Channel 276A .87 kW (H&V) 570 feet HAAT; For Construction Permit for Modification of Facilities of KSRF (FM), Santa Monica, California; Designating Application for Hearing on State Issues; Hearing Designation Order.

1. On July 17, 1980, the Commission granted the above-captioned application and denied, without hearing, a petition

[1] On August 18, 1980, Tymshare, Inc. (Tymshare) and Arthur Lipper Corporation (ALC) executed a contract whereby ALC agreed to transfer control of Microband to Tymshare. *Transfer of Control/MDS*, 85 FCC 2d 1023 (1981).

[2] By Memorandum Opinion and Order adopted June 26, 1981 and released July 2, 1981, Mimeo No. 001863, Microband was granted an exemption from the Commission's "cut-off" rules pursuant to § 21.31 of the Rules, 47 CFR 21.31, to preserve the status of its pending mutually exclusive application.

[3] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

to deny filed by Hutton Broadcasting, Inc. (KOCM), licensee of FM Station KOCM, Newport Beach, California. *Santa Monica Broadcasting, Inc.*, 79 FCC 2d 949 (1980). The Commission, on January 21, 1981, denied KOCM's petition for reconsideration, *Santa Monica Broadcasting, Inc.*, FCC. 81–8 (released January 21, 1981), again without a hearing. Subsequently, KOCM appealed the Commission's decision to the United States Court of Appeals for the District of Columbia Circuit. The Court affirmed in part and reversed in part the Commission's decision granting KSRF's application and remanded the case for an evidentiary hearing pursuant to Section 316(a) of the Communications Act of 1934, as amended [47 U.S.C. 316(a)]. *Western Broadcasting Company v. FCC*, 674 F. 2d 44 (D.C. Cir. 1982).[1]

2. KOCM and KSRF are commercial Class A FM stations operating on the same frequency, KOCM in Newport Beach and KSRF in Santa Monica. They have existed as co-channel operations on channel 167A (103.1 MHz) since 1960. The stations are 41.5 miles apart. Normally, the Commission's Rules require that a minimum of 65 miles separate co-channel class A FM stations. *FM Broadcast Rules*, 40 FCC 662, 689 (1962) and § 73.208 of the Commission's Rules, 47 CFR 73.208. However, this short-spacing was permitted because the stations were already licensed in a short-spaced condition as of November 16, 1964. *FM Broadcast Rules, supra*, and § 73.213 of the Commission's Rules, 47 CFR 73.213. KSRF filed its application for changes because of the claimed deterioration of its signal to its city of license caused by interference from high-rise construction in Santa Monica. KOCM alleged that a grant of the KSRF application would create objectionable interference to its signal thereby causing an indirect modification of its license. The Commission determined that the proposal would cause no additional interference to KOCM's 1.0 mV/m area and denied KOCM's petition, without hearing.

3. The Court found that KOCM's claim of objectionable interference raised a "legally cognizable issue" under Section 316(a) of the Act and held that KOCM was entitled to notice and an opportunity to show cause in an evidentiary hearing why the proposed order of modification should not issue. It then remanded the case to the Commission for further proceedings consistent with its opinion. The Court made no findings concerning whether or not a grant of the application for modification would result in any interference to KOCM. Section 316(a) of the Act provides in pertinent part, that "any station license . . . may be modified by the Commission . . . if in the judgment of the Commission such action will promote the public interest, convenience and necessity." However, "no such . . . modification shall become final until the holder of the license . . . shall have been notified in writing of the proposed action and the grounds and reasons therefor, and shall have been given reasonable opportunity . . . to show cause by public hearing, if requested, why such order of modification should not issue."

4. Because of the unique posture of this case, we believe it is necessary to provide guidance as to what constitutes "objectionable interference." We believe that it is appropriate to use Section 73.509 of the Rules. However, because the stations involved are grandfathered, short-spaced stations, there may already be objectionable interference under that rule. Therefore, we believe it is appropriate to determine the degree of interference already encountered with regard to the existing operations, and then to determine whether there will be any increase in that interference. "Objectionable interference," for the purposes of this proceeding only, will be defined as any increase in the interference presently encountered within the station's 1 mV/m contour, which is neither masked by existing interference nor is so small as to be *de minimis*. Normally, the location of the contours would be determined pursuant to § 73.313 of the Commission's Rules. In this case, however, KOCM has proposed an alternative method of determining the extent of the pertinent contours. Therfore, at the outset of this case, it will be necessary to determine whether the method prescribed by § 73.313 or the alternative method advocated by KOCM is more appropriate under these circumstances.

5. In view of the foregoing, KOCM will be made a party to this proceeding thereby giving it an opportunity, pursuant to Section 316(a) of the Communications Act, to show in hearing why its license should not be modified.

6. Accordingly, it is ordered, That, pursuant to Section 316(a) of the Communications Act of 1934, as amended, the application of Santa Monica Broadcasting, Inc., is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which Santa Monica Broadcasting, Inc. presently serves and those areas and populations which may be expected to gain or lose primary service from the proposed operation of KSRF and the availability of other primary aural service (1mV/m or greater in the case of FM) to such areas and populations.

2. To determine whether the proposal of Santa Monica Broadcasting, Inc. would cause additional objectional interference to Station KOCM and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations affected (1mV/m or greater in the case of FM).

3. To determine, in light of the evidence adduced under issue two, whether the grant of the application would modify the license of station KOCM and, if so.

4. To determine whether there are any public interest benefits that would flow from the grant of the application and which would warrant a modification of the license of station KOCM and a grant of the application.

7. It is further ordered, That Donrey, Inc., license of Station KOCM, Newport Beach, California, is made a party to the proceeding.

8. It is further ordered, That: (a) with regard to the alleged modification of the license of Station KOCM, the burden of introduction of evidence and the burden of proof shall be on the Mass Media Bureau, but that Santa Monica Broadcasting Inc. and Western Broadcasting Company may also introduce evidence on this issue; (b) with regard to the alleged public interest benefits resulting from the proposed operation of Station KSRF, the burden of introducing evidence and the ultimate burden of proof shall be on Santa Monica Broadcasting, Inc.

9. It is further ordered, That to avail themselves of the opportunity to be heard, the applicant and 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 the hearing and to present evidence on the issues specified in this Order.

10. It is further ordered, That the Secretary of the Commisson shall send copies of this order by certified mail, Return Receipt Requested, to the parties in this proceeding.

[1] Donrey, Inc., is the present licensee of station KOCM. Hutton Broadcasting, Inc., was the licensee of KOCM when these proceedings were initiated before the Commission. Western was substituted during the appellate proceeding.

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 83-5924 Filed 3-8-83; 8:45 am]
BILLING CODE 6712-01-M

Unimel, Inc., et al.; Hearing

Adopted: February 8, 1983.
Released: February 22, 1983.

In re Applications of: Unimel, Inc., CC Docket No. 83-102, File No. 5889-CM-P-80; and Kravetz Media Corporation, CC Docket No. 83-103, File No. 10378-CM-P-80; For Construction Permits in the Multipoint Distribution Service for a New Station at St. James Minnesota; Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 1 at St. James, Minnesota. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Unimel, Inc., Kravetz Media Corporation and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,
Chief, Domestic Facilities Division, Common Carrier Bureau.
[FR Doc. 83-5920 Filed 3-8-83; 8:45 am]
BILLING CODE 6712-01-M

[1] Consideration of these factors shall be in light of the Commission's discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980).

FEDERAL MARITIME COMMISSION

[Agreements Nos. 10374-2 and 10266-5]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreements Nos. 10374-2 and 10266-5 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., and that preparation of an environmental impact statement is not required.

Agreement No. 10374-2 is between Intercontinental Transport (ICT) B.V., Compagnie Generale Maritime (CGM), Hapag-Lloyd (HL) and Harrison Line (Harrison), and Agreement No. 10266-5 is between ICT, CGM, HL and Harrison (Proponents). Proponents have narrowed the scope of the amendments to these Agreements so that they are limited to two basic modifications. These two modifications would (1) extend the geographic coverage of both Agreements to encompass the U.S./Mexico trade; and (2) authorize the parties to Agreement No. 10266 to offer transshipment service.

This Finding of No Significant Impact (FONSI) will become final within 10 days of publication of this notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,
Secretary.
[FR Doc. 83-5937 Filed 3-8-83; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Company; Proposed de Novo Nonbank Activities; First National Boston Corp.

The organization identified in this notice 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)(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 the 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 the 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 the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing 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.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President), 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *First National Boston Corporation,* Boston, Massachusetts (management consulting to nonaffiliated depository institutions; United States): To engage *de novo,* through an existing subsidiary, FBC, Inc., in providing management consulting advice to nonaffiliated bank and nonbank depository institutions including commercial banks, savings and loan associations, mutual savings banks, credit unions, industrial banks, Morris Plan banks, cooperative banks, and industrial loan companies in accordance with § 225.4(a)(12) of Federal Reserve Regulation Y (12 CFR § 225.4(a)(12)). These activities will be performed *de novo* by FBC, Inc. from an office in Boston, Massachusetts, that will serve the United States. Comments on this application must be received not later than April 1, 1983.

Board of Governors of the Federal Reserve System, March 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-5917 Filed 3-8-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; American Bankshares Inc., et al.

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 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. *American Bankshares, Inc.,* Bowman, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The American Bank, Bowman, Georgia. Comments on this application must be received not later than March 30, 1983.

B. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First Fowler Bancorp, Inc.,* Fowler, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Fowler, Fowler, Colorado. The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than April 1, 1983.

Board of Governors of the Federal Reserve System, March 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-5916 Filed 3-8-83; 8:45 am]

BILLING CODE 6210-01-M

Orange Bancorp; Correction

This notice corrects a previous **Federal Register** document (FR Doc. 83-4743), published at page 8131 of the issue for Friday, February 25, 1983. Orange Bancorp, Fountain Valley, California, through its indirect subsidiary Southern Pacific Thrift and Loan, also proposes to engage in leasing activities in accordance with 12 CFR 225.4(a)(6). Comments regarding the application should be submitted in writing to the Federal Reserve Bank of San Francisco to be received not later than March 25, 1983.

Board of Governors of the Federal Reserve System, March 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-5918 Filed 3-8-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Adolescent Family Life Demonstration Projects

Notice is hereby given that in furtherance of the December 9, 1982 delegation by the Secretary of Health and Human Services to the Assistant Secretary for Health (48 FR 9067) of authority under Title XX of the Public Health Service Act, the Assistant Secretary for Health has delegated to the Deputy Assistant Secretary for Population Affairs, with authority to redelegate, the authority delegated to the Assistant Secretary for Health under Title XX of the Public Health Service Act (42 U.S.C. 300z *et seq.*), as amended, Adolescent Family Life Demonstration Projects.

The delegation to the Deputy Assistant Secretary for Population Affairs, became effective on February 28, 1983.

Dated: February 28, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 83-6018 Filed 3-8-83; 8:45 am]

BILLING CODE 4160-17-M

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Correction

In FR Doc. 83-3009, appearing on page 4922, in the issue of Thursday, February 3, 1983, in the second column, in the second paragraph, in the second line, "Consulation" should read "Consultation".

BILLING CODE 1505-01-M

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Correction

In FR Doc. 83-4063, beginning on page 6782, in the issue of Tuesday, February 15, 1983, on page 6783 make the following corrections:

1. In the first column, in the second paragraph, in the fourth line "(HCD)" should read ("HCB)".

2. In the second column, in the third paragraph, under item (5), "collaborates public," should read "collaborates with public,"; under item (8), in the second line "health and" should read "health".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

California Desert Conservation Area Plan; Notice of Intent; Extension

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Bureau of Land Management is extending its call for amendments to the California Desert Conservation Area Plan.

DATE: Proposed amendments will be accepted from the public until April 30, 1983.

ADDRESS: Please send any proposals to the following address: 1983 Amendments, Bureau of Land Management, California Desert District,

1695 Spruce Street, Riverside, California 92507, (714) 351–6394.

FOR FURTHER INFORMATION CONTACT: Gerald E. Hillier, District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507.

SUPPLEMENTARY INFORMATION: The **Federal Register** Notice of February 24, 1983 (Vol. 48, p. 7818) is amended to extend the invitation for proposed amendments to the California Desert Area Conservation Plan.

Please send any proposals to the following address: 1983 Amendments, Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, California 92507, (714) 351–6394.

Gerald E. Hillier,

District Manager.

[FR Doc. 83-5919 Filed 3-8-83; 8:45 am]

BILLING CODE 4310-84-M

[M 55832]

Montana; Conveyance and Order Providing for Opening of Federal Lands

March 1, 1983.

In an exchange of lands made under the provisions of Section 206 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following lands have been conveyed to the United States:

Principal Meridian

T. 7 S., R. 19 E.,
Sec. 33, E½ as shown on the official U.S. GLO survey plat approved December 28, 1888 and redescribed as Tracts 37 and 38 on the official U.S. GLO resurvey plat approved March 17, 1941;
Sec. 34, S½NE¼, W½ and W½SE¼.
The area described contains 800 acres.

Upon acceptance of title to the lands, they became part of the Custer National Forest and are subject to all the laws, rules and regulations applicable thereto. At 10 a.m. on April 18, 1983, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

Inquiries concerning the lands should be addressed to the Forest Supervisor, Custer National Forest, 2602 First Avenue North, P.O. Box 2556, Billings, Montana 59103.

In exchange for above described land and a $5,600 cash equalization payment, the following described lands in Phillips County were transferred to First Montana Title Insurance Company as trustee for the benefit of Federal Land Exchange of Nevada, Inc.:

Principal Meridian

T. 28 N., R. 31 E.,
Sec. 10, S½; and
Sec. 15, all.
Containing 960 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance document.

Michael J. Penfold,

State Director.

[FR Doc. 83-5960 Filed 3-8-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer at 202–395–7340.

Title: Application for Haying Permit, to allow such activities on national wildlife refuges.

Bureau Form Number: N/A.

Frequency: On occasion.

Description of Respondents: Individuals or households, farms, and ranches.

Annual Responses: 340.

Annual Burden Hours: 170.

Service Clearance Officer: Arthur J. Ferguson, 202–653–7499.

Robert E. Gilmore,

Acting Associate Director, Wildlife Resources.

March 2, 1983.

[FR Doc. 83-6040 Filed 3-8-83; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Outer Continental Shelf Offshore Central California; Availability of Draft Environmental Impact Statement and Location and Date of Public Hearing Regarding Proposed Oil and Gas Lease Sale No. 73

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service has prepared a draft environmental impact statement (EIS) relating to a proposed oil and gas lease sale offering of 360 tracts consisting of approximately two million acres of submerged lands on the Outer Continental Shelf offshore central California (OCS Sale No. 73).

Single copies of the draft EIS can be obtained from the Regional Manager, Pacific OCS Region, Minerals Management Service, 1340 W. Sixth Street, Los Angeles, California 90017.

Copies of the draft EIS will also be available for review in the following public libraries:

Ukiah Library, 105 North Main, Ukiah, CA 95482
Crescent City Public Library, 450 H Street, Crescent City, CA 95531
Fairfax Library, 2097 Sir Francis Drake Blvd., Fairfax, CA 94930
North Coast Regional Coastal Commission, P.O. Box 4946, 1656 Union Street, Eureka, CA 95501
Eureka-Humboldt County Library, I Street, Eureka, CA 95501
Mill Valley City Library, 26 Corte Madera Avenue, Mill Valley, CA 94941
Mr. Jim Antrobus, Coastal Planning Office, 331–G Redwood Avenue, Ft. Bragg, CA 95437
Novato Library, 1720 11 Blvd., Novato, CA 94947
North Bay Cooperative, Library System, 3rd & E Streets, Santa Rosa, CA 95404
Stinson Library, 3470 Shoreline Highway, Stinson Beach, CA 94970
Bodega Bay, Volunteer Fire Department, Highway One, Bodega Bay, CA 94923
Sebastopol Public Library, 7140 Bodega Avenue, Sebastopol, CA 95472
Mendocino County Library, 353 North Main, Ft. Bragg, CA 95437
Petaluma Free Library, 4th & B Streets, P.O. Box 300, Petaluma, CA 94953
Mendocino Environmental Center, P.O. Box 557, Mendocino, CA 95460
Mr. Ron DeCarli, San Luis Obispo County, Planning Department, Courthouse Annex, Room 102, San Luis Obispo, CA 93408
Mr. Scott McCreary, Monterey County Planning Dept., P.O. Box 1208, Salinas, CA 93902
Peninsula Conservation Foundation, Attn: Nancy Olson, Librarian, 2353 Park Blvd., Palo Alto, CA 94306
Santa Barbara Public Library, P.O. Box 1019, Santa Barbara, CA 93102
CA Polytechnic State, University Library, Attn: Karen Gall, San Luis Obispo, CA 93407
Nipoma Elementary School, County Library, 333 West Trafft, Nipoma, CA 93444
Humboldt State University, Library, Documents Department, Arcata, CA 95521
Corte Madera Library, 707 Meadowsweet Drive, Corte Madera, CA 94925
Point Reyes Library, 4th & A Street, Point Reyes, CA 94956
Marine County Library, Pacific Center Branch, Civic Center, San Rafael, CA 94903
Healdsburg Library, 221 Matheson Street, Healdsburg, CA 95448
Ms. Debbie Nelson/Mr. Bill Rozar, San Mateo County Planning Dept., County Government Center, Redwood City, CA 94063

Colorado State University, Fred Schmidt, Documents Librarian, Ft. Collins, CO 80523
Ms. Gennette Sonnesyn, Santa Cruz County, Community Resources Agency, 701 Ocean Street, Santa Cruz, CA 95061
University of California, Documents Section, Library, Santa Cruz, CA 95061
Harrison Memorial Library, Document Section, Ocean Avenue & Lincoln, Carmel, CA 93921
San Luis Obispo City-County, Library, 1354 Bishop Street, San Luis Obispo, CA 93406
University of CA Library, Santa Barbara Campus, Santa Barbara, CA 93102
Richmond Public Library, Civic Center Plaza, Richmond, CA 94804
College of San Mateo, Library, 1700 W. Hillsdale Blvd., San Mateo, CA 94402
Monterey Peninsula College, Documents Section, Library, 980 Fremont Blvd., Monterey, CA 93940
Hartell College, Document Section, Library, 156 Homestead Avenue, Salinas, CA 93901
Mr. William F. Northrop, Executive Officer, CA State Lands Commission, 1807 13th Street, Sacramento, CA 95809
Pismo Beach City Library, 1000 Bello Avenue, Pismo Beach, CA 93449
San Francisco State University Library, 1600 Holloway Avenue, San Francisco, CA 94132
Ms. Marge Macris, Marin County Comprehensive Planning Department, Civic Center, San Rafael, CA 93901
Salinas Library, 110 West San Luis Street, Salinas, CA 93901
Monterey Public Library, 625 Pacific Street, Monterey, CA 93940
Morro Bay Library, 410 Morro Bay Blvd., Morro Bay, CA 93442
Santa Cruz Public Library, 224 Church Street, Santa Cruz, CA 95060
City College of San Francisco, Alice Statler Library, 50 Phelan Avenue, San Francisco, CA 94112
Mr. Tom Hofweber, Humboldt County Planning Dept., 520 E Street, Eureka, CA 95501
Goleta Public Library, 500 N. Fairview Avenue, Goleta, CA 93017
Mr. Jerry Heath, Mendocino County Planning Dept., 880 N. Bush, Ukiah, CA 95482
Santa Maria Public Library, 420 S. Broadway, Santa Maria, CA 93454
Cabrillo College, Documents Section, Library, 6500 Sequel Drive, Aptos, CA 95003
Mr. Richard Retecki, Sonoma County Planning Dept., 2555 Mendocino, Room 105A, Santa Rosa, CA 95401
Pescadero Public Library, North Road, Pascadero, CA 94060
San Mateo Public Library, 55 West Third, San Mateo, CA 94402
North Central Coast Regional Commission, Holiday Plaza Office Bldg., 1050 Northridge Drive, Suite 130, San Rafael, CA 94903
San Francisco Public Library, Civic Center, San Francisco, CA 94102
Association of Monterey Bay, Area Governments, Attn: Julie Brandlin, P.O. Box 190, Monterey, CA 93940
City of Palo Alto, Main Library, 1213 Newell Road, Palo Alto, CA 94303
University of California, Earl Warren Legal Center, Law Library, 232 Boalt Hall, Berkeley, CA 94720
McHenry Library, University of California, Santa Cruz, CA 95064
Business & Economics Dept., Los Angeles Public Library, 630 W. 5th Street, Los Angeles, CA 90071
California State University, Oviatt Library-Government Documents, 18111 Nordhoff Street, Northridge, CA 91330
County of Ventura Library, Documents Section, P.O. Box 771, Ventura, CA 93001
Loyola University, School of Law Library, 1440 W. 9th Street, Los Angeles, CA 90015
CA Coastal Zone Commission, Attn: Mari Gottdiener, 631 Howard Street, San Francisco, CA 94105
Redwood City Library, 881 Jefferson Avenue, Redwood City, CA 94063
San Jose State University Library, 250 South 4th Street, San Jose, CA 95182
Pacific Grove Library, 550 Central Avenue, Pacific Grove, CA 93950
Oakland Public Library, 125 14th Street, Oakland, CA 94612
Riverside Public Library, P.O. Box 468, Riverside, CA 92502
California State University, Library-Documents Section, P.O. Box 4150, Fullerton, CA 92634
County of L.A. Public Library, Government Publication Unit, 320 W. Temple, Los Angeles, CA 90012
Long Beach Public Library, Government Publications Dept., Ocean & Pacific, Long Beach, CA 90802
Santa Barbara Public Library, P.O. Box 1019, Attn: Reference Section, Santa Barbara, CA 93102
San Diego Public Library, Science and Industry Dept., Attn: Dorothy Van Nice, 820 E Street, San Diego, CA 92101
University of California, Government Pub. Dept. Gen. Lib., P.O. Box 19557, Irvine, CA 92713
University of California, Serials, SIO Library, C-075, La Jolla, CA 92093
University of California, Water Resources Center Archives, 2081 Engineering I, Attn: Beth Willard, Librarian, Los Angeles, CA 90024
Pomona College, Honnold Library, 222 E. 9th Street, Claremont, CA 91711
Anaheim Public Library, DS 65C, 500 West Broadway, Anaheim, CA 92805
Pepperdine University Library, DS 59A, 8035 S. Vermont, Los Angeles, CA 90044
Pasadena Public Library, DS 63B, 285 E. Walnut Street, Pasadena, CA 91101
San Bernardino County Free Library, DS 64C, 104 W. 4th Street, San Bernardino, CA 92401
San Diego State University, DS 66A, Malcolm A. Love Library, Government Publications Dept., San Diego, CA 92182
Santa Monica Public Library, Attn: Document Librarian, 1343 6th Street, Santa Monica, CA 90401
University of Southern Cal., Government Documents Dept., P.O. Box 77983, Los Angeles, CA 90007
University of California, Library, Gov't Pub. Dept., Santa Barbara, CA 93106
University of Cal. Library, Government Publications Dept., P.O. Box 5900, Riverside, CA 95207
Culver City Library, DS 40A, 4975 Overland Avenue, Culver City, CA 90230
Downey City Library, DS 41A, 8490 E. 3rd Street, Downey, CA 90241
California Inst. of Technology, DS 63, Millikan Memorial Library, Pasadena, CA 91125
W. Valley Reg. Library, DS 64C, 19036 Vanowen Street, Reseda, CA 91335
San Diego County Library, DS 66C, 5555 Overland Avenue, San Diego, CA 92123
San Diego County Law Library, DS 63D, 1105 Front Street, San Diego, CA 92101
Santa Ana Public Library, DS 64A, Documents Section, 26 Civic Center Plaza, Santa Ana, CA 92701
Cal. State Poly Univ. Library, DS 56D, Documents Section, San Luis Obispo, CA 93401
Cal. Lutheran College Library, DS 54B, Mountclef Village, Thousand Oaks, CA 91360.

In accordance with 30 CFR 256.26(b), a public hearing will be held on April 13, 1983, at the Vandenberg Inn, Riviera Rooms A, B, and C, 1316 South Broadway, Santa Maria, California 93454, for the purpose of receiving comments regarding the central California OCS leasing proposal. The hearing will begin at 9:00 a.m., local time.

The hearing will provide the Secretary of the Interior with additional information from both public and private sectors to help evaluate fully the potential effects of leasing oil and gas tracts offshore central California. In addition, the proceedings will give the Secretary the opportunity to receive further comments and views of concerned Federal, State, and local agencies.

Interested individuals, representatives of organizations, and public officials who wish to testify at the hearings, are requested to contact the Regional Manager, Pacific OCS Region, Minerals Management Service, at the above address by 4:00 p.m., April 6, 1983. Written comments from those unable to attend the public hearing also should be addressed to the Regional Manager, Pacific OCS Region, Minerals Management Service at the above address. The Minerals Management Service will accept written testimony and comments on the draft EIS until April 26, 1983. Time limitations make it necessary to limit the length of oral presentations to ten (10) minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the hearing officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered as part of the hearing record. To the extent that time is available after presentation of oral statements by those who have

given advance notice, the hearing officer will give others present an opportunity to be heard.

After testimony and comments have been received and analyzed, a final EIS will be prepared.

Harold Doley,

Director, Minerals Management Service.

John H. Farrell,

Acting Director, Environmental Project Review.

[FR Doc. 83-5940 Filed 3-8-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Gateway National Recreation Area Advisory Commission; Cancellation of Meeting

In accordance with the Federal Advisory Committee Act, notice is hereby given that a meeting of the Gateway National Recreation Area Advisory Commission scheduled to be held on March 15, 1983, at 2 p.m., Federal Hall, 26 Wall Street, New York, NY, as was published in Volume 48, No. 36 of the **Federal Register** dated Tuesday, February 22, 1983, has been postponed. The meeting will be rescheduled and notice will be published in accordance with the Federal Advisory Committee Act.

Dated: March 3, 1983.

Robert A. Ritsch,

Associate Director, Recreation Resources, National Park Service.

[FR Doc. 83-5945 Filed 3-8-83; 8:45 am]

BILLING CODE 4310-70-M

Kalaupapa National Historical Park; Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Kalaupapa National Historical Park Advisory Commission will be held at 9:00 a.m. on Thursday, April 14, 1983, at Paschoal Community Hall, Kalaupapa, Molokai, Hawaii.

The Advisory Commission was established by Public Law 95-565 to provide advice with respect to park development, operations, public visitation, and employee training.

Members of the Commission are as follows:

Rev. David K. Kaupu, Chairman
Mr. Clifford K. Anderson
Mr. Robert L. Barrel
Mrs. Kuulei Bell
Mr. James Brede
Mr. Shoichi Hamai
Mr. Paul Harada
Mr. Isaac Keao
Mr. Richard Marks
Mr. Ralston Nagata
Mr. Bernard Punikaia

This meeting will be devoted to issues related to progress report of cooperative agreements between the National Park Service and the State and to discussions of regulations and law enforcement jurisdiction.

The meetings are open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact Mr. Bryan Harry, Pacific Area Director, National Park Service, 300 Ala Moana Boulevard, Box 50165, Honolulu, Hawaii 96850; telephone (808) 546-7584.

Minutes of the meeting will be available for public inspection by May 15, 1983, in the Office of the Pacific Area Director, National Park Service, 300 Ala Moana Boulevard, Room 6305, Honolulu, Hawaii.

Dated: March 1, 1983.

John D. Cherry,

Acting Regional Director, Western Region.

[FR Doc. 83-5944 Filed 3-8-83; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware National Scenic and Recreational River; Upper Delaware Citizens Advisory Council; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: March 25, 1983, 7 p.m.

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764-0159 (717/729-7135).

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include discussion of Draft Management Plan.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council, c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764-0159. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware National Scenic and Recreational River, River Road, 1¾ miles north of Narrowsburg, N.Y., Damascus Township, Pennsylvania.

Dated: February 28, 1983.

Don H. Castleberry,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 83-5975 Filed 3-8-83; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Notice of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: March 4, 1983.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the locaton of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Mid-America Farm Lines, Inc.

(2) 420 North Nettleton, Springfield, MO 65802.

(3) 420 North Nettleton, Springfield, MO 65802.

(4) Gary Hanman, 800 West Tampa, Springfield, MO 65805.

(1) Utah Hay Growers, Inc.

(2) 13871 East Chandler, Corona, CA 91720.

(3) 13871 East Chandler, Corona, CA 91720.

(4) LeAnn Martinson, 13871 East Chandler, Corona, CA 91720.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-5987 Filed 3-8-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15120]

All Freight Transportation, Inc.—Control Exemption—Overland Transportation, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemption Filed by Motor Carriers*, 367 I.C.C. 113 (1982), All Freight Transportation, Inc. (No. MC-152871), seeks an exemption from the requirement under section 11343 of prior regulatory approval for the acquisition by it of the outstanding common stock of Overland Transportation, Inc. (No. MC-143570).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioner's representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701.

Comments should refer to No. MC-F-15120.

FOR FURTHER INFORMATION CONTACT: Joyce D. Lannon, (202) 275-7992.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: March 3, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-5976 Filed 3-8-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15117]

Best Way Transporatation—Purchase Exemption—Spector Red Ball, Inc. (Debtor-In-Possession)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carrier of Property* under 49 U.S.C. 11343, 363 I.C.C. 113 (1982), Best Way Transportation (No. MC-112123), seeks an exemption from the requirement under section 11343 of prior regulatory approval of the purchase of authorities issued to Spector Red Ball, Inc., in No. MC-2229 and various sub-numbers thereunder (28, 31, 33-46, 49, 57, 58, 62-64, 66, 67, 71, 73, 74, 76, 79, 80, 82, 85, 89, 93-95, 99, 191, 106, 111, 116, 122, 125, 131, 153, 155, 160, 163, 175, 182, 226F, 240, 245 and 271X, and portions of 102 and 169.

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESS: Send comments to:

(1) Motor Section, Room 2139 Interstate Commerce Commission Washington, DC 20423

and

(2) Petitioner's representative, Phil B. Hammond, Evans, Hammond, & Milliken, 3003 N Central, Suite 2201, Phoenix, AZ 85012.

Comments should should refer to No. MC-F-15117.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: March 3, 1983.

By the Commmission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich

Secretary.

[FR Doc. 83-5982 Filed 3-8-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15142; OP4F-119]

Howard Dullum—Purchase Exemption—Texas Western Express, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemptions Filed by Motor Carriers*, 367 I.C.C. 113 (1982), Howard Dullum and Texas Western Express, Inc., seek an exemption from the requirement under section 11343 of regulatory approval for the purchase by the former from the latter of Certificate No. MC-152406 (Sub-No. 2) authorizing the transportation of *food and related products* between points in Tarrant County, TX, on the one hand, and, on the other, points in a described portion of the United States; and Certificate No. MC-152406 (Sub-No. 3) authorizing the transportation of *food and related products* between points in Dallas County, TX, on the one hand, and, on the other, points in the United States.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423.

and

(2) Petitioners' representative, Clayte Binion, 623 South Henderson, Second Floor, Ft. Worth, TX 76104, (817) 332-4415.

Comments should refer to No. MC-F-15142.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: March 3, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-5977 Filed 3-8-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30077]

Indianapolis Power & Light Company—Exemption From 49 U.S.C. Subtitle IV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the Indianapolis Power & Light Company from the provisions of 49 U.S.C. Subtitle IV [except section 10905(f)(4)] in connection with operations over a 2.3-mile line between milepost 110.6 and milepost 112.9 in Daviess County, IN.

DATES: This exemption is effective on April 8, 1983. Petitions for a stay must be filed by March 21, 1983; petitions for reconsideration must be filed by March 29, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Clark L. Snyder, 25 Monument Circle, Indianapolis, IN 46206.

Pleadings should refer to Finance Docket No. 30077.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423 or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: March 2, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre, Simmons, and Gradison. Commissioner Simmons did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-5978 Filed 3-8-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15152 OP2-087]

Valley Transportation Service, Inc.—Merger Exemption—L.C.W. Transportation Service, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. § 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1) *Procedures—Handling Exemptions Filed by Motor Carriers*, 367 I.C.C. 113 (1982), L.C.W. Transportation Service, Inc. (No. MC-153034) and Valley Transportation Service, Inc. (No. MC-149553), both under the common ownership, management, and control of L. C. Waller, seek the merger of the operating rights of L.C.W. Transportation into Valley Transportation. The operating rights of L.C.W. Transportation to be merged are contained in: (1) A certificate issued in No. MC-153034 authorizing the transportation of doors, door frames, and mouldings, (a) from ports of entry on the international boundary line between the United States and Mexico, at or near El Paso, TX, to San Antonio and Houston, TX, and (b) from ports of entry on the international boundary line between the United States and Mexico, at or near El Paso, TX, to Diboll and Harlingen, TX, restricted in (b) only to traffic moving in foreign commerce; and (2) a permit issued in No. MC-153034 (Sub-No. 2) X authorizing the transportation of pulp, paper and related products, and materials, equipment and supplies (except commodities in bulk), used in the manufacture of pulp, paper and related products, between points in the United States, under continuing contract(s) with International Paper Company, of New York, NY, Weyerhaeuser Company, of McAllen, TX, and Crown Zellerbach, Gaylord Container Division, of Weslaco, TX.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioners' representative: D. R. Beeler, P.O. Box 482, Franklin, Tn 37064.

Comments should refer to No. MC-F-15152.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be otained free of charge by contacting petitioners' representative. In the alternative, the petition for exemption may be inspected at the officers of the Interstate Commerce Commission during usual business hours.

Decided: March 3, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-5981 Filed 3-8-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Application; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

For status, please call Team 3 at 202-275-5223.

Volume No. OP3-MC-FC-85

Decided: February 25, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC–FC 81081. By decision of February 25, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to EJ'S TRUCKING, INC., Powell, TN, of a portion of the authority in Certificate No. MC 154245, issued November 5, 1981, to POWELL TRUCKING, A SUBSIDIARY OF POWELL ERECTION COMPANY, Knoxville, TN, authorizing the transportation of (a) signs and sign poles, and (b) parts and accessories for the commodities named in (a) above, between Knoxville, TN, on the one hand, and, on the other, points in the U.S. (except AK, HI, and TN). Representative: Gloria S. Beauchene, Suite 100, 8868 Kingston Pike, Knoxville, TN 37923.

For status, please call Team 5 at 202–275–7289.

Volume No. OP5–FC–95

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC 81224. By decision of February 23, 1983 issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR 1181, Review Board Number 3 approved the transfer to CHASE TRANSPORTATION SERVICES, LTD., of Seattle, WA, of Certificate No. MC–150378 Sub 3X, issued April 30, 1982 and the underlying authority in MC–150378 Sub 2, issued February 19, 1981 to CHASE EXPRESS, INC., of Kent, WA, authorizing the trasportation of *general commodities* (except classes A and B explosives), between points in WA and OR over irregular routes. Representative: Jack R. Davis, 1200 IBM Bldg, Seattle WA 98101 for transferee.

MC–FC 81245. By decision of February 28, 1983 issued under 49 U.S.C. 10926, and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to LYNWAY FREIGHT SYSTEMS, INC., of Jersey City, NJ, of Certificate No. MC–152998 Sub 1, issued May 20, 1981, to LYNWAY TRUCKING CORP., of Flushing, NY., authorizing the transportation of *general commodities* (except classes A and B explosives), over irregular routes, between New York, NY, on the one hand, and, on the other, points in ME, VT, CT, MA, RI, NY, NH, NJ, PA, DE, MD, VA, FL, and DC. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fairlawn, NJ, 07410.

[FR Doc. 83–5984 Filed 3–8–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the Federal Register of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminary, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

For status, please call Team 1 at 202–275–7992.

Volume No. OP1–77

Decided: March 2, 1983.

MC 68100 (Sub-51X), (partial republication), filed January 10, 1983, previously noticed in the Federal Register of January 28, 1983. Applicant: D. P. BONHAM TRANSFER, INC., P.O. Drawer G, Bartlesville, OK 74003. Representative: Larry E. Gregg, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601. Sub 49: (a) broaden machinery, equipment, materials, and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way), to "machinery, metal products, rubber or plastic products and clay, concrete, glass or stone products", and (b) change Tulsa, OK, and points within 5 miles of Tulsa, to "Tulsa, OK".

Note.—The purpose of this partial republication is to include part 4 of applicant's Sub 49 which was inadvertently omitted from the initial publication. The rest of the previous publication remains the same.

For status, please call Team 2 at 202–275–7030.

Volume No. OP2–088

Decided: March 1, 1983.

MC 2962 (Sub-No. 78)X, filed January 10, 1983. Applicant: A. & H. TRUCK LINE, INC., 1111 E. Louisiana St., Evansville, IN 47711. Representative: Robert H. Kinker, 314 West Main St., P.O. box 464, Frankfort, KY 40602, (502) 223–8244. Lead and Sub-Nos. 4, 5, 6, 7, 9, 10, 12, 13, 14, 15, 16, 18, 25, 26, 27, 29, 30, 32, 34, 35, 36, 37, 39, 41, 42, 43, 45, 46, 47, 48, 49, 50, 51, 52, 54, 56, 57, 58, 59, 60, 61, 63, 64, 66, 69F, 70F, 74F, 75, and 76 Certificates: (1) broaden (a) all above certificates from General commodities (with exceptions) to "general commodities (except classes A and B explosives, household goods, and commodities in bulk);" and (b) Sub 12, from paint and paint materials to "chemicals and related products"; (2) allow service at all intermediate points (regular routes) in the lead and Sub-Nos. 12, 18, 25, 42, 50, 61, 70, and 74F; (3) remove restrictions against service on routes (a) lead, between Cincinnati, OH, on the one hand, and, on the other, Jeffersonville, IN, New Albany, IN and Louisville, KY, and limiting commodities at West Memphis, AR, (b) Subs 10 and 49, between Cincinnati, OH and Louisville, KY, (c) Sub 14, between Sanoval, IL and Washington, IN, (d) Sub 16, off-route point of Buckner, KY, (e) Sub 26, off-route point of Eastman Kodak Co., at Oak Brook IL, (f) Sub 30, between Vincennes, IN and Shoals, IN, (g) Sub 42, serving Princeton, KY, (h) Sub 43, off-route point of Hopkinsville, KY, (i) Sub 45, between Owensboro, KY and Drakesboro, KY, (j) Sub 46, between Hammond, IN and Indianapolis, IN, and (k) Sub 51, between Nashville, TN and Louisville, KY; (4) change one-way to radial in Sub 12; (5) remove restriction requiring use of tank vehicles in Sub 12; and (6) broaden Tell City, IN to Perry and Spencer Counties, IN and Hancock County, KY in (irregular routes) the lead.

[FR Doc. 83–5985 Filed 3–8–83; 8:45 am]
BILLING CODE 7035–01–M

[Permanment Authority Volume No. OP4-118]

Motor Carriers; 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 comments must be filed with the Commission within 25 days after the date of this Federal Register notice addressing specifically the issue(s) indicated as the purpose for republication.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 4 at (202) 275-7669.

MC 135046 (Sub-27)X, filed July 30, 1982, previously noticed in the **Federal Register** issues of September 14, 1982 and September 29, 1982, respectively, and republished as follows: Applicant: ARLINGTON J. WILLIAMS, INC., 1398 S. DuPont Hwy., Smyrna, DE 19977. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. In a decision decided February 3, 1983, Division 1, acting as an Appellate Division, found that with respect to the proposed expansion of its commodity descriptions contained in its former certificates No. MC-135046 and Sub-Nos. 2 and 11 will be modified as follows: from fibre, fibre products, and insulating materials to: food or related products; textile mill products; apparel, or other finished textile products or knit apparel; lumber or wood products, except furniture; pulp, paper or related products; chemicals or related products; clay, concrete, glass or stone products; fabricated metal products except ordnance, machinery and transportation equipment; instruments; photographic goods or optical goods; watches or clocks; waste or scrap materials not identified by producing industry, materials, equipment and supplies used in the manufacture and distribution of the above named commodities.

Note.—(1) If no comments are filed within 25 days of publication, the application will be granted.

(2) The purpose of this republication is to broaden specified commodity descriptions in the Lead and Subs 2 and 11.

[FR Doc. 83-5983 Filed 3-8-83; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Volume No. OP3-88]

Motor Carriers; 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.

Agatha L. Mergenovich,

Secretary.

MC 140554 (Sub-3) (republication), filed July 26, 1982, published in the **Federal Register** issue of August 25, 1982. Applicant: HEY, INC., d.b.a. SOUTHWEST COACHES, R.R. 4, Box 51A, Marshall, MN 56258. Representative: Patrick J. Leary, 509 W. Main St., Marshall, MN 56258, (507) 532-5766. A Decision of the Commission, Review Board 1, decided February 11, 1983, and served February 25, 1983, 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 *passengers,* in charter and special operations, between points in Minnesota, North Dakota, South Dakota, Iowa, and Wisconsin, 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 reflect applicant's actual grant of authority.

MC 158124 (Sub-1) (republication), filed September 9, 1982, published in the **Federal Register** issue of September 28, 1982 and republished this issue. Applicant: CHARLES D. GOODWIN, INC., P.O. Box 1006, Sanford, NC 27330. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288, (919) 635-4711. A Decision of the Commission, Review Board 3, decided January 17, 1983, and served January 31, 1983, 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 chemicals, *food and related products,* and *non-metallic minerals* and *related products,* between points in California, Connecticut, Georgia, Illinois, Indiana, Massachusetts, Missouri, North Carolina, New Jersey, and New York, 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 reflect applicant's actual grant of authority.

MC 161824 (republication), filed May 3, 1982, published in the **Federal Register** issue of May 20, 1982 and republished this issue. Applicant: ARIES TRANSPORTATION COMPANY, INC., 13932 E. Valley Blvd., City of Industry, CA 91744. Representative: James Bowers (same address as applicant), (213) 968-9648. A Decision of the Commission, Review Board 3, decided November 24, 1982, and served December 1, 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, household goods and commodities in bulk) between points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Texas, Utah, Washington and Wyoming; 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 and to give notice to those parties who have relied on the previous notice in the **Federal Register** of the application as published and may have an interest in, and would be prejudiced by the lack of proper notice.

[FR Doc. 83-5980 Filed 3-8-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on

December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These 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.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated 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 in for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275-7992.

Volume No. OP1-79

Decided: February 25, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier, (Member Fortier not participating.)

MC 126430, (Sub-4), filed February 14, 1983. Applicant: TRENTWAY-WAGER, INC., 680 The Queensway, P.O. Box 1017, Petersborough, Ontario, Canada. Representative: Jeremy Kahn, 1511 K Steet NW., Suite 733, Investment Bldg., Washington, DC 20005, (202) 783-3225. Transporting *passengers*, in special operations, beginning and ending at ports of entry on the international boundary line between the United States and Canada, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded special transportation.

MC 144620, (Sub-2), filed February 11, 1983. Applicant: EXECUTIVE COACH, INC., 207 Willow Valley Square, Lancaster, PA 17602. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 464-2767. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 166241, filed February 11, 1983. Applicant: BIG APPLE TRAVEL AGENCY LTD., 78-31 37th Avenue, Jackson Heights, NY 11372. Representative: Previte & Farber, One Station Square, Forest Hills, NY 11357, (212) 793-6600. Transporting *passengers*, in charter and special operations, between points in NY, NJ, PA, CT, MA, NC, SC, VA, GA, FL and DC.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 166300, filed February 17, 1983. Applicant: LIBERTY BROKERS, LTD., R.D. No. 1, Randolph Center, VT 05061. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781-8205. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP1-81

Decided: March 3, 1983.

By the Commission, Review Board No. 2, members Carleton, Williams, and Ewing.

MC 27530, (Sub-20), filed February 14, 1983. Applicant: KERRVILLE BUS COMPANY, INC., 429 Sidney Baker St., P.O. Box 712, Kerrville, TX 78028. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767, (512)-472-8800. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 29890 (Sub-42), filed February 10, 1983. Applicant: ROCKLAND COACHES, INC., 126 North Washington Ave., Bergenfield, NJ 07621. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017, (212)-532-5100. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 35321 (Sub-2), filed February 8, 1983. Applicant: JIM THORPE TRANSPORTATION CO., INC., 10 West Tenth St., Jim Thorpe, PA 18229. Representative: Sander M. Bieber, Suite 1100, 1730 Pennsylvania Avenue NW., Washington, DC 20006, (202) 783-0200. Transporting *passengers*, in charter and special operations, beginning and ending at points in NY, NJ, and PA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 141030 (Sub-4), filed February 23, 1983. Applicant: LANCASTER LIMOUSINE SERVICE, LTD., 304 East Main Street, Mount Joy, PA 17552. Representative: Christian V. Graf, 407 N Front Street, Harrisburg, PA 17101, (717) 236-9318. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 149081 (Sub-3), filed February 8, 1983. Applicant: SUBURBAN TRAILS, INC., 750 Somerset St., New Brunswick, NJ 08901. Representative: Michael J. Marzano, 99 Kinderkamack Rd., Westwood, NJ 07675, (201)–666–5111. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 157370 (Sub-1), filed February 14, 1983. Applicant: UNIVERSAL TRAVEL AGENCY, INC., 323 E. Grand, P.O. Box 1031, Ponca City, OK 74602. Representative: Barry R. Diamond, 805 King St., 4th Floor, Alexandria, VA 22314, (703) 549–8010. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 158690, filed February 7, 1983. Applicant: GET-A-WAY LINES, INC., 21049 Devonshire, Suite 106, Chatsworth, CA 91311. Representative: Jay Chapple (same address as applicant) (213) 709–1581. Transporting *passengers,* in charter and special operations, beginning and ending at points in Los Angeles, Ventura, Santa Barbara, Orange, San Bernardino, San Diego, Riverside, Kern, and San Luis Obispo Counties, CA, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 159421 (Sub-1), filed February 16, 1983. Applicant: BROADWAY TRANSPORT, INC., 3310 Quebec St., Dallas, TX 75247. Representative: D. Paul Stafford, Suite 1125, Frito Lay Tower, P.O. Box 45538, Dallas, TX, (214) 358–3341. (1) As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI), and (2) transporting for or on behalf of the U.S. Government, *general commodities* (except use household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162811 (Sub-2), filed February 18, 1983. Applicant: HARLOW'S BUS SERVICE, INC., Rolette, ND 58366. Representative: Charles E. Johnson, Box 2056, Bismarck, ND 58502 (701) 223–5300. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 163131, filed February 16, 1983. Applicant: SENIOR ADULT MINISTRIES, INC., P.O. Box 732, Pinson, AL 35126. Representative: W.A. Stengell, Jr. (same address as applicant) (205) 681–2342. Transporting *passengers,* in charter and special operations, beginning and ending at points in AL, FL, GA, MS, and TN, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164671, filed February 22, 1983. Applicant: GREAT AMERICAN COACHES, INC., First Wisconsin Center, Suite 3470, 777 East Wisconsin Ave., Milwaukee, WI 53202. Representative: Andrew Lee Horn (same address as applicant) (414) 276–3980. Transporting *passengers,* in charter and special operations, beginning and ending at points in WI, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 164961 (Sub-1), filed February 14, 1983. Applicant: RYE BROOK LIMOUSINE SERVICE, INC., 200 S. Ridge St., Rye Brook, NY 10573. Representative: Louis D. Vaccaro (same address as applicant) (914) 937–6467. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166061, filed February 4, 1983. Applicant: NON-STOP TRUCKING, INC., 7020 Tall Cedars Lane, Ferndale, WA 98248. Representative: George W. Schoonmaker, 3737 Bank of California Center, Seattle, WA 98164 (206) 623–8433. 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 166151, filed February 7, 1983. Applicant: MIDWEST CONSOLIDATORS, INC., 1943 West County Rd. C–2, St. Paul, MN 55113. Representative: Stephen F. Grinnell, 121 South 8th St., 1600 TCF Tower, Minneapolis, MN 55402 (612) 333–1341. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166170, filed February 8, 1983. Applicant: DWIGHT ELSIK, P.O. Box 51V, Beeville, TX 78102. Representative: James R. Boyd., 1000 Perry Brooks Bldg., Austin, TX 78701 (512) 476–8066. Transporting *passengers,* in charter and special operations, beginning and ending at points in TX, on the one hand, and, on the other, points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166270, filed February 16, 1983. Applicant: J AND R BUS COMPANY, INC., 8131 Oakwood Rd., Glen Burnie, MD 21061. Representative: Henry L. Conway, Jr., 4024 Belle Grove Rd., Baltimore, MD 21225, (301) 789–9200. Transporting *passengers,* in charter and special operations, beginning and ending at points in MD, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 166311, filed January 17, 1983. Applicant: CHESTNUT HILL BUS CORPORATION, 300 Orland St., Bridgeport, CT 06605. Representative: L. C. Major, Jr., Suite 304 Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312 (703) 750–1112. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166360, filed February 22, 1983. Applicant: TRIPLE CROWN COACHES, INC., 340 W. Collins Ave., Orange, CA 92667. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702 (714) 667–8107. Transporting *passengers,* in charter and special operations, beginning and ending at points in CA and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166361, filed February 22, 1983. Applicant: LEON S. WESTBERRY AND CHARLES F. FREEMAN, a Partnership, P.O. Box 5674, Florence, SC 29502. Representative: Barry Weintraub, Suite 403, 7700 Leesburg Pike, Falls Church, VA 22043 (703) 442–8330. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–75

Decided: March 1, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 74 (Sub-16), filed February 10, 1983. Applicant: VALLEY TRANSIT

COMPANY, INC., P.O. Box 1870, Harlingen, TX 78551. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768 (512) 476–6391. Transporting *passengers* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 153814 (Sub-1), filed February 8, 1983. Applicant: AMERICA CHARTERS, LTD., P.O. Box 535, Dallas, NC 28034. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204 (704) 372–6730. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165834, filed January 21, 1983. Applicant: APT SERVICES, CORP., 6776 Southwest Freeway Suite 560 Houston, TX 77074. Representative: Dennis Thibault (same address as applicant) (713) 780–7811. As a *broker* of *General commodities (except household goods), between points in the U.S.*

MC 166165, filed February 7, 1983. Applicant: INTERNATIONAL HONEYMOON TOURS, INC., 8710 Niagara Falls Boulevard, Niagara Falls, NY 14304.. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street Buffalo, NY 14202 (716) 854–5870. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166194, filed February 8, 1983. Applicant: BERNARD COACH INC., 118–20 Rockaway Blvd., Czone Park, NY 11420. Representative: Bernard Goldstein (same address as applicant) (212) 845–6060. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166204, filed February 10, 1983. Applicant: SOUTHERN TRANSPORTATION SERVICES, INC. d.b.a. STS TRUCKING 6969 Tidewater Dr., Norfolk, VA 23514. Representative: Frank L. Willard, Suite #1001, First & Merchants National Bank Bldg., Norfolk, VA 23510, (804) 627–0070. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP3–79

Decided: March 1, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 153644 (Sub-1, filed February 15, 1983. Applicant: ABOUTOWN CABS LIMITED, 24 Horton St., London, Ontario, CN M6B 3K2. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202 (716) 854–5870. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166254, filed February 15, 1983. Applicant: LUXURY COACH SERVICE, INC., Highway 70 Bypass East, Goldsboro, NC 27530. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101 (703) 893–3050. Transporting *passengers*, in charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 166255, filed February 15, 1983. Applicant: ROBERT LEE EASLEY, JR., d.b.a. HIGHWAY AMERICA, 2147 Wylie St., Pittsburgh, PA 15219. Representative: Sanford M. Aderson, 1312 Frick Bldg., Pittsburgh, PA 15219 (412) 263–0500. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166344, filed February 17, 1983. Applicant: SOUTHBRIDGE LIVERY SERVICE COMPANY, INC., 142 Hamilton St., Southbridge, MA 01550. Representative: Arthur M. White, 281 Pleasant St., P.O. Box 2547, Framingham, MA 01701 (617) 879–5000. Transporting *passengers*, in charter and special operations, beginning and ending at points in MA, RI, and CT, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 166345, filed February 17, 1983. Applicant: HERITAGE TOURS AND TRANSPORTATION, LTD. d.b.a. AMERICAN SIGHTSEEING CHARLESTON, P.O. Box 243 (28½ Alexander St.), Charleston, SC 29402. Representative: Noel P. Mellen, 2 Pitt St., Charleston, SC 29401 (803) 722–2876. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–117

Decided: March 2, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 88616 (Sub-2), filed February 18, 1983. Applicant: WHITE STAR LINES, INC., 802 West Main St., Madison, IN 47250. Representative: Harry J. Harman, 700 Harrison Bldg., 143 West Market St., Indianapolis, IN 46204 (317) 634–4242. Transporting *passengers*, in charter and special operations, between points in the U.S. (except IK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 107586 (Sub-28), filed February 18, 1983. Applicant: TRAILWAYS BUS SYSTEM, INC., 1500 Jackson St., Dallas, TX 75201. Representative: George W. Hanthorn (same address as applicant) (214) 655–7937. Transporting (1) *passengers*, in charter and special operations, between points in the U.S. (except HI); and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 148387 (Sub-9), filed February 18, 1983. Applicant: S.M.P., INC., 166 Sitgreaves St., Phillipsburg, NJ 08865. 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).

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–94

Decided: February 25, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 166179, filed February 4, 1983. Applicant: ALLPOINTS DISTRIBUTION CENTERS, INC., 711 Jorie Blvd., Oakbrook, IL 60521. Representative: Daniel C. Sullivan, 180 N. Michigan Ave., Chicago, IL 60601 (312) 263–1600. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166189, filed February 9, 1983. Applicant: ALLIANCE FOODS, INC., 605 W. Chicago St., P.O. Box 339, Coldwater, MI 49036. Representative: Robert T. Harris (Same address as

applicant) 517–278–2396. As a *broker of general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–5974 Filed 3–8–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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 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.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions 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.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly.

Please direct status inquiries to Team One at (202) 275–7992.

Volume No. OP1–80

Decided: February 25, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 74681 (Sub-20), filed February 17, 1983. Applicant: STEVENS VAN LINES, INC., 121 South Niagara St., Saginaw, MI 48602. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Picker International, Inc., of Cleveland, OH, and Farmland Industries, Inc., of Kansas City, MO.

MC 117590 (Sub-1), filed February 15, 1983. Applicant: WOOD BY-PRODUCTS, INC., 420 28th St., N., Lewiston, ID 83501. Representative: Duane Johnson (same address as applicant), (208) 746–0116. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Gem Chip and Trading Co., Ltd., of Clarkston, WA.

MC 148141 (Sub-10), filed February 17, 1983. Applicant: GOODY PRODUCTS, INC., 969 Newark Turnpike, Kearny, NJ 07032. Representative: William Jacobs (same address as applicant), (201) 997–3000. Transporting *insulating materials*, between Allentown, PA, and points in Allen County, IN, on the one hand, and, on the other, points in GA, NC and SC, under continuing contract(s) with S & S Insulation Supply Co., of Columbus, GA.

MC 159220 (Sub-9), filed February 15, 1983. Applicant: REFRIGERATED INTERNATIONAL CARGO HAULERS, INC., 1170 Niagara St., Buffalo, NY 14240. Representative: Charles H. White, Jr., 1019 19th St., N.W., Suite 800, Washington, DC 20036, (202) 785–3420. 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 Sysco Corporation, of Houston, TX.

MC 161741, filed February 17, 1983. Applicant: DONALD HOLLANDSWORTH, 1150 Carriage Lane, Casper, WY 82636. Representative: Donald Hollandsworth (same address as applicant), (307) 234–9003. Transporting *Mercer commodities*,

between points in WY, TX, OK, ND, SD, MT, CO, NM, AZ, UT, ID, NV, CA, WA, NE, KS, AR, LA and OR.

MC 162050 (Sub-1), filed February 18, 1983. Applicant: BOBBY A. WOMBLE d.b.a., B II EXPRESS, INC., 201 West Main Street, Suite 204, Murfreesboro, TN 37130. Representative: Bobby A. Womble (same address as applicant), (615) 893–8877. Transporting (1) *paper and related products, (2) rubber and plastic products, (3) leather products, (4) glass products, (4) metal products, and (6) food and related products,* between points in TN, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 162421, filed February 14, 1983. Applicant: JANCO TRANSPORTATION, LTD., 9489 Sunset Terrace, Des Moines, IA 50322. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312, (515) 274–4985. Transporting *such commodities* as are dealt in or used by catalog showrooms and retail, discount and department stores, between points in Polk County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164670, filed February 16, 1983. Applicant: PATRICIA A. NELSON, R.D. No. 1, Townline Road, Jamestown, NY 14701. Representative: Patricia A. Nelson, (same address as applicant), (716) 664–5080. Transporting *new furniture*, (a) between points in Erie County, PA, on the one hand, and, on the other, points in GA, FL, and NJ, and (b) between points in Rhea County, TN and Florence County, SC, on the one hand, and on the other, points, in PA and NY, under continuing contract(s) with Corry Jamestown Corp., of Corry, PA Metzger's La-z-boy Showcases of Amherst, NY, and Western NY Chair Corp., of Rochester, NY.

MC 166240, filed February 11, 1983. Applicant: BENNETT TRUCKING COMPANY, INC., 8616 Leavenworth Road, Kansas City, KS 66109. Representative: Warren A. Goff, 109 Madison Ave., Memphis, TN 38103, (901) 526–2900. 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 Greif Bros. Corporation, of St. Paul, MN.

MC 166280, filed February 16, 1983. Applicant: DALE G. ARNESON d.b.a., ARNESON TRUCKING, R.R. 1, Box 170, Granite Falls, MN 56241. Representative: Dale G. Arneson, (same address as applicant), (612) 564–2291. Transporting *metal products and machinery*, between points in the U.S., under continuing contract(s) with Victor Fluid Power, of Granite Falls, MN.

Volume No. OP1–83

Decided: March 3, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF–671, filed February 18, 1983. Applicant: MILITARY FORWARDING, INC., 7993 Shadow Hill Drive, La Mesa, CA 92041. Representative: John A. Pellman (same address as applicant) (619) 460–0349. As a *freight forwarder* in connection with the transportation of *household goods, unaccompanied baggage and used automobiles,* between points in the U.S. (except VT).

W–271, (Sub-4), filed February 16, 1983. Applicant: THE BRIDGEPORT AND PORT JEFFERSON STEAMBOAT CO., 17 Battery Place, New York, NY 10004. Representative: Peter A. Greene, 1920 N St., NW., Washington, DC 20036, (202) 331–8800. To operate as a *common carrier*, by water, transporting *passengers* and *general commodities*, by self propelled vessels, between points in Suffolk County, NY, on the one hand, and, on the other, points in CT.

MC 2900 (Sub-463), filed February 17, 1983. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant), (904) 353–3111. 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 Miles Laboratories, Inc., of Elkhart, IN.

MC 19311 (Sub-81), filed February 20, 1983. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Rd., Sterling Heights, MI 48077. Representative: Elmer J. Maue (same address as applicant), (313) 939–7000. 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 Chrysler Corporation, of Detroit, MI.

MC 47171 (Sub-228), filed February 18, 1983. 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 John H. Harland Co., of Decatur, GA.

MC 56170 (Sub-5), filed February 18, 1983. Applicant: S.M.S. EXPRESS CORP., 150 Orange Ave., Suffern, NY 10901. Representative: John L. Alfano, 550 Mamaroneck Ave., Harison, NY 10528, (914) 835–4411. 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 Avon Products, Inc., of Suffern, NY.

MC 111611 (Sub-59), filed February 11, 1983. Applicant: NOERR MOTOR FREIGHT, INC., 205 Washington Ave., Lewiston, PA 17044. Representative: William D. Taylor, 100 Pine St., No. 2550, San Francisco, CA 94111, (415) 986–1414. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, AK, AZ, AR, CO, CT, DE, FL, GA, ID, IL, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, RI, SC, SD, TN, UT, VT, VA, WA, WV, WY and DC.

MC 118831 (Sub-203), filed February 17, 1983. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 7007, High Point, NC 27264. Representative: Ben H. Keller (same address as applicant), (919) 431–9186. 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 Ashland Chemical Company., of Dublin, OH.

MC 120981 (Sub-40), filed February 18, 1983. Applicant: BESTWAY EXPRESS, INC., 520 Lester Ave., Nashville, TN 37210. Representative: George M. Catlett, Suite 700–702, McClure Bldg., Frankfort, KY 40601, (502) 227–7384. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Fayette County, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 123091 (Sub-40), filed February 18, 1983. Applicant: NICK STRIMBU, INC., 3500 Parkway Road, Brookfield, OH 44403. Representative: John Swab (same address as applicant), (216) 448–4046. Transporting *metal products* between those points in the U.S. in and east of MN, IA, NE, OK, KS and TX, under continuing contract(s) with Sharon Steel Corporation, of Sharon, PA.

MC 129291 (Sub-22), filed February 18, 1983. Applicant: McDANIEL MOTOR EXPRESS, INC., 1115 Winchester Rd., Lexington, KY 40505. Representative: William L. Willis, Suite 702, McClure

Bldg., Frankfort, KY 40601, (502)–227–7384. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Fayette and Bourbon Counties, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 133690 (Sub-6), filed February 11, 1983. Applicant: KINGSWAY DALEWOOD LIMITED, 2165 Brookside Blvd., Winnepeg, Manitoba, CD R3C 2E6. Representative: John W. Bryant, 900 Guardian Bldg., Detroit, MI 48226, (313) 963–3750. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between the ports of entry on the international boundary line between the U.S. and Canada in MI, on the one hand, and, on the other, points in MI, OH, IL, IN, WI, and MN.

MC 139021 (Sub-11), filed February 22, 1983. Applicant: INTERSTATE AUTO TRANSPORT, INC., P.O. Box 251, Michigan City, IN 46360. Representative: Robert W. Loser II, 512 Chamber of Commerce Bldg., Indianapolis, IN 46204, (317) 635–2339. Transporting *transportation equipment* between those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 144821 (Sub-19), filed February 15, 1983. Applicant: FREEDOM FREIGHTWAYS, INC., 9060 Latty Ave., St. Louis, MO 63134. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701, (601) 335–3576. 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 146140 (Sub-9), filed February 7, 1983. Applicant: MELVIN SALES COMPANY, 901 North Vermillion St., Streator, IL 61364. Representative: James Carbone (same address as applicant), (815) 672–5151. 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 146180 (Sub-10), filed February 17, 1983. Applicant: QUALITY EXCHANGE, INC., Route 4, Box 459–A, Kings Mountain, NC 28086. Representative: Eric Meierhoefer, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. 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 147811 (Sub-12), filed February 15, 1983. Applicant: FLO–JO CONTRACTING, P.O. Box 283, Belgrade Lakes, ME 04918. Representative: Karl A. Johnson (same address as applicant), (207–397–2 57. Transporting *general commodities*, (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 148141 (Sub-9), filed February 4, 1983. Applicant: GOODY PRODUCTS, INC., 969 Newark Turnpike, Kearny, NJ 07032. Representative: William Jacobs (same address as applicant), (201) 997–3000. Transporting *drugs and sweetening compounds*, between Phoenix, AZ, Elk Grove Village, IL, Pennsauken, NJ, and DC, on the one hand, and on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Searle Consumer Products, of Phoenix, AZ.

MC 155370 (Sub-3), filed February 18, 1983. Applicant: KEM CONTRACT CARRIERS, INC., Kirkwood Industrial Park, P.O. Box 1245, Binghamton, NY 13902–1245. Representative: Donald C. Carmien, Suite 501 Midtown Mall, 15 Chenango St., P.O. Box 1922, Binghamton, NY 13902–1922, (607) 772–6993. Transporting *printed matter*, between points in the U.S., under continuing contract(s) with Putnam Publishing Group, of East Rutherford, NJ.

MC 158651 (Sub-8), filed February 9, 1983. Applicant: GRAEBEL VAN LINES, INC., 719 North Third Ave., Wausau, WI 54401. Representative: Roger Will (same address as applicant), (715)–675–9481. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Pacific Intermountain Express, of Walnut Creek, CA.

MC 159751 (Sub-2), filed February 7, 1983. Applicant: PROFESSIONAL TRANSPORT, INC., P.O. Box 23207, Rochester, NY 14692. Representative: Michael A. Wargula 128 Sherburn Dr., Hamburg, NY 14075, (716) 648–0481. Transporting *plastic articles*, between points in the U.S. (except AK and HI), under continuing contract(s) with Mobil Chemical Company, of Macedon, NY.

MC 162621 (Sub-1), filed February 8, 1983. Applicant: CROSS COUNTRY LEASING, INC., 212 Exchange Bldg., La Crosse, WI 54601. Representative: Charles L. Redel (same address as applicant) (608) 784–5860. 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 162691 (Sub-1), filed February 15, 1983. Applicant: MID-STATE TRUCK & RIGGING, INC., 2650 North 32nd Ave., Phoenix, AZ 85009. Representative: Andrew V. Baylor, 337 E. Elm St., Phoenix, AZ 85012, (602) 274–5146. Transporting *metal products and machinery*, between points in AZ, on the one hand, and, on the other, points in UT.

MC 163220, filed February 18, 1983. Applicant: UTILITY COMPANY, INC., P.O. Box 25216; 310 SE 2nd, Oklahoma City, OK 73125. Repreentative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, (615) 790–2510. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OK, AR, CO, KS, LA, MO, NM and TX.

MC 163570 (Sub-2), filed February 11, 1983. Applicant: CHARLES R. ALFORD, d.b.a. ALFORD TRUCK LINES, INC., State Hwy 62, P.O. Box 732, Bridge City, TX 77611. Representative: C. W. Ferebee, 3910 FM 1960 W. Suite 106, Houston, TX 77068, (713) 537–8156. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Chattanooga, TN, Keyser, WV, and points in Harrison County, MS, Knox County, OH, and Navarro County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163830, filed February 17, 1983. Applicant: RICO L. CORPORATION, P.O. Box 1878, Grants Pass, OR 97526. Representative: Rich F. Gallagher (same address as applicant), (503) 476–9402. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, NV, OR and WA.

MC 164260 (Sub-1), filed February 16, 1983. Applicant: COLORADO CARRIERS, INC., 8120 No. Sheridan Blvd., Suite A–107, Arvada, CO 80003. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002, (303) 424–1761. 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 164661 (Sub-1), filed February 15, 1983. Applicant: TRAFFIC DISTRIBUTION SYSTEMS CORP., 1792 So. Redwood Rd., Salt Lake City, UT 84104. Representative: Wayne Nishimoto (same address as applicant), (801) 972–5406. 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 Avon Products, Inc., of Pasadena, CA.

MC 165720, filed February 11, 1983. Applicant: NORMAND CLOUTIER

TRANSPORT, INC., 180 R.R. 24, St Simon of St. Hyacinthe, Quebec, Canada (JOH 1YO). Representative: Adrien R. Paquette, 200 St. James Street, Montreal, Quebec, Canada (H2Y 1M1), (514) 842–1864. Transporting *lumber*, between ports of entry on the international boundary line between the United States and Canada at or near Jackson Line and Highgate, VT and Champlain, Rooseveltown and Ogdenburg, NY, on the one hand, and, on the other, points in ME, VT, NH, MA, CT, NY, PA, NJ, DE, WA, MD, WV, VA, NC, SC, GA, FL, AL, MS, LA, TN, KY, OH, IN, MI, IL, WI, and MO.

MC 165910, filed February 15, 1983. Applicant: MANUFACTURED HOMES SERVICE CENTER, INC., Industrial Drive, Ashburn, GA 31714. Representative: Norman T. Fowlkes III, 1919 Pennsylvania Avenue NW., Suite 500, Washington, DC 20006, (202) 828–5082. 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 All American of Ashburn, Inc., and its subsidiaries, of Ashburn, GA.

MC 166131, filed February 8, 1983. Applicant: WTA, INC., 2200 E. 27th St., Long Beach, CA 90806. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, D.C. 20036, (202) 785–0024. Transporting *used household goods, unaccompanied baggage, and used automobiles*, between points in the U.S., under continuing contract(s) with (1) Dean Forwarding Co., Inc., of Huntington Beach, CA, (2) Tucor Services, Inc., of San Francisco, CA, (3) American Ensign Van Service, Inc., of Long Beach, CA, and (4) Richardson Forwarding Co., of Carson, CA.

MC 166140, filed February 7, 1983. Applicant: EAGLE RIVER TRANSIT, INC., 1705 Adams Rd., Eagle River, WI 54521. Representative: Thomas Neddo, 1668 Galli Drive, Eagle River, WI 54521, (715) 479–9060. Transporting *malt beverages*, between Chicago, IL, on the one hand, and, on the other, points in Vilas County, WI.

MC 166160, filed February 8, 1983. Applicant: SURFACE TRANSPORT, INC., 3101 Dixie Hwy., Louisville, KY 40216. Representative: William L. Willis, Suite 702, McClure Bldg., Frankfort, KY 40601, (502) 227–7384. 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 166190, filed February 10, 1983. Applicant: YVON SYLVESTRE ET ASSOCIEES LTEE., 1190 de Royan, Ville de Laval, Quebec, Canada H7N 5L4. Representative: Richard H. Streeter, 1729 H St., N.W. Washington, DC 20006, (202)–337–6500. Transporting *lumber and wood products*, between points in the U.S., under continuing contract(s) with (1) Forex, Forex Leroy, Inc. and Panofor, Inc., each of Val d'or, Quebec, Canada, (2) Bisson et Bisson, Inc., of Matagami, Quebec, Canada, (3) Byrnexco, Inc., of Quebec City, Quebec, Canada, (4) Falcon Lumber Limited, of Toronto, Ontario, Canada, (5) Materiaux Blanchet, Inc., of Quebec, Quebec, Canada, (6) Normick Perron Incorporated, of La Sarre, Quebec, Canada, and (7) South Quebec Lumber Ltd., of Montreal, Quebec, Canada.

MC 166231, filed February 11, 1983. Applicant: DAVID L. PATTERSON, d.b.a. PATTERSON TRUCKING, 10643 Antioch, Central Point, OR 97502. Representative: David L. Patterson (same address as applicant), (503) 826–5121. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with R & R Truck Brokers, Inc., of Medford, OR.

MC 166261, filed February 15, 1983. Applicant: RAG TRANSPORTATION, INC., 622 2nd Ave., SE, Fayette, AL 35555. Representative: John R. Frawley, Jr., 120 Summit Parkway, Suite 200, Birmingham, AL 35209–4786, (205) 942–9116. Transporting *lumber and wood products, metal products, machinery, pipe, and construction materials*, between points in the U.S. (except AK and HI).

MC 166281, filed February 15, 1983. Applicant: L. W. MILLER TRANSPORTATION, INC., 1180 W. 2nd N. Logan, UT 84321. Representative: Bruce W. Shand, Ste. 280 311 S. State St., Salt Lake City, UT 84111, (801)–531–1300. Transporting (1) *upholstery supplies and accessories*, and (2) *rubber and plastic products*, between points in CA, NV, ID, UT, OR, WA, and AZ.

MC 166320, filed February 17, 1983. Applicant: DEAN S. BETZER, 2020 George St., Billings, MT 59102. Representative: Dean S. Betzer (same address as applicant), (406) 656–9633. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of alcoholic beverages and liquid food products, between points in the U.S., under continuing contract(s) with Alpha Industries, Inc., of Helena, MT.

MC 166350, filed February 18, 1983. Applicant: RAGSDALE TRUCK LINE, INC. 1224–A Third Street West, P.O. Box 1854, Birmingham, AL 35201. Representative: W. Ronald Waldrop, Suite 107, Colonial Center, 1009 Montgomery Highway, Vestavia Hills, AL 35216, (205) 979–5210. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 166351, filed February 22, 1983. Applicant: HASTY LINES, INC., P.O. Box 7596, Monroe, LA 71202. Representative: Verdiacee Hampton-Goston (same address as applicant) (318) 325–0975. 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).

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–116

Decided: March 2, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 19917 (Sub-5), filed February 16, 1983. Applicant: E. R. JARRELL TRUCKING CO., R. D. #2, Box 240, Canonsburg, PA 15317. Representative: John A. Pillar, 1500 Bank Tower, 307 4th Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S. (except AK and HI).

MC 64446 (Sub-7), filed February 17, 1983. Applicant: W. H. FITZGERALD, INC., 78 Highland Ave., Youngsville, PA 16371. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101, (717) 236–9318. 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 Superior Tire & Rubber Corp., of Warren, PA.

MC 102817 (Sub-33), filed February 17, 1983. Applicant: PERKINS FURNITURE TRANSPORT, INC., 5034 Lafayette Rd., P.O. Box 24335, Indianapolis, IN 46224. Representative: Robert W. Loser II, 512 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, (317) 635–2339. Transporting *furniture and fixtures*, between points in the U.S. (except AK and HI), under continuing contract(s) with Peterson Revington Furniture, of Amsterdam, NY.

MC 129207 (Sub-7), filed February 18, 1983. Applicant: SOUTHERN MISSOURI FREIGHT, INC., P.O. Box 1091 C.S.S., Springfield, MO 65803. Representative: Herman W. Huber, 101 E. High St., Jefferson City, MO 65101, (314) 636–9131. Transporting *general commodities* (except classes A and B explosives,

household goods and commodities in bulk), between points in Greene County, MO, and points in AR, IL, IA, KS, KY, LA, MO, NE, OK, TN, and TX.

MC 139006 (Sub-42), filed February 18, 1983. Applicant: RAPIER SMITH, Rural Rt. 5, Loretto Rd., Bardstown, KY 40004. Representative: 314 W. Main St., P.O. Box 464, Frankfort, KY 40602. (502) 223-8244. 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 Medley Distilling Company, Inc., and its subsidiaries, and Ancient Age Distilling Company, Inc., both of Louisville, KY; Barton Brands Ltd. and its subsidiaries, and Distiller's Pride Corp., both of Bardstown, KY.

MC 147136 (Sub-9), filed February 18, 1983. Applicant: INDIVIDUAL TRANSPORTS, INC., R. R. #1, Patriot, IN 47038. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215, (614) 464-4103. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Boone, Bracken, Carroll, Campbell, and Kenton Counties, KY, and points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 153196 (Sub-6), filed February 18, 1983. Applicant: PRINCL FREIGHTLINES, INC., 1641 Carole Lane, Green Bay, WI 54303. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705-0086, (608) 238-3119. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, ID, IL, IA, MI, MN, OR, WA, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164287, filed February 18, 1983. Applicant: SUNRISE EXPRESS, INC., 4236 Reed Rd., Ft. Wayne, IN 47815. Representative: Richard A. Huser, 2120 One Indiana Square, Indianapolis, IN 46204, (317) 639-5534. Transporting *such commodities* as are dealt in or used by hardware and home center businesses, between points in the U.S., under continuing contract(s) with Hardware Wholesalers, Inc., of Ft. Wayne, IN.

MC 165907, filed February 18, 1983. Applicant: JAMES L. LANDPHIER, 615 Birkinbine Dr., Sun Prairie, WI 53590. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703, (608) 256-7444. Transporting *building materials*, between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165997, filed February 18, 1983. Applicant: GILTNER INCORPORATED, Route #5, Box 5534, Jerome, ID 83338. Representative: Robert W. Giltner, Jr., Route #2, Jerome, ID 83338, (208) 324-4255. Transporting *general commodities* (except classes A and B explosives and household goods), between points in ID, CA, WI, TX, AZ, UT, WA, OR, MT, WY, CO, NM, KS, NE, SD, ND, MN, LA, MO, AR, IA, IL, MI, IN, NV, and OK.

MC 166337, filed February 18, 1983. Applicant: KENWARD INTERNATIONAL, INC., P.O. Box 126, 3400 W. 111th St., Chicago, IL 60655. Representative: Joel H. Steiner, 135 S. La Salle St., Suite 2106, Chicago, IL 60603, (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 Selig Sealing Products, Inc., of Oakbrook Terrace, IL.

For the following, please direct status calls to Team 5 at 202-275-7289.

Volume No. OP5-93

Decided: February 25, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 146898 (Sub-9), filed February 15, 1983. Applicant: MICKS SERVICE, INC., 2146 Camanche Ave., Clinton, La 52732. Representative: Carl E. Munson, 469 Fischer Bldg., P.O. Box 796, Dubuque, IA 52001 319-557-1320. Transporting *general commodities* (except classes A and B explosives, and household goooods), between points in the U.S. (except AK and HI), under continuing contract(s) with Archer Daniels Midland Company, of Clinton, IA.

MC 150119 (Sub-2), filed January 24, 1983. Applicant: WILLETT OF TEXAS, INC., 2005 Turning Basin Dr., Suite 610, Houston, TX 77029. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024, 713-827-1407. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AR, LA, MS, OK, and TX.

MC 153028 (Sub-3), filed February 16, 1983. Applicant: CEBAR SYSTEMS, INC., P.O. Box 807, E. Broadway, Greenwood, IN 46142. Representative: Daniel L. Bogard (same address as applicant), 317-882-8524. 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).

Note:—The application is filed under 49 CFR 10926 (e).

MC 160348 (Sub-1), filed February 3, 1983. Applicant: ORCHARD TRANSPORT LTD., P.O. Box 130, 226 1st., West, Delisle, Saskatchewan, Canada, SOL OPO. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101, 612-291-1215. Transporting: in foreign commerce only, *potash*, between ports of entry on the international boundary line between the United States and Canada in MT, ID, and WA, on the one hand, and, on the other, points in WA, OR and ID.

MC 161669 (Sub-1), filed February 16, 1983. Applicant: DIXIE DRAYAGE SERVICE, INC., 680 Industrial Pkwy., Saraland, AL 36571. Representative: George M. Boles, 629 Frank Nelson Bldg., Birmingham, AL 35203, 205-251-6602. Transporting *paper and paper products*, between points in Mobile County, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

[FR Doc. 83-5986 Filed 3-8-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; Temporary Authority Applications

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-243

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N. E., Atlanta, GA 30309.

MC 2934 (Sub-3-63TA), filed February 24, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, Indiana 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular; *Medical diagnostic equipment,* between Milpitas, CA and points in the United States (excluding AK and HI), under continuing contracts with Diasonics, Inc., 1545 Barber Way, Milpitas, CA 95035. Supporting shipper: Diasonics, Inc., 1545 Barber Way, Milpitas, CA 95035.

MC 2934 (Sub-3-66TA), filed February 24, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, Indiana 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular; *Household goods, displays office furniture and electronic equipment,* between points in the U.S. (excluding AK and HI), under continuing contracts with Sun Exploration & Production Company, 5400 LBJ Freeway, Lincoln Centre, Dallas, TX 57240. Supporting shipper: Sun Exploration & Production Company, 5400 LBJ Freeway, Lincoln Centre, Dallas, TX 75240.

MC 2934 (Sub-3-64TA), filed February 24, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, Indiana 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular; *New and used data processing equipment and components thereof,* between points within the U.S. (including AK and HI), under continuing contracts with Comdisco, Inc., 6400 Shafer Court, Rosemont, IL 60018. Supporting shipper: Comdisco, 6400 Shafer Court, Rosemont, IL 60018.

MC 2934 (Sub-3-65TA), filed February 24, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, Indiana 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *Household goods,* (between points in the U.S. excluding AK and HI), under continuing contracts with Monsanto Company, 800 North Lindbergh Boulevard, St. Louis, MO 63167. Supporting shipper: Monsanto Company, 800 North Lindbergh Boulevard, St. Louis, MO 63167.

MC 140094 (Sub-3-1TA), filed February 16, 1983. Applicant: LATIN EXPRESS SERVICE, INC., 901 N.W. 22nd Avenue, Miami, FL 33125. Representative: Kim G. Meyer, Suite 1006 South Tower, 25 Peachtree St. NE., Atlanta, GA 30303. *Common carrier:* regular routes: *passengers,* between Miami Beach, FL and New York, NY: From Miami Beach over McArthur Causeway to Miami, then over the Florida Sunshine State Parkway to Orlando, FL, then over Interstate Highway 4 to Interstate Highway 95, then over Interstate Highway 95 to the Delaware Memorial Bridge, then over the Delaware Memorial Bridge to the New Jersey Turnpike, then over the New Jersey Turnpike to Interchange 16-E, then over Interstate Highway 495 to Union City, NJ and then through the Lincoln Tunnel to New York, NY and return over the same route; serving all intermediate points. Supporting shippers: Domingo Ramos, 1011 NOW 21 Avenue, Miami, FL 33125; Jose R. Tanos, 1360 N.W. 22nd Ave. Apt. #14, Miami, FL 3125; Rosa Amador, 825 N.W. 21 Arevida, Miami, FL 33125; Julio Lazaro Velazquez, 1147 N.W. 22nd Ave., Miami, FL 33125.

The following applications were filed in Region 4. Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4-60TA), filed February 24, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *housholds goods* between points in the U.S. (except AK and HI) under a continuing contract with International Minerals and Chemicals Corporation of Northbrook, IL. Supporting shipper: International Minerals and Chemicals Corporation of Northbrook, IL.

MC 145765 (Sub-4-3TA), filed February 24, 1983. Applicant: WIEST TRUCKLINE, INC., Route 2, I-94 West, Exit 57, Jamestown, ND. 58401. Representative: Charles E. Johnson, Box 2056, Bismarck, ND 58502. *Such commodities as are dealt in by farm supply stores, machinery and equipment and parts therefor,* between points in the U.S. in and west of PA, OH, KY, TN and AL. Supporting shippers: There are six supporting shippers whose statements can be reviewed at the regional office. *ETA seeks 120-day authority.*

MC 161305 (Sub-4-1TA), filed February 23, 1983. Applicant: R&R TRUCKING, INC., 823 Menominee, Lake In The Hills, IL 60102. Representative: James O'Grady, 8550 W. Golf Road, Niles, IL 60648, (312) 827-6191. *Contract* irregular: General commodities, excepting classes A & B explosives, commodities in bulk, and household goods, between points in the states of IL, IN, MI, WI and OH, and LA. Restricted to traffic moving under continuing contract(s) with Lomax Piggyback, Inc. of Lake Bluff, IL. Supporting shipper: Lomax Piggyback, Inc., 860 Skokie Highway, Lake Bluff, IL.

MC 165948 (Sub-4-1TA), filed February 24, 1983. Applicant: Craig Hansen, d.b.a. Misty View Ranch, RR 1 Box 70, Viborg, S.D. 57070. Representative: Craig Hansen d.b.a. Misty View Ranch, RR 1 Box 70, Viborg, S.D. 57070. Transporting fertilizer between points in Soux City, IA to Irene, SD and Viborg, SD. Supporting shipper: Viborg Co-op Oil Company, Box 428, Viborg, SD 57070.

MC 166376 (Sub-4-1TA), filed February 23, 1983. Applicant: MICHAEL K. HARMON d.b.a. HARMON, TRUCKING, P.O. Box 2055, 5000 East Blvd., Rapid City, SD 57701. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402. *Meat, meat products, and meat by-products* from Albert Lea, MN and Cherokee, IA to Omaha, NE and points in SD. Supporting shipper: Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105.

MC 166377 (Sub-4-1), filed February 23, 1983. Applicant: KENWARD INTERNATIONAL, INC., P.O. Box 126, 3400 W. 111th St., Chicago, IL 60655. Representative: Joel H. Steiner, 135 S. LaSalle St., Suite 2106, Chicago, IL 60603. *Contract* irregular: *General commodities (except Classes A and B explosives, household goods and commodities in bulk),* between the facilities of Selig Sealing Products, Inc. in Du Page And Livingston Counties, IL on the one hand, and, on the other, points in the United States (except AK and HI) under continuing contract(s) with Selig Sealing Products, Inc. of Oakbrook Terrace, IL.

MC 166379 (Sub-4-1TA), filed February 23, 1983. Applicant: R. B. TRANSPORT COMPANY, 1603 S. 9th St., Sheboygan, WI 53081. Representative: Rodger Bottrell (same address as above). *Plumbers goods, automotive parts, plastic products and wood products* between Sheboygan, WI on the one hand and points in the U.S. (except HI and AK) on the other.

Supporting shipper: Bemis Manufacturing Co., 300 Mill Rd., Sheboygan Falls, WI 53085.

MC 166395 (Sub-4–1TA), filed February 24, 1983. Applicant: RASMUSSEN ENTERPRISES, INC., 24024 Fillmore St., NE., Bethel, MN 55005. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121. *Coal and coal products,* between points in MN, ND, SD, IA, and WI. Supporting shipper: Centran Corporation, 1250 Grain Exchange Building, Minneapolis, MN 55415.

MC 162629 (Sub-4–1TA), filed February 24, 1983. Applicant: GOLDEN PYRAMID ENTERPRISES, INC., 2854 Vermont, Blue Island, IL 60406. Representative: Robert Whitten (same address as above). General commodities (except commodities in bulk, household goods, and Classes A and B explosives), between points in IL, WI, MI, OH, IN, and MN. Supporting shipper: There are five supporting shippers.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 67234 (Sub-5–48 TA), filed February 25, 1983. Applicant: United Van Lines, Inc., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, irregular; *General Commodities* (except Classes A and B explosives and commodities in bulk) between points and places in the U.S. (including AK and HI) under continuing contract(s) with State Farm Mutual Automobile Insurance Company. Supporting shipper: State Farm Mutual Automobile Insurance Company, Bloomington, IL.

MC 83539 (Sub-5–7 TA), filed February 23, 1983. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, Dallas, TX 75227–9989. Representative: Thomas E. James, P.O. Box 270535, Dallas, TX 75227–9989. Contract, Irregular: *Construction equipment, materials, and supplies; iron and steel articles; railway car and locomotive parts* between points in the U.S. including AK (excluding HI) under continuing contract with Morrison-Knudsen Co., Inc., Boise, ID.

MC 166342 (Sub-5–1 TA), filed February 22, 1983. Applicant: TOMMY WILSON, 11405 Dreher Road, Little Rock, AR 72206. Representative: James M. Duckett, 221 W. 2nd, Suite 411, Little Rock, AR 72201. (1) *Lumber and Wood Products,* between the facilities of Huey Bros. Lumber Co., Inc., at Obion and Dyersburg, TN, on the one hand, and on the other, points in CA, OR, WA and ID; (2) *Automotive Parts,* between the facilities of Burbank Suspension and Eagle Headers, at Canoga Park, CA, on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shippers: (1) Huey Bros. Lumber Co., Inc., P.O. Box 556, Obrion, TN 38240. (2) Burbank Suspension and Eagle Headers, 8341 Canoga Ave., Canoga Park, CA.

MC 166389 (Sub-1 TA), filed February 24, 1983. Applicant: R & R FERTILIZER, INC., R.R. No. 1, Box 180, St. Ansgar, IA 50472. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Metal products, machinery and equipment,* from the facilities of or utilized by David Manufacturing, Inc. at Mason City, IA, Clay Center, KS, and Nappanee, IN to Watertown, SD; Faribault, MN; Fort Wayne, IN; Oakland, IL; West Memphis, AR; Chesapeake, VA; and Batavia, NY. Supporting shipper(s): David Manufacturing, Inc., Mason City, IA.

MC 166407 (Sub-5–1 TA), filed February 25, 1983. Applicant: GARY GRAY d.b.a. G & H TRUCKING, 17—2nd Street, NE., Britt, IA 50423. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Livestock and horse trailers,* between Hancock County, IA and Hubbard County, MN on the one hand, and on the other, points in IA, IL, IN, KS, MO, MT, NE, ND, OK, SD, WI, and WY. Supporting shipper: Kiefer Built, Inc., Kanawha, IA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-5979 Filed 3-8-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 83–3167 beginning on page 5613 in the issue of Monday, February 7, 1983, make the following correction:

On page 5616, third column, the entry for Post Road Stages, Inc. now designated "MC 96946 (Sub-5)" should have been designated "MC 96949 (Sub-5)".

BILLING CODE 1505-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–138]

Certain Automatic Turret Rewinders; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: February 25, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83-6044 Filed 3-8-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–117]

Certain Automotive Visors; Termination of Investigation and Issuance of Consent Orders

AGENCY: International Trade Commission.

ACTION: Termination of investigation and issuance of consent orders.

SUMMARY: On September 2, 1982, complainant Prince Corporation (Prince), respondent Gebr. Happich GmbH (Happich), and the Commission investigative attorney filed a joint motion (Motion No. 117–15) to terminate Happich as a respondent in the above-captioned investigation. The motion was based on a consent order agreement entered into by Prince and Happich. On September 20, 1982, Prince, Happich, and the Commission investigative attorney filed an amendment to the original agreement (Motion No. 117–17). On September 30, 1982, the presiding officer recommended that the Commission accept the proposed agreement and order, as amended, and certified Motion No. 117–17 to the Commission (Order No. 15). A **Federal Register** notice was published on November 24, 1982, seeking comments from interested members of the public and other Government agencies. 47 FR 53145. Comments were received and considered. On March 4, 1983, the Commission issued the consent orders, as amended, and terminated the investigation as to Happich.

On September 20, 1982, complainant Prince, respondent Voplex Corporation (Voplex), and the Commission investigative attorney jointly moved to terminate this investigation as to Voplex on the basis of a consent order agreement. On September 30, 1982, the presiding officer recommended that the Commission accept the proposed order and agreement, and certified the motion (Motion No. 117–16) to the Commission. A **Federal Register** notice was published on November 24, 1982, seeking comments on the proposed termination

from interested members of the public and other Government agencies. 47 FR 53147. No comments were received. On February 16, 1983, the Commission granted the joint motion, adopting the consent order and terminating the investigation as to respondent Voplex.

SUPPLEMENTARY INFORMATION: As Voplex and Happich were the only remaining respondents in investigation No. 337-TA-117, the termination of these two respondents terminated the investigation.

The Commission was conducting investigation No. 337-TA-117 to determine whether there was a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 137) in the importation and sale of certain automotive visors, which were alleged to infringe certain claims of U.S. Letters Patent Nos. 3,926,470 and 4,227,241, owned by complainant Prince. The alleged effect or tendency of these unfair acts was to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Copies of the Commission Action and Orders, the consent orders, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Jane Albrecht, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-1627.

By order of the Commission.

Issued: March 4, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-6063 Filed 3-8-83; 8:45 am]

BILLING CODE 7020-02-M

[332-156]

Competitive Assessment of the U.S. Ceramic Floor and Wall Tile Industry

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), the Commission has instituted on its own motion investigation No. 332-156 for the purpose of assessing the competitive position of the U.S. ceramic floor and wall tile industry. Specifically, the Commission will compile and present trade data and other information on the U.S. industry, identify key competitive factors in domestic and foreign markets, and examine the impact of such factors on the operations and global competitive position of U.S producers.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Lukes (telephone 202-523-0279), U.S. International Trade Commission, Washington, D.C. 20436.

Written Submissions: While there is no public hearing scheduled for this study, written submissions from interested parties are invited. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested parties. To be ensured of consideration by the Commission, written statements should be received by the close of business on July 1, 1983. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: March 1, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-6049 Filed 3-8-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-116]

Certain Drill Point Screws for Drywall Construction; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Termination of investigation upon a finding of no violation of section 337 of the Tariff Act of 1930.

SUPPLEMENTARY INFORMATION: On the basis of a complaint filed on January 20, 1982, the Commission on March 3, 1982, published in the **Federal Register** (47 FR 9113) a notice of institution of an investigation pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The purpose of the investigation was to determine whether there were unfair methods of competition and unfair acts in the unauthorized importation and sale of certain drill point screws for drywall construction alleged to infringe certain claims of U.S. Letters Patent 3,463,045 owned by complainant Illinois Tool Works, Inc.

On February 17, 1983, the Commission unanimously determined that there was no violation of section 337 in investigation No. 337-TA-116 in the importation or sale of the drill point screws in question.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 F Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0079.

By order of the Commission.

Issued: March 3, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-6054 Filed 3-8-83; 8:45 am]

BILLING CODE 7020-02-M

[332-158]

Effects of Foreign Product Counterfeiting on U.S. Industry

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the Commission has instituted investigation No. 332-158 for the purpose of assessing the impact of foreign product counterfeiting on U.S. industry, considering both domestic and export markets. The objectives of the investigation are: (1) To identify those product sectors in which the U.S. industry faces competition from foreign counterfeited products, either in the United States or abroad, (2) to assess the impact such counterfeiting has had on these industries and U.S. exports, (3) to identify the primary country sources of counterfeiting, (4) to inventory the methods U.S. firms are using to counteract counterfeiting and their recommendations for government action, and (5) to compile an inventory of U.S. and foreign laws and international agreements encompassing counterfeiting, including the avenues of relief available.

EFFECTIVE DATE: February 25, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Estes, General Manufactures Division, Office of Industries (202–724–0977).

SUPPLEMENTARY INFORMATION: For the purposes of this investigation the term "counterfeit goods" means any goods bearing an unauthorized representation of a trademark that is legally registered in respect to such goods in the country of importation or sale, but does not include goods produced or marketed under a protected trademark by the owner of the trademark right or with his consent, or to goods bearing an authorized trademark which are imported or sold in contravention of a commercial arrangement.

Public hearing.—A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.d.t., on August 23, 1983, to be continued on August 24, 1983 if required. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, not later than noon, August 17, 1983.

Written submissions.—In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission, written statements should be received at the earliest practicable date, but no later than September 19, 1983. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: March 4, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-6058 Filed 3-8-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-184 (Final)]

Frozen Concentrated Orange Juice From Brazil

AGENCY: International Trade Commission.

ACTION: Suspension of final countervailing duty investigation.

EFFECTIVE DATE: March 2, 1983.

SUMMARY: On March 2, 1983, the United States Department of Commerce suspended its countervailing duty investigation involving frozen concentrated orange juice from Brazil (48 FR 8839). The basis for the suspension is an agreement by the Government of Brazil to offset completely the amount of the net subsidy determined by Commerce to exist with respect to the subject product. Accordingly, the United States International Trade Commission hereby gives notice of the suspension of its countervailing duty investigation involving frozen concentrated orange juice, provided for in item 165.35 of the Tariff Schedules of the United States, from Brazil (investigation No. 701–TA–184 (Final)). The schedule for this investigation, which was included in the Commission's notice of institution (47 FR 58051, December 29, 1982), is hereby cancelled.

FOR FURTHER INFORMATION CONTACT: Mr. David Coombs (202–523–1376), Office of Investigations, U.S. International Trade Commission.

This notice is published pursuant to § 207.40 of the Commission's Rules of Practice and Procedure (19 CFR 207.40).

By order of the Commission.

Issued: March 2, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-6055 Filed 3-8-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-132]

Certain Hand-Operated, Gas-Operated, Welding, Cutting, and Heating Equipment and Component Parts Thereof; Commission Decision Not To Review Initial Determination

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination (Order No. 22) amending the notice of investigation in the above-referenced investigation.

Authority: The authority for the Commission's disposition of this matter is contained in sections 335 and 337 of the Tariff Act of 1930 (19 U.S.C. 1335, 1337) and in §§ 210.53(c) and 210.53(h) of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982; to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: On February 10, 1983, the presiding officer issued an initial determination granting complainant Victor Equipment Co.'s motion to amend the notice of investigation in the above-referenced investigation. Under § 210.54(b) of the Commission's rules the deadline for filing petitions for review expired on February 22, 1983. No petitions were filed within the time specified in the Commission's rules.

Copies of the presiding officer's initial determination, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0375.

By order of the Commission.

Issued: February 25, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-6045 Filed 3-8-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation 701-TA-179 through 181 (Final)]

Hot-Rolled Stainless Steel Bar, Cold-Formed Stainless Steel Bar, and Stainless Steel Wire Rod From Brazil

AGENCY: International Trade Commission.

ACTION: Suspension of final countervailing duty investigation.

EFFECTIVE DATE: February 7, 1983.

SUMMARY: On January 27, 1983, the United States Department of Commerce suspended its countervailing duty investigation on hot-rolled stainless steel bar, cold-formed stainless steel bar, and stainless steel wire rod (certain stainless steel products) from Brazil (48 FR 4703, February 2, 1983). The basis for the suspension is an agreement by the government of Brazil to offset completely the amount of the net subsidy with an export tax applicable to the subject merchandise. Accordingly, the United States International Trade Commission hereby gives notice of the

suspension of its countervailing duty investigation involving the subject certain stainless steel products, provided for in items 606.90, 607.26, and 607.43 of the Tariff Schedules of the United States, from Brazil (investigation No. 701–TA–179 through 181 (Final)), and cancellation of the public hearing scheduled for February 14, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Schechter (202–523–0300), Office of Investigations, U.S. International Trade Commission.

This notice is published pursuant to § 207.40 of the Commission's Rules of Practice and Procedure (19 CFR 207.40).

By order of the Commission.

Issued: February 25, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-6046 Filed 3-8-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–136]

Certain Marine Hardware and Accessories; Notice

Notice is hereby given that a prehearing conference scheduled for March 14, 1983 and the hearing scheduled to commence immediately thereafter (48 FR 7828, February 24, 1983) are cancelled.

The Secretary shall publish this notice in the **Federal Register.**

Issued: March 3, 1983.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 83-6056 Filed 3-8-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–136]

Certain Marine Hardware and Accessories; Change of the Commission Investigative Attorney

Notice is hereby given that as of this date, Arthur Wineburg, Esq. of the Unfair Import Investigations Division will be the Commission Investigative Attorney in the above-cited investigation instead of Oresto Russ Pirfo, Esq.

The Secretary is requested to publish this notice in the **Federal Register.**

Dated: February 24, 1983.

David I. Wilson,

Chief, Unfair Import Investigations Division.

[FR Doc. 83-6052 Filed 3-8-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–140]

Certain Personal Computers and Components Thereof; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 31, 1983, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Apple Computer, Inc., 20525 Mariani Avenue, Cupertino, Calif. 95014. The complaint alleges unfair methods of competition and unfair acts in the importation of certain personal computers and components thereof into the United States, or in their sale, by reason of alleged (a) infringement of claims 1 through 8 of U.S. Letters Patent 4,136,359 and claims 1 through 11 of U.S. Letters Patent 4,278,972; (b) infringement of U.S. Copyright Reg. Nos. TX 873–203 and TX 886–569; and (c) misappropriation of trade dress. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that, during the pendency of the investigation, the Commission issue a temporary exclusion order, prohibiting importation of the articles into the United States except under bond and, after a full investigation, issue a permanent exclusion order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 28, 1983, ordered, that: (1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 an investigation be instituted to determine whether there is reason to believe that there is a violation or whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain personal computers and components thereof into the United States, or in their sale, by reason of (a) infringement of the claims of U.S. Letters Patent 4,136,359; (b) infringement of the claims of U.S. Letters Patent 4,278,972; (c) direct or contributory infringement of U.S. Copyright Reg. No. TX 873–203 and U.S. Copyright Reg. No. TX 886–569; and (d) misappropriation of trade dress, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Apple Computer, Inc., 20525 Mariani Avenue, Cupertino, Calif. 95014.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Golden Formosa Microcomputer Co., Ltd. a/k/a Guan Haur Industrial Co., Basement 371, Jiin Jou Street, Taipei, Taiwan
Sunrise Computer Service Co., Ltd., 12th Fl., No. 339, Sec. 4, Hsing I Road, Taipei, Taiwan
Jardine Strauss International, Ltd., Room 1103, England Building, 311 Chung Hsiao East Road, Sec. 4, Taipei, Taiwan
Fantastic Merchandise Inc., 10–5 10th Fl., #263 Hsin-Yi Road, Sec. 4, Taipei, Taiwan
A-Tek Enterprises Co., Ltd., 3rd Floor, 170 Chang AE Road, Taipei, Taiwan
Leader Trading Co., Rm. L–55, Peninsula Center, Midj Road East, Tsim Sha Tsu East, Kowloon, Hong Kong
Fuji Trading Co., Rm. 24, Cosmopolitan Center, 10/F, 760 Nathan Road, Kowloon, Hong Kong
Reliant Engineering Co., P.O. Box 33610, Sheung Wan Post Office, Hong Kong
STC Limited, 10C Washington Mansion 28, Jen-Al Road, Sec. 3, Taipei, Taiwan
Yen Enterprises, 4/F Kolin Super Plaza, 54–1, Sec. 6, Taipei, Taiwan
Business Computer Alliance System Co., Ltd., 10th Fl., #30 King-Yuan Road, Taipei, Taiwan
Microtonics, Singapore
Taiwan Machine Trade Co., 5250 Belfield Avenue, Philadelphia, Pa. 19144
North American Research Corp., 5545 Lee Highway, Arlington, Va.
J.E. Computer Co., Ltd., Room 8011, Taipei Square Building, No. 2, 41, Sec. 1, Chung Hsiao W. Road, Taipei (100), Taiwan
Apollo Computer Co., Ltd., 5th Fl., No. 96, Sec. 2, Chung Itsiao E. Road, Taipei, Taiwan
Oriental Investments Ltd., Hardstrasse 81, 8040, P.O. Box 460, Zurich, Switzerland
Collins International Trading Corp, 16311 Ventura Blvd., Suite 500, Encino, Calif. 91436
Formula International, Inc., 12603 Crenshaw Blvd., Hawthorne, Calif. 90250
Powtek Electronics Co., Ltd., No. 17, Sec. 1, Keelung Road

(c) Patricia Ray, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 122, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative

Law Judge, U.S. International Trade Commission, shall designate the presiding officer. Pursuant to § 210.30(c) of the Commission's Rules of Practice and Procedure (19 CFR 210.30(c)), discovery should be allowed in connection with the temporary relief phase of the investigation only to the extent necessary to weigh the standards that are applicable in determining whether temporary relief should be granted.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 210.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: Patricia Ray, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–1088.

By order of the Commission.

Issued: March 2, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-6057 Filed 3-8-83; 8:45 am]

BILLING CODE 7020-02-M

[332-155]

Competitive Position of U.S. Producers of Robotics in Domestic and World Markets

AGENCY: International Trade Commission.

ACTION: The Commission, on its own motion, instituted investigation No. 332-155, under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), for the purpose of gathering and presenting information on the competitive position of the U.S. robotics industry in domestic and international markets. The study will assess capital, labor, technology, and other economic factors affecting the manufacture and use of robotics in the United States and in foreign countries. The effects of the increasing application of robotics on the operations of domestic and foreign automobile, aircraft, and appliance industries will be explored.

EFFECTIVE DATE: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Nelson Hogge, Machinery and Equipment Division, U.S. International Trade Commission, Washington, D.C. 20436 (Telephone 202–523–0377).

Written Submissions: While there is no public hearing scheduled for this study, written submissions from interested parties are invited. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by the Commission in this study, written statements should be received by the close of business on August 12, 1983. All submissions should be addressed to the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

By order of the Commission.

Issued: March 1, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-6050 Filed 3-8-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-92 (Final)]

Stainless Steel Sheet and Strip From the Federal Republic of Germany

AGENCY: International Trade Commission.

ACTION: Rescheduling of the prehearing conference to be held in connection with the subject investigation.

EFFECTIVE DATE: February 28, 1983.

Notice is hereby given that the prehearing conference originally scheduled for April 20, 1983 in connection with the subject investigation (48 FR 7825) is rescheduled to April 18, 1983 at 10:00 a.m. in room 117 of the U.S. International Trade Commission Building.

Issued: February 28, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-6047 Filed 3-8-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-95 (Final)]

Stainless Steel Sheet and Strip From France

AGENCY: International Trade Commission.

ACTION: Rescheduling of the prehearing conference to be held in connection with the subject investigation.

EFFECTIVE DATE: February 28, 1983.

Notice is hereby given that the prehearing conference originally scheduled for April 20, 1983 in connection with the subject investigation (48 FR 7824) is rescheduled to April 18, 1983 at 10:00 a.m. in room 117 of the U.S. International Trade Commission Building.

Issued: February 28, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-6048 Filed 3-8-83; 8:45 am]

BILLING CODE 7020-02-M

[332-157]

U.S. Embargoes on Agricultural Exports: Implications for the U.S. Agricultural Industry and U.S. Exports

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), the Commission has instituted, on its own motion, investigation No. 332–157 for the purpose of gathering and presenting information on U.S. embargoes on agricultural exports. The study will examine the impact of the embargoes on the U.S. agricultural industry and U.S. exports. It will provide a factual presentation of the terms of the embargoes and an analysis of the effects of the embargoes on U.S. and foreign trade patterns, prices, and stocks.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Lowell Grant, principal analyst

(telephone 202–724–0099), or Mr. Edward P. Furlow, Chief, Agriculture, Fisheries, and Forest Products Division (telephone 202–724–0068), U.S. International Trade Commission, Washington, D.C. 20436.

Written Submissions: Although there is no public hearing scheduled for this study, written submissions from interested parties are invited. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on spearate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by the Commission, written statements should be received by the close of business on June 3, 1983. All submissions should be addressed to the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

By order of the Commission.

Issued: March 1, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–6051 Filed 3–8–83; 8:45 am]

BILLING CODE 7020–02–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (83–23)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Informal Task Force for the Study of the Mission of NASA.

DATE AND TIME: March 25, 1983, 9 a.m. to 4 p.m.

ADDRESS: NASA Headquarters, Room 7002, 400 Maryland Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, Code LB–4, National Aeronautics and Space Administration, Washington, DC 20546 (202/755–8383).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Task Force for the Study of the Mission of NASA was established under the NASA Advisory Council to conduct a study of the directions NASA should take in the future (including goals, programmatic objectives, and possible missions) and to report its findings and recommendations to the Council. The Task Force is chaired by Dr. George E. Solomon, and has a total of 14 members.

Visitors will be admitted to the meeting room up to its capacity, which is approximately 60 persons including Task Force members and other participants. Visitors will be requested to sign a visitor's register.

TYPE OF MEETING: Open.

AGENDA:

March 25, 1983

9 a.m.—Introduction.
9:30 a.m.—Status reports by subgroups.
1 p.m.—Task Force Working Session.
4 p.m.—Adjourn.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

March 2, 1983.

[FR Doc. 83–5913 Filed 3–8–83; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–313]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 70 to Facility Operating License No. DPR–51, issued to Arkansas Power and Light Company (the licensee), which added a license condition for operation of Arkansas Nuclear One, Unit No. 1 (ANO–1) located in Pope County, Arkansas. The amendment is effective as of the date of issuance.

The amendment adds a condition to the license regarding the implementation of a secondary water chemistry monitoring program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 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), and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's application dated November 9, 1982, (2) Amendment No. 70 to License No. DPR–51, and (3) the Commission's letter to the licensee dated March 1, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Arkansas Tech University, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of March 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83–6026 Filed 3–8–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–237]

Commonwealth; Edison Co. Systematic Evaluation Program; Availability of Final Integrated Plant Safety Assessment Report for the Dresden Nuclear Power Station, Unit 2

The Nuclear Regulatory Commission's (NRC) Office of Nuclear Reactor Regulation (NRR) has published its Final Integrated Plant Safety Assessment Report (IPSAR) (NUREG–0823) related to the Commonwealth Edison Company's (licensee) Dresden Nuclear Power Station, Unit 2 located in Grundy County, Illinois.

The Systematic Evaluation Program (SEP) was initiated by the NRC to review the design of older operating nuclear reactors plants to reconfirm and document their safety. This report documents the review completed under the Systematic Evaluation Program for the Dresden 2 Plant. Areas in the report identified as requiring further analysis or evaluation and required modifications for which design descriptions have not yet been provided by the licensee to the NRC will be reviewed as part of the operating license

conversion review. Supplements to the Final IPSAR will be issued addressing items requiring further analysis and review. The review has provided for (1) an assessment of the significance of differences between current technical positions on selected safety issues and those that existed when the Dresden 2 plant was licensed, (2) a basis for deciding on how these differences should be resolved in an integrated plant review, and (3) a documented evaluation of plant safety when all supplements to the IPSAR and the Safety Evaluation Report for converting the license from a provisional to a full-term license have been issued. Equipment and procedural changes have been identified as a result of the review. The report also addresses the comments and recommendations made by the Advisory Committee on Reactor Safeguards (ACRS) in connection with its review of the Draft Report, issued in October 1982. These comments and recommendations, as contained in a report by the ACRS dated December 13, 1982, and the NRC staff's related response are included in Appendix H of this report.

The Final IPSAR and its supplements will form part of the bases for considering the conversion of the existing provisional operating license to a full-term operating license.

Pursuant to 10 CFR 50.71e(3)(i), the licensee has filed a revision to the original Final Safety Analysis Report (FSAR) for Dresden Units 2 and 3. In accordance with 10 CFR 50.71e(4), the licensee is required to file revisions to the updated FSAR no less frequently than annually which shall reflect all changes up to a maximum of six months prior to the date of filing. On July 20, 1982, the licensee filed with the staff an updated FSAR for Dresden Units 2 and 3 pursuant to 10 CFR 50.71e(3)(ii) and prior to completion of the SEP. The licensee was not required to file an updated FSAR until 24 months after completion of SEP. The licensee is required to incorporate in a revision to the FSAR plant modifications, procedure revisions, and further analyses completed as a result of the SEP program. The revision incorporting the SEP information is due to be submitted within 24 months after receipt of the letter dated March 1, 1983 from the Director of the Office of Nuclear Reactor Regulation to the licensee transmitting the Final IPSAR. This does not relax the requirements of an annual FSAR update for all other changes pursuant to 10 CFR 50.71(e)(4).

The Final IPSAR is being made available at the NRC's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451 for inspection and copying. Copies of this Final Report (Document No. NUREG–0823) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and from the Sales Office, U.S. Nuclear Regulatory Commission, Director, Division of Technical Information and Document Control, Washington, D.C. 20555, Attention: Publications Unit.

Dated at Bethesda, Maryland, this 4th day of March 1983.

For the Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-6027 Filed 3-8-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Co. (Zion Station, Units 1 and 2); Issuance of Director's Decision Under 10 CFR 2.206

By letter of October 11, 1982, Pollution and Environmental Problems, Inc. (PEP) made a request for action under 10 CFR 2.206 of the Commission's regulations. Pollution and Environmental Problems, Inc. requested that the Commission (1) "Deny Commonwealth Edison permission to use high burnup nuclear fuel in Zion 1 and 2 nuclear reactors," and (2) "Provide evidence to the public that Zion 1 and 2 reactors should be allowed to continue operating despite the fact that their reactor pressure vessels are vulnerable to embrittlement and the time for which the NRC has vouched for their ability to withstand a servere overcooling event has already expired." After a review of the relevant information, the Director of the Office of Nuclear Reactor Regulation had determined that the request does not provide an adequate basis for taking any action with respect to the Zion facilities. Accordingly, the request by PEP has been *denied.*

Copies of the Director's Decision are available for inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Local Public Document Room for the Zion Station located at the Zion-Benton Public Library, 2600 Emmaus Avenue, Zion, Illionis 60099. A copy will also be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations.

As provided in 10 CFR 2.206(c), this decision will constitute the final action of the Commission after 25 days unless the Commission determines to review this decision within that time.

Dated at Bethesda, Maryland, this 1st day of March 1983.

For the Nuclear Regulatory Commission.

Edson G. Case,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83-6028 Filed 3-8-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–213]

Connecticut Yankee Atomic Power Co. (Haddam Neck Plant); Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. DPR–61, issued to Connecticut Yankee Atomic Power Company (the licensee), which revised the Technical Specifications for operation of the Haddam Neck Plant (the facility) located in Middlesex County, Connecticut. The amendment is effective as of its date of issuance.

The amendment revised the Appendix A Technical Specifications to permit operation of the facility in Cycle 12 following refueling.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 14, 1982 and supplements thereto dated January 13, and February 9, 1983, (2) Amendment No. 52 to License No. DPR–61, and (3) the Commission's related Safety

Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Russell Library, 119 Broad Street, Middletown, Connecticut 16457. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of March, 1983.

For the Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-6029 Filed 3-8-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 80 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation (the licensees), which revised the Technical Specifications (TSs) for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment becomes effective six weeks after its date of issuance.

The amendment revises the TSs for the facility to eliminate use of sodium thiosulfate as a spray additive in the Reactor Building Spray System (RBSS). The amendment also specifies the required sodium hydroxide (NaOH) concentration in the NaOH Tank of the RBSS and the required height differential to be maintained between the Borated Water Storage Tank and the NaOH Tank.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1964, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act, and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(b)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 23, 1981, as modified and supplemented September 3, 1981, November 23, 1981, August 11, 1982, and January 5, 1983, (2) Amendment No. 80 to License No. DPR-50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of February 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-6030 Filed 3-8-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 81 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation (the licensees), which revised the Technical Specifications (TSs) for operation of the Three Mile Island Nuclear Station, Unit No. 1 (TMI-1) located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment adds TS 3.20 concerning Special Test Exceptions which permits suspension of certain TSs during performance of the Low Power Natural Circulation Test to be conducted during the restart, if authorized, of TMI-1.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 10, 1981, (2) Amendment No. 81 to License No. DPR-50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of February 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors, Branch No. 4, Division of Licensing.

[FR Doc. 83-6031 Filed 3-8-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 82 to Facility Operating License No. DPR-50, issued to Metroplitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric Company, and GPU Nuclear Corporation (the licensees), which added a license condition and revised Technical Specifications (TSs) for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment adds license condition 2.c(7) which requires submitting an updated aircraft probability analysis sixty days following the 1984 report on aircraft movements at Harrisburg International Airport. Additionally, the amendment modifies TS 6.9.1.B.2.b concerning reporting of movements of aircraft larger than 200,000 pounds at Harrisburg International Airport. The revised TS 6.9.1.B.2.b Requires the aircraft movements report to be broken down into scheduled and nonscheduled (including military) takeoffs and landings.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 30, 1982, (2) Amendment No. 82 to License No. DPR-50, and (3) the Commission's letter to GPU Nuclear Corporation dated March 1, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of March 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4 Division of Licensing.

[FR Doc. 83-6032 Filed 3-8-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-410]

Niagara Mohawk Power Corp., et al., Nine Mile Point Nuclear Station, Unit 2; Order Extending Construction Completion Date

Niagara Power Corporation, Central Hudson Gas & Electric Corporation, New York State Electric & Gas Corporation, Long Island Lighting Company and Rochester Gas and Electric Corporation are the co-holders of Construction Permit No. CPPR-112 issued by the Atomic Energy Commission [1] to Niagara Mohawk Power Corporation on June 24, 1974 for construction of the Nine Mile Point Nuclear Station, Unit 2 to be located in Oswego County, New York, on the south shore of Lake Ontario in the town of Scriba, seven miles east of the city of Oswego, New York. The Construction Permit No. CPPR-112 was amended on October 27, 1978 to approve the transfer of ownership interests to the above noted companies.

By letter dated February 27, 1978, Niagara Mohawk Power Corporation filed a request for extension of the latest construction completion date for the Nine Mile Point Nuclear Station, Unit 2. It was requested that Construction Permit No. CPPR 112 be extended from July 31, 1978 to December 31, 1984. By letter dated June 26, 1981, Niagara Mohawk Power Corporation identified additional factors which have resulted in further delay and requested the latest completion date be extended an additional three years to December 31, 1987.

The reasons given for the requested extension to Decembr 31, 1984 were:

1. Reduction in the demand for electric power in the Niagara Mohawk Power Corporation's service area;

2. Difficulty in obtaining funds at a reasonable rate thereby delaying construction;

3. Additional construction time required to implement design changes such as relocation of the safety/relief valve piping to mitigate Mark II containment dynamic loads and changing from once-through to closed loop circulating water cooling;

4. Additional time required to study geological features and phenomena;

5. Extended construction period caused by labor problems and work stoppages in 1976 and 1977 and shortages of qualified welders, material procurement delays and shortages of qualified vendors; and

6. Delay in granting the original Construction Permit.

The reasons given for the additional three years of extension to December 31, 1987 were:

1. Additional time required to implement design changes and improvements to meet NRC requirements, some of which resulted from the Three Miles Island incident;

2. Additional time required to evaluate geological features and phenomena; and

3. Additional time consumed by an extensive audit of the project as ordered and directed by the New York State Public Service Commission.

This action involves no significant hazards consideration, good cause has been shown for the delays and the requested extension is for a reasonable period, the basis for which are set forth in the staff's safety evaluation for this extension.

The Commission has determined that this action will not result in any significant environmental impact and, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

The NRC staff evaluation of the request for extension of the construction permit is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D. C. 20555 and at the Denfield Library, State University College at Oswego, Oswego, New York 13126.

It is hereby ordered that the latest completion date for Construction Permit No. CPR-112 is extended from July 31, 1978 to December 31, 1987.

Date of Issuance: February 28, 1983.

For the Nuclear Requlatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office Nuclear Reactor Regulation.

[FR Doc. 83-6033 Filed 3-8-83; 8:45 am]

BILLING CODE 7590-01-M

[1] Effective January 19, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

[Docket No. P-564A]

Pacific Gas and Electric Co. (Stanislaus Nuclear Project, Unit No. 1); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for

this antitrust proceeding. As reconstituted, the Appeal Board for this proceeding will consist of the following members:

Alan S. Rosenthal, Chairman
Stephen F. Eilperin
Gary J. Edles

Dated: March 1, 1983.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-6034 Filed 3-8-83; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-277 and 50-278]

Philadelphia Electric Co., et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 88 and 88 to Facility Operating Licenses Nos. DPR-44 and DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications (TSs) for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3 (the facility) located in York County, Pennsylvania. The Amendments are effective as of the date of issuance.

The amendments revise the TSs to provide limiting conditions for operation and surveillance requirements for Scram Discharge Volume (SDV) vent and drain valves and reactor protection system and control rod block SDV limit switches.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated October 14, 1980, as supplemented October 7, 1981, (2) Amendment No. 88 to License No. DPR-44, and Amendment No. 88 to License No. DPR-56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of March 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-6035 Filed 3-8-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-280 and 50-281]

Virginia Electric & Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 82 to Facility Operating License No. DPR-32 and Amendment No. 83 to Facility Operating License No. DPR-37 issued to Virginia Electric & Power Company (the licensee), which revised Technical Specifications for operation of the Surry Power Station, Unit Nos. 1 and 2, respectively (the facilities), located in Surry County, Virginia. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to incorporate requirements related to working hours of the plant staff and to increase the frequency of audits of the emergency and security programs.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated December 1, 1982, (2) Amendment Nos. 82 and 83 to License Nos. DPR-32 and DPR-37, and (3) the Commission's related letter dated March 1, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of March, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-6036 Filed 3-8-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-280 and 50-281]

Virginia Electric and Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 83 to Facility Operating License No. DPR-32 and Amendment No. 84 to Facility Operating License No. DPR-37 issued to Virginia Electric and Power Company (the licensee), which revised Technical Specifications for operation of the Surry Power Station, Unit Nos. 1 and 2, respectively (the facilities), located in Surry County, Virginia. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to add Limiting Conditions for Operation and Surveillance Requirements related to containment purge valves. The change requires purge valves to be closed above 200° F, periodic leakage tests, and periodic checks to ensure that the values are closed.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the

Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 FR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated December 31, 1981, (2) Amendment Nos. 83 and 84 to License Nos. DPR-32 and DPR-37, and (3) the Commission's letter dated March 1, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of March, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-6037 Filed 3-8-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-508; DASLB No. 83-486-01 OL]

Washington Public Power Supply System, et al.; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register** (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.711, 2.714a, 1.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and requests for hearing and to conduct the proceeding in the event that a hearing is ordered.

Washington Public Power Supply System, et al.

WPPSS, Unit 3

Contruction Permit No. CPPR-154

This Board is being constituted pursuant to a notice published by the Commission on September 15, 1982 in the **Federal Register** (47 FR 40736-38) entitled, "Washington Public Power Supply System, et al., Nuclear Project No. 3; Receipt of Application for Facility Operating License; Availability of Applicants' Environmental Report; Consideration of Issuance of Facility Operating License; and Notice of Opportunity for Hearing."

The Board is comprised of the following administrative judges:

Morton B. Margulies, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Mr. Glenn O. Bright, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. James H. Carpenter, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Bethesda, Maryland, this 3rd day of March, 1983.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 83-6038 Filed 3-8-83; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Reqirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget Review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new revision or extension: New.

2. The title of the information collection: Notice and State consultation.

3. The form number if applicable: N/A.

4. How often the collection is required: Each time a licensee of a nuclear power plant or of a testing facility requests a license amendment.

5. Who will be required or asked to report: As stated in No. 4.

6. An estimate of the number of responses: 600 per year.

7. An estimate of the total number of hours needed to complete the requirement or request: 4 hours per license amendment, for a total of 2,400 hours for 600 amendments.

8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: N/A.

9. Abstract: Under an NRC interim final rule, "Notice and State Consultation," a licensee of a nuclear power plant or of a testing facility would have to provide to the NRC and the State in which its facility is located its amendment application and its analysis about the issue of significant hazards.

Copies of the submittal may be inspected or obtained for a fee from NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill (202) 395-7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 4th day of March 1983.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 83-6039 Filed 3-8-83; 8:45 am]

BILLING CODE 7035-01-M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan: James River-Dixie/Northern, Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from James River-Dixie/Northern, Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. Section 4204(a)(1) provides that the sale of assets by 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 beginning after the sale. The PBGC is authorized to grant exemptions from this requirement. Prior to granting an exemption, the PBGC is

required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATES: Comments must be submitted on or before April 25, 1983.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4862. [This is not a toll-free number.]

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 a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning 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) and the contract-provision requirement of section 4204(a)(1)(C). 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. The granting of an exemption or variance from the requirements of section 4204(a)(1) (B) or (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

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.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from James River-Dixie/Northern, Inc. ("James River-Dixie") to waive the bond/escrow requirement of ERISA section 4204(a)(1)(B). In the request, James River-Dixie represents among other things, that:

1. Effective May 6, 1982, James River-Dixie and its parent corporation, James River Corporation of Virginia ("James River Corp."), purchased certain assets of the American Can Company ("American Can").

2. In connection with this sale, James River-Dixie has assumed the responsibilities of American Can under collective bargaining agreements with the United Paperworkers International Union, International Brotherhood of Electrical Workers, and International Brotherhood of Teamsters.

3. The following chart lists the two multiemployer plans for which an exemption is requested, the estimated amount of American Can's withdrawal liability and the estimated amount of the bond/escrow that would be required under ERISA section 4204(a)(1)(B) with respect to each such plan:

Plan	Estimate of seller's liability	Amount of bond/escrow
Paper Industry-Union Management Pension Fund ("Paper Industry Fund")	$1,922,300	[1] $2,663,000
Central States, Southeast and Southwest Areas Pension Fund ("Central States Fund")	424,989	[2] 20,858
Total	2,347,289	2,683,858

[1] The amount represents the annual contribution required to be made by American Can to the Paper Industry Fund for plan year 1981.

[2] The amount represents the average annual contribution that American Can made to the Central States Fund for the three plan years preceding the plan year in which the sale occurred.

4. According to is audited consolidated financial statements, James River Corp. and its subsidiaries had total net assets for its fiscal year ended April 25, 1982 of approximately $170 million, and an average net income after taxes for its fiscal years 1980–1982 of about $20.2 million.

5. James River-Dixie has sent a copy of this request to the plans and the collective bargaining representatives of the American Can's former employees by certified mail, return receipt requested.

Comments

All interested persons are invited to submit written comments on the pending exemption to the above address, by April 25, 1983. All comments will be made a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 3rd day of March, 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-5900 Filed 3-8-83; 8:45 am]

BILLING CODE 7708-01-M

Pendency of Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer that Contributes to a Multiemployer Plan: Reilly-Whiteman, Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of Pendency of Request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from Reilly-Whiteman, Inc. for

an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. Section 4204(a)(1) provides that the sale of assets by 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 beginning after the sale. The PBGC is authorized to grant exemptions from this requirement. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise intersted persons of this exemption request and to solicit their views on it.

DATE: Comments must be submitted on or before April 25, 1983.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006; (292) 254–4862. (This is not a toll-free number.)

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 a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(A)(1)(A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning 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) and the contract-provision requirement of section 4204(a)(1)(C). 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. The granting of an exemption or variance from the requirements of section 4204(a)(1) (B) and (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

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.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from Reilly-Whiteman, Inc. ("New Reilly") to waive the bond/escrow requirement of ERISA section 4204(a)(1)(B). In the request, New Reilly represents among other things, that:

1. Effective June 11, 1982, New Reilly, then called RW Acquisition Corp., purchased substantially all of the assets of Reilly-Whiteman, Inc. (the "Seller"). Oakite Products, Inc. ("Oakite") was a guarantor to the sales contract.

2. New Reilly has assumed the seller's responsibilities under a collective bargaining agreement with the Oil, Chemical and Atomic Workers International Union, which obligates New Reilly to contribute to the Oil, Chemical and Atomic Workers International Union Industry Pension Fund (the "Fund"). Prior to the sale, the seller's potential withdrawal liability had been estimated by the Fund to be $7,500.

3. The amount of the bond or escrow required under section 4204(a)(1)(B) is approximately $17,400 (the seller's required annual contribution for 1981, the plan year preceding the year in which the sale occurred).

4. New Reilly is a wholly owned subsidiary of Oakite. According to its audited consolidated financial statements, Oakite and its subsidiaries had total net assets for its fiscal year ended December 31, 1981 of approximately $28 million, and an average net income for its fiscal years 1979–1981 of about $4.5 million.

5. The applicants have sent a copy of this request to the Fund and the collective bargaining representative of the seller's former employees by certified mail, return receipt requested.

Comments

All interested persons are invited to submit written comments on the pending exemption to the above address, by April 25, 1983. All comments will be made a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C., on this 3rd day of March 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-5845 Filed 3-8-83; 8:45 am]

BILLING CODE 7708-01-M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 12; Revision 2, Amdt. 1]

Authority Delegation—Associate Administrator for Finance and Investment

Associate Administrator for Finance and Investment Delegation of Authority No. 12 (47 FR 14995) is hereby amended to provide certain disaster loan making

authority, to clarify lease guarantee authority, and to broaden the restriction to deny liability of the Agency to the Associate Administrator for Finance and investment. Additionally, Delagetion of Authority No. 14, Revision 1 (38 FR 13064), as amended (43 FR 37048), to the Associate Administrator for Operations and disaster authority delegated to field offices by 13 CFR Part 101.3–2, Part II Disaster Program (47 FR 2305), are hereby revoked and disaster authority therein is transferred to the Associate Administrator for Finance and Investment. Actions taken prior to the effective date hereof are ratified to the extent that they would have been authorized under this delegation had the delegation been in effect and continue to be in effect from the effective date hereof as amended. The amended paragraphs read as follows:

I. * * *

A. *Financial Assistance Activities.*

1. To approve or decline applications for business, development company, disaster, and all other types of loans and guaranty of debentures sold by development companies (hereinafter referred to as loans) authorized to be made by the Agency, (including SBIC and 301 (d) debentures and pollution control financing guarantees) including reconsideration thereof, and to execute authorizations and modifications pertaining to such loans, including waiving the limit of $500,000 for major sources of unemployment as permitted by 7 (c) of the SBAct.

* * * * *

5. To take all necessary actions in connection with the servicing, administration, collection and liquidation of all loans (including those made under the Small Business Investment Act), other obligation and acquired property, with the exception of those loans classified as in litigation; to resolve nonunanimous Compromise Committee recommendations, to accept or reject a compromise settlement of an indebtedness owed to the Agency for a sum less than the total amount due thereof.

* * * * *

c. *Disaster Activities.*

1. To declare a disaster loan area for Economic Injury Disaster Loans upon notification that the Secretary of Agriculture has declared a natural disaster for that area.

2. To amend declarations made under authority of paragraph C. 1 above in accordance with amendments made by the Secretary of Agriculture.

3. To authorize the acceptance of disaster loan applications after expiration of the original disaster period or extension thereof.

4. To extend disbursement period without limitation for disaster loans.

5. To establish disaster field offices and to obligate the Agency through the General Services Administration for the rental of office space and ancillary services and to close disaster field offices when no longer advisable to maintain such offices.

6. To appoint as a processing representative any lender in the disaster area.

7. To hire, reassign and terminate disaster permanent, cadre and temporary employees as necessary.

8. To take necessary actions with respect to personnel, financial management, and administrative activities.

9. To contract for supplies, materials and equipment, printing (Government sources only), transportation, communications, and special services for the Agency pursuant to Chapter 4 of Title 41, U.S.C., as amended, subject to the limitations contained in Section 257(a) and (b) of that Chapter.

* * * * *

E. *Lease Guarantee Activities.*

* * * * *

2. To process, approve, or disapprove claims arising under lease guarantee policies.

3. To take all necessary actions in connection with the defaults of all lease guarantees, execpt for those in litigation.

* * * * *

11. This delegation does not authorize anyone serving in the above position to:

A. Sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon.

B.. Deny liability of the Small Business Administration under terms of a participation or guaranty agreement on the initiation of a suit for recovery from a participation or guaranty agreement.

III. The Authority delegated herein may be redelegated.

IV. Tha authority delegated herein may be exercised by any SBA employee officially designated as Acting Associate Administrator for Finance and Investment.

Effective date: March 9, 1983.

Dated: March 2, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-5954 Filed 3-8-83; 8:45 am]

BILLING CODE 8025-01-M

[Delegation of Authority No. 12-C]

Redelegation of Disaster Assistance

I. Pursuant to the authority delegated to the Associate Administrator for Finance and Investment in Delegation No. 12 (Revision 2) (47 FR 14995) and by Amendment 1 published in this issue of the **Federal Register** Section 101.3–2 Part II of SBA Rules and Regulations is hereby canceled and authority relating to disaster activities is hereby redelegated as follows:

A. Deputy Associate Administrator for Disaster Assistance.

1. To declare a disaster loan area for Economic Injury Disaster Loans upon notification that the Secretary of Agriculture has declared a natural disaster for that area.

2. To amend declarations made under authority of paragraph A.1 above in accordance with amendments made by the Secretary of Agriculture.

3. To authorize the acceptance of disaster loan applications after expiration of the original disaster period or extension thereof.

4. To approve or decline applications for home and business physical disaster loans, economic injury disaster loans and all other types of disaster loans authorized to be made by the Agency including reconsiderations thereof, and to execute authorizations and modifications pertaining to such loans, including waiving the limit of $500,000 for major sources of unemployment as permitted by 7(c)(4) of the Small Business Act.

5. To cancel, reinstate, modify and amend authorizations for disaster loans.

6. To extend disbursement period without limitation for disaster loans.

7. To determine eligibility of disaster loan applications.

8. To establish disaster field offices and to obligate the Small Business Administration through the General Services Administration for the rental of office space and ancillary services and to close disaster field offices when no longer advisable to maintain such offices.

9. To appoint as a processing representative any lender in the disaster area.

10. To hire, reassign and terminate disaster permanent, cadre and temporary employees as necessary.

11. To take necessary actions with respect to personnel, financial management, and administrative activities, as are granted to the Associate Administrator for Finance and Investment.

12. To contract for supplies, materials and equipment, printing (Government sources only), transportation, communications, and special services for the Agency pursuant to Chapter 4 of Title 41, U.S.C., as amended, subject to the limitations contained in Section 257 (a) and (b) of that chapter.

II. The authority delegated herein may be redelegated.

III. The authority delegated herein may be exercised by an SBA employee officially designated as Acting in that Position.

Effective date: March 9, 1983.

Dated: March 3, 1983.

Edwin T. Holloway,

Associate Administrator, for Financial and Investment.

[FR Doc. 83-5955 Filed 3-8-83; 8:45 am]

BILLING CODE 8025-01-M

[Delegation of Authority No. 12-D]

Redelegation of Disaster Assistance

I. Pursuant to the authority delegated to the Deputy Associate Administrator for Disaster Assistance in Delegation No. 12C (published in this issue of the Federal Register) authority relating to disaster activities is hereby redelegated as follows:

A. *Area Directors (Disaster).*

1. To approve up to the statutory limit or decline applications for home and business physical disaster loans, economic injury disaster loans and all other types of disaster loans authorized to be made by the Agency including reconsideration thereof, and to execute authorizations and modifications pertaining to such loans.

2. To cancel, reinstate, modify and amend authorizations for disaster loans.

3. To authorize the acceptance of disaster loan applications after expiration of the original disaster period or extension thereof.

4. To determine eligibility of disaster loan applicants.

5. To extend disbursement periods without limitation for disaster loans.

6. To establish disaster field offices and to obligate the Small Business Administration through the General Services Administration for the rental of office space and ancillary services; and to close disaster field offices when no longer advisable to maintain such offices.

7. To appoint as a processing representative any lender in the disaster area.

8. To hire, reassign, and terminate disaster cadre and temporary employees as necessary.

9. To take necessary actions with respect to personnel, financial management, and administrative activities as are granted to the Deputy Associate Administrator for Disaster Assistance.

10. To contract for supplies, materials and equipment, printing (Government sources only), transportation, communications, and special services for the Agency pursuant to Chapter 4 of Title 41, U.S.C., as amended, subject to the limitations contained in Section 257(a) and (b) of that chapter.

11. To amend, suspend or revoke authority delegated to any position listed below.

B. *Disaster Branch Manager.*

1. To approve up to the statutory limit or decline applications for home and business physical disaster loans, economic injury disaster loans and all other types of disaster loans authorized to be made by the Agency including reconsideratioin thereof, and to execute authorizations and modifications pertaining to such loans.

2. To cancel, reinstate, modify and amend authorizations for disaster loans.

3. To authorize the acceptance of disaster loan applications after expiration of the original disaster period or extension thereof.

4. To determine eligibility of disaster loan applicants.

5. To extend disbursement periods without limitation for disaster loans.

6. To establish disaster field offices and to obligate the Small Business Administration through the General Services Administration for the rental of office space and ancillary services; and to close disaster field offices when no longer advisable to maintain such offices.

7. To appoint as a processing representative any lender in the disaster area.

8. To hire, reassign, and terminate disaster temporary employees as necessary.

9. To take necessary actions with respect to personnel, financial management, and administrative activities as are granted to the Area Director (Disaster).

10. To contract for supplies, materials and equipment, printing (Government sources only), transportation, communications, and special services for the Agency pursuant to Chapter 4 of Title 41, U.S.C., as amended, subject to the limitations contained in Section 257 (a)and (b) of that chapter.

C. Assistant Disaster Branch Manager.

1. To approve up to the statutory limit or decline applications for home and business physical disaster loans, economic injury disaster loans and all other types of disaster loans authorized to be made by the Agency including reconsideration thereof, and to execute authorizations and modifications pertaining to such loans.

To cancel, reinstate, modify and amend authorizations for disaster loans.

3. To determine eligibility of disaster loan applicants.

4. To extend disbursement periods without limitations for disaster loans.

5. To hire reassign, and terminate disaster temporary empliyees as necessary.

6. To take necessary actions with respect to personnel, financial management, and administrative activities as are granted by the Disaster Branch Manager.

7. To contract for supplies, materials and equipment, printing (Government sources only), transportation, communications, and special services for the Agency pursuant to Chapter 4 of Title 41, U.S.C., as amended, subject to the limitations contained in Section 257(a) and (b) of that chapter.

D. *Supervisory Loan Specialist (Disaster).*

1. To approve up to the statutory limit or decline applications for home and business physical disaster loans, economic injury disaster loans and all other types of disaster loans authorized to be made by the Agency including reconsideration thereof, and to execute authorizations and modifications pertaining to such loans.

2. To cancel, reinstate, modify and amend authorizations for disaster loans.

3. To determine eligibility of disaster loan applicants.

4.To extend disbursement periods for disaster loans up to 6 months cumulative (on fully undisbursed loans only)

II. The authority delegated herein may not be redelegated.

III. The authority delegated herein may be exercised by an SBA employee officially designated as Acting in that Position.

Effective date: March 9, 1983.

Dated: March 3, 1983.

Bernard Kulik,

Deputy Associate Administrator, for Disaster Assistance.

[FR Doc. 83-5960 Filed 3-8-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 83-55]

Change of Practice Relating to the Tariff Treatment of Moon Boot Shells Imported with Removable Felt Liners

AGENCY: Customs Service, Treasury.

ACTION: Change of Practice.

SUMMARY: This document changes the current established and uniform practice of separately classifying moon boot shells imported with an equal number of removable felt liners. Customs will now treat these articles as tariff entities pursuant to the doctrine of entireties, dutiable under various provisions of Schedule 7, Part 1, Subpart A, Tariff Schedules of the United States (TSUS). This change is based on Customs finding that the shells and liners are intended to be used as a unit and their individual identities are subordinated to the identity of the combined article.

EFFECTIVE DATE: June 7, 1983.

FOR FURTHER INFORMATION CONTACT: Donald F. Cahill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

Background

By notice published in the **Federal Register** on January 25, 1982 (47 FR 3375), Customs solicited public comments regarding: (a) The interpretation of a provision in the Tariff Schedules of the United States (19 U.S.C. 1202) pertaining to imported footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper; and (b) whether Customs should change its uniform and established practice of classifying shells for "moon boots", a type of footwear, imported with an equal number of removable liners as separate entities, dutiable individually, or whether the shells and liners should be classified as tariff entities pursuant to the doctrine of entireties. Interested parties were given until March 26, 1982, to submit comments on the proposal. Pursuant to a request to extend the period of time for the submission of comments, Customs published a notice in the **Federal Register** on March 22, 1982 (47 FR 12194), extending the period of time to April 26, 1982. Because of the numerous substantive and conflicting comments received in response to the more significant issue of question (a) relating to "foxing", it is being treated separately from question (b) relating to moon boot shells and liners. The foxing issue will be the subject of another document to be published in a future **Federal Register.**

As indicated in the notice, moon boots are footwear which extend above the ankle and are designed to be worn over, or in lieu of, other footwear to protect against water, cold, or inclement weather. They may be imported as completed articles or the shells and liners may be imported unattached to be joined after importation to form the finished product.

In Customs Ruling No. 062041 dated August 6, 1979, Customs held that imported moon boot shells with separable liners are not entireties for tariff purposes, but rather are classifiable separately. This ruling was in accordance with the previous determination published in the Customs Bulleting as T.D. 67-118(7) in which Customs held that a removable felt liner imported with a boot is classifiable as a separate tariff entity.

Based upon Customs August 6, 1979 ruling, and liquidations covering entries of the same merchandise at various ports, an established and uniform practice of classifying imported moon botts with an equal number of of removable liners as separate articles exists within the meaning of section 315(d), Tariff Act of 1930, as amended (19 U.S.C. 1315(d)).

However, in the case of *Donalds Ltd., Inc. v. United States,* 32 Cust. Ct. 310, C.D. 1619 (1954), in discussing the doctrine of entireties, the court stated that "if there are imported in one importation separate entities, which by their nature are obviously intended to be used as a unit, or to be joined together by mere assembly, and in such use or joining the individual identifies of the separate entities are subordinated to the identity of the combined entity, duty will be imposed upon the entity they represent." It is this principle upon which Customs proposal to treat moon boot shells and liners as entireties is based.

Analysis of Comments

Eleven comments were received in response to the proposed change in practice. Ten of the commenters were in favor of the proposal and one was opposed to the change.

The commenter opposed to the change argued the following:

(1) The emphasis of the judicial determinations in this field is on separate function, use, and identity of entities in a combination. With respect to "moon boot removable liners", the function of the liners is distinguishable from the function of the boot. Liners provide extra warmth and comfort while boots themselves provide protection against the elements.

(2) Liners possess a separate use and are complete in themselves in that they are capable of and are used as a slipper type of footwear worn indoors.

(3) Liners maintain their separate identity even though imported and sold with moon boots.

(4) Although not normally sold separately at retail, liners can be purchased separately by the consumer.

The commenters in favor of the proposal made the following points:

(1) Moon boot shells and their liners are clearly designed to be used as a unit. The moon boot shell is incomplete without the lining. Absent the lining the inner stitching of the shell is typically exposed and the inner sole of plastic is uncushioned. Without the lining the cold weather protective qualities of the shell are inadequate.

(2) The liners have no function apart from the shell other than perhaps incidently as a makeshift foot warmer.

(3) The general practice in the trade is to purchase liners in numbers equal to the number of shells produced.

(4) Moon boot liners are purchased, packed, shipped, invoiced, imported, advertised, and retailed as units with moon boots shells.

(5) Typical moon boot liners are unsuited for separate use by reason of their lack of durability, by their texture, and appearance.

(6) Moon boot importers do not trade in liners separately

(7) Moon boot shells and their separable liners have no viable separate identity, except in combination with each other.

(8) Moon boot liners are not designed to be worn around the house as a slipper, rather they are intended to facilitate drying of perspiration and any moisture which may have leaked into the boot.

(9) Moon boot shells and liners function only as an entirety and each piece has no function other than its use in the combined moon boot.

After review of the comments, it is clear that the shells and liners involved are intended to be used as a unit and their separate identities are subordinated to the indentity of the completed moon boot. Consequently, shells and liners are considered entireties within the principle set forth in the *Donalds* case, *supra.*

Change of Practice

After careful analysis of the comments and further review of this matter, Customs practice of separately classifying moon boot shells with an

equal number of liners is clearly erroneous. Accordingly, the proposal to treat these articles as tariff entities pursuant to the doctrine of entireties, dutiable under various sections of Schedule 7, Part 1, Subpart A, TSUS, is adopted. This change of practice shall be effective as to merchandise entered or withdrawn from the warehouse for consumption on or after 90 days from the date of publication of this notice in the **Federal Register.**

Treasury Decision 67–118(7) and Customs ruling of August 6, 1979 are revoked, to the extent that they are inconsistent with this decision.

Drafting Information

The principal author of the document was Jesse V. Vitello, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

Dated: August 13, 1982.

Alfred R. De Angelus,

Acting Commissioner of Customs.

[FR Doc. 83-5963 Filed 3-8-83; 8:45 am]

BILLING CODE 4820-02-M

Fiscal Service

[Dept. Circ. 570, 1982 Rev., Supp. No. 21]

Surety Companies Acceptable on Federal Bonds; Trans Pacific Insurance Co.

A certificate of authority as an acceptable reinsurer on Federal bonds is hereby issued to the following company under Sections 9304 to 9308 of Title 31 of the United States Code. An underwriting limitation of $500,000 has been established for the company.

Name of Company:

Trans Pacific Insurance Company

Business Address:

55 Water Street
New York, New York 10041

State of Incorporation:

New York

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1982 Revision, at page 28885 to reflect this addition. Copies of the circular, when issued, may be obtained from the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: February 28, 1983.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 83-5959 Filed 3-8-83; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1982 Rev., Supp. No. 22]

Surety Companies Acceptable on Federal Bonds; Travelers Indemnity Co. of America

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 9304 to 9308 of Title 31 of the United States Code (formerly 6 U.S.C. Sections 6 to 13). An underwriting limitation of $794,000 has been established for the company.

Name of Company:

The Travelers Indemnity Company of America

Business Address:

One Tower Square
Hartford, Connecticut 06115

State of Incorporation:

Georgia

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1982 Revision, at page 28883 to reflect this addition. Copies of the circular, when issued, may be obtained from the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: February 28, 1983.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 83-5958 Filed 3-8-83; 8:45 am]

BILLING CODE 4810-35-M

Internal Revenue Service

[Delegation Order No. 182 (Rev. 2)]

Automated Collection Branch Managers;

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This delegation order is revised to delegate authority to Automated Collection Branch managers, GS–9 and above, to execute returns under 26 CFR 301.6020–1(b) when the person required to file such return fails to do so. The text of this delegation order appears below.

EFFECTIVE DATE: March 7, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Aron, OP:C:O, Internal Revenue Service, 1111 Constitution Avenue NW., Room 7539, Washington, D.C. 20224; (202) 566–3131 (Not a Toll Free Telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Larry G. Westfall,

Assistant Commissioner (Collection).

Order No. 182 (Rev. 2)

Effective date: 3–7–83

Authority To Execute Returns

The authority granted to the Commissioner of Internal Revenue, by 26 CFR 301.6020–1(b) and 26 CFR 301.7701–9 to execute returns required by any internal revenue law or regulation made thereunder when the person required to file such return fails to do so, is delegated to:

1. Revenue Agents.
2. Tax Auditors.
3. Revenue Officers, GS–9 and above.
4. Collection Office function managers, GS–9 and above.
5. Automated Collection Branch managers, GS–9 and above.

The authority delegated herein may not be redelegated.

Delegation Order No. 182, (Rev. 1), effective December 4, 1981, is superseded.

Dated: February 8, 1983.

James I. Owens,

Deputy Commissioner.

[FR Doc. 83-6014 Filed 3-8-83; 8:45 am]

BILLING CODE 4830-01-M

[Delegation Order No. 42 (Rev. 18)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This delegation order is revised to provide for the redelegation of authority to sign all consents fixing the period of limitations on assessment or collection to personnel assigned to the Examination Support Staff/Section, Grade GS–11. The text of the delegation order appears below.

EFFECTIVE DATE: March 7, 1983.

FOR FURTHER INFORMATION CONTACT: J. J. Thomassen OP:EX:I:E, 1111 Constitution Avenue, NW., Room 2406, Washington, D.C. 20224; Telephone Number (202) 566–6466 (Not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Louie Mays,

Acting Director, Office of IRP, Service Center and Support Programs.

Delegation Order

Order No. 42 (Rev. 18)

Date of issue: March 7, 1983.

Effective Date: March 7, 1983

Subject: Authority to Execute Consents Fixing the Period of Limitations on Assessment or Collection Under Provisions of the 1939 and 1954 Internal Revenue Codes.

1. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 120; Order No. 150–2; 26 CFR 301.6501(c)–1; 26 CFR 301.6502–1; 26 CFR 301.6901–1(d); and 26 CFR 301.7701–9; the authority to sign all consents fixing the period of limitations on assessment or collection is delegated to the following officials:

a. Chief Counsel.

b. Regional Counsel.

c. Regional Directors of Appeals.

d. Service Center Directors.

e. District Directors.

2. This authority may be redelegated but not below the following levels for each activity:

a. Service Centers—Chief, Accounting Branch; Chief, Correspondence and Processing Section; Revenue Officers; Chief, Quality Review Staff; and Returns Program Managers;

b. Collection—Chiefs, Office Branches and Office Groups; Revenue Officers; Chiefs, Technical and Office Compliance Branches and Groups; Revenue Representative Supervisors;

c. Examination—Reviewers, Grade GS–11; Group Managers; Case Managers; Returns Program Managers; Classifiers/Screeners, Grade GS–11; and personnel assigned to the Examination Support Staff/Section, Grade GS–11;

d. Criminal Investigation—Chiefs, Criminal Investigation Divisions, except this authority is streamlined districts is limited to the District Director;

e. Appeals—Appeals Officers;

f. Foreign Operations District—Representatives at foreign posts; Revenue Agents, Tax Auditors, and Special Agents on foreign assignments; and levels b, c and d, above; and

g. District Employee Plans and Exempt Organizations—Reviewers, Grade GS–11; Group Managers.

3. No authority is delegated under this Order to the District Counsel.

4. Delegation Order No. 42 (Rev. 17), effective December 21, 1982, is superseded.

James I. Owens,

Deputy Commissioner.

[FR Doc. 83-6015 Filed 3-8-83; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Advisory Committee on Former Prisoners of War; Meeting

The Veterans Administration gives notice under 38 U.S.C. 211 that a meeting of the Advisory Committee on Former Prisoners of War will be held in the Omar N. Bradley Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC 20420, April 5 and 6, 1983. The purpose of the Committee is to consult with and advise the Administrator of Veterans' Affairs on the administration of benefits under title 38, United States Code, for veterans who are former prisoners of war and on the needs of such veterans with respect to compensation, health care, and rehabilitation.

The session will convene at 9 a.m. each day. These session will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Miss Linda Gardner, Administrative Assistant to the Chief Benefits Director, Veterans Administration Central Office (phone 202/389–2455) prior to March 24, 1983.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. H. B. Mars, Deputy Director, Compensation and Pension Service, Department of Veterans Benefits, Room 400, Veterans Administration Central Office. Submitted material must be received at least five days prior to the meeting. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee. Summary minutes of the meeting and rosters of the Committee members may be obtained from Miss Linda Gardner at the aforementioned address.

Dated: February 23, 1983.

By Direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-5965 Filed 3-8-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 47
Wednesday, March 9, 1983

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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Federal Deposit Insurance Corporation 1, 2
Federal Maritime Commission 3
Federal Mine Safety and Health Review Commission 4, 5
Nuclear Regulatory Commission 6
Securities and Exchange Commission 7

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, March 14, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for Federal deposit insurance:

Fidelity Bank & Trust Company, Salem, New Hampshire, a proposed new bank to be located in the Rockingham Mall on the southwest corner of South Broadway (Route 28) and Rockingham Boulevard, Salem, New Hampshire.

Request for reconsideration of a previous denial of a request for consent to retire a subordinated note prior to maturity:

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

Recommendation regarding the Corporation's assistance agreement with an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: March 7, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-327-83 Filed 3-7-83; 10:52 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, March 14, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of the minutes of previous meetings.

Application for consent to establish a branch:

West Olympia Bank, Los Angeles, California, for consent to establish a branch at 901 South Western Avenue, Los Angeles, California.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,614-L—The Drovers' National Bank of Chicago, Chicago, Illinois
Case No. 45,618-SR—Tri-State Bank, Markham, Illinois
Memorandum and Resolution re: First National Bank of Carrington, Carrington, North Dakota
Memorandum and Resolution re: The Metro Bank of Huntington, Inc., Huntington, West Virginia

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Edwards, Roberts & Winterstein, Oklahoma City, Oklahoma, in connection with the receivership of Penn Square Bank, National Association, Oklahoma City, Oklahoma.
Gable & Gotwals, Tulsa, Oklahoma, in connection with the receivership of Penn Square Bank, National Association, Oklahoma City, Oklahoma (two memorandums).

Memorandum and Resolution re: Amendment to Part 308 of the Corporation's rules and regulations, entitled "Rules of Practice and Procedures," Which would delegate to the Executive Secretary the authority to designate presiding officers for hearings held in connection with proceedings under section 8(g) of the Federal Deposit Insurance Act and petitions for reconsideration of denials of applications under section 19 of the Federal Deposit Insurance Act.

Memorandum re: Division of Liquidation regional office space in Dallas.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Banks Supervision with respect to applications or request approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: March 7, 1983.

Federal Deposit Insurance Cororation.

Hoyle L. Robinson,

Exective Secretary.

[S-328-83 Filed 3-7-83; 10:52 am]

BILLING CODE 6714-01-M

3

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., March 15, 1983.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreement No. 10376–3: Extension of the Discussion and Sailing Agreement between Lykes Bros. Steamship Co. and China Ocean Shipping Co.

2. Proposed Rulemaking to Amend Tariff Filing Requirements for Conferences and Rate Agreements when Filing Open and Independent Action Rates for Controlled Carrier Member Lines.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-333-83 Filed 3-7-83; 3:58 pm]

BILLING CODE 6730-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 3, 1983.

TIME AND DATE: 10 a.m., Wednesday, March 9, 1983.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to the previously announced item on the agenda, the Commission will also consider and act upon the following:

2. Secretary of Labor, ex rel. Milton Bailey v. Arkansas-Carbona Company, Docket No. CENT 81–13–D. (Issues include whether the judge erred in severing the civil penalty proceeding from the discrimination case and whether he erred in awarding 6% interest on the back pay award.)

It was determined by a unanimous vote of Commissioners that Commission business required that the above item be included on the agenda and that no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S-330-83 Filed 3-7-83; 2:46 pm]

BILLING CODE 6735-01-M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 3, 1983.

TIME AND DATE: 2 p.m., Thursday, March 3, 1983.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to the previously announced items on the agenda, the Commission also considered the following:

2. Elk River Sewell Coal Company, Docket No. WEVA 82.207. (Petition for Discretionary Review).

It was determined by a unanimous vote of Commissioners that Commission business required that the above item be added to the agenda and that no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S-331-83 Filed 3-7-83; 2:48 pm]

BILLING CODE 6735-01-M

6

NUCLEAR REGULATORY COMMISSION

DATE: Week of March 7, 1983 and Week of March 14, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Thursday, March 10:*

11:00 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. San Onofre Memorandum and Order Re Arrangements for Medical Services

Friday, March 11:

9:30 a.m.
Briefing on Salem (Public Meeting)
10:30 a.m.
Briefing on INPO Construction Evaluation Program (Public Meeting)

Monday, March 14:

10:00 a.m.
Discussion of Procedures for Hearing on NFS–Erwin (Closed—Exemption 1 and 10)

Tuesday, March 15:

10:00 a.m.
Briefing on Interim Independent Design Verification Program (Public Meeting)
2:00 p.m.
Discussion/Possible Vote on Contested Issues in Palo Verde Full Power Proceeding (Closed—Exemption 1 and 10)

Wednesday, March 16:

10:00 a.m.
Discussion of Management-Organization and Internal Personnel matters (Closed—Exemption 2 and 6)

Thursday, March 17:

4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Regulations to Implement Pub. L. 97–415 (Tentative)

ADDITIONAL INFORMATION:

Discussion/Possible Vote on Contested Issues in Waterford Full Power Proceeding scheduled for March 2, *moved* to Friday, March 4.

Status and Discussion of Shoreham scheduled for March 4, *cancelled.*

On March 3 the Commission voted 4–0 (Commissioner Gilinsky not present), to hold Discussion/Possible Vote on ALAB–714 and 716 scheduled for Friday, March 4.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

March 3, 1983.

Walter Magee,

Office of the Secretary.

[S-332-83 Filed 3-7-83; 3:53 pm]

BILLING CODE 7590-01-M

7

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

STATUS: Closed meetings.

PLACE: 450 5th Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, February 18, 1983.

CHANGES IN THE MEETING: Additional meeting/item. The following item was considered at a closed meeting scheduled on Wednesday, March 2, 1983, at 4:30 p.m.

Regulatory matter bearing enforcement implications.

The following additional item was considered at a closed meeting scheduled for Thursday, March 3, 1983, following the 10:00 a.m. open meeting.

Regulatory matter regarding financial institution.

Chairman Shad and Commissioners Evans, Longstreth and Treadway determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted or postponed, please contact: Bob Zutz at (202) 272–2091.

March 4, 1983.

[FR Doc. S-329-83 Filed 3-7-83; 12:09 pm]

BILLING CODE 8010-01-M

federal register

Wednesday
March 9, 1983

Part II

Environmental Protection Agency

Electrical and Electronic Components Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Proposed Regulations

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 469

[WH-FRL 2298-6]

Electrical and Electronic Components Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency.

ACTION: Proposed regulation.

SUMMARY: EPA is proposing regulations under the Clean Water Act to limit effluent discharges to waters of the United States or to publicly owned treatment works (POTWs) from cathode ray tube and luminescent materials manufacturing facilities. The purpose of this proposal is to establish new source performance standards and pretreatment standards for these industries. After considering comments received in response to this proposal, EPA will promulgate a final rule.

DATE: Comments on this proposal must be submitted by May 9, 1983.

ADDRESS: Send comments to: Mr. John Newbrough, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460, Attention: Electrical and Electronic Components Rules. Technical information and copies of technical documents may be obtained from Mr. John Newbrough, at the address listed above. The economic analysis may be obtained from Ms. Renee Rico, Economic Analysis Staff (WH-586), Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460 or call (202) 382-5397. For further information contact: John Newbrough (202-382-7158).

FOR FURTHER INFORMATION CONTACT: John Newbrough (202) 382-7158.

SUPPLEMENTARY INFORMATION:

Overview: The preamble discusses the legal authority and background, the technical and economic data bases, and other aspects of the proposed regulations. Abbreviations, acronyms, and other terms used in the preamble are defined in Appendix A.

These proposed regulations are supported by three major documents available from EPA. Analytical methods are discussed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants.* EPA's technical conclusions are detailed in the *Development Document for Effluent Limitations Guidelines and Standards for the Electrical and Electronic Component Point Source Category-Phase 2.* The Agency's economic analysis is found in *Economic Impact Analysis of Effluent Limitations Guidelines and Standards for the Electrical and Electronic Components Point Source Category-Phase 2.*

The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2402 (Rear) (EPA Library). The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

Organization of This Notice

I. Legal Authority
II. Background
  A. The Clean Water Act and the NRDC Settlement Agreement
  B. General Criteria for Effluent Limitations
  C. Prior EPA Regulations
  D. Overview and Description of the Industry
III. Summary of Methodology
IV. Data Gathering Efforts
V. Sampling and Analytical Program
VI. Industry Subcategorization
VII. Available Wastewater Control and Treatment Technology
  A. Status of In-Place Technology
  B. Control Treatment Options
VIII. Selection of Treatment Options and Effluent Limitations
IX. Pollutants and Subcategories Not Regulated
  A. Exclusion of Pollutants
  B. Exclusion of Subcategories
X. Cost and Economic Impact
XI. Non-Water Quality Environmental Impacts
XII. Upset and Bypass Provisions
XIII. Variances and Modifications
XIV. Relation to NPDES Permits
XV. Solicitation of Comments
XVI. List of Subjects in 40 CFR Part 469
XVII. Appendices
  A. Abbreviations, Acronyms and Other Terms Used in this Notice
  B. List of Toxic Organics Comprising Total Toxic Organics (TTO)
  C. List of Toxic Pollutants Excluded From Regulation

I. Legal Authority

EPA is proposing the regulations described in this notice under the authority of Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1251 et seq., as amended by the Clean Water Act of 1977, Pub. L. 95-217) (the "Act"). These regulations also are proposed in response to the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified* 12 ERC 1833 (D.D.C. 1979), modified by order dated October 26, 1982.

II. Background

A. The Clean Water Act and the Settlement Agreement

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters," Section 101(a).

- Section 301(b)(1)(A) set a deadline of July 1, 1977, for existing industrial direct dischargers to achieve "effluent limitations requiring the application of the best practicable control technology currently available" ("BPT").
- Section 301(b)(2)(A) set a deadline of July 1, 1983, for these dischargers to achieve "effluent limitations requiring the application of the best available technology economically achievable * * * which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" ("BAT").
- Section 306 required that new industrial direct dischargers comply with new source performance standards ("NSPS"), based on best available demonstrated technology.
- Sections 307 (b) and (c) require pretreatment standards for new and existing dischargers to publicly owned treatment works ("POTW"). While the requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under Section 402, the Act made pretreatment standards enforceable directly against dischargers to POTWs (indirect dischargers).
- Section 402(a) of the 1972 Act does allow requirements for direct dischargers to be set case-by-case. However, Congress intended control requirements to be based for the most part on regulations promulgated by the Administrator of EPA.
- Section 304(b) required regulations that establish effluent limitations reflecting the ability of BPT and BAT to reduce effluent discharge.
- Sections 304(c) and 306 of the Act require regulations for NSPS.
- Sections 304(g), 307(b), and 307(c) require regulations for pretreatment standards.
- In addition to these regulations for designated industry categories, Section 307(a) required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants.
- Finally, Section 501(a) authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

The EPA was unable to promulgate many of these regulations by the deadlines contained in the Act, and as a result, in 1976, EPA was sued by several environmental groups. In settling this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the Court.This agreement required EPA to develop a program and meet a schedule for controlling 65 "priority" pollutants and classes of pollutants. In carrying out this program EPA must promulgate BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 21 major industries. See *National Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976) as modified, 12 ERC 1833 (D.D.C. 1979) and by order dated October 26, 1982.

Several of the basic elements of the Settlement Agreement program were incorporated into the Clean Water Act of 1977. This law also makes several important changes in the Federal water pollution control program.

- Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now set July 1, 1984 as the deadline for industries to achieve effluent limitations requiring application of BAT for "toxic" pollutants. "Toxic" pollutants here includes the 65 "priority" pollutants and classes of pollutants which Congress declared "toxic" under Section 307(a) of the Act.
- Likewise, EPA's programs for new source performance standards and pretreatment standards are now aimed principally at controlling toxic pollutants.
- To strengthen the toxics control program, Section 304(e) of the Act authorizes the Administrator to prescribe certain "best management practices" ("BMPs"). These BMPs are to prevent the release of toxic and hazardous pollutants from: (1) Plant site runoff, (2) spillage or leaks, (3) sludge or waste disposal, and (4) drainage from raw material storage if any of those events are associated with, or ancillary to, the manufacturing or treatment process.

In keeping with its emphasis on toxic pollutants, the Clean Water Act of 1977 also revises the control program for non-toxic pollutants.

- For "conventional" pollutants identified under Section 304(a)(4) (including biochemical oxygen demand, suspended solids, fecal coliform and pH), the new Section 301(b)(2)(E) requires "effluent limitations requiring the application of the best conventional pollutant control technology" ("BCT")—instead of BAT—to be achieved by July 1, 1984. The factors considered in assessing BCT for an industry include the relationship between the cost of attaining a reduction in effluents and the effluents reduction benefits attained, and a comparison of the cost and level of reduction of such pollutants by publicly owned treatment works and industrial sources.

For those pollutants which are neither "toxic" pollutants nor "conventional" pollutants, Sections 301(b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment or by July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of this proposed regulation is to establish NSPS, PSES, and PSNS effluent standards for the Electrical and Electronic Components Point Source Category-Phase 2.

B. General Criteria for Effluent Limitations Considered Under This Regulation

1. New Source Performance Standards. The basis for new source performance standards (NSPS) under Section 306 of the Act is the best available demonstrated technology. New plants have the opportunity to design the best and most efficient processes and wastewater treatment technologies. Therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-process treatment technologies that reduce pollution to the maximum extent feasible.

2. Pretreatment Standards for Existing Sources. Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing sources (PSES), which industry must comply with within a time period not to exceed three years from promulgation. PSES are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of POTWs.

The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based and analogous to the best available technology for removal of toxic pollutants. The General Pretreatment Regulations which serve as the framework for the proposed pretreatment standards are in 40 CFR Part 403, 46 FR 9404 (January 28, 1981).

EPA has generally determined that there is pass through of pollutants if the percent of pollutants removed by a well-operated POTW achieving secondary treatment is less than the percent removal by the best available technology (BAT) model treatment system.

This proposal does not contain a BAT standard, largely because there are only a few direct dischargers and they already have technology in-place, as required by existing permits. In assessing pass-through EPA has assumed that BAT treatment would be equivalent to that required by PSES.

A study of 40 well-operated POTWs with biological treatment and meeting secondary treatment criteria showed that metals are typically removed at rates varying from 20 to 70 percent. POTWs with only primary treatment have even lower rates of removal. In contrast to POTWs, BAT level treatment by sources in this industrial category can achieve metals removals of approximately 96% or more. Accordingly, these metals "pass through" POTWs.

As for toxic organics, data from the same POTWs illustrate a wide range of removals, from zero to greater than 99%. By comparison, sound solvent management practices preventing the dumping of solvents would achieve a TTO reduction of 99% or more over that which would result from solvent dumping. Data regarding the removal of organic compounds in biological treatment systems used by industry in treating organic waste containing solvents, such as used in this industry, demonstrate removals considerably less than this 99% achieved by solvent management. This indicates that pass-through of toxic organic pollutants does occur.

There is no removal of fluoride by a POTW. Removals of 95–96% by precipitation/clarification have been demonstrated at plants in the cathode ray tube subcategory of this industry. Thus, pass-through of flouride does occur.

These standards rely upon precipitation and clarification for metals removal. This treatment system will also, at no additional cost, remove fluoride to the levels required by this regulation. We propose to limit fluoride in the cathode ray tube subcategory because the levels of fluoride in the raw waste in the CRT subcategory are very high—up to 800 mg/l. This is in contrast to the proposed standards for Phase I of this category which did not rely on end-of-pipe treatment and which did not set limits on fluoride and where fluoride's highest occurrence—in the semiconductor subcategory—was only 146 mg/l.

3. Pretreatment Standards for New Sources. Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time that it

promulgates NSPS. These standards are intended to prevent the discharge of pollutants which pass through, interfere with or are otherwise incompatible with a POTW. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies—including process changes, in-plant controls, and end-of-process treatment technologies-and to select plant sites that ensure the treatment system will be adequately installed. Therefore, the Agency sets PSNS after considering the same criteria considered for NSPS. Indirect discharging new sources in these subcategories are expected to have the same pass through of pollutants as existing sources. PSNS will have environmental benefits similar to NSPS.

C. Prior EPA Regulations

On August 24, 1982, EPA proposed Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards as "Phase I" regulations for two subcategories of the Electrical and Electronic Components Category (47 FR 37048). Those subcategories were Semiconductors and Electronic Crystals. No regulations have ever been proposed or promulgated for the Cathode Ray Tube and Luminescent Materials subcategories of E&EC, which are the ones assessed in this rulemaking.

D. Overview of the Industry

The Electrical and Electronic Components Point Source Category (E&EC) includes plants which are a subset of the Standard Industrial Classification (SIC) Major Group 36, Electrical and Electronic Machinery, Equipment and Supplies. However, many of the industries listed under that SIC code were not evaluated as part of the E&EC category because EPA concluded that the wastewater discharges from these industries were more properly associated with unit operations addressed by the Metal Finishing Category. There were originally 21 subcategories in the E&EC industry (47 FR 37048). As part of the Phase I rulemaking, seventeen (17) subcategories were excluded from regulation under Paragraph 8 of the Settlement Agreement, which provides that national guidelines need not be issued for sources which are, generally, not discharging significant toxic pollutants. In Phase I EPA proposed standards for two subcategories (Semiconductors and Electronic Crystals) on August 24, 1982, 47 FR 37048. Two further subcategories—Luminescent Materials and Electron tubes—were to be the subject of these Phase II Standards. 47 FR 37054. In developing these standards, however, EPA has realized that Electron Tubes should be segmented into Cathode Ray Tubes and Receiving and Transmitting Tubes. The latter segment is excluded from regulation under the provision of paragraph 8(a)(1) of the Settlement Agreement. See Section IX(a)(2), below. Thus two subcategories—Cathode Ray Tubes and Luminescent Materials—are the subject of this Phase II rulemaking, which will complete the assessment of the electrical and electronic components category.

The cathode ray tube (CRT) segment of the Electron Tube subcategory (now the Cathode Ray Tube subcategory) is comprised of approximately twenty-two (22) plants: twenty-one (21) are indirect dischargers and one is a direct discharger. The major pollutants discharged by CRT plants are cadmium, zinc, chromium, lead, toxic organics, fluoride, and suspended solids.

The Luminescent Materials subscategory consists of two (2) direct dischargers, two (2) indirect dischargers and one (1) plant which used an evaporation pond with no surface water discharge. The major pollutants discharged by liminescent materials plants are cadmium, fluiride, zinc, antimony and suspended solids.

III. Summary of Methodology

EPA first studied the Electrical and Electronic Components Point Source Category-Phase 2 to determine whether differences in raw materials, final products, manufacturing processes, equipment, age and size of plants, water usage, wastewater constituents, or other factors required the development of separate effluent limitations and standards for different segments of the category. This involved a detailed analysis of wastewater discharge and treated effluent characteristics, including: (1) The sources and volume of water used, the processes employed, and the sources of pollutants and wastewaters in the plant; and (2) the constituents of wastewaters, including toxic pollutants. This analysis enabled the Agency to determine the concentrations of toxic pollutants in the major wastewater discharges.

EPA also identified several distinct control and treatment technologies (both in-plant and end-of-pipe), including those with the potential for use in the Electrical and Electronic Components for use in the Electrical and Electronic Components Point Source Category-Phase 2. The Agency analyzed both historical and newly generate data on the performance of these technologies, including their non-water quality environmental impacts on air quality, solid waste generation, and energy requirements.

The cost of each control and treatment technology was estimated from unit cost curves developed by applying standard engineering analysis to wastewater characteristics. EPA derived the unit process costs by applyng model plant wastewater characteristics (production and flow) to the unit cost curve of each treatment process. These unit process costs were added together to yield the total cost at each treatment level.

Consideration of these factors enabled EPA to characterize the various control and treatment technologies used as a basis for PSES, PSNS, and NSPS. The proposed regulations, however, do not require the installation of any particular technology. Rather, they require achievement of effluent limitations representative of the proper operation of these technologies or equivalent technologies.

IV. Data Gathering Efforts

Between 1979 and 1982, under the authority of Section 308 of the Act, EPA and its contractors contacted by letter and phone approximately 150 plants producing electron tubes and luminescent materials. Using information gathered from these contacts, EPA selected nine plants to visit to view their operations and discuss products, manufacturing processes, water use and wastewater treatment. Six plants were selected for sampling visits to determine pollutant characteristics of the wastewater.

The Agency also collected information on treatment systems not currently used in the industry. In collecting this information, EPA surveyed literature, contacted waste treatment equipment manufacturers and observed applicable treatment systems used by other industries.

Data for the economic analysis were obtained from published information, inquiries to waste treatment equipment manufacturers, and personal contacts with industry.

In addition to the foregoing data sources, supplementary data were obtained from NPDES permit files in EPA regional offices and contacts with state pollution control offices.

V. Sampling and Analytical Program

The sampling and analysis program for this rulemaking concentrated on the toxic pollutants designated in the Clean Water Act. However, conventional and nonconventional pollutants were also

sampled and analyzed. Both inorganic toxic and organic toxic pollutants were sampled for in the wastes. EPA used the analytical techniques described in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants*, revised April 1977. A very similar method is found among those proposed on December 3, 1979. Metals analysis was by AA spectrophotometry, except that the standard cold vapor method was used for mercury. We made minor changes in the 304(h) method in order to avoid excessive matrix interference that caused high limits of detection. Analyses for cyanide and cyanide amenable to chlorination also used 304(h) methods. Analysis for abestos fibers used transmission electron microscopy with selected area defraction; results were reported as chrysotile fiber count. Analyses for conventional pollutants (BOD^5, TSS, pH, and oil and grease) and nonconventional pollutants (total residual chlorine, iron, ammonia, fluoride, and COD) were performed by 304(h) methods. The Agency has not promulgated analytical methods for many of the organic toxic pollutants under Section 304(h) of the Act, although a number of these methods have been proposed (44 FR 69464, December 3, 1979; 44 FR 75028, December 18, 1979). Additional information on the development of sampling and analysis methods for toxic organic pollutants is contained in the preamble to the proposed regulations for the Leather Tanning Point Source Category, 44 FR 38749, July 2, 1979.

EPA checked for the presence and magnitude of 65 toxic pollutants and classes of pollutants (as listed in the NRDC Consent Decree) and a smaller group of conventional and non-conventional pollutants suspected to be present in this industry's wastewaters. Sampled plants were selected to be representative of the manufacturing processes, the prevalent mix of production among plants, and the current treatment technology in the industry. During the sampling program EPA sampled 4 plants in the cathode ray tube and 2 plants in the luminescent materials subcategories.

Wherever possible, each sample of an individual raw waste stream, a combined waste stream, or a treated effluent was collected by an automatic time series compositor during sampling periods as long as 72 hours. Where automatic compositing was not possible, grab samples were taken and composited manually.

VI. Industry Subcategorization

In developing this regulation, the Agency considered whether different effluent limitations and standards are appropriate for different segments of the Electrical and Electronic Components manufacturing industry. The Act requires EPA to consider a number of factors to determine if subcategorization is needed. These factors include raw materials, final products, manufacturing processes, geographical location, plant size and age, wastewater characteristics, non-water-quality environmental impacts, treatment costs, energy costs, and solid waste generation.

After considering the above factors the Agency concluded that product type was the appropriate basis for subcategorization. Product type determines both the raw and process material requirements and the number and type of manufacturing processes used. Plants manufacturing the same product were found to have similar wastewater characteristics. Other factors affected the wastewater characteristics, but were not significant enough in themselves to be used as the basis for subcategorization.

Using product type as a basis, EPA identified (1) the Luminescent Materials subcategory and redefined the Electron Tube subcategory as (2) Receiving and Transmitting tubes and (3) Cathode Ray Tubes subcategories.

This redefinition was necessary because Electron Tube manufacturing is comprised of two distinct product types employing different raw materials and manufacturing processes. Therefore this subcategory has been divided into two segments, based on the products produced; (1) cathode ray tubes, and (2) receiving and transmitting tubes.

Luminescent Materials production generates significant wastewater and EPA has retained it as a subcategory. Cathode Ray Tube manufacture also employs raw materials and process operations which generate wastewater. These standards cover wastewater from those processes. However, production of receiving and transmitting tubes is a dry process. Thus EPA is not proposing that today's standards cover the Receiving and Transmitting Tubes subcategory.

The Development Document provides further background on decisions concerning subcategorization and on the make-up of the regulated subcategories.

VII. Available Wastewater Control and Treatment Technology

A. Status of In-Place Technology

This section describes the status of in-place technology for the subcategories to be regulated by this rulemaking: Cathode Ray Tubes and Luminescent Materials.

Wastewater treatment techniques currently used in the cathode ray tube subcategory include both in-process and end-of-pipe waste treatment. In-plant process waste treatment is designed to remove pollutants from contaminated manufacturing process wastewater at some point in the manufacturing process. End-of-pipe treatment is wastewater treatment at the point of discharge.

In-process control techniques with widespread use in the cathode ray tube subcategory are: (1) Collection of spent solvents for resale, reuse or disposal, and (2) segregation of spent acid wastes for contract hauling. Contract hauling refers to the industry practice of contracting a firm to collect and transport wastes for off-site disposal.

End-of-pipe controls in the cathode ray tube subcategory consist primarily of neutralization. In addition, six of the seven Cathode ray tube plants, which manufacture tubes, and three of the fifteen remaining cathode ray tube plants use end-of-pipe precipitation/clarification for control of toxic metals.

In the Luminescent Materials subcategory the two direct dischargers have combined end-of-pipe treatment systems that utilize precipitation/clarification technologies. Of the three other plants in the subcategory, one evaporates its liquid waste and has no industrial discharge and two are indirect dischargers, one of which neutralizes its wastes end-of-pipe and the third uses precipitation/clarification technology to control toxic metals prior to discharge.

B. Water Use

The water used in the production of CRTs is deionized DI) water which is very expensive to produce using an ion exchange process. Because of the high costs of DI water, the industry practice is to reuse/recycle and conserve water to whatever extent is practical. Therefore, further wastewater flow reduction by increased water conservation and recycle does not appear practicable. The plant-to-plant variability of the degree of water reuse and recycle is a function of general product quality requirements and, to a lesser extent, of site specific water supply factors. This made it infeasible to derive a correlation between water flow and production. An effort was even made to establish a relationship between DI water produced and plant production level. This absence of a relationship between production and wastewater flow precluded the use of

mass based limits. That is why this proposal would set concentration-based limits.

C. Control Treatment Options

EPA considered the following treatment and control options for wastewater discharges from facilities within the Cathode Ray Tube and Luminescent Materials subcategories. The options evaluated are based on treatment observed in plants EPA visited or which described their own treatment processes. They are discussed in further detail in the Development Document, in Chapter VII.

Option 1—Neutralization for pH control.

Option 2—Option 1 plus end-of-pipe precipitation/clarification for treatment of toxic metals (cadmium, chromium, antimony, lead, zinc), fluoride, and total suspended solids (TSS).

Option 3—Option 2 plus filtration for further reduction of toxic metals.

Option 4—Solvent management for control of toxic organics. Solvent management is not an end-of-pipe treatment system, but rather an in-plant control which consists of modifying piping to collect used solvents for resale or contract disposal. Process wastewater is the only other source of toxic organics for these subcategories. Since the spent solvents would not be discharged into the wastewater, toxic organic limitations based on this control would be equivalent to the maximum concentration of toxic organics found in the discharge as a result of process wastewater contamination. As an in-plant control, this option could be used in consort with any of the other options and it was considered in connection with each.

As previously stated, one plant in the luminescent materials subcategory utilizes a non-discharging evaporation pond. Evaporation ponds were not considered because they achieve a zero discharge status through evaporative losses only in dry, arid, regions of the country. Therefore, because of the geographical constraints on the viability of an evaporation system, it is not amenable to being utilized in national regulations. In addition evaporation cost is tied to space availability. The only plant now using evaporation as a control technology had process wastewater flows below those generally observed at larger plants. Further flow reductions are unlikely since, as discussed above, plants already have incentives to minimize process water use.

VIII. Selection of Treatment Options and Effluent Limitations

A. Cathode Ray Tubes

The technology basis for each standard for the Cathode Ray Tube subcategory is presented below, along with the rationale for selecting the specific treatment option. The technologies and wastewater characteristics are discussed in more detail in the Development Document for this rulemaking.

The Agency is proposing not to regulate existing direct dischargers for the reasons cited in Section IX (Pollutants and Subcategories Not Regulated). Therefore, BPT, BAT and BCT effluent limitations have not been proposed.

1. *PSES.* EPA has selected precipitation/clarification for the control of toxic metals and fluoride (Option 2) plus solvent management for control of toxic organics (Option 4) for PSES. This technology is widely demonstrated in this industry as well as other industries with similar raw wastes. Metals removal greater than 96% have been demonstrated. Option 1 was rejected because data indicated that greater removals were achievable at Option 2 which was economically achievable and already widely utilized. EPA is continuing to give serious consideration to, and is soliciting comment regarding, the selection of Option 3 as a final regulation. Filtration is not now the proposal of choice because the additional 1472 annual pounds of national pollutant reduction accomplished by Option 3 are not significant in comparison to the low effluent levels already accomplished by Option 2 in the treatment train. Section VII of the Development Document contains a discussion and tables concerning the effluent concentrations that can be achieved using lime precipitation/clarification (Option 2) and those that would be achieved by the addition of a filter (Option 3).

Pollutant removals and costs of options 2 and 3 are summarized below. (See Section X of this preamble for the economic impacts.) Removals and compliance costs are increments beyond estimates of current discharge and treatment in place.

	Pollutant removal (number per year)		Costs (dollars in thousand)	
	Toxics (lb/yr)	Fluoride (lb/yr)	Capital	Annual
Option 2	62,270	1,476,000	$4,946	$2,744
Option 3 (beyond Option 2)	1,472		719	301

Toxic organics are being regulated as the total of all toxic organics found in the discharge at concentrations greater than 0.01 milligrams per liter. Toxic organics summed for the total are listed in Appendix A. The rationale for regulating toxic organics as a combined total is that many different solvents are used by the cathode ray tube subcategory and it would be very difficult to collect sufficient data to limit the individual toxic organic compounds resulting from the use of these solvents. (See paragraph C, in Section XIV.) As stated before, the limitation for total toxic organics (TTO) is the highest concentration of TTO found in the discharge from any CRT plant, all of which already practice in-plant solvent management. Accordingly, no additional cost will result from this regulation.

Because only limited TTO date are available from the CRT subcategory, the Agency also reviewed data from other industries, including other E&EC subcategories, to assess the reasonableness of this limitation. In the metal finishing industry, data indicate that precipitation/clarification technology reduces TTO by 80 percent. In the semiconductor subcategory of this industry, raw waste TTO levels at plants practicing good solvent management occur at from 0.03 to 1.4 milligrams per liter. Thus, if the CRT subcategory were to exhibit raw waste TTO levels within the range observed at semiconductor plants, reduction of TTO through Option 2 technology would result in effluent TTO levels near the proposed 0.15 milligram per liter limitation. EPA believes, however, that most plants will continue to meet TTO levels through solvent management rather than through reliance on end-of-pipe treatment.

The Agency is not proposing a monthly average limitation for TTO. Monthly averages differ from daily limits in order to deal with expected performance variations. The proposed daily maximum limitation for TTO is based on solvent management, which, unlike most treatment options, does not entail pollution control equipment and is therefore not subject to significant performance variations. Accordingly, there is no need to establish a monthly

average different from the daily maximum.

EPA is proposing to establish a compliance date of eighteen months from the date of promulgation for these pretreatment standards because that period reflects the time that our analyses indicate will be required to plan, install, and adjust necessary control technology.

2. *NSPS and PSNS.* For NSPS and PSNS, the Agency is proposing standards based on Options 3 and 4. This technology consists of solvent management plus end-of-pipe precipitation/clarification followed by filtration. Based on model plant flows ranging from 10,000 to 500,000 gals/day, incremental capital investment costs for PSNS range from $5,200 to $165,000, and annualized costs from $2,100 to $68,500. The annualized costs represent less than an 8% increase in treatment costs over treatment required for similarly sized existing plants with an additional estimated 2.4 percent of metals removed. This cost should present no significant barrier to entry of new firms. For NSPS, since BAT is not proposed, the analysis for new direct dischargers uses total costs rather than incremental costs. Total capital investment costs for pollution control range from $113,100 to $1.7 million, and total annualized costs range from $77,660 to $905,200 depending on the size of the relevant plants. The impact of these costs is considered to be small, but the Agency invites comment on the effect of treatment costs on new sources.

B. Luminescent Materials

The technology basis for each standard for the Luminescent Materials subcategory is presented below along with the rationale for selecting the specific treatment option. The technologies and wastewater characteristics are discussed in more detail in the Development Document. The Agency is not proposing to regulate existing direct or indirect dischargers in this subcategory for the reasons cited in Section IX (Pollutants and Subcategories Not Regulated). Therefore, BPT, BAT, BCT and PSES effluent limitations and standards have not been proposed.

1. *NSPS and PSNS.* For NSPS and PSNS, EPA is proposing limitations based on end-of-pipe precipitation/clarification (Option 2) which has been demonstrated within the industry. This option would control cadmium, antimony, zinc, fluoride, TSS and pH in both the NSPS and PSNS. Option 1 alone (pH neutralization) was not selected because Option 2 achieved far greater removals of toxic metals at economically achievable costs. Option 3 (Option 2 plus filtration) is not now the proposal of choice because it will only achieve minimal further reduction of pollutant levels in the effluent, as presented in Chapter VII of the development document. Total capital investment costs for new sources in the Luminescent Materials subcategory range from $91,100 to $1.2 million, total annualized costs range from $68,200 to $589,600 depending on the size of the relevant plants. A comparison of annual treatment cost to sales indicates that the impact on end-products would be small, and treatment costs are not expected to result in significant barriers to entry. While the Agency does not project a significant impact from these new sources standards, this conclusion is based on available data, and the Agency invites comments and data on the effect of new source treatment costs.

IX. Pollutants, Subcategories and Subcategory Segments not Regulated

A. Settlement Agreement

The Settlement Agreement specified 65 categories of toxic pollutants as of "priority" concern. EPA, by regulation, specified 126 pollutant parameters as measures for those pollutants. The Agreement also contained provisions authorizing the exclusion from regulation, in certain circumstances, of toxic pollutants and industry categories and subcategories. These provisions have been rewritten in a Revised Settlement Agreement which was approved by the District Court for the District of Columbia on March 9, 1979, *NRDC* v. *Costle,* 12 ERC 1833.

EPA proposes to set standards for some of those 126 pollutant parameters and for two additional subcategories of this industry, while excluding other pollutant parameters and one additional subcategory from these standards. Data supporting exclusion of the pollutants and subcategories and subcategory segments identified below are presented in the Development Document for this rulemaking.

1. *Exclusion of Pollutants in the CRT and Luminescent Materials Subcategories.* EPA proposes to exclude ninety-six (96) toxic pollutants listed in Appendix C from regulation for the Cathode Ray Tube subcategory. The basis of the proposed exclusion for eighty-six (86) of these pollutants is Paragraph 8(a)(iii) which allows exclusion for pollutants which are not detectable with state-of-the-art analytical methods. The basis of exclusion for another 10 (the nine listed in Appendix C plus antimony) is also provided by Paragraph 8(a)(iii) which allows exclusion of pollutants which are present in amounts too small to be effectively reduced by technologies known to the administrator.

For the Luminescent Materials subcategory we are proposing to exclude 123 pollutants under paragraph 8(a)(iii) of the Decree (of these, 26 are organic solvents controlled in the CRT subcategory by the TTO limit). Luminescent Material plants have stated that they do not use solvents containing these 26 pollutant parameters and EPA believes they will not be present in detectable levels in effluent from this subcategory. Of the 96 toxic pollutants excluded under paragraph 8(a)(iii) in the CRT subcategory, one (antimony) was found in significant quantities and will be regulated in the Luminescent Materials subcategory. The remaining 95 will be excluded on the basis of paragraph 8(a)(iii), for the same reasons as in the CRT subcategory. In addition, lead and chromium, which are regulated in the CRT subcategory were not found at treatable levels from plants in the Luminescent Materials subcategory and therefore will be excluded from further regulation under paragraph 8(a)(iii).

2. *Exclusion of Subcategories and Subcategory Segments.* The manufacture of Receiving and Transmitting Type Electron Tubes is a dry process. That subcategory therefore will be excluded from further regulation under the provisions of paragraph 8(a)i of the Settlement Agreement.

The Agency is proposing to exclude from regulation existing direct dischargers in the Cathode Ray Tube segment of the Electron Tube subcategory. This subcategory is excluded from regulation under the provisions of paragraph 8(a)(iv) on the basis that there is only one direct discharger which is already subject to an NPDES permit, and has Option 3 (precipitation/clarification/filtration) treatment in place. Its current discharge of toxic pollutants is less than 2 pounds/day.

The Agency is also proposing to exclude from regulation all existing dischargers in the Luminescent Materials subcategory under the provisions of paragraph 8(a)(iv). Of the five (5) plants in this subcategory, 2 are direct dischargers. Each of these 2 plants discharge after treatment required by existing NPDES permits less than 1 pound/plant of toxic metals per day. Two of the remaining plants in the Luminescent Materials subcategory are indirect dischargers. EPA proposes to exclude these plants from national categorical pretreatment standards under the provisions of paragraph 8(b)(ii) of the Decree on the basis that

the amount of toxic pollutants introduced into POTWs is less than 2 pounds/plant each operating day. The remaining plant in the Luminescent Materials subcategory utilizes an evaporation pond which does not discharge to sufrace water.

B. Conventional Pollutants

BOD, and oil and grease are not being regulated for either subcategory because they were found only at concentrations below treatability.

X. Cost and Economic Impact

Executive Order 12291 requires EPA and other agencies to perform regulatory impacts analyses of major regulations. Major rules are those which impose a cost on the economy of $100 million a year or more or have certain other economic impacts. This regulation is not a major rule because its annualized cost of $2.7 million is less than $100 million and it meets none of the other criteria specified in Section 1(b) of the E.O. 12291.

The Agency's economic impact assessment is presented in the report entitled *Economic Impact Analysis of Proposed Effluent Guidelines and Standards for the Electrical and Electronic Components Industry Phase II—Cathode Ray Tubes and Luminescent Coatings Subcategories* EPA 440/2–83–001. This report details the investment and annual costs for the Phase II portion of the Electrical and Electronic Components Category. Compliance costs are based on engineering estimates of capital requirements for the effluent control systems described earlier in this preamble. The report assesses the impact of effluent control costs in terms of price changes, production changes, plant closures, employment effects, and balance of trade effects. The impacts for each option are discussed in the report and summarized below.

In addition, EPA has conducted an analysis of the incremental removal cost per pound equivalent for each of the proposed technology-based options. A pound equivalent is calculated by multiplying the number of pounds of pollutant discharged by a weighting factor for that pollutant. The weighting factor is equal to the water quality criterion for a standard pollutant, divided by the water quality criterion for the pollutant being evaluated. The use of "pound equivalent" gives relatively more weight to removal of more toxic pollutants. Thus, for a given expenditure, the cost per pound equivalent removed would be lower when a highly toxic pollutant is removed. This analysis is included in the record of rulemaking "Cost Effectiveness Analysis of Proposed Effluent Limitations and Standards for the Electrical and Electronic Components Industry—Phase II". EPA invites comments on the methodology.

EPA has identified 27 plants in the Phase II subcategories that are covered by this regulation. Of these 27 plants, 3 plants are direct dischargers, 18 are indirect dischargers, and 6 discharge no wastewater.

PSES: Compliance costs for PSES for the CFR subcategory total $4.9 million for capital investment and $2.7 million annually (1982 dollars). These are all associated with installation of Option 2 (precipitation/clarification). No additional costs are predicted for Option 4 since all plants already practice solvent recovery. No plant closures or job losses are projected as a result of compliance costs for this regulation.

PSNS: For model plants in the CFT subcategory, incremental capital investment costs range from $5,200 to $165,000, and incremental annualized costs range from $2,100 to $68,000 depending on assumptions concerning plant size. The annualized costs represent less than an 8 percent increase over treatment costs for similarly sized existing plants. The price increases associated with these costs range from 0.1 to 0.8 percent and are not likely to result in a competitive disadvantage for new sources. For the Luminescent Materials subcategory, new source costs reflect the total cost of the treatment technology (not incremental) because no pretreatment standards are proposed for existing indirect dischargers. Capital investment costs range from $91,100 to $1.2 million depending on the size of the plant. Total annualized costs range from $68,200 to $589,600. The analysis of new source costs for this subcategory compares annual treatment costs to annual plant sales. The impacts for an average or large new plant are small and are not expected to result in significant barriers to their entry into the subcategory. The impacts on the smallest new plants, while larger than for the other sizes, are not expected to cause severe problems in entering the industry. Total annual treatment costs as a percentage of sales are expected to range from 1.8 to 10.4% for new small plants.

NSPS: For model plants in the CFR subcategory, new source costs for direct dischargers reflect the total costs of the pollution control technology. Capital investment ranges from $113,100 to $1.7 million, and total annualized costs range from $77,600 to $905,200 depending on plant size. The impact of the treatment costs per tube ranges from 0.2 to 3.1 percent. These impacts are considered to be small, but the Agency invites comment on the effect of treatment costs on new sources. For new sources in the Luminescent Materials subcategory, the costs and impacts are the same for both direct and indirect dischargers. The costs and comparisons to sales are shown above, under PSNS. No significant barriers to entry are expected.

Public Law 96–354 requires EPA to prepare an initial Regulatory Flexibility Analysis for all proposed regulations that have a significant impact on a substantial number of small entities. This analysis may be done in conjunction with or as a part of any other analysis conducted by the Agency. The economic impact analysis described above indicates that there will not be a significant impact on any segment of the regulated population, large or small. Therefore, a formal regulatory flexibility analysis is not reqiured.

XI. Non-Water Quality Aspects of Pollution Contol

The elimination or reduction of one form of pollution may aggravate other environmental problems. Sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental inpacts of these regulations including air and noise pollution, radiation, solid waste generation, and energy requirements.

Compliance with the proposed regulations, including NSPS and PSNS will have no effect on air, noise, or radition pollution and will only result in minimal solid waste generation and will only result in minimal solid waste generation and minimal increased energy usage. The amount of solid waste generated per year will be 1,200 metric tons, beyond that now generated. Available information indicates that the solid waste generated will not be hazardous as defined in the Resource Conservation and Recovery Act (RCRA). Energy requirements associated with these regulations will be 24,000 kilowatt-hours per year of only 6.4 kilowatt-hours per day per facility, beyond that now used for wastewater treatment.

EPA's relevant program offices have had an opportunity to review this data and, based on the above non-water quality impacts from these regulations, the Agency has concluded that the proposed regulation best serves overall national environmental goals.

XII. Upset and Bypass Provisions

A recurring issue is whether industry limitations and standards should include

provisions that authorize noncompliance during "excursion" is unintentional noncompliance beyond the reasonable control of the permittee. EPA believes that upset provisions are necessary, because upsets will inevitably occur, even if the control equipment is properly operated. Because technology based limitations can require only what technology can achieve, many claim that liability for upsets is improper. When confronted with this issue, courts have been divided on the questions of whether an explicit upset or excursion exemption is necessary or whether upset or excursions incidents may be handled through EPA's enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F. 2d 1253 (9th Cir. 1977) with *Weyerhaeuser* v. *Costle, supra* and *Corn Refiners Association, et al.* v. *Costle*, No. 78–1069 (8th Cir. April 2, 1979). See also *American Petroleum Institute* v. *EPA*, 540 F. 2d 1023 (10th Cir. 1976); (*CPC International, Inc.* v. *Train*, 540 F. 2d 1320 (8th Cir. 1976); *FMC Corp.* v. *Train*, 539 F. 2d 973 (4th Cir. 1979).

Unlike an upset—which is an unintentional episode—a bypass is an intentional noncompliance to circumvent waste treatment facilities during an emergency. EPA has both upset and bypass provisions in NPDES permits, and the NPDES portions of the Consolidated Permit regulations include upset and bypass permit provision. See 40 CFR Part 122.60, 44 FR 32854, 32862–3 (June 7, 1979). The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-base effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Since permittees in the cathode ray tube and luminescent materials subcategories are entitled to the upset and bypass provisions in NPDES permits, this proposed regulation does not repeat these provisions. Upset provisions are also contained in the Genral Pretreatment regulation.

XIII. Variances and Modifications

When the final regulation for a point source category is promulgated, subsequent Federal and State NPDES permits to direct dischargers must enforce the effluent standards. Also, the pretreatment limitations apply directly to indirect dischargers.

Indirect dischargers subject to PSES are eligible for the "fundamentally different factors" variance and credits for pollutants removed by POTW. See 40 CFR 403.7; 403.13; 46 FR 9404 (January 28, 1981). Indirect dischargers subject to PSNS are eligible only for the credits provided for in 40 CFR 403.7. New sources subject to PSNS are not eligible for EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. See *E. I. du Pont de Nemours* v. *Train*, supra.

XIV. Relation to NPDES Permits and General BCT Treatment

A. The NSPS in this regulation will be applied to individual plants through NPDES permits issued by EPA or approved State agencies under Section 402 of the Act. Under the proposed regulation for the Electrical and Electronic Components Category, all limitations are concentration based. As discussed in section VII–B, national mass based limitations are not provided because the Agency has determined that a fundamental relationship between production and pollutant loadings cannot be broadly established for either subcategory. See 40 CFR 122.63(f). Permitting authorities can derive mass based limitations by multiplying the concentration limit by the undiluted discharge flow. The Effluent Guidelines Division can assist the permitting authorities in making this determination, especially with respect to the validity of the flow levels presented by a permittee as representative of their plant.

The preceding section of this preamble discusses the binding effect of this regulation on NPDES permits, except when variances and modifications are expressly authorized. The following adds more detail on the relation between this regulation and NPDES permits.

B. One subject that has received different judicial rulings is the scope of NPDES permit proceedings when effluent limitations and standards do not exist. Under current EPA regulations, States and EPA regions that issue NPDES permits before regulations are promulgated must do so on a case-by-case basis. This regulation provides a technical and legal base for new permits.

Another issue is how the regulation affects the authority of those that issue NPDES permits. EPA has developed the limitations and standards in this regulation to cover the typical facility for this point source category. In specific cases, the NPDES permitting authority may have to establish permit limits on toxic pollutants that are not covered by this regulation. This regulation does not restrict the power of any permit-issuing authority to comply with law or any EPA regulation, guideline, or policy. For example, if this regulation does not control a particular pollutant, the permit issuer may still limit the pollutant on a case-by-case basis, when such action conforms with the purposes of the Act. In addition, if State water quality standards or other provisions of State or Federal law require limits on pollutants not covered by this regulation (or require more stringent limits on covered pollutants), the permit-issuing authority *must* apply those limitations.

C. An alternative to effluent monitoring for TTO was proposed in § 469.12 of the E&EC Phase 1 regulation proposed August 24, 1982, 47 FR 37058. In lieu of monitoring for TTO, EPA proposed to allow the permit authority to allow direct dischargers to make the following certification as a "Comment" on the Discharge Monitoring Report required by § 122.62(e) "I certify that, since filing the last discharge monitoring report, toxic organic compounds have not entered the wastewater in quantities that will exceed the discharge limits for TTO". In addition, in lieu of requiring monitoring for TTO, EPA proposed to permit control authorities to allow industrial users of POTWs to make the following certification as a comment to the periodic reports required by § 403.12(e) "Periodic reports on continued compliance." The Phase I proposal also specified that dischargers must specify the toxic organic compounds used and the procedures used to prevent excessive wastewater discharge of toxic organics. EPA requests comment on applying this same approach to dischargers in the Cathode Ray Tube subcategory.

In response to the Phase I proposal, a number of comments were received suggesting that the certification language was overly restrictive and recommending revision of the language. These comments are being considered, and where appropriate, will be incorporated in the final E&EC Phase I regulation upon promulgation. That regulation is scheduled to be signed by the Administrator by March 31, 1983.

D. A final topic of concern is the operation of EPA's NPDES enforcement program, which was an important consideration in developing this regulation. The Agency emphasizes that although the Clean Water Act is a strict liability statute, EPA can initiate enforcement proceedings at its discretion (*Sierra Club* v. *Train*, 557, F 2d 485, 5th Cir., 1977). EPA has exercised and intends to exercise that discretion in a manner that recognizes and promotes good-faith compliance.

E. Indirect dischargers covered by the PSES and PSNS standards proposed today may also be subject to local pretreatment ordinances and the requirements of EPA's General Pretreatment Regulations. See, 40 CFR § 403. Those regulations include

provisions for base-line monitoring reports, compliance reports, credits for pollutant removals achieved by POTWs, and standards prohibiting interference with POTW operations. The provisions of 40 CFR 403.6(e) also provide a "combined waste stream formula" for determining effluent significant limits when quantities of differing waste streams are combined. Since the plants covered by today's proposal do not combine E&EC wastes with significant other waste streams, that provision should seldom be needed for these subcategories.

XV. Solicitation of Comments

EPA invites and encourages public participation in this rulemaking. The Agency asks that any deficiencies in the record of this proposal be specifically addressed and particularly asks that suggested revisions or corrections be supported by data.

EPA is particularly interested in receiving additional comments and information on the following issues:

1. The Agency is continuing to seek additional data, specifically from those plants engaged in the production of cathode ray tubes and use solvents in the productions process for cleaning and degreasing operations. To regulate the board array of toxic organics, TTO has been selected as the control parameter. The limit for TTO is not based on a specific treatment technology but represents the amount of toxic organics which were detected in the raw waste loan from plants in the data base which practice solvent recovery. The Agency requests that those plants that may have analyzed their effluent for toxic organic compounds known to be present in the solvents used, submit that data along with the analytical method used.

2. The Agency requests comments on the selection of chemical precipitation/clarification versus filtration for new sources and existing sources in the cathode ray tube and luminescent materials subcategories.

The reporting provisions in this rule will be submitted for approval to the Office of Management and Budget of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. Any final rule will explain how its reporting provisions respond to any Office of Management and Budget or public comments.

List of Subjects in 40 CFR Part 469

Electric and electronic equipment, Waste treatment and disposal, Water pollution control.

Date: February 28, 1983.

Anne M. Burford,

Administrator.

XVII. Appendices

Appendix A—Abbreviations, Acronyms, and Other Terms Used in This Notice

Act—The Clean Water Act.

Agency—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable under Section 304(b)(2)(B) of the Act.

BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act.

BMP—Best management practices under Section 304(e) of the Act.

BPT—The best practicable control technology currently available under Section 304(b)(1) of the Act.

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.), as amended by the Clean Water Act of 1977 (Public Law 95-217).

Direct Discharger—A facility which discharges or may discharge pollutants into waters of the United States.

Indirect Discharger—A facility which discharges or may discharge pollutants into a publicly owned treatment works.

NPDES Permit—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act.

NSPS—New source performance standards under Section 306 of the Act.

POTW—Publicly owned treatment works.

PSES—Pretreatment standards for existing sources of indirect discharges under Section 307(b) of the Act.

PSNS—Pretreatment standards for new sources of direct discharges under Section 307(b) and (c) of the Act.

RCRA—Resource Conservation and Recovery Act (Pub. L. 94-580) of 1976. Amendments to Solid Waste Disposal Act.

Appendix B—List of Toxic Organics Comprising Total Toxic Organics (TTO) for the Cathode Ray Tube Subcategory and excluded from the Luminescent Materials Subcategory.

1,2,4 trichlorobenzene
chloroform
1,2, dichlorobenzene
1,3 dichlorobenzene
1,4 dichlorobenzene
ethylbenzene
1,1,1 trichloroethane
methylene chloride
napthalene
2 nitrophenol
phenol
bis(2-ethylhexyl) phthalate
tetrachloroethylene
toluene
trichloroethylene
2 chlorophenol
2,4 dichlorophenol
4 nitrophenol
pentachlorophenol
di-n-butyl phthalate
anthracene
1,2 diphenylhydrazine
isophorone
butyl benzyl phthalate
1,1 dichloroethylene
2,4,6 trichlorophenol

Appendix C—List of Pollutants Excluded From Regulation

The following nine (9) pollutants are being proposed for exclusion from further regulation for both subcategories under Paragraph 8(a)(iii) because they are present in amounts too small to be effectively reduced by technologies known to the administrator: arsenic, beryllium, copper, mercury, nickel, selenium, silver, thallium, and cyanide.

The following list of eighty-six (86) pollutants are being proposed for exclusion from further regulation for both subcategories under Paragraph 8(a)(iii) because they were not detected in the effluent.

1. Acenaphthene
2. Acrolein
3. Acrylonitrile
4. Benzene
5. Benzidine
6. Carbon Tetrachloride
7. Chlorobenzene
8. Hexachlorobenzene
9. 1,2-Dichloroethane
10. Hexachloroethane
11. 1,1-Dichloroethane
12. 1,1,2-Trichloroethane
13. 1,1,2,2-Tetrachloroethane
14. Chloroethane
15. Bis (2-Chloroethyl) Ether
16. 2-Chloroethyl Vinyl Ether (Mixed)
17. 2-Chloronaphthalene
18. Parachlorometa Cresol
19. 3,3'-Dichlorobenzidine
20. 1,2-Trans-Dichloroethylene
21. 1,2-Dichloropropane
22. 1,2-Dichloropropylene
23. 2,4-Dimethylphenol
24. 2,4-Dinitrotoluene
25. 2,6-Dinitrotoluene
26. Fluorathene
27. 4-Chlorophenyl Phenyl Ether
28. 4-Bromophenyl Phenyl Ether
29. Bis(2-chloroisopropyl) Ether
30. Bis-(2-chloroethoxy) Methane
31. Methyl Chloride
32. Methyl Bromide
33. Bromoform
34. Dichlorobromomethane
35. Chlorodibromomethane
36. Hexachlorobutadiene
37. Hexachlorocyclopentadiene
38. Nitrobenzene
39. 2,4-dinitrophenol
40. 4,6-dinitro-o-cresol
41. N-nitrosodimethylamine
42. N-nitrosodiphenylamine
43. N-nitrosodi-n-propylamine
44. Di-n-octyl phthalate
45. diethyl phthalate
46. dimethyl phthalate
47. Benzo (a) anthracene
48. Benzo (a) pyrene
49. 3, 4-benzofluorathene
50. Benzo (k) fluoranthane
51. Chrysene

52. Acenaphthylene
53. Benzo(ghi) perylene
54. Fluorene
55. Phenanthrene
56. Dibenzo(a,h)anthracene
57. Indeno(1,2,3-cd)pyrene
58. Pyrene
59. 2,3,7,8-tetrachlorodibenzo-p-dioxin
60. Vinyl Chloride
61. Aldrin
62. Dieldrin
63. Chlordane
64. 4,4' DDT
65. 4,4' DDE
66. 4,4' DDD
67. A-endosulfan-Alpha
68. B-endosulfan-Beta
69. Endosulfan Sulfate
70. Endrin
71. Endrin Aldehyde
72. Heptachlor
73. Heptachlor Epoxide
74. A-BHC-Alpha
75. R-BHC-Beta
76. G-BHC-Delta
77. PCB-1242
78. PCB-1254
79. PCB-1221
80. PCB-1232
81. PCB-1248
82. PCB-1260
83. PCB-1016
84. Toxaphene
85. Asbestos

For the Cathode Ray Tube subcategory only, an additional toxic pollutant, antimony, is being proposed for exclusion from further regulation under Paragraph 8(a)(iii), because it was found in amounts too small to be effectively treated.

In the Luminescent Materials subcategory, the twenty-six (26) additional toxic pollutants listed in appendix C are being proposed for exclusion under Paragraph 8(a)(iii) because EPA believes they are not present at detectable concentrations using state-of-the-art analytical methods. The two additional toxic pollutants being considered for exclusion under paragraph 8(a)(iii) are lead and chromium which were not detected in effluents from the subcategory.

For the reasons stated above, EPA proposes to add new subpart C and D to Part 469 of 40 CFR, Chapter I as follows:

PART 469—ELECTRICAL AND ELECTRONIC COMPONENTS POINT SOURCE CATEGORY

* * * * *

Subpart C—Cathode Ray Tube Subcategory

Sec.
469.30 Applicablity.
469.31 Specialized definitions.
469.32 Monitoring requirements.
469.34 Pretreatment standards for existing sources (PSES).
469.35 New source performance standards (NSPS).
469.36 Pretreatment standards for new sources (PSNS).

Subpart D—Luminescent Materials Subcategory

449.40 Applicability
469.41 Specialized definitions.
469.42 New source performance standards (NSPS).
469.43 Pretreatment standards for new sources (PSNS).

Authority: Secs. 301, 304, 306, 307, 308, and 501, Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. 1311, 1314, 1316, 1317, 1318, and 1361; 86 Stat. 816, Pub. L. 92500; 91 Stat. 1567, Pub. L. 95-217).

Subpart C—Cathode Ray Tube Subcategory

§ 469.30 Applicability.

(a) The provisions of this subpart are applicable to discharges resulting from the manufacture of cathode ray tubes.

(b) The compliance deadline for PSES standards shall be no later than September 10, 1984.

§ 469.31 Specialized definitions.

The definitions in 40 CFR Part 401 and the chemical analysis methods in 40 CFR Part 136 apply to this subpart. In addition,

(a) The term "total toxic organics (TTO)" shall mean the sum of the concentrations for each of the following toxic organic compounds which is found in the discharge at a concentration greater than ten (10) micrograms per liter:

1,2,4 trichlorobenzene
chloroform
1,2 dichlorobenzene
1,3 dichlorobenzene
1,4 dichlorobenzene
ethylbenzene
1,1,1 trichloroethane
methylene chloride
napthalene
2 nitrophenol
phenol
bis(2-ethylhexyl) phthalate
tetrachloroethylene
toluene
trichloroethylene
2 chlorophenol
2,4 dichlorophenol
4 nitrophenol
pentachlorophenol
di-n-butyl phthalate
anthracene
1,2 diphenylhydrazine
isophorone
butyl benzyl phthalate
1,1 dichloroethylene
2,4,6 trichlorophenol

(b) The term "cathode ray tubes" shall mean electronic devices in which high velocity electrons focus through a vacuum to generate an image on a luminescent surface.

§469.32 Monitoring.

Certification for TTO as specified in § 469.12(a), 47 FR 37058 will be applicable to this subpart.

§ 469.34 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Milligrams per liter (mg/l)	
TTO [1]	0.15	
Cadmium	0.046	0.022
Chromium	0.91	0.26
Lead	1.13	0.36
Zinc	2.06	0.49
Fluoride	32.6	22.3

[1] Total toxic organics.

§ 469.35 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Milligrams per liter (mg/l)	
ph	(2)	(2)
TTO [1]	0.15	
Cadmium	0.046	0.022
Chromium	0.77	0.22
Lead	0.73	0.23
Zinc	1.18	0.28
Fluoride	32.6	22.3
TSS	42.9	16.1

[1] Total toxic organics.
[2] Within the range of 6.0 to 9.0.

§ 469.36 Pretreatment standards for new source (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Milligrams per liter (mg/l)	
TTO [1]	0.015	
Cadmium	0.046	0.022
Chromium	0.77	0.22
Lead	0.73	0.23
Zinc	1.18	0.28
Fluoride	32.6	22.3

[1] Total toxic organics.

Subpart D—Luminescent Materials Subcategory

§ 469.40 Applicability.

(a) The provisions of this subpart are applicable to discharges resulting from the manufacture of luminescent materials.

(b) The compliance deadline for PSES standards shall be no later than September 10, 1984.

§ 469.41 Specialized definitions.

The definitions in 40 CFR Part 401 and the chemical analysis methods in 40 CFR Part 136 apply to this subpart. In addition,

(a) The term "luminescent materials" shall mean materials that emit electromagnetic radiation (light) upon excitation by such energy sources as photons, electrons, applied voltage, chemical reactions or mechanical energy and which are specifically used as coatings in fluorescent lamps and cathode ray tubes.

§ 469.42 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Milligrams per liter (mg/l)	
pH	([1])	([1])
Cadmium	0.48	0.23
Antimony	0.18	0.044
Zinc	2.84	0.68
Fluoride	32.6	22.3
TSS	61.0	22.9

[1] Within the range of 6.0 to 9.0.

§ 469.43 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Milligrams per liter (mg/l)	
Cadmium	0.48	0.23
Antimony	0.18	0.044
Zinc	2.84	0.68
Fluoride	32.6	22.3

[FR Doc. 83-5877 Filed 3-8-83; 8:45 am]
BILLING CODE 6560-50-M

federal register

Wednesday
March 9, 1983

Part III

Federal Communications Commission

Policies Governing the Ownership and Operation of Domestic Satellite Earth Stations in the Bush Communities in Alaska

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[CC Docket No. 80-584]

Policies Governing the Ownership and Operation of Domestic Satelite Earth Stations in the Bush Communities in Alaska; Correction and Clarification

AGENCY: Federal Communications Commission.

ACTION: Correction and clarification.

SUMMARY: This document clarifies and corrects a Reference made in the Order Extending Time for Filing Comments in this proceeding concerning Policies governing the ownership and operation of certain earth stations in the Alaskan Bush communities.

FOR FURTHER INFORMATION CONTACT: Cecily Holidy, Common Carrier Bureau, (202) 634-1684.

SUPPLEMENTARY INFORMATION:

In the Matter of policies governing the ownership and operation of domestic satellite earth stations in the Bush communities in Alaska (CC Docket No. 80-584).

Correction and Clarification

On February 22, 1983, an Extension of Time for Filing Comments was published in the **Federal Register** in the above-captioned proceeding (48 FR 7481).

This extension concerned a Tentative Decision which had not been published in the **Federal Register** and the reference made to the Proposed Rule is inapplicable.

The Tentative Decision is printed elsewhere in this Part III.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-6064 Filed 3-8-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 25

[CC Docket No. 80-584; RM-3304; FCC 82-516]

Policies Governing the Ownership and Operation of Domestic Satellite Earth Stations in the Bush Communities in Alaska

AGENCY: Federal Communications Commission.

ACTION: Tentative decision.

SUMMARY: This action proposes joint ownership of certain Alaskan Bush earth stations and is necessary to resolve issues raised in the Proposed Rule in this proceeding without the need to resort to comparative hearings. It also allows for contributions to be made in the development of the Bush earth station network by both Alascom and the local carriers.

DATES: As a result of an Order extending the comment periods, published 2-22-83, 48 FR 7481, comments were due by March 7, 1983 and replies by April 7, 1983.

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

FOR FURTHER INFORMATION CONTACT: Cecily Holiday, Common Carrier Bureau, (202) 634-1684.

SUPPLEMENTARY INFORMATION:

In the matter of policies governing the ownership and operation of domestic satellite earth stations in the Bush communities in Alaska (CC Docket No. 80-584, RM-3304).

Tentative Decision

Adopted November 18, 1982.

Released December 10, 1982.

1. Before the Commission are applications for earth station facilities to provide message telephone service (MTS) to approximately 35 rural Alaskan Bush communities.[1] At each of these locations, an application for construction permit and license has been filed by Alascom, Inc. (Alascom),[2] which is certified to provide both intrastate and interstate toll MTS and private-line services in Alaska. In each of these communities the local exchange carrier, which is regulated and certified by the Alaska Public Utilities Commission (APUC), has also filed an application for Bush earth station facilities. We have found that such duplicative proposals for essential facilities in remote, isolated Bush communities of small populations are mutually exclusive because the public interest would not be served by grant of both.[3]

2. We decided that the best method to resolve these controversies was by rulemaking rather than by separate comparative hearings and we issued a *Notice of Proposed Rulemaking*.[4] Therein we sought comment on whether the public interest in this matter might best be served by requiring local exchange certification as a qualification to own and operate earth station facilities in rural Alaskan communities to provide MTS service.

3. On review of the record before us, we conclude that neither the adoption of the proposed rule, nor the administrative selection of one or the other of the applicants, would best serve the public interest. Instead, we find that joint ownership of the Bush earth stations by Alascom and the appropriate local exchange carrier would best serve the public interest. We adopt this Tentative Decision to implement these findings in an orderly fashion.

I. Background

4. The provision of Alaskan communications has been a source of controversy before this Commission for over a decade, dating to the time when the Alaska Communications System (ACS) was transferred by the Air Force to private industry. The winning bid for the ACS was to be selected by the Executive Department upon a competitive basis.[5] Congress indicated that in making the selection emphasis was to be placed upon the following factors: (a) the best plan for expanding the communications system in Alaska, with particular attention given to proposals for serving rural Alaska, and (b) the best proposal for reducing costs to the Alaskan ratepayers.[6] Alascom, established by RCA Corporation to acquire and operate the ACS, was the winning bidder.[7]

5. In 1971 Alascom and RCA Global Communications, Inc. filed applications with the Commission for authority to construct a satellite system to provide domestic communications services. Alascom's proposal included several applications for earth stations in Alaska to be used in conjunction with these satellites. However, in its early domestic satellite (domsat) policy

[1] The term "Bush communities" refers to small villages in rural Alaska that are isolated from the larger cities by rugged terrain and harsh weather conditions. *See also* paragraphs 59-61, *infra*. Although additional services, such as private-line or video, may also be provided through these Bush earth stations, our focus in this proceeding is on MTS.

[2] Alascom is a wholly-owned subsidiary of Pacific Power and Light Company, which acquired the corporation, formerly known as RCA Alaska Communications, Inc., from the RCA Corporation. *See* Alascom, Inc., FCC 79-305, released May 22, 1979. The current company, as well as its predecessor, will be referred to as Alascom throughout this decision.

[3] *See* note 12, *infra*.

[4] Domestic Satellite Earth Stations-Alaska Bush, 81 FCC 2d 304 (1980). The specific applications at issue in this proceeding are listed in Appendix A to the *Notice*.

[5] 40 U.S.C. 771, *et seq*.

[6] "To authorize the Disposal of the Government Owned Long-Lines Communication Facilities in the State of Alaska", Hearing on S. 223, Before the Subcomm. on Armed Services, 90th Cong., 1st Sess. 5028 (1967).

[7] *See RCA Global Communications, Inc., 22 FCC 2d 200 (1970).*

decisions, the Commission questioned whether the facilities proposed by Alascom would meet the needs of the rural Alaskan communities.[8] In light of these concerns, which also were articulated by the State of Alaska, the Commission required Alascom to submit detailed information concerning its plans for Alaskan facilities and services.

6. Alascom filed its "Alaska Communications Plan, 1974–1980" on September 20, 1974. The plan and comments it generated are fully detailed in the *Satcom Construction Order*.[9] In its plans, Alascom proposed to construct 38 small earth stations throughout the state. Using supplemental terrestrial facilities, these stations were to provide telephone service on a regular basis "to the estimated 108 communities with populations of 25 or more in rural Alaska that are presently without voice communications." *Id.* at 673.

7. The Governor's Office of Telecommunications was dissatisfied with Alascom's plan, and the State of Alaska objected to the plan for both economic and technical reasons. The State believed that the Alaskan ratepayers would be forced to bear an excessive portion of the system's costs and believed a much more efficient system was feasible. Nor was the State satisfied with Alascom's subsequent revision to increase the number of Bush earth stations to 100. Consequently, in 1975, the State legislature appropriated funding and the State filed competing applications at each of these sites.[10]

8. The Commission, recognizing the need for service to the Alaska Bush, found both applicants to be legally, technically and financially qualified to construct and operate the proposed Bush stations.[11] It also found the applications to be mutually exclusive.[12] However, the Commission deferred final action on these applications as well as other controversies surrounding the provision of Alaskan services. The Commission anticipated that further informal proceedings and negotiations might resolve these matters without recourse to evidentiary hearings.[13]

9. In order to initiate service, the State and Alascom agreed to an earth station program and negotiated an interim arrangement for construction and operation of the facilities pending Commission action. Starting in 1975, a series of temporary authorizations were issued granting joint authority to Alascom and the State to construct the facilities. Alascom was granted temporary authority, as trustee, to provide common carrier services by means of these facilities. The temporary authorizations are expressly conditioned on the ultimate resolution of the question of who shall be awarded permanent authority to own and operate the earth station facilities.

10. Local exchange operators, comprised mainly of small, native-owned companies and non-profit cooperative associations, have since filed thirty-five applications to construct new earth station facilities or to acquire those currently operated by Alascom and jointly owned by the State. The State's applications were dismissed at its own request and it has indicated that it will convey its ownership interest to the ultimate licensee.[14] Operation of Bush earth stations by Alascom at the contested locations continues under temporary authorizations. At the approximately 65 Bush locations where there were no competing applications, formal radio station authorizations were issued to Alascom. These authorizations are subject to possible modification as a result of this proceeding.[15]

II. Comments

11. In response to the *Notice* we have received formal comments from eight parties, including the local exchange operators (OTZ Telephone Cooperative, Inc. and Mukluk Telephone Company, Inc. (OTZ/Mukluk), filing jointly, and United Utilities, Inc. (United)); Alascom; the State of Alaska (State); the Alaska Public Utilities Commission (APUC); the Rural Electrification Administration (REA); the Federal Aviation Administration (FAA); and the National Telephone Cooperative Association (NTCA). An additional eleven parties filed informal comments or letters. These letters were received from entities such as Bush citizens, local governing bodies of Bush communities, associations and federations representing village councils, and State Senators and Representatives. Six parties filed reply comments.

12. The commenters are divided as to whether the Commission's proposal should be adopted. The local exchange operators favor adoption of the proposed rule. Also supporting adoption of the rule are the NTCA and the REA. The State of Alaska supports adoption of the rule in part. It believes that when two applicants meet specific minimum qualifications, a preference should be afforded to the local exchange operator. However, this preference, according to the State, should not apply to renewal proceedings.

13. Alascom, the APUC and the FAA oppose the rule. Both Alascom and the APUC state that the telephone network is a single technological and economic structure. Thus, in their view, a long-lines certificate, rather than a local exchange certificate, should be the basic eligibility requirement. The City of St. Mary's stated in a letter that, while it is not opposed to the eventual control by United of the earth station facilities in St. Mary's, it does not believe that the local exchange operator has yet achieved the requisite maintenance capability.

14. Basically, the local exchange carriers seek to control the interconnect facilities within their certified regions. They believe, as do all but one local commenting party, that the proposed rule serves the public interest because it provides for local control of essential telecommunications facilities. This, they assert, will allow them to play a more

[8] Domestic Communications Satellite Facilities, 35 FCC 2d 844 (1972) (*Domsat II*), *recons. in part*, 38 FCC 2d 665 (1972) (*Domsat III*).

[9] *See* RCA Global Communication, Inc., 56 FCC 2d 660 (1975).

[10] The Alaskan legislature appropriated $5 million towards this effort. The State did not intend to operate the facilities. Rather it proposed to lease the stations to a carrier—Alascom or a local entity—offering the most favorable terms. It subsequently indicated that its actions were motivated in part by a desire to preserve the option that these facilities could be owned and operated by local carriers. *See* State of Alaska's Reply to Response to Petition for Continued Authorizations as Trustee, Application File No. W-P-C-1659. Although we indicated that a potential hearing issue could result from a licensee divorcing ownership from the operation of the facilities, we did not find it disqualifying *per se*. *Satcom Construction Order, supra* note 9, at 693.

[11] Reconsideration of this finding was requested by Alascom. However, in light of the State's applications being dismissed at its own request, reconsideration was never undertaken.

[12] The need for the Commission to warrant that competition is feasible and beneficial before authorizing duplicative communications facilities was recently reaffirmed by the D.C. Court of Appeals. Telocator Network of American v. FCC, No. 78-2218 (D.C. Cir. Oct. 5, 1982). Slip op. at 40. The finding of mutual exclusivity for Bush earth station facilities was based on the conclusion that one facility could provide all the services proposed by either party, and that there did not appear to be any public interest benefits in the construction of duplicative MTS facilities in the Bush. *See Satcom Construction Order* at 689. None of the parties dispute this conclusion and we reaffirm it here.

[13] These further proceedings provided substantial assistance in addressing these issues. *See RCA Global Communications, 61 FCC 2d 218 (1976). Most of these issues were finally resolved in the Alaska Facilities Decision, 74 FCC 2d 435 (1979), recons. denied* 78 FCC 2d 359 (1980). The remaining issue is the ownership of the Alaska Bush earth stations. No progress beyond the interim arrangement was made in those further proceedings. *See Satcom Construction Order* at 699–700.

[14] *See* letter of May 29, 1980 in File Nos. 65-DSE-P-75 *et al.* The State's withdrawal appears to have been based in part on local exchange development. In a Statement released in October 1979, the Governor indicated that the willingness of the local carriers to compete for earth station ownership made it possible for the State to withdraw its applications.

[15] *See e.g.*, Alascom, Inc., Mimeo No. 00171 released October 10, 1980.

significant role in the planning and development of the Bush network. They also claim that, from an economic as well as management perspective, the viability of their local exchange is tied to such ownership. If the earth station facilities are included in their rate base, the local exchange carriers claim they will derive much-needed increased revenues from the settlements process. This in turn can be used by them to expand and improve local service in the Bush. Additionally, because REA financing can be obtained with low interest rates, the local exchange carriers contend they can improve services at lower costs to their subscribers than can Alascom. Local ownership, they contend, will inevitably result in a strong commitment to maintain and upgrade service at rates that are as low as possible.

15. From a management perspective, the local exchange carriers stress the importance of maintaining operational control over the facilities that often provide Bush communities with their only link to the outside world. Because the local exchange carriers believe Alascom's service and interconnection practices have not always been optimal, they believe they can significantly improve the services available to their subscribers. History indicates, according to the local exchange carriers, NTCA, and the State, that Alascom had to be coerced into extending service to the Bush. They believe that it was only due to the efforts of the State that the initial two channel system was provided. To improve services, one local carrier proposes to introduce equipment redundancy. All propose local and regional maintenance schemes that they believe improve upon the system Alascom currently employs.

16. Additionally, some who favor the adoption of the proposed rule believe that its implementation will result in a decrease in rates to the public. United states that such savings will result from the ability of local exchange operators to co-locate their local exchange facilities with the earth station equipment, thus obviating the need for an additional shelter. Also, the training of maintenance personnel to handle problems that relate to both earth stations and local exchange facilities will preclude the need for maintaining separate staffs. United also claims local ownership will avoid high air transportation costs because Alascom service personnel will not have to be flown to Bush areas. It also claims that its redundant earth station design will result in savings due to less frequent repair calls.

17. Finally, while the State of Alaska believes the proposed rule will serve the public interest, it also believes some showings concerning qualifications should be made by each applicant. According to the State, APUC certification should not be *prima facie* evidence that a local exchange operator is qualified to own and operate an earth station.

18. In opposing the proposed rule, Alascom claims that it will hinder bush development, reduce service quality and increase cost of service to the Alaskan ratepaying public. According to Alascom, the increase in cost will result because of the inefficient and unnecessary replacement of existing earth station facilities, loss of savings due to Alascom's buying power, incentives of local exchange carriers to "gold-plate" earth station facilities, and the need for duplicative facilities and personnel which are unnecessary under Alascom's maintenance program. Operationally, Alascom insists that unified control is critical to the efficient operation of the Bush network. Earth station operations, it claims, require a high level of engineering coordination of equipment, frequency use, testing and other technical matters. Alascom believes that it is in a unique position to provide this capability. Alascom also argues that the adoption of the proposed rule will increase intrastate MTS toll rates due to the impact on separations and settlements.

19. Procedurally, Alascom argues that the proposed rule violates its hearing and due process hights under the *Ashbacker* doctrine, Sections 309(d) and 201(a) of the Communications Act, and § 63.52(c) of the commission's rules. Alascom states that if the Commission does not grant it permanent authority under Title III to own and operte the Bush earth stations, it must be afforded a formal hearing.

20. The APUC joins Alascom in challenging the proposed rule. Its objections are based upon technical and procedural considerations similar to those of Alascom's. It believes that long-lines certification should be substituted for local exchange certification as a basic eligibility criterion.

III. Discussion

21. This proceeding is intended to determine in a generic fashion the appropriate owership structure to be applied to earth station facilities located in the Alaska Bush. In so doing, our focus is the selection of a structure that best satisfies the communications needs of Bush residents. This process is more efficient and less costly than multiple comparative oral hearings. In the *Notice*, the Commission determined that:

> [w]hile there are some differences in the financial and technical details of the various proposals, each applicant appears reasonably capable of sustaining the requisite public interest findings. The issue for decision, therefore, is a determination of the appropriate entity to hold the earth station license.

81 FCC 2d at 305. Thus, we began this rulemaking proceeding with

> [o]ur central objective * * * to establish an ownership structure which satisfies the communications needs of the residents of the Alaska Bush communities in the most efficient and expeditious manner possible.

Id. at 310. In reaching a conclusion in this rulemaking proceeding, we are not, however, limited to "a choice between two operationally viable and distinct ownership patterns" as represented by the specific applications immediately before us. Rather, it is the objective of this proceeding to

> * * * permit broad participation by all interested parties in the decision making process and * * * better enable the Commission to develop an integrated plan for ownership of the Bush earth station facilities. The determination thereby derived will be equally applied to all applicants for Bush earth stations.

Id. at 315. All of the basic issues concerning Bush earth station ownership have been addressed by the parties in the record of this proceeding, as well as in the applications before us. Although service is presently being provided to Bush residents under interim arrangements, a resolution of this controversy is becoming more urgent with the passing of time. Service requirements are growing beyond the two channel lifeline services that have generally served the Bush communities until now. Service improvements are being delayed by the continuing uncertainties surrounding the resolution of the Bush earth station ownership question. A resolution to this controversy, rather than further extensive proceedings, is needed to provide the incentives for an efficient and improved Bush communications network.

22. The comments, applications and our further analysis have persuaded us that sole ownership by the local exchange operators, as proposed in the *Notice*, or sole ownership by Alascom, as argued for by the opponents of our proposed rule, both have drawbacks. Selection of one or the other applicant could impair our ability to fulfill our statutory mandate "to make available, so far as possible, * * * a rapid, efficient, * * * wire and radio

communication service with adequate facilities at reasonable charges". 47 U.S.C. 151. Because we find there are detriments associated with either the local operators or Alascom having sole ownership, we have examined alternative ownership arrangements which might alleviate these problems, at least for the interim. It appears that a joint ownership arrangement would allow Bush residents to take advantage of the strengths of each of the contending entities, and we have tentatively adopted this approach as the resolution to this proceeding.

A. Ownership by Local Exchange Operators

23. In the *Notice* we stated our belief that the local exchange operators would be capable of fully demonstrating their qualifications to own and operate Bush earth station facilities. However, after reviewing the comments of Alascom, the FAA, the city of St. Mary's, and the APUC, we are not persuaded that the local exchange operators have demonstrated sufficient technical expertise to be the sole licensees of the Bush earth stations, independently responsible for the entire range of earth station design and operating decisions.

24. The record does establish a need for local presence in operating and maintaining the Bush earth station facililties. The local operators are unquestionably capable of performing routine, daily maintenance functions.[16] Relying on the technicians employed by the local exchange operators to perform such routine maintenance functions would also avoid duplication of Alascom's personnel. However, problems pertaining to higher level maintenance and repair functions of local facilities are documented in the record. For example, United, who appears among the local operators to be the most technically capable, has experienced service restoration problems during a serious outage in its telephone exchange service at St. Mary's. This outage prompted the Mayor to question United's current ability to manage the Bush earth stations. We believe, however, that the local exchange operators, with the assistance of Alascom and/or equipment suppliers, could one day clearly demonstrate such qualifications. But, at the present moment, review of the record suggests potential problems concerning local exchange operators unilaterally installing and maintaining a fully compatible earth station network that efficiently interfaces with Alascom's space segment.[17]

25. We are also influenced by the fact that the APUC in its comments states that it has not considered earth station ownership and operation in certificating any of the local exchange companies. Moreover, in APUC proceedings involving two of these companies, small earth station issues were specifically excluded from consideration.[18] Thus it appears that our initial intent to rely upon APUC certification of local exchange carriers as a definitive indication of qualifications to operate successfully Bush earth stations cannot stand.

26. We perceive little, if any, advantage to be gained by vesting sole ownership in local exchange operators if the concomitant operational responsibilities of a sole licensee are not also assumed at the same time. The record does nôt appear to support the conclusion necessary to effectuate our proposed rule, that local exchange certification assures full operational qualifications. In most cases, the local exchange operator would simply assume ownership of existing facilities from Alascom; this does not in itself demonstrate expertise to apply satellite technology to Bush communities. Moreover, where new but similar facilities are proposed by the local exchange carrier to replace existing satellite facilities (as is the case with United in some locations),[19] we see an additional problem. Specifically, there is no demonstrated record that sufficient improvements in service quality or reduced rates would result so as to warrant replacement of the investment in embedded Bush earth station facilities. Apart from issues involving channel capacity and redundancy, which can be easily remedied by installation of additional equipment, no party has demonstrated any flaws with the basic design and operation of the present Bush network.

27. We also find that our original proposal could lead to situations in which purely local Bush interests could conflict with statewide needs. In the *Notice*, we indicated the desirability for a coherent Bush-wide operational design to insure efficient and economical network operation with compatible equipment at each Bush location. Thus, while Alascom has statewide service responsibilities, the local carriers do not. Incentives could therefore exist to perceive network planning and coordination problems from the narrower perspective of a local carrier's limited service requirements. Such a perspective could conflict with sound network operations.

28. Finally, it is also possible that adoption of our proposed rule could retard the expansion of satellite network facilities throughout the entire Bush earth station system. This would hinder the Commission's goal under § 1 of the Communications Act of 1934 to ensure the expeditious development of Alaskan service. Our proposed rule would in some sense relegate Alascom to a caretaker's role in the 65 presently uncontested locations until a local carrier was in a position to assume the responsibilities of owning and operating the earth stations. Alascom would thus lack the incentive to upgrade these facilities a potential result in conflict with out statutory objectives.

B. Ownership by Alascom

29. Next we examine sole ownership by Alascom. Just as we believe there are good reasons for not adopting the proposed rule, we conclude that valid reasons also exist for not granting sole ownership to Alascom. It does not have any vested rights in Bush earth station licenses, nor has it been awarded any exclusive rights to toll facility authorizations.[20] Thus, it is incumbent on Alascom to demonstrate any unique capabilitties it has to provide superior services to the Bush communities before it alone is found to be the only eligible entity to hold all of the Bush earth station licenses. Alascom has not made this case on the record before us. Alascom has demonstrated extensive technical and operating capabilities. But it also appears to have been reluctant to expand service in the Bush. The State, Bush residents and the local exchange carriers have all expressed dissatisfaction concerning the service provided to Bush communities by Alascom. In fact, as we have previously indicated, one of the reasons given by the State when requesting that its applications be dismissed was the willingness and ability of the local exchange carriers to apply for the facilities it had constructed jointly with Alascom under the interim

[16] For example, *see* contract between the Arctic Slope Telephone Association Cooperative, Inc., (ASTAC) and Alascom setting out reasponsibilities and training to be provided (filed in the Reply Comments of the NTCA, Exhibit 1).

[17] Over 70% of Alaskan toll circuits are routed by satellite. Compatibility is a particular concern in our evaluation of Bush earth station ownership by local exchange operators since 65% of the Bush stations are presently authorized solely to Alascom. *See* paragraph 10, *supra*.

[18] *See* comments of the APUC at 13. The carriers involved were United and ASTAC.

[19] *See* File Nos. 932 and 937–DSE–P/L–80.

[20] *See* RCA Alaska Communications, *supra* note 7 at 204; and CC Docket No. 78–72 adopted today. Nor have we required all MTS services to be provided over a single satellite system. *See* National Satellite Services, 43 FCC 2d 1141 (1973).

arrangements. The State believes that Alascom, which has repeatedly underscored the financial and operational burden Bush facilities impose,[21] is reluctant to pursue an adequate Bush program.[22] While these incidents do not rise to a level at which we would question Alascom's basic qualifications, we find them indicative of disincentives to optimize Bush service levels in favor of higher density, more profitable services. And, although the State asks that local exchange qualifications be verified, it has indicated that it still would prefer ownership by the local exchange to ownership by Alascom.

30. However, the most significant detriment we perceive to Alascom's being the sole licensee of the Alaska Bush earth stations is the perpetuation of its total control over what appear to be the only facilities economically practical to provide MTS to the Alaska Bush communities for the indefinite future. While the applications for sole ownership by the local exchange carriers do not appear to be comparatively advantageous under current circumstances, they do appear to represent the bona fide intention of the exchange carriers actively to begin to participate in the operation of Bush earth station facilities. We do not believe the objectives of the Communications Act or our domestic satellite policies would be well served by thwarting such endeavors in their incipient stage. We therefore do not wish to foreclose additional participation in this network by licensing every station solely to Alascom. Over 65 Bush stations already will be licensed to Alascom, in addition to the mid-route stations not at issue in this proceeding. Thus, Alascom will remain by far the dominant Alaskan earth station licensee.

31. Local exchange operations require on-site personnel to maintain the exchange plant. Such personnel can also assume substantial responsibility for proper operation of the earth station facilities at this time to reduce service outages without duplication of the efforts of Alascom.[23] While the contract that exists between Alascom and ASTAC is a constructive attempt to involve one local exchange operator in Bush earth station operations, we do not believe it sufficient when a more active desire to participate has been manifested.

32. The local exchange operators also have the incentive to operate and develop the earth station facilities to tailor the services desired by Bush ratepayers. Thus, we believe that they should play a significant role in the design and operation of the network if they are willing and capable. Generally, the local exchange carriers are themselves residents of the Bush. They are familiar with the needs of the residents of these communities and are concerned with providing a more effective means of predicting and satisfying the growing communication needs of rural Alaska. And, because they themselves must rely on Bush communication services and facilities, they have incentives to improve the services which link their isolated communities with the rest of the world. An opportunity to participate in the ownership and operation of the Bush earth stations would therefore reinforce these incentives.

33. Sole ownership of the Bush earth stations by Alascom would remove substantial incentives to the local exchange operators to contribute to the development of this network. There are also other benefits that we consider important that would be denied Bush ratepayers if we were to grant sole ownership to Alascom. These include increased carrier accountability to the people served, joint participation in the network planning process, and, as previously mentioned, increased attention to the development of service within the Bush communities.[24] To exclude local exchange carriers from all participation in planning the Bush satellite network would effectively preclude them from gaining experience in domestic satellite communications and eventually making meaningful contributions to the development of the art.[25]

C. Joint Ownership

34. Based on the extensive record before us, and in view of the detriments which appear to exist in each of the ownership patterns presented in the applications, we find no reason to select one applicant over the other. Indeed, it appears that the public interest would be disserved by promulgating a rule which would effectively choose either of the applicants to be the sole licensee of the Bush earth stations. Both Alascom and the local exchange carriers have particular strengths that complement the weaknesses of the other. To grant sole ownership to one of the applicants would deny ratepayers the several benefits associated with the other. Moreover, the incentives of each differ somewhat. Combining these incentives in a joint undertaking should therefore provide a balance that will be in the best interests of the residents of the Bush communities.

35. First, the record demonstrates that, with the exception of Alascom's current ability to perform adequately routine daily maintenance in the Bush communities, its technical qualifications to design and operate the Bush network are unquestioned. The local carriers, on the other hand, have not fully demonstrated in practice their technical capabilities beyond routine maintenance functions. Second, we have recognized a desire for a coherent, Bush-wide operational design to enhance smoothly operating functions. We believe that Alascom's existing Satellite Communications Transmission Plan provides for such a unified network. The overall development of this network will be further improved by Alascom's research and development efforts. Conversely, the local carriers have less reason to consider the progress of the network as a whole, and have far more limited resources to invest in research and development. Third, we also believe it desirable, as Alascom proposes, to retain existing facilities. Increasing channel capacity and reliability to levels desired by the local residents can be accomplished by adding equipment. This, we believe, is preferable to the proposal of at least one local carrier to incur additional costs by replacing embededed equipment without demonstrating suficient benefit to the ratepayers. Fourth, the record establishes that the local carriers are fully qualified, and, due to their on-site personnel, better suited, to perform routine earth station maintenance that need not duplicate Alascom's efforts. Furthermore, over time they can gain the necessary experience to convincingly

[21] *See e.g.*, Alascom's Comments in CC Docket No. 78-72, filed March 3, 1980.

[22] Examples of Alascom's reluctance in this regard have been provided in proceedings both before the Commission and before the APUC. Alascom resisted constructing the necessary facilities to interconnect the local exchanges of OTZ to the toll network. *See e.g.*, File No. W-P-C-1659. It also failed to upgrade facilities at Gambell and Savoonga in United's service area. *See e.g.*, File Nos. 932, 937-DSE-P/L-80. Alascom has also stated its belief that construction of local exchanges in these extremely remote areas, while desirable, probably lacks an adequate revenue base to support such service.

[23] United's comments set forth examples of problems where duplicative staffing exists. On the other hand, the Alascom/ASTAC contract is a model of contractual obligations that appears to work. We have received no complaints to date.

[24] Participation in Bush earth station ownership and operation will also provide local exchange operators with more experience in the provision of private-line services. See Comments of FAA in this regard.

[25] *Cf.* Winter Park Telephone Company, 84 FCC 2d 689 (1981).

demonstrate their full qualifications. Such a result would be delayed, or perhaps foregone, if we preclude their participating in domsat technology by granting sole ownership to Alascom. Fifth, we conclude that the local exchange carriers, whose only customers are Bush residents, and who themselves are often residents of Bush communities, have the greatest incentive to provide the highest quality service. This factor, we believe, is important in light of Alascom's alleged lack of commitment to provide more than lifeline services to some Bush communities. Finally, by providing the local exchange carriers with an ownership interest, we will reinforce this incentive by providing them with an increased opportunity to plan for, and operate, portions of the Bush network in ways desired by Bush residents.

36. Thus we conclude that the appropriate resolution of this controversy that best serves the public interest is to adopt a policy pursuant to which Alascom and the local carrier are *jointly* authorized to plan, contruct and/or operate these stations. Such a policy alleviates many of the difficulties identified above while preserving the affirmative advantages associated with each entity.

37. The Commission has determined previously that the public interest would be best served by joint ownership and operation of earth stations by different entities. For example, it found joint ownership of earth station facilities used in the global commercial satellite system desirable.[26] In that case, basic policy considerations transcended the arguments of the individual applicants competing for specific stations. A similar joint ownership policy was adopted for the MARISAT system.[27] There the Commission authorized Comsat to construct three satellites to be used as part of a system intended to serve the Department of the Navy as well as to provide maritime communications services to other commercial maritime users. However, the authorization was conditioned to require Comsat to offer any U.S. carrier then providing maritime services the opportunity to participate with Comsat in the ownership and operation of the proposed system. This included both the joint provision of leased channel service to the Navy and competing maritime telex services. In both of these cases, the policy objective of joint ownership was to permit participation by all qualified entities in the construction and operation of initial facilities serving a market where competitive entry by multiple entrants did not appear, at least in the beginning, economically feasible.

38. We conclude that a similar approach is particularly desirable in the Alaska Bush. Joint ownership will afford each applicant a reasonable opportunity to participate in the development of Bush communications while allowing the ratepayers to profit from the benefits associated with each entity. Thus, neither Alascom's extensive experience and capital resources nor the local carriers' on-site availability of personnel and special knowledge of the communications needs of the Bush residents will be lost.

39. Through joint ownership Alascom will be able to share its experience with the local exchange carriers. As local personnel located on-site work with personnel from Alascom, we expect their knowledge of earth station operations to become more sophisticated. This, in turn, will greatly reduce, and perhaps eventually eliminate, the number of times maintenance staff will need to be dispatched to the Bush from metropolitan areas. We also believe that the local exchange carriers' concern for optimal development of communications service to the Bush, tempered with Alascom's understanding of the network as a whole, will provide the best service to the Alaskan ratepayers and will result in the most orderly, efficient and equitable means for planning and operating the Bush network.

D. Procedural Authority

40. Alascom has argued, in opposing the proposed rule, that its hearing and due process rights under the *Ashbacker* doctrine [28], Sections 309(d) and 201(a) of the Communications Act, and Section 63.52(c) of the Commission's rules are abridged. According to Alascom, if the Commission does not grant it permanent authority under Title III to own and operate the Bush earth stations, it must be afforded a formal hearing. We disgree. It is undisputed that the Commission may elect to use its rulemaking power when the pertinent issues involve questions of policy. We examined our procedural authority to decide the ownership question by rulemaking rather than comparative hearing in our *Notice, supra* note 4. There we observed that it is well settled that the Commission has broad latitude when formulating rules and policies which effectuate its responsibilities under the Communications Act. Thus, procedural questions are left to the Commission's informed determination, bearing in mind, of course, that it must protect private rights and the public interest.[29] The choice between proceeding by rule or *ad hoc* adjudication lies primarily in the informed discretion of the agency.[30] Nor is the propriety of a rulemaking proceeding lessened because this procedure was followed to avoid numerous Section 309(e) hearings. "So long as the Commission remains within the bounds of its statutory authority, it may pursue a procedural route it deems superior to one it fears will be unduly time-consuming or burdensome." (footnote omitted) [31]

41. Our decision to proceed by rulemaking is a particularly sound administrative choice under the circumstances presently before us. Unlike most cases involving mutually exclusive applications, our determination of an appropriate Bush earth station ownership structure will not deprive either Alascom or the local exchange carrier the opportunity to continue with their present business functions in the locality in question. Local telephone service will still be provided solely by the local exchange carrier certified by the APUC. The design and operation of the Bush earth stations will not be changed in any basic respect. Alascom will continue functioning in its role as the dominant Alaskan toll carrier responsible for the overall design and operation of the Alaskan toll network. The basic issue before us is therefore how the respective functions and responsibilities of the two applicants are to interface at the Bush earth station where they necessarily meet to provide MTS toll services to the Bush residents.

42. Proceeding by rulemaking provides a more effective context for defining the respective roles of these common carriers in providing MTS services to the Alaska Bush than would an adversarial proceeding. Alascom, in its pleadings, states that it has raised many issues concerning the qualifications of the local exchange carriers to be earth station licensees. It has not, however, disputed their qualifications to provide local Bush MTS services as certified by the APUC.

[26] Ownership and Operation of Earth Stations, 5 FCC 2d 812 (1966).

[27] Communications Satellite Corporation, 40 FCC 2d 496 (1973). *See also* American Telephone and Telegraph Company 37 FCC 1151 (1964) (TAT-4) (joint ownership of an underseas cable instead of choosing between competing proposals).

[28] Ashbacker Radio Corporation v. FCC, 326 U.S. 327 (1945).

[29] FCC v. Pottsville Broadcasting Co., 309 U.S. 134, 138 (1940); *See also*, FCC v. Schreiber, 381 U.S. 279 (1965) and Sections 4(i) and 4(j) of the Communications Act, 47 U.S.C. 154 (i) and (j).

[30] SEC v. Chenery Corp., 332 U.S. 194, 203 (1947).

[31] Telocator Network of America v. FCC, *supra*, note 12, at 57.

This operating presence, together with other evidence in the record, leads us to conclude, despite Alascom's assertions to the contrary, that the local exchange carriers have established their technical and financial qualifications to participate in the joint ownership of the earth station facilities. As previously stated, there is no question concerning their technical qualifications to perform the routine, daily technical maintenance functions involved with earth station ownership and operation. In fact, we believe they are in a better position to do so than is Alascom. This we find sufficient to qualify them to participate as joint owners in the Bush earth stations. Additionally, the REA has indicated a willingness to provide funding for such facilities. This too is sufficient to demonstrate the financial qualifications of the local exchange carriers.

43. In the *Notice*, we discussed the factors which we then believed warranted ownership of the Bush earth stations solely by the local exchange operators as a matter of general policy that would best serve the public interest. None of the parties has convincingly demonstrated that such an ownership policy would be infeasible or contrary to the public interest. Rather, the record developed in this proceeding leads us to conclude that joint ownership, rather than sole ownership by either Alascom or the local operators, will provide the Bush residents with the best service. We believe, however, that had we adopted the proposed rule, most, if not all, of the local operators would have been able to demonstrate their qualifications to solely own and operate the Bush earth stations as originally contemplated in our *Notice*.

44. The exhaustive record we have developed in this proceeding has provided us with sufficient information to enable us to make a policy determination that joint ownership provides the ownership structure that will most effectively satisfy the communications needs of the Bush residents. Our authority to implement this resolution comes from Sections 214(c) and 303(r) of the Communications Act of 1934. Thus, in the Tentative Decision we are adopting today, we do not deny the application of any party, but rather grant them all, with the condition that each amend its application to comport with the other. See 47 U.S.C. 303(r). Furthermore, Section 214(c) permits the Commission to "attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require." 47 U.S.C. 214(c). We conclude that the record demonstrates that the public convenience and necessity will best be served by joint ownership of the Bush earth station facilities. We therefore believe oral comparative hearings are unnecessary and would add nothing to aid us in making a better decision. They would only burden the parties with additional, unnecessary costs. This is especially true of the local operators who do not have available to them the extensive resources of Alascom.[32] To the extent a hearing is required, we conclude that this rulemaking proceeding affords all interested parties an opportunity to voice their concerns about fashioning a policy to govern Bush earth station ownership. The consensus urges prompt resolution, and the record justifies the conclusion that joint ownership best serves the public interest.

45. Consideration of alternatives to a proposed rule is permissible in the context of a rulemaking proceeding. Notice is sufficient "if it affords interested parties a reasonable opportunity to participate in the rulemaking process,"[33] and if the parties have not been "deprived of the opportunity to present relevant information by lack of notice that the issue was there."[34] Interested parties have been advised that the purpose of this proceeding is to establish the ownership structure that will best satisfy the communications needs of Bush residents. The Administrative Procedure Act requires only that the notice of proposed rulemaking contain "either the terms or the substance of the proposed rule, or a description of the subjects and issues involved." 5 U.S.C. 553(b)(3). We believe the parties had sufficient notice that we would consider all reasonable alternatives to the proposed rule. However, because none of the parties expressly proposed or analyzed joint ownership, we are today adopting a Tentative Decision which comtemplates joint ownership of the Bush earth station facilities and will entertain further comments on that proposal.

46. Alascom continues to argue that under Section 201(a) of the Communications Act it is entitled in the first instance to an "opportunity for hearing" regarding interconnection between it and the local exchange carriers. As we stated in our *Notice*, to the extent Alascom views a decision in this proceeding to be a significant alteration of its Section 201(a) responsibilities, this proceeding has provided it with an opportunity to voice its concerns.[35]

47. Finally, Alascom persists in arguing that due process of law and the *Ashbacker* doctrine requires us to determine the ownership question on a case-by-case basis. As we have previously stated, the circumstances of this proceeding militate against individual proceedings. Congress intended that the Commission be vested with broad procedural discretion when formulating new policy for an industry. The policies proposed today are based upon the Commission's assessment of the nature of communication services in the Alaskan Bush and how we believe the public interest best will be served. This proceeding has provided an adequate opportunity to Alascom as well as all interested parties to submit all information deemed by them to be relevant. No party has offered any facts or specific lines of inquiry that we believe necessitates separate evidentiary hearings at each location. Accordingly, we believe this proceeding to be consistent with due process of law.

IV. Tentative Decision

48. We find, based on the record before us, that joint ownership of Alaska Bush earth stations best serves the public interest, convenience and necessity. We believe that telecommunications services in Alaska will be developed best by combining the contributions that both Alascom and the local carriers are able to offer to the operation and development of the Bush earth station network. This is particularly important because essential communications service is involved. We must also determine how best to implement our decision.

49. We tentatively conclude that to be eligible to hold a Bush earth station license, an applicant must either be certified by the APUC as a local exchange operator within the community to be served by the earth station or be certified by the APUC or the FCC as an interexchange carrier. When applications are already on file, or are filed in the future, by more than one qualified entity satisfying the above requirements, the Commission will issue authorization to the applicants jointly, conditioned upon their modifying their applications to conform with one another. Parties will not be required to amend their applications until after the Commission issues its final order in this

[32] *See, e.g.*, Mukluk Telephone Company, FCC 80-551 released October 2, 1980.

[33] Forester v. Consumer Product Safety Commission, 559 F. 2d 774, 787 (D.C. Cir. 1977).

[34] Chicago v. FPC, 458 F.2d 731, 748 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 1074 (1972).

[35] *See* Bell Telephone Co. of Pennsylvania v. FCC, 503 F.2d 1250 (3rd Cir.) *cert. denied*, 422 U.S. 1026 (1974.)

proceeding. Upon issuance of joint authority, parties will be required to negotiate a contract within 60 days.

50. We recognize that establishing a workable joint ownership arrangement will present a significant challenge to Alascom and the local exchange carriers.[36] We therefore believe it prudent to allow the parties an opportunity to air those issues that must be addressed before the detailed planning and negotiations needed to productively implement this policy can begin. Thus, we will allow the parties 60 days from the release of this Order to submit comments concerning the terms and conditions they believe should govern joint earth station ownership and operation. We encourage the parties to work together in order to formulate the overall mechanism to achieve this objective practically.[37] We believe that the cooperation of the parties involved is needed to end a controversy whose continuance will do nothing to promote the interests of the Alaskan ratepayers.

51. One of the basic issues that has to be addressed is the relative ownership of the Bush earth station facilities in the absence of agreement between the parties. Ownership share must, of course, be directly related to the share of investment and operating costs subscribed to by each party. In the event that each party would be willing and capable of assuming all the costs of Bush earth station operations, we believe it essential that one have a 51 percent ownership share. An equal ownership split could lead to deadlocks requiring frequent Commission intervention. Thus, either Alascom or the local exchange carrier should have majority ownership.

52. Alascom is ultimately responsible for the operational and technical integrity of the Alaskan toll network. It also has broad expertise and experience with satellite communications technology. These factors weigh in favor of assigning the controlling share to Alascom. On the other hand, the local exchange carriers appear to be able to develop services that are more closely tailored to the particular needs of the Bush residents. Majority ownership may also allow the local exchange carrier to expand its participation in the Alaskan telecommunications market. In view of the practical difficulties attendant to coordination among the diverse entities which will make up this system, we believe that Alascom should retain control. Thus, we shall allocate to Alascom up to a 51 percent ownership share.

53. Also, we believe it is preferable, in the first instance, for the parties themselves to define their respective operational roles in the Bush satellite network. However, a few basic principles are apparent from the record in this proceeding. For example, Alascom, as the dominant intrastate and interstate Alaskan satellite carrier, should maintain overall responsibility for the operation of an integrated and efficient Bush network. Alascom's "Satellite Communications Transmission Plan" should be used as the basis for planning the design and operation of Bush earth station facilities.[38] We expect, however, that local exchange carriers will actively contribute to updating this plan in the future, especially as it pertains to new channel, service and reliability requirements. Joint decisions should include traffic allocations and circuit requirements as well as the implementation of technical improvements. These should be incorporated into the plan as they are made. The record demonstrates that the parties have previously participated in such joint planning in, for example, arriving at trunk forecasts.[39] We recognize that difficulties were experienced in this joint planning process, but believe this was most likely a result of the unresolved status of the ownership of the facilities. With the resolution of this issue we expect the parties will be able to expand and improve upon this existing process.

54. Contributions to capital investment and regular operating and maintenance costs should, of course, be made by the parties in proportion to their ownership shares.[40] Upon assignment of part of an existing facility to a local exchange carrier, payment should be made to Alascom by the local carrier of its proportionate share of the original cost less accumulated depreciation. The arrangements for so doing will be agreed upon by the parties and submitted to the Commission and the APUC for review.[41]

55. Although Alascom has argued that a policy of licensing Bush earth stations to the local exchange carriers will result in a shift of revenue requirements to the intrastate jurisdiction through the operations of the Separations Manual, none of the parties has demonstrated sufficiently concrete results that would modify the technical and operational findings we have made above.[42] Absent a persuasive economic analysis of the impact of Bush earth station ownership on the ratepayers, we believe the ownership structure described above represents a reasonable allocation of costs and responsibilities for MTS services between Alascom and the local exchange carriers. Furthermore, any shift in revenue requirements can more appropriately be accommodated through the separations process or, if necessary, in a Joint Board proceeding.

56. The parties are therefore on notice that the Commission will use the comments they submit to fashion a final ownership plan. Such a plan will resolve any outstanding controversies and will form the basis for the definitive arrangementes to be negotiated by the parties. Thus, we believe it is preferable that the parties involved submit detailed responses concerning the issues we have outlined above, as well as any other implementation issue they believe necessary to bring to our attention. We also urge them to make every practical effort to reach consensus on the implementation of this joint ownership policy. We believe that the status of the Bush applications must be resolved and believe further extensive proceedings will serve no useful purpose.

57. In our *Notice* we also requested comments concerning the physical point of interconnection between the parties.

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[36] During the comment period specified below, the parties can, of course, take exception to our tentative resolution.

[37] We would expect that the interim arrangement between Alascom and the State and the Alascom/ASTAC contract for routine Bush earth station maintenance would form a good starting point for formulating the details of how this ownership structure should be implemented.

[38] The "Alascom Satellite Communications Transmission Plan" is a detailed description of Alaskan earth station parameters, transponder allocation plans, and other technical and operational specifications. The most current version filed with the Commission is dated November 1979.

[39] *See* comments of Alascom at 72. Joint planning is a commonplace practice between AT&T and independent telephone companies in the contiguous 48 states. Also, the INTELSAT system is an example of a satellite system where some hundred independent countries cooperatively design and operate a sophisticated global satellite network.

[40] Our decision does not anticipate or authorize participation by the local exchange carriers in either Alascom's space segment operations or its earth station operations outside the Bush communities.

[41] The State of Alaska may also have to be included insofar as the disposition of its initial investment in Bush earth station facilities may not have been settled.

[42] Although Alascom has submitted figures on its estimate of the impact of local exchange ownership on the separations and settlements process, the case is clearly overstated. It claimed that $14 million in annual revenue requirements would shift from interstate to intrastate MTS. *See* Alascom Comments at 92. However, any actual shift would be much less. For example, Alascom appears to have significantly overstated Bush earth station investment costs. Furthermore, it assumes that a total of 150 Bush earth stations are transferred completely to local exchange operators rather then the 35 partial transfers at issue here. Thus we could not, in any event, rely on the cursory and overstated results alleged by Alascom in our deliberations on the appropriated Bush earth station ownership structure.

However, because Alascom will have an ownership interest in all earth stations, this question does not appear to require resolution by us as a practical matter. Rather, this question, if it does in fact have to be decided, will be answered in a way that is consistent with the definition of the respective operation responsibilities of Alascom and the local exchange carriers.

58. In the *Notice* we raised the question of whether authority pursuant to section 214 of the Act should be required of the local carriers who own and operate Bush earth station facilities. It has been our policy in the past to require that all operating transmit/receive earth stations initially obtain Section 214 certification.[43] In particular, we have found that the Bush earth station facilities are part of interstate channels of communication and therefore are "part of an interstate line" within the meaning of Section 214 (a)(1).[44] This is so even if the facilities are located entirely within the boundaries of a single state and provide interstate service only through connection with the facilities of an interstate carrier.[45] However, we see no purpose to be served by the filing of separate applications for Section 214 authorizations pursuant to the procedures of Part 63 of our rules. Any information needed to make the public interest findings required by Section 214 has already been compiled in the record of this proceeding, and formal applications for such authority would only be duplicative of this record. Thus, the radio station authorizations for the Bush earth stations will also comprise the necessary Section 214 certification for the joint owners.[46]

59. Our joint ownership policy is intended to apply only to those small isolated communities traditionally thought to comprise part of the Alaskan Bush rural population. This policy, like our proposed rule, will apply only to earth station facilities that are intended to provide public message telephone service as defined in Section 21.2 of the Commission's Rules. Thus, it will apply only to those earth stations that are proposed to be operated in conjunction with a local exchange service. Our purpose is to establish a policy that avoids duplication of earth station facilities needed to provide essential public message telephone service to these small communities when, for economic reasons, mutual exclusivity exists.

60. In our *Notice*, we attempted to limit the applicability of our proposed rule to those communities having the physical and geographical limitations which justify this unique regulation. Thus we chose to exclude the 32 largest Alaskan cities. In listing these cities, however, we relied on a list of communities in which Alascom presently operates mid-route stations. As a result, three of Alaska's largest cities, Fairbanks, Juneau, and Ketchikan, were not included; and some communities generally considered to be Bush communities, such as Aniak, Fort Yukon, Iliamna, and Sand Point, were included. We take this opportunity to clarify our definition of the Alaska Bush.

61. The policy we are adopting today will pertain to communities of less than 1,000 citizens. This is not, however, to be considered a definition without exceptions. If a showing can be made that the community in question is not isolated or is generally accessible, *i.e.* a community not considered to be located in the Alaska Bush, then it too will be excluded from the coverage of this rule.

62. Our intent is to apply this policy to the applications presently contested in the 35 Bush locations listed in Appendix A of our *Notice*. Additionally, if two applications are filed for a Bush earth station in the same Bush community, joint ownership will also be applied in any such future mutually exclusive situations. If the parties involved do not believe, based upon experience at that time, that our joint ownership policy is the most practical solution to the Bush earth station ownership question, either may file a petition incorporating their proposed ownership changes. The burden will be on the party proposing such a change to demonstrate that an alternate plan would better serve the public interest. Absent such a showing, joint ownership will be adopted as the appropriate means of resolving such future controversies.[47]

V. Conclusion

63. In view of our discussion with respect to the economic mutual exclusivity of duplicative earth station facilities in Bush communities, the benefits and detriments associated with each applicant, our policy of encouraging new entry into the domsat field and our desire to encourage local participation in the ownership of essential telecommunications facilities, it appears that further extensive proceedings will not serve the public interest. Hence, we tentatively conclude that the Bush earth station facilities should be jointly owned by Alascom and the appropriate local exchange operator.

64. A regulatory flexibility analysis is not required in this proceeding because the proposed rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). Only three applicants in this proceeding are potentially affected and this is not a substantial number.

65. Accordingly, it is ordered, pursuant to Sections 4(i), 4(j), 214(c) and 303(r) of the Communications Act of 1934, that the policies set forth in this document are adopted as a Tentative Decision in CC Docket No. 80-584. Interested persons may file comments on or before March 7, 1983 and reply comments on or before April 7, 1983. All relevant and timely comments filed in accordance with §§ 1.415 and 1.419 of our Rules and Regulations will be considered by the Commission before final action is taken in this proceeding.

66. Members of the public are reminded that from the time the Notice of Proposed Rulemaking was issued in this proceeding until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in proceedings such as this one.[48] An *ex parte* contact is a message (spoken or written) concerning the merits of the rulemaking made to a Commissioner, a Commissioner's assistant, or other decision making staff members, other than comments officially filed at the Commission or oral presentations requested by the Commission with all

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[43] American Telephone and Telegraph Company, 89 FCC 2d 1116, 1125 (1982).

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[45] *See* General Telephone Co. of California v. FCC, 413 F.2d 390 (1969). There the court upheld a Commission decision that found connecting carriers were not exempt from the provisions of Section 214 when they construct facilities as part of an interstate channel of communication even though the facilities are located within a single state.

[46] *Cf.* Orbital Deployment Plan, 84 FCC 2d 584, 612-613 (1981); Competitive Carrier Rulemaking, 85 FCC 2d 1, 45-46 (1981).

[47] Section 309(b) of the Communications Act of 1934 declares, in part, that no application for a common carrier license shall be granted by the Commission earlier than thirty days following issuance of a public notice by the Commission of its acceptance for filing. Among other things, this provision is designed to give interested parties a thirty-day opportunity to learn of, and act upon, the filing of an application. To comply with our need for an orderly administrative procedure to prevent processing disruptions by late filings, we believe that any competing applications for Bush earth stations should be filed within this thirty day period in order to be considered mutually exclusive. A competing application filed after that date will be returned as unacceptable for filing due to its untimeliness. To ensure that all interested parties are aware of a filing, an applicant must file copies of its application with the APUC, and with Alascom or the local exchange carrier, as appropriate, and include proof of such service with its application to the Commission.

[48] *See* Sangamon Valley Television Corp. v. U.S., 269 F. 2d 221 (D.C. Cir. 1959).

parties present. A summary of the Commission's procedures governing *ex parte* contacts in informal rulemaking is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554, (202) 632–7000.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

November 18, 1982.

Dissenting Statement of Commissioner Anne P. Jones

In re: Policies governing the ownership and operation of domestic satellite earth stations in the Bush Communities in Alaska

I dissent from the majority opinion in this case because I believe that the result it recommends will not serve the interests of the Alaska ratepayers it purports to protect. First, I am bothered by the way the concept of mutual exclusivity is applied in this case. I recognize that Alaska is a unique situation and that the communities involved here are very small. I also recognize that having more than one transmit/receive earth station in these communities may appear to be economically irrational. I am not willing to say, however, that these facts should absolutely bar every application for a second earth station in these communities.

This agency's action should not focus only on the cost of service, but also on the quality of service. If a community is dissatisfied with the quality of service it is receiving, and is willing to bear the costs of installing a second earth station, I don't believe it is our job to tell that community it may not opt for better quality service.[1] In my view, this is an unwarranted exercise of our authority.[2]

My concern that these communities be able to improve the quality of the service they receive also leads me to conclude that under the joint ownership arrangement proposed in this decision, vesting control of the existing earth stations in Alascom is wrong. Alascom has little incentive to use these earth stations in a way that would maximize the quality of service to the local community. As the decision recognizes, it is the local exchange operator who has "the incentive to operate and develop the earth station facilities to tailor the services desired by Bush ratepayers." Para. 32. By giving Alascom the controlling ownership share, the item gives Alascom the ability to thwart local desires where they differ from its own best interests. I don't believe there is any need to do this.

The majority's goal of having Alascom's technical expertise available to ensure efficient operation and continuity with the Alaska toll network is accomplished by having Alascom participate in the ownership of these facilities. I see no basis for the majority's implication that local carriers will in some way attempt to undermine efficient development of the Alaska toll network through their control over these facilities. Certainly it is in their interest to have a high quality system; this is likely to increase usage and, accordingly, revenues.

Quite simply, as I see it, the greatest incentive for improving the quality and diversity of service available in these communities lies with the local carriers, and not with Alascom. I would therefore vest the 51% share of these facilities in the local operators.

[1] *Cf. Communications Satellite Corporation*, where the Commission stated that it was willing to authorize facilities it believed to be redundant, so long as the customer (in that case DOD) was willing to pay the full cost of the facilities. 80 FCC 2d 170, 180 n. 28 (1980).

[2] The claim that permitting a second earth station might allow local carriers to "gold plate" their rate base is not a valid concern. In a situation where the decision to install a second earth station is not justified and appears to be an effort to inflate the carrier's rate base, it would be the job of the Alaska Public Utilities Commission to disallow the investment.

[FR Doc. 83-6065 Filed 3-8-83; 8:45 am]

BILLING CODE 6712-01-M

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[FR Doc. 83-6065 Filed 3-8-83; 8:45 am]

BILLING CODE 6712-01-M

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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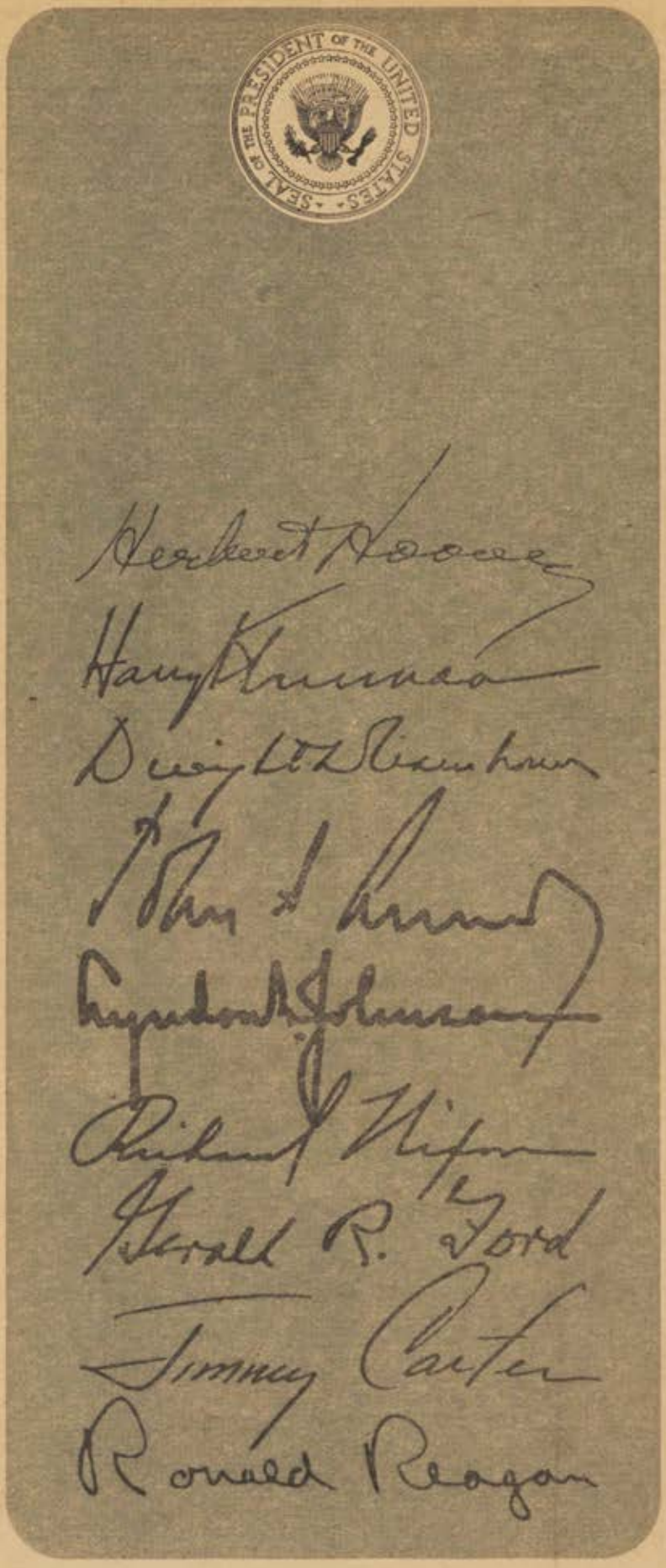

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