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# federal register

Monday
December 17, 1984

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Civil Aeronautics Board

**Aviation Safety**
Federal Aviation Administration

**Banks, Banking**
Farm Credit Administration

**Bridges**
Coast Guard

**Claims**
Fiscal Service

**Communications Common Carriers**
Federal Communications Commission

**Electronic Funds Transfers**
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**Flood Insurance**
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**Health Insurance**
Personnel Management Office

**Motor Vehicle Safety**
National Highway Traffic Safety Administration

**Natural Gas**
Federal Energy Regulatory Commission

**Occupational Safety and Health**
Occupational Safety and Health Administration

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Federal Railroad Administration

**Reporting and Recordkeeping Requirements**
Federal Deposit Insurance Corporation

**Surface Mining**
Surface Mining Reclamation and Enforcement Office

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# 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 week.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 890

### Federal Employees Health Benefits Program; Miscellaneous Amendments

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management is revising its Federal Employees Health Benefits (FEHB) regulations to make the effective dates for belated open season enrollments and changes in enrollment retroactive when filed late because of circumstances beyond an individual's control. This revision will alleviate the financial hardship suffered by individuals who must meet deductibles of two plans in the same calendar year for medical expenses incurred before and after the effective date of the belated change. A minor editorial change has been made to the proposed regulation to improve its clarity and simplicity.

**EFFECTIVE DATE:** December 17, 1984.

**FOR FURTHER INFORMATION CONTACT:** Barbara Myers, (202) 632–9677.

**SUPPLEMENTARY INFORMATION:** On September 26, 1984, the Office of Personnel Management published proposed rules in the **Federal Register** (49 FR 37785) with a request for comments from interested parties before publication as final regulations.

During the 30-day comment period, OPM received comments from five FEHB carriers and four Federal agencies. All comments were considered in developing the final rule.

Several commenters supported the proposed regulations because they provide fair and equitable treatment for enrollees.

Several commenters are concerned that a retroactive effective date could make it difficult for the enrollee's old carrier to get reimbursement for claims paid or services rendered during the retroactive period. The comprehensive medical plans expressed concern about the potential financial risk to enrollees who make belated changes to comprehensive plans. They pointed out that they require their enrollees to obtain services from plan facilities or physicians except in cases of emergency. With retroactive enrollments, the enrollee may have received services or benefits that would not be reimbursed because the situation was not an emergency. Thus, an enrollee who received medical care from another carrier before filing the belated change would be liable for expenses incurred under the old plan.

Several comprehensive medical plans suggested a prospective, rather than a retroactive, effective date for those who make a belated change to a comprehensive plan. While it is clear that for those who make such a change, a retroactive effective date could create a limited number of problems, we believe that this suggestion would be difficult to administer and would not assure equal treatment to all enrollees and carriers. In those rare cases where a retroactive effective date would be to the disadvantage of an enrollee or carrier, we will use existing regulatory authority to make these enrollments prospective.

One carrier suggested that the SF 2809 (Health Benefits Registration Form) be revised to provide the enrollee's old plan with the new plan's name. This would enable them to advise the new plan if the enrollee has been paid for a filed claim, and would make it easier to obtain direct reimbursement from the new plan. If this information is needed for coordination of benefits purposes, OPM has no objection to the old carrier obtaining it directly from the enrollee at the time a claim is filed. We will, however, consider other ways of resolving this problem (including possible revision of the SF 2809).

Finally, one commenter expressed concern that the Government make the correct transfers of monies between carriers retroactively, as well as make the corrections to subscribers withholdings for new enrollments or changes from Self Only to Self and Family coverage. This problem is not unique in the context of this regulation, nor will this regulation affect the accuracy of money transfers. Agencies already have payroll systems in place to deal with retroactive adjustments.

Pursuant to secion 553(d)(3) of title 5 of the United States Code, the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately because it must take effect before the effective date of an open season enrollment change.

**E.O. 12291, Federal Regulation**

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

**Regulatory Flexibility Act**

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect Federal employees and annuitants.

**List of Subjects in 5 CFR Part 890**

Administrative practice and procedure, Claims, Government employees, Health insurance, Retirement.

Office of Personnel Management.
**Donald J. Devine,**
*Director.*

Accordingly, OPM is amending Part 890 of Title 5 of the Code of Federal Regulations as follows:

## PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority for Part 890 is revised to read as follows:

**Authority:** 5 U.S.C. 8913.

2. In § 890.201, paragraph (a)(10) is revised to read as follows:

**§ 890.201 Minimum standards for health benefits plans.**

(a) * * *

(10) Provide that any covered expenses incurred from January 1 to the effective date of an open season change count toward the losing carrier's prior year deductible. If the prior year deductible or family limit on deductibles of the losing carrier had previously been met, the enrolled individual (and eligible family members) shall be eligible for reimbursement by the losing carrier for

covered expenses incurred during the current year. Reimbursement of covered expenses shall apply only to covered expenses incurred from January 1 to the effective date of the open season change. This section shall not apply to any other permissible changes made during a contract year.

* * * * *

3. In § 890.306, paragraph (e) is redesignated as paragraph (f) and a new paragraph (e) is added to read as follows:

**§ 890.306 Effective dates.**

* * * * *

(e) *Belated open season registrations.* (1) When a belatedly filed open season enrollment registration or enrollment change is accepted by the employing office under § 890.301(b), it takes effect on the date required by § 890.306(c).

* * * * *

[FR Doc. 84-32676 Filed 12-14-84; 8:45 am]

BILLING CODE 6325-01-M

## MERIT SYSTEMS PROTECTION BOARD

### 5 CFR Part 1201

### Appeals Arbitration/Voluntary Expedited Appeals Procedures

**AGENCY:** Merit Systems Protection Board.

**ACTION:** Extension of expiration date of interim rules regarding Voluntary Expedited Appeals Procedures and call for comments on geographic expansion of this pilot program.

**SUMMARY:** The U.S. Merit Systems Protection Board extends to April 30, 1985, the expiration date of its interim rules governing its voluntary expedited appeals procedure (VEAP) for resolving certain kinds of appeals under the appellate jurisdiction of the Board. This extension applies to the interim regulations published at 5 CFR 1201.201–1201.221, (48 FR 11399–11403) (March 18, 1983) and amended at 49 FR 26697–26701 (June 29, 1984). In addition, the Board proposes to extend the coverage of the voluntary expedited appeals procedures to the Board's regions not previously covered: New York, Philadelphia, Atlanta, St. Louis and Washington, D.C.

**DATES:** Interim rules effective December 17, 1984 through April 30, 1985; comments must be received on or before March 15, 1985. Appeals postmarked December 17, 1984, or after, will be subject to these amended regulations.

**ADDRESS:** Send written comments Paul E. Trayers, Legislative Counsel, Office of the Legislative Counsel, U.S. Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, D.C. 20419.

**FOR FURTHER INFORMATION CONTACT:** Paul E. Trayers, Legislative Counsel, FTS/Commercial (202) 653–7175.

**SUPPLEMENTARY INFORMATION:** Upon publication of this notice, the Merit Systems Protection Board extends to April 30, 1985, the expiration date of its interim rules governing its voluntary expedited appeals procedure for resolving matters subject to the appellate jurisdiction of the Board. The interim rules were first published at 48 FR 11399 (March 18, 1983) and amended at 49 FR 26697 (June 29, 1984). The rules were to expire December 17, 1984, 49 FR 36495 (September 18, 1984). An additional extension of the expiration date is warranted to allow for further review of the success of the rules in the six regions where they have been in force. The Board recommends that the coverage of the program be extended to cover the remaning five regions. The extension of the interim rules will allow comment by interested parties in those regions in which the program is proposed to be initiated.

The Board's pilot project was designed to test the feasibility of and provide for an expedited cost-effective and efficient alternative dispute resolution system for the adjudication of routine, non-precedential appeals. The project was extended to run to at least December 17, 1984, in a minimum of six regional offices.

The MSPB believes that the difference in perceptions regarding the use of the voluntary expedited appeals procedure as opposed to the formal appeals system is meaningful and has undoubtedly contributed to both settlements and a speedier, more efficient appeals process for certain kinds of non-precedential appeals. Dispute resolution systems should be evaluated not only on the results and efficiency of how that system handles a particular case, but also on the credibility that that system has for the constituent public. In the Board's case, it is imperative that the adjudicatory systems be understood to have substantive legal integrity, be predictable in their processing, and engender confidence that the procedures will result in finality within established time lines.

In this regard, the Board is pleased that the expedited and formal systems have supported these goals. In comparing adjudicated cases, the percentage of agencies prevailing was precisely the same under both systems. That is not to say that the systems should always have identical rates of affirmances, mitigations and reversals. However, given the evaluative model of comparing similar appeals, the Board has concluded that there is no compelling reason for agencies or appellants to expect decisions to differ based on which appeals procedure is used.

The Board, after thorough review and evalaution of all comments received by March 15, 1985, will determine whether to proceed with implementation of the voluntary expedited appeals procedure, along with any modifications deemed advisable based upon its review of the comments.

Dated: December 13, 1984.

For the Board.

**Herbert E. Ellingwood,**

*Chairman.*

[FR Doc. 84-32870 Filed 12-14-84; 8:45 am]

BILLING CODE 7400-01-M

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Part 304

### Reporting Requirements on Deposits Placed by Deposit Brokers and Depository Institutions

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Federal Deposit Insurance Corporation ("FDIC") has adopted a final regulation requiring each FDIC-insured bank with combined fully insured brokered deposits and fully insured deposits placed directly by depository institutions in excess of either the bank's total capital and reserves or five percent of the bank's total deposits to report holdings of such deposits to the FDIC for every month in which such excess exists. The purpose of this regulation is to provide the FDIC with more frequent information on each FDIC-insured bank's involvement with insured brokered deposits and insured deposits of depository institutions. With this monthly information the FDIC hopes to mitigate somewhat the harms caused by such deposits by determining what banks are using brokered funds and to what use those funds are being put.

**EFFECTIVE DATE:** January 16, 1985.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Storch, Planning and Program Development Specialist, or Stephen G. Pfeifer, Examination Specialist, Federal Deposit Insurance Corporation, Division of Bank Supervision, (202) 389–4761, 550 17th Street, NW., Washington, D.C. 20429.

**SUPPLEMENTARY INFORMATION:**

## Background

On March 26, 1984, the FDIC issued a joint regulation with the Federal Home Loan Bank Board limiting the insurance coverage of funds placed with an insured depository institution either by or through a deposit broker. 49 FR 13003 (1984). The regulation was to take effect on October 1, 1984. The FDIC promulgated the brokered deposits regulation because it deems deposit brokerage to be a misuse of the federal deposit insurance system and a significant threat to the federal deposit insurance fund. The **Federal Register** publication on the brokered deposits regulation explains in detail the FDIC's concerns about deposit brokerage and provides ample data to show that the use of brokered deposits has been extremely costly to the FDIC in handling recent bank failures and poses a growing threat in troubled institutions. *Id.*

On the same day the FDIC issued the brokered deposits regulation, court action was brought to nullify the regulation. On June 20, 1984, the Federal District Court for the District of Columbia ruled that the regulation was illegal, concluding that the FDIC (and the Federal Home Loan Bank Board) had exceeded statutory boundaries in imposing insurance limitations on brokered deposits. The FDIC has appealed the Court's decision. In the meantime, deposit brokerage continues to present a clear and present danger to the insurance system as deposit brokers continue to exploit and abuse federal deposit insurance coverage. Moreover, many depository insititutions, such as credit unions, place fully insured funds directly with banks based solely on the rate of interest paid without regard to the financial condition of the institutions. This, too, presents a serious threat to the deposit insurance system.

For these reasons, the FDIC deemed it necessary to accumulate more frequent information from insured banks on brokered deposits and fully insured deposits placed directly by depository institutions. Thus, in July 1984 the FDIC issued an interim final rule ("Interim Rule" or "Interim Regulation"), effective August 6, 1984, requiring reports from each FDIC-insured bank for every month in which it held combined brokered deposits and "fully insured deposits of financial institutions" in excess of either the bank's capital and reserves or five percent of its total deposits. 49 FR 27487 (1984). Banks to which the reporting requirement applies have filed such reports with the FDIC since August 1984. Prior to the implementation of the Interim Rule, the FDIC obtained limited information on brokered deposits in quarterly Reports of Condition from insured banks and collected no information on fully insured deposits placed by financial institutions.

Upon issuing the Interim Rule the FDIC provided a sixty-day comment period ending September 4, 1984. The FDIC also provided a termination date of January 15, 1985, for the Interim Rule, intending to review the comments on the regulation and to issue a permanent rule by that date.

Because of its increasing concerns about the misuse of brokered deposits by a significant number of banks, and after reviewing the comments received on the Interim Rule, the FDIC has decided to issue the Interim Rule—with the changes described below—on a permanent basis. With this monthly information the FDIC hopes to mitigate somewhat the harms caused by such deposits by determining on a regular basis what banks are using brokered funds and to what use those funds are being put. This increased monitoring effort, however, will not solve the problems posed; it will merely assist the FDIC in identifying institutions which may be developing or experiencing financial difficulties. A permanent solution to the problems caused by deposit brokerage and by the direct placement of fully insured funds by depository institutions is yet to be put in place.

Once the FDIC obtains information required to be reported by this section it will review the financial soundness of the banks filing such reports. For banks exhibiting problems of safety or soundness, the FDIC will take the appropriate regulatory actions under section 8 of the Federal Deposit Insurance Act. 12 U.S.C. 1818. If special examinations are necessary to determine whether safety or soundness problems exist, the FDIC will perform such examinations pursuant to the authority found in section 10(b) of the Federal Deposit Insurance Act. 12 U.S.C. 1820(b). Banks which fail to comply with this regulation will be subject to fines prescribed by the Federal Deposit Insurance Act.

## Comment Summary

The FDIC received twenty-six written comments on the Interim Regulation. Twenty-two of the comments were from banks, three from banking industry trade associations and one from a member of the securities industry. A vast majority of the comments expressed support for the regulation as an important step in monitoring deposit brokerage, and urged adoption of the regulation in permanent form. Most of these letters applauded the FDIC's attempts to control the misuse of brokered deposits. They agreed that such steps were necessary to prevent the abuses of the deposit insurance system caused by deposit brokerage. A significant number of comments noted that the Interim Regulation was an appropriate means of obtaining information on deposit brokerage but that certain definitions in the regulation were ambiguous and should be clarified in the permanent regulation. The definition of "brokered deposits," in particular, was criticized as not being sufficiently explicit.

A minority of comments voiced disapproval of the Interim Rule, contending that brokered deposits are not inherently harmful to the industry and that the only way to discover mismanagement of such funds is through the examination process.

## Explanation of the Final Rule and Discussion of Major Comments

### *A. Nature and Scope of the Regulation*

Like the Interim Rule, the Final Rule is in the form of an addition to Part 304 of the FDIC's regulations, "Forms, Instructions, and Reports." 12 CFR Part 304. It requires that all insured banks report to the FDIC regional director in the FDIC region where the bank is located the amount of fully insured brokered deposits and fully insured deposits placed directly by depository institutions held by the bank at the end of each month. The report is required, however, only if the sum of such deposits at the end of a given month is in excess of either the bank's total capital and reserves of five percent of the bank's total deposits. No report is necessary when the total of a bank's fully insured brokered deposits and fully insured deposits placed by depository institutions at the end of a month is not greater than either of the specified dollar amounts. When such reports are required they must be filed within ten days after the end of the month in which the amount of such deposits exceeds either the bank's total capital and surplus of five percent of total deposits.

The scope of the Final Rule differs somewhat from that of the Interim Rule. As suggested by many who offered written and oral comments on the matter, the Final Rule requires that only "fully insured" brokered deposits be reported, and not all brokered deposits, as had been the case in the Interim Rule. Moreover, a report is required only if the bank's "fully insured"—as opposed to

"total"—brokered deposits (and fully insured deposits placed directly by depository institutions) are in an amount exceeding the specified levels. The FDIC believes that the narrowed scope of the new regulation will result in the gathering of information directly in line with the FDIC's concerns about deposit brokerage. Through the use of the revised definitions described below, banks will be required to report only information on fully insured brokered deposits (as well as fully insured deposits placed directly by depository institutions), thereby eliminating the reporting of information on uninsured brokered funds. For purposes of consistency, the FDIC plans, in the near future, to recommend that the Federal Financial Institutions Examination Council amend the applicable definitions in the instructions for the preparation of quarterly Reports of Condition to conform to the definitions in the Final Rule.

If a report must be filed, the Final Rule requires that it be in letter form, signed by an executive officer of the bank and contain designated financial information (rounded to the nearest thousand dollars) on the bank and its deposit brokerage activity. Except for the date on fully insured brokered deposits, the financial information required by the Final Rule to be filed by the bank is largely the same as that required in the Interim Rule: total assets, total fully insured deposits placed directly by depository institutions, total loans, total deposits, total capital and reserves, and the range of rates paid on brokered deposits and deposits placed directly by financial institutions during the reporting month.

A few of the comments suggested that "long-term" brokered deposits be excluded from the information required to be filed. They noted that such deposits are an effective means of improving a bank's liquidity and that the FDIC should not have the same concerns about long-term deposits as it does about short-term brokered funds. The FDIC strongly disagrees with this viewpoint. It believes that fully insured brokered deposits, generally, are harmful to the federal deposit insurance system because they provide almost limitless funds which may be misused by bank managers without risk to the depositors. The FDIC bears the brunt of bank failures caused by mismanaged funds provided by or through brokers. Long-term deposits can be utilized in as unsafe and unsound a manner as short-term funds and, in fact, can be more harmful because they are generally more expensive for an institution to obtain.

Some of the comments suggested that "fully insured deposits of financial institutions" be excluded from the scope of the reporting requirements in that such deposits do not pose the same problems as those engendered by brokered deposits. The FDIC disagrees with this suggestion because information from a significant number of recent bank failures reveals that many financial institutions place deposits—limited to be insured amount—with FDIC-insured banks irrespective of the financial stability of those institutions. Credit unions have been among the most prevalent type of institution involved in such deposit placement. Those institutions' investment decisions are seemingly based solely on the rate of interest paid on the deposits and are totally devoid of any assessment of the depositary's financial condition. This risk-free method of investing funds by financial institutions poses the same problems to the FDIC as does deposit brokerage because the FDIC is the sole party at risk if the bank becomes insolvent. The FDIC deems it appropriate, therefore, to collect data on fully insured deposits placed directly by financial institutions. For purposes of clarity, the Final Rule refers to such deposits as those of "depository institutions," thereby replacing the expression "financial institutions" used in the Interim Rule.

*B. Definitions*

The definitions of most of the key terms in the regulation are the same as those found in the *Instructions for Consolidated Reports of Condition and Income.* In response to a number of comments that certain definitions in the Interim Rule were ambiguous, the Final Rule contains explicit definitions of the terms "brokered deposits" and "fully insured brokered deposits." The term "brokered deposits" encompasses all deposits an insured bank receives from brokers or dealers for the account of others, including deposits purchased for a specific customer of the broker and deposits purchased by the broker in its own capacity to be resold ultimately to customers.

"Fully insured brokered deposits" are defined as brokered deposits in domestic offices of FDIC-insured banks (including domestic branches of foreign banks), and in insured banks and branches in Puerto Rico and United States territories and possessions, issued in denominations of $100,000 or less. The definition also includes such deposits issued in denominations of more than $100,000 that have been or will be participated out by the broker or dealer in increments of $100,000 or less. The Final Rule explains that, for purposes of the reporting requirement, a brokered deposit of more than $100,000 is deemed to be a "fully insured brokered deposit" unless the insured bank has been informed that such deposit will not be participated out by the broker or dealer. For these purposes, the Rule states that the bank may rely on responsible and credible statements made by the broker or dealer concerning the source or ultimate disposition of a brokered deposit.

The FDIC received several comments on whether deposits of money market mutual funds had to be reported under the Interim Rule. For deposit insurance purposes, a money market mutual fund is deemed to be a corporation under the FDIC's regulations and, as such, is limited to deposit insurance of $100,000. 12 CFR 330.5. Thus, a money market mutual fund should not be considered a deposit broker for purposes of the Final Rule. Deposits of a money market mutual fund received from or through a broker, however, should be deemed brokered deposits.

*Procedural Requirements*

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the Board of Directors hereby certifies that the Final Rule will not have a significant economic impact on a substantial number of small entities. The regulation only establishes a monthly reporting requirement on all FDIC-insured banks with fully insured brokered deposits and deposits placed directly by depository institutions that exceed specified levels and does not affect or limit a bank's operations. Inasmuch as most of the data required by this reporting regulation are currently collected by banks for quarterly reports, the additional burden placed upon most institutions by this requirement is not significant. Also, because the total of such categories of deposits does not yet constitute a significant portion of total deposits of most insured institutions, the Final Rule's reporting requirement is not expected to affect a significant number of banks. The monthly reporting requirement contained in this rule was submitted to the Office of Management and Budget for review pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)).

The FDIC is promulgating this regulation under its authority granted in sections 7, 9 and 10(b) of the Federal Deposit Insurance Act. 12 U.S.C. 1817, 1819 and 1820(b).

**List of Subjects in 12 CFR Part 304**

Administrative practice and procedure, Bank deposit insurance, Banks, Banking, Foreign banks, Banking, Reporting and recordkeeping.

Accordingly, the FDIC hereby amends 12 CFR Part 304 as set forth below.

## PART 304—FORMS, INSTRUCTIONS AND REPORTS

1. The authority citation for Part 304 is amended to read as follows:

Authority: 12 U.S.C. 1817, 1818, 1819, 1820.

2. Section 304.4 is added as follows:

**§ 304.4 Report of fully insured brokered deposits and fully insured deposits placed directly by depository institutions.**

(a) *Filing.* (1) Within ten days after the end of each month, each insured bank shall report the data described in paragraph (a)(2) of this section to the appropriate FDIC regional director if the total amount of the bank's fully insured brokered deposits and fully insured deposits placed directly by depository institutions as of the end of that month was in excess of either the bank's total capital and reserves or five percent of the bank's total deposits on such date;

(2) If a report is required by paragraph (a)(1) of this section, it must be in letter form, signed by an executive officer of the bank, and contain the following bank data, as of the end of the month in question: total fully insured brokered deposits, total fully insured deposits placed directly by depository institutions, total assets, total loans and leases (net unearned income), total deposits, and total and reserves. The report must also include the range of rates paid on fully insured brokered deposits and fully insured deposits placed directly by depository institutions received during the reporting month. Dollar amounts may be rounded to the nearest thousand.

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

(1) the terms "appropriate FDIC regional director" means the FDIC regional director in the FDIC region in which the insured bank is located;

(2) The term "brokered deposits" means deposits in domestic offices of insured banks (including insured domestic branches of foreign banks) and in insured banks and branches in Puerto Rico and United States territories and possessions which an insured bank receives from brokers or dealers for the account of others either directly or ultimately. All deposits received from brokers or dealers are deemed brokered deposits;

(3) The term "fully insured brokered deposits" means brokered deposits: (i) Issued in denominations of $100,000 or less, or (ii) issued in denominations of more than $100,000 that have been or will be participated out by the broker or dealer in shares of $100,000 or less. In the absence of information available to the insured bank that a brokered deposit issued in a denomination of more than $100,000 has not been or will not be participated out by the broker or dealer in shares of $100,000 or less, such a brokered deposit is deemed to be a fully insured brokered deposit. For this purpose, an insured bank may rely on statements made by a broker or dealer concerning the source of or ultimate disposition of a brokered deposit, unless there is a valid reason to believe such statements are untrue;

(4) The term "fully insured deposits placed directly by depository institutions" means the sum of the time and savings deposits in domestic offices of insured banks (including insured domestic branches of foreign banks) and in insured banks and branches in Puerto Rico and United States territories and possessions which an insured bank receives directly from those depository institutions in the United States whose total deposits in such offices of the insured bank are $100,000 or less (excluding accrued and unpaid interest). This definition does not include situations where a depository institution in the United States has uninsured funds (excluding accrued and unpaid interest) placed with the bank.

(5) The term "total capital and reserves" means: (1) For banks other than savings banks, the sum of "total equity capital" and the "allowance for loan and lease losses," as those terms are defined in the *Instructions for Consolidated Reports of Condition and Income* which is described in § 304.3(m) of this part, and (ii) for savings banks (mutual and stock), the sum of "total capital accounts" and the "allowance for possible loan losses" on real estate loans and all other loans, as those terms are defined in the Savings Banks Report of Condition (Form 8040/18), which is described in § 304.3(n) of this part.

(6) The term "total deposits" means the sum of "deposits in domestic offices" and "deposits in foreign offices." The terms "total assets", "depository institutions in the United States", "deposits in domestic offices", "deposits in foreign offices", and "total loans and leases (net of unearned income)" shall have the same meanings as those found in the *Instructions for Consolidated Reports of Condition and Income;* which is described in § 304.3(m) of this part.

(c) *Effective date:* The effective date of this regulation is January 16, 1985. The first reports required under this section shall be filed within ten days after January 31, 1985.

By Order of the Board of Directors, December 10, 1984.

Federal Deposit Insurance Corporation.

**Hoyle L. Robinson,**

*Executive Secretary.*

[FR Doc. 84-32585 Filed 12-14-84; 8:45 am]

BILLING CODE 6714-01-M

## FARM CREDIT ADMINISTRATION

### 12 CFR Part 614

### Loan Policies and Operations

**AGENCY:** Farm Credit Administration.

**ACTION:** Final rule.

**SUMMARY:** The Farm Credit Administration ("FCA"), by its Federal Farm Credit Board ("Federal Board"), is amending its regulations dealing with loss-sharing and guaranty agreements between Farm Credit System ("System") institutions. The current regulations do not authorize "unlike" banks or "unlike" associations to agree to share losses or guaranty obligations on either a districtwide or Systemwide basis, with the exception of a 37-bank agreement. Consequently the FCA has been unable to approve loss-sharing agreements between all banks or unlike associations in a district, or among districts. In addition, the eight categories enumerated in § 614.4340(b) of the regulation do not permit System service corporations to share losses among themselves or with banks or associations.

These amendments relax restrictions currently contained in the regulations, thereby eliminating regulatory limitations on the FCA's authority to approve certain loss-sharing agreements proposed by System institutions. The amendments will enable System institutions to devise needed methods for addressing financial difficulties which they currently are facing.

**EFFECTIVE DATE:** December 17, 1984.

**FOR FURTHER INFORMATION CONTACT:** Gary L. Norton, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22101-5090, (703) 883-4020.

**SUPPLEMENTARY INFORMATION:** The Farm Credit Act of 1971, as amended ("1971 Act"), authorizes each System institution to agree to share losses with any other System institution. This authority is not limited to agreements

between "like" banks or "like" associations.

The 1971 Act authorizes loss-sharing agreements to prevent the impairment of capital or for any other purposes and provides that all loss-sharing agreements are subject to FCA approval. FCA regulations currently restrict the types of institutions that can enter into agreements by listing eight categories of permissible agreements. This limitation is also contained in 12 CFR 614.4345 regarding guaranty agreements. Several System institutions have recently proposed agreements which have involved innovative attempts to address the financial conditions facing the individual institutions. The FCA has not approved these proposals when they have involved institutions not enumerated among the eight categories in the regulation. In light of the significant financial stress in the agriculture industry which has had an effect on all agricultural lenders, including System institutions, the Federal Board believes that the limitations imposed by the regulation are not appropriate at this time.

Additionally, the Federal Board believes the regulation should clarify that "loss-sharing" can be used to address losses of many types, not just loan losses, and can achieve many purposes, not just the protection against the impairment of capital. System institutions are encouraged to use their ingenuity, within existing legal authority, to devise efficient and cost effective means for providing support in and among districts on a Systemwide basis. System service corporations should also be able to formulate loss-sharing proposals consistent with their legal authorities. As required by the 1971 Act, the FCA will continue to monitor and control the parties entering into loss-sharing agreements and the types of those agreements by exercising its statutory approval authority.

These amendments relax restrictions currently contained in the regulations, thereby eliminating regulatory limitations on the FCA's authority to approve certain loss-sharing agreements proposed by System institutions. The amendments will enable System institutions to devise needed methods for addressing financial difficulties which they currently are facing. Accordingly, the Federal Board has determined, pursuant to 5 U.S.C. 553, it unnecessary and contrary to the public interest to provide notice and opportunity for public comment prior to the effective date of this regulation. In accordance with 12 U.S.C. 2252(b)(2), the regulations are effective on the date of publication.

**List of Subjects in 12 CFR Part 614**

Banks, Banking, Credit, Agriculture.

## PART 614—LOAN POLICIES AND OPERATIONS

12 CFR Part 614 is amended by revising Subpart I to read as follows:

### Subpart I—Loss-Sharing Agreements

**§ 614.4340 General.**

(a) Upon the approval of the board of directors of the respective Farm Credit System institutions, and with the prior written approval of the Farm Credit Administration, any System bank, association, or service corporation or service association may enter into an agreement to share loan and other losses with any other institution(s) of the System. As appropriate, a loss-sharing agreement may contain provisions relating to definitions of terms, terms and conditions for activation, determinations of assessment formulas, limitations on assessments, reimbursements, administration, arbitration, and provisions for amendment and termination.

(b) System institutions may agree among themselves to share losses for the purpose of protecting against the impairment of capital stock or participation certificates, or for any other purpose. Agreements may provide for sharing losses that arise in the future or that were recognized by one or more of the signatory institutions before the date of the agreement. Agreements may contain provisions that are not entirely reciprocal among the signatories to the agreement. Loss-sharing agreements can provide for the sharing of loan losses, operating losses, casualty losses, losses on high risk assets, or any other losses.

**§ 614.4345 Guaranty Agreements.**

With approval of the Farm Credit Administration, guaranty agreements under which a percentage of the risk associated with specific loans is assumed may be entered into by or among System banks and associations.

(Secs. 5.9, 5.12, 5.18, Pub. L. 92–181, 85 Stat. 619, 620, 621 (12 U.S.C. 2243, 2252))

**Kenneth J. Auberger,**

*Acting Governor.*

[FR Doc. 84–32776 Filed 12–14–84; 8:45 am]

BILLING CODE 6705–01–M

## NATIONAL CREDIT UNION ADMINISTRATION

**12 CFR Part 795**

**Elimination of OMB Control Number**

**AGENCY:** National Credit Union Administration.

**ACTION:** Final rule.

**SUMMARY:** This document corrects a final rule published March 19, 1984 (49 FR 10084) on OMB control numbers as NCUA has rewritten its lending regulation. The collection of information control number for the old regulation should be eliminated from the control number display found in that document.

**EFFECTIVE DATE:** December 17, 1984.

**ADDRESS:** National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

**FOR FURTHER INFORMATION CONTACT:** Hattie M. Ulan, Staff Attorney, Department of Legal Services, at the above address. Telephone: (202) 357–1030.

**SUPPLEMENTARY INFORMATION:** On Wednesday, August 1, 1984, the new final rule entitled "Loans to Members and Lines of Credit to Members" was published in the **Federal Register** (49 FR 30683). The old rule was numbered from 701.21–1 through 701.21–6, 12 CFR 701.21–1 through 701.21–6. The collection of information requirements in the old rule were found in Section 701.21–6. The OMB control number for that section appears in the display found in § 795.1, 12 CFR 795.1. The new rule is numbered from 701.21(a) through 701.21(g), 12 CFR §§ 701.21(a) through 701.21(g). The collection of information requirements are found in §§ 701.21(c)(2), 701.21(g)(3) and 701.21(g)(4). The NCUA has received OMB approval for these collection requirements. An OMB control number has been assigned to these requirements and the control number has been added to the display found in § 795.1 (see 49 FR 44993, Wednesday November 14, 1984).

**§ 795.1 [Corrected]**

Therefore, the control number for the collection requirement found in the old rule (701.21–6) and the reference to "701.21–6" should be removed from the current display found in paragraph (b) of § 795.1 as published on March 19, 1984, (49 FR 10084).

Dated: December 10, 1984.

Rosemary Brady,

*Secretary of the Board.*

[FR Doc. 84-32722 Filed 12-14-84; 8:45 am]

BILLING CODE 7535-01-M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

[Docket No. 84-CE-34-AD; Amt. 39-4962]

## Airworthiness Directives; Mitsubishi Heavy Industries, Ltd. (MHI) Models MU-2B, -10, -15, -20, -25, -26, -30, -35, -36, Airplanes and Mitsubishi Aircraft International, Inc. (MAI) Models MU-2B-25, -26, -26A, -35, -36A, -40, -60 Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD), applicable to Mitsubishi Models MU-2B, -10, -15, -20, -25, -26, -26A, -30, -35, -36, 36A, -40, and -60 airplanes manufactured by Mitsubishi Heavy Industries, Ltd. (MHI), and/or Mitsubishi Aircraft International, Inc. (MAI), which supersedes AD 77-04-07, Revision 1, Amendment 39-4181 (46 FR 41490, April 17, 1981); and AD 77-13-19, Amendment 39-2941 (42 FR 32528, June 27, 1977). These superseded ADs required the disassembly, lubrication and reassembly every 100 hours time-in-service (TIS) and a dimensional inspection every 300 hours TIS of the old elevator trim tab attachment brackets. The optional installation, on MAI airplanes only, of new improved elevator trim tab attachment brackets, eliminated the reinspection requirement. Subsequently, analysis of Service Difficulty Reports, and the findings of the Special Certification Review Team, indicates that the servere wear problem occurring on the existing bushing may be further aggravated by the frequent disassembly/reassembly of these brackets which may contribute to the malfunction of these parts. Accordingly, this AD requires the mandatory replacement of all elevator trim brackets with 035A-22128-1/-2 brackets and eliminates the repetitive inspections and lubrication maintenance action on MAI and MHI airplanes. This replacement will eliminate possible trim tab control separation, loss of the trim tab and/or flutter and subsequent incidents related thereto.

**EFFECTIVE DATE:** December 18, 1984.

Compliance: As prescribed in the body of the AD.

**ADDRESSES:** Mitsubishi Heavy Industries, Ltd. (MHI), MU-2 Service Bulletin No. 176, Revision E, dated September 26, 1984, applicable to this AD, may be obtained from Mitsubishi Heavy Industries, Ltd., Nagoya Aircraft Works, 10, Oye-cho, Minato-ku, Nagoya, Japan, or Mitsubishi Aircraft International, Inc., P.O. Box 3848, San Angelo, Texas 76901.

Mitsubishi Aircraft International, Inc., MU-2 Service bulletin SB 031/27-005, Revision 1, dated October 15, 1984, applicable to this AD, may be obtained from Mitsubishi Aircraft International, Inc., P.O. Box 3848, San Angelo, Texas 76901. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

**FOR FURTHER INFORMATION CONTACT:** For the MHI Series airplanes manufactured in Japan: Gerry Sullivan, Aerospace Engineer, Western Aircraft Certification Office, ANM-172W, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, Telephone: (213) 536-6166.

For the MAI Series airplanes manufactured in the U.S.: Michael R. Mathias, Structures Engineer, Airplane Certification Branch, ASW-150, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, Telephone: (817) 877-2078.

**SUPPLEMENTARY INFORMATION:** As a result of several incidents, including one failure, involving worn elevator trim tab control bracket bearing bushings, the Japanese manufacturer Mitsubishi Heavy Industries (MHI) issued SB 166, dated May 13, 1974, applicable to Models MU-2B, -25 and -35 airplanes. The FAA found that the condition addressed by this Service Bulletin was an unairworthy condition likely to exist on airplanes certificated for operation in the United States. Therefore, it issued AD 74-19-08, Amendment 39-1955 which required disassembly, inspection, lubrication and reassembly with improved parts, and replacement, within 200 hours time in service, of all bracket Part Number (P/N) 010A-22117 with 010A-22119. Subsequently the MHI issued SB 176, dated September 1, 1976, and the U.S. Manufacturer Mitsubishi Aircraft International (MAI), issued SB 002/27-001, dated December 8, 1976, requiring repetitive inspections and eventual replacement of all prior brackets with a new design bracket P/N 010A-22127 and extended this applicable requirement to additional MU-2B model airplanes.

Based upon these service bulletins and the data available, the FAA issued AD 77-13-19 (Amendment 39-2941), superseding AD 74-19-08 applicable to MHI airplanes, and AD 77-04-07 (Amendment 39-2841) applicable to MAI airplanes, which made compliance with these service bulletins mandatory.

After publishing AD 77-04-07, the FAA determined that the reasons for issuing this AD were also valid for additional MAI Model MU-2B airplanes and if the optional new improved design brackets, P/N 035A-22128-1/-2 were installed, in accordance with MAI SB 031/27-005, the repetitive dissassembly, inspection and lubrication required by this AD could be eliminated. As a result, Revision 1 of AD 77-04-07, Amendment 39-4181, applicable to MAI airplanes, was issued.

Subsequently, analysis of Service Difficulty Reports, and the findings of the FAA Mitsubishi MU-2B Special Certification Review Team, indicate that the frequent disassembly/reassembly of the elevator trim tab attachment brackets to inspect for excessive wear of the existing bushings contributes to the malfunction of these parts. As a result the U.S. manufacturer MAI has issued Revision 1 of their Service Bulletin SB 031/27-005 dated October 15, 1984 and the Japanese manufacturer MHI has issued Service Bulletin No. 176, Revision E, dated September 26, 1984, which provide for the replacement of all prior elevator trim tab attachment brackets with the new improved design brackets, P/N 035A-22128-1/-2 on all MAI and MHI airplanes. The JCAB, who has responsibility and authority to maintain the continuing airworthiness of the MHI airplanes in Japan, has classified this Service Bulletin and the actions recommended therein by the manufacturer, as mandatory, to assure the continued airworthiness of the affected airplanes. On airplanes operated under Japanese registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the JCAB combined with FAA review of pertinent document in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of MHI Service Bulletin No. 176, Revision E, and the mandatory classification of this Service Bulletin by

the JCAB, the MAI Service Bulletin 031/27-005 Revision 1, and the recommendations of the Mitsubishi Special Certification Review Team.

Based on the foregoing, the FAA has determined that the condition addressed by these service bulletins is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States. Therefore, an AD superseding AD 77-04-07, Revision 1, and AD 77-13-19 is being issued that requires the mandatory replacement of all previous Part Numbered elevator trim tab attachment brackets with the new improved design, Part Number 035A-22128-1/-2 on all Mitsubishi Heavy Industries and Mitsubishi Aircraft International Model MU-2B, -10, -15, -20, -25, -26, -26A, -30, -35, -36, -36A, -40, -60 airplanes in accordance with the aforementioned Service Bulletins. Because an emergency condition exists that required immediate adoption of this regulation notice and public procedure hereon are impractical and contrary to the public interest and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since this rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evauation or analysis, as appropriate will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

**List of Subjects in 14 CFR 39**

Aviation safety, Aircraft.

**Adoption of the Amendment**

**PART 39—[AMENDED]**

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Mitsubishi: Applies to Models MU-2B, -10, -15, -20, -25, -26, -26A, -30, -35, -36, -36A, -40, and -60, (Serial Numbers 1 up to and including 799, and 1501 up to and including 1530 with or without the SA suffix), airplanes certificated in any category.

Note.—The serial numbers of airplanes manufactured in the United States by Mitsubishi Aircraft International, Inc. (MAI) are suffixed by "SA." The serial numbers of airplanes manufactured in Japan by Mitsubishi Heavy Industries, Ltd. (MHI) have no suffix.

Compliance: Required as indicated, unless already accomplished.

To prevent failure of the elevator trim tab brackets bushing, accomplish the following:

(a) Within the next 100 hours time-in-service, replace Part Number (P/N) 010A-22117, P/N 010A-22119, P/N 010A-22127, or P/N 035A-22127, trim tab brackets with P/N 035A-22128-1/-2 trim tab brackets on MAI airplanes in accordance with Parts 3 and 4 of MAI Service Bulletin (SB) 031/27-005, Revision 1, dated October 15, 1984, and on MHI airplanes in accordance with paragraphs A. or B., as appropriate, of MHI SB No. 176, Revision E, dated September 26, 1984.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An equivalent method of compliance with this AD may be used on the MHI airplanes, if approved by the Manager, Western Aircraft Certification Office, ANM-170W, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, Telephone (213) 536-6351, and on the MAI airplanes, if approved by the Manager, Airplane Certification Branch, ASW-150, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Forth Worth, Texas 76101, Telephone (817) 677-2100.

This AD supersedes AD 77-13-19, Amendment 39-2941 and AD 77-04-07, Rev. 1, Amendment 39-4181.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

This amendment becomes effective on December 18, 1984.

Issued in Kansas City, Missouri, on December 3, 1984.

Murray E. Smith,

*Director, Central Region.*

[FR Doc. 84-32883 Filed 12-14-84; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 71**

**[Airspace Docket No. 84-AGL-10]**

## Alteration of Certain Control Zones and Transition Areas In Minnesota, North Dakota, Michigan, Illinois and Ohio

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This action updates the names of various airports which have been changed but not yet included in the individual airport control zone and/or transition area descriptions. In one case it also changes the city of record, although there has been no change in the geographical location of the airport involved.

**DATES:** Effective date—0901 G.m.t., December 20, 1984.

Comments must be received on or before January 20, 1985.

**ADDRESSES:** Send comments on the rule in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 84-AGL-10, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

**FOR FURTHER INFORMATION CONTACT:** Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

**Request for Comments on the Rule**

Although these actions are in the form of a final rule, which involves airport and city of record name changes in the published control zone and transition area descriptions and, thus, were not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

**The Rule**

The purpose of this amendment to §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to update names of various airports and to change a city of record where included in airspace designation descriptions. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6 dated January 3, 1984.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to revise certain airport names from those currently listed as the official name and to change one city of record listing. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary by reason of the fact that the changes are of editorial nature and that good cause exists for making this amendment effective coincident with the next charting date. The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Aviation safety—control zone/transition area.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me, §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) are amended, as follows.

**Willmar, MN—[Revised]**

By amending 17.181 in the description of the Willmar, Minnesota transition area by deleting the words "Willmar Municipal Airport" and substituting the words "Willmar Municipal Airport—John L. Rice Field".

**Hutchison, MN—[Revised]**

By amending 71.181 in the description of the Hutchison, Minnesota transition area by deleting the words "Hutchison Municipal Airport" and substituting the words "Hutchison Municipal Airport—Butler Field".

**Grand Forks, ND—[Revised]**

By amending 71.171 in the description of the Grand Forks, North Dakota control zone by deleting the words "Grand Forks International Airport" and substituting the words "Grand Forks Mark Andrew International Airport".

By amending 71.181 in the description of the Grand Forks, North Dakota transition area by deleting the words "Grand Forks International Airport" and substituting the words "Grand Forks Mark Andrew International Airport".

**Wahpeton, ND—[Revised]**

By amending 71.181 in the description of the Wahpeton, North Dakota transition area by deleting the words "Breckenridge-Wahpeton Interstate Airport" and substituting the words "Harry Stern Airport".

**South Haven, MI—[Revised]**

By amending 71.181 in the description of the South Haven, Michigan transition area by deleting the words "South Haven Municipal Airport" and substituting the words "South Haven Regional Airport".

**East St. Louis, IL—[Revised]**

By amending 71.171 in the description of the city of record by deleting the words "East St. Louis, IL" and substituting the words "Cahokia, IL". Also, by amending 71.171 in the description of the control zone by deleting the words "Bi-State Parks Airport" and substituting the words "St. Louis Downtown-Parks Airport".

By amending § 71.181 in the description of the city of record by deleting the words "East St. Louis, IL" and substituting the words "Cahokia, IL". Also by amending § 71.181 in the description of the transition area by deleting the words "Bi-State Parks Airport" and substituting the words "St. Louis Downtown-Parks Airport".

**Dayton Wright Patterson AFB, OH—[Revised]**

By amending 71.171 in the description of the Dayton Wright Patterson AFB, Ohio control zone by deleting the words "Springfield Municipal Airport" and substituting the words "Springfield-Beckley Municipal Airport".

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Des Plaines, Illinois, on December 6, 1984.

**Edwin S. Harris,**

*Acting Director, Great Lakes Region.*

[FR Doc. 84-32681 Filed 12-14-84; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 39**

**[Docket No. 83-ASW-31; Amdt. 39-4961]**

## Airworthiness Directives; Sikorsky S-61 Series Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) which supersedes AD 83-17-04 (Amendment 39-4706), which currently requires, for the Sikorsky S-61 helicopter, a 10-hour repetitive inspection of the main gearbox chip detector and oil system scavenge screen for steel particles and, if necessary, replacement of the gearbox. This AD retains the schedule of superseded AD 83-17-04 for repetitive inspections and possible gearbox replacement, adds clarifying criteria for determining the need for gearbox replacement and, as a closing action, requires replacement of the spur gears with improved strength spur gears in conjunction with gearshaft realignment procedures. This AD is needed to intercept impending spur gear failures which could result in sequential damage to the main gearbox and compel the crew to execute an emergency landing.

**DATES:** Effective January 19, 1985.

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

**ADDRESSES:** The manufacturer's overhaul and maintenance instructions pertaining to the gearshaft alignment procedures referenced in this AD may be obtained from Sikorsky Aircraft, North Main Street, Stratford, Connecticut 06602. A copy of this document is contained in the Rules Docket in the Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, Building 3B, Room 158, 4400 Blue Mound Road, Fort Worth, Texas 76106.

**FOR FURTHER INFORMATION CONTACT:** Wayne E. Gaulzetti, ANE-153, FAA, New England Region, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7102.

**SUPPLEMENTARY INFORMATION:** On August 15, 1983 (48 FR 36806), the FAA published AD 83-17-04, applicable to all Sikorsky Model S-61 helicopters, which prescribed repetitive 10-hour inspections of the oil screen and the magnetic chip detector in the transmission in these helicopters. These inspections were required to intercept impending failure of the spur gear in the power input section of the transmission. Subsequently, alternate inspection procedures have been developed and an improved replacement spur gear and a transmission case modification procedure became available to alleviate the need for the repetitive inspections. These items are the subject of a notice of proposed rulemaking (NPRM)

published April 5, 1984 (49 FR 13543), which also proposes to establish June 30, 1985, as the date after which no further flight may be conducted without installation of the improved spur gear and modification of the transmission case. After publication of this NPRM, Sikorsky Aircraft advised the FAA that an additional 18 months beyond the June 30, 1985, date proposed by the NPRM would be needed to accomplish fleet-wide installation of the new spur gear and the transmission case modification. Accordingly, a revised NPRM was published August 24, 1984 (49 FR 33693), which proposes to establish December 30, 1986, as the date after which no further flight may be conducted without installation of the improved spur gear and modification of the transmission case.

Interested persons have been afforded an opportunity to participate in the making of this amendment and no comments were received. Accordingly, the proposal is adopted without change.

The FAA has determined that this regulation provides clarification of the inspection criteria of a previously issued AD and eventually, replacement of the spur gears and possible modification of the gearbox of this helicopter. Replacement of the spur gears and modification of the gearbox is being accomplished by the manufacturer at no cost to the operator and adequate time has been allowed to conduct these activities in conjunction with other major maintenance activities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### Adoption of the Amendment

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

**Sikorsky Aircraft Division:** Applies to all Sikorsky Model S-61 series helicopters, certified in all categories, equipped with Part Number (P/N) S6135-20608-1 main transmission power input spur gears.

Compliance is required as indicated (unless already accomplished).

To intercept pending failure of either spur gear, P/N S6135-20608-1, in the main gearbox, accomplish the following:

(a) On all helicopters equipped with a functioning cockpit main gearbox chip detecting system, visually inspect the main gearbox oil scavenge screen for steel particles within the next 10 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 10 hours' time in service from the last inspection.

(b) On all helicopters not equipped with a cockpit main gearbox chip detecting system, visually inspect both the main gearbox chip detector and the oil scavenge screen for steel particles within the next 10 hour's time in service after the effective date of this AD and thereafter at intervals not to exceed 10 hours' time in service from the last inspection.

(c) Any magnetic steel particles found by inspecting either the chip detector or the scavenge screen will require replacement of the main gearbox before further flight unless the particles are (1) fine hairline particles, or (2) confirmed as originating from components other than the spur gear.

(d) If the inspections of paragraph (c) are inconclusive, the gearbox must be replaced or, at the option of the operator, the following maintenance tests may be conducted to evaluate the condition of the spur gear.

(1) Drain and refill the gearbox with an approved lubricant.

(2) Operate the helicopter at a safe height (below 5 feet), at a gross weight not less than 16,000 pounds, with a nominal neutral center of gravity, at 100 percent main rotor speed for one-half hour with one engine at 100 percent torque and the remaining engine at a torque level required to sustain safe hover. Repeat the procedure for one-half hour with the other engine at 100 percent torque and the remaining engine at a torque level required to sustain safe hover.

(3) Inspect the gearbox scavenge screen and the magnetic chip detector and apply the inspection criteria of paragraph (c) and, if appropriate, reconduct the maintenance tests of paragraph (d) one time. Apply the inspection criteria of paragraph (c).

Note.—This procedure is not intended to authorize continued operation of the helicopter if any questionable safety condition is exposed by debris found when conducting these checks.

(e) Replace spur gear P/N S6135-20608-1 with P/N S6135-20608-3 and comply with Sikorsky Overhaul and Repair Instruction 6135-342, Revision A, or late revision, or FAA-approved equivalent before further flight after December 30, 1986. The inspections of paragraphs (a), (b), and (c) may be discontinued for helicopters modified as required by this paragraph.

(f) Upon request, with substantiating data submitted through an FAA maintenance inspector, equivalent methods of compliance, adjustment in the inspection intervals, and adjustment in the replacement date may be approved by the Manager, Boston Aircraft Certification Office, FAA, New England Region.

This amendment supersedes AD 83-17-04, Amendment 39-4706.

This amendment becomes effective on January 19, 1985.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89)

Issued in Fort Worth, Texas, on November 28, 1984.

Earl H. Wolfe,

*Acting Director, Southwest Region.*

[FR Doc. 84-32682 Filed 12-14-84; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 71

**[Airspace Docket No. 84-ASO-28]**

## Alteration of Control Zone, St. Thomas, VI

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment alters the St. Thomas, Virgin Islands, control zone by revising the name of the airport upon which it is centered. The Legislature of the Virgin Islands has officially changed the name of the airport, which is located on the island of St. Thomas, from Harry S. Truman Airport to Cyril E. King Airport. This amendment will incorporate the new airport name in the official description of the St. Thomas control zone. No change in airspace is intended by this action.

**DATES:** Effective date: 0901 G.m.t. February 14, 1985.

Comments must be received on or before January 30, 1985.

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

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

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

**SUPPLEMENTARY INFORMATION:**

### Request for Comments on the Rule

Although this action is in the form of a final rule, which involves an editorial correction to the description of the

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

### The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revise the name of the St. Thomas airport to reflect the action by the Virgin Islands Legislature which has renamed the Harry S. Truman Airport in honor of Cyril E. King. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6 dated January 3, 1984.

Under the circumstances presented, the FAA concludes that there is a need to list the proper name of the airport so that the description of the control zone will be technically correct. The change is editorial in nature and I find that notice or public procedure under 5 U.S.C. 533(b) is unnecessary.

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

### List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the St. Thomas, Virgin Islands, control zone under § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended as follows:

**St. Thomas, VI—[Amended]**

By removing the words "Harry S. Truman" and replacing them with the words "Cyril E. King".

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 [49 U.S.C. 1348(a) and 1354(a)]; 49 U.S.C. 106(g) [Revised, Public Law 97-449, January 12, 1983.)

Issued in East Point, Georgia, on December 6, 1984.

**W.J. McGILL,**

*Acting Director, Southern Region.*

[FR Doc. 84-32685 Filed 12-14-84; 8:45 am]

BILLING CODE 4910-13-M

## CIVIL AERONAUTICS BOARD

### 14 CFR Part 375

### Form 272—Application for Foreign Aircraft Permit; Approval of Extension of Reporting Requirements

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Notice of Approval of Extension of Reporting Requirements by the Office of Management and Budget.

**SUMMARY:** The Civil Aeronautics Board has extended the filing of Form 272, "Application for Foreign Aircraft Permit" as required by section 375.40 of Part 375 of the Board's Special Regulations governing the navigation of foreign civil aircraft within the United States.

**DATED:** December 5, 1984.

**FOR FURTHER INFORMATION CONTACT:** Bernard Stankus, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-6042.

**SUPPLEMENTARY INFORMATION:**

### List of Subjects in 14 CFR Part 375

Air carriers, Authorization, Rules, Reporting requirements.

**Phyllis T. Kaylor,**

*Secretary.*

[FR Doc. 84-32414 Filed 12-14-84; 8:45 am]

BILLING CODE 6320-01-M

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### 29 CFR Part 1952

### Certification of Completion of Developmental Steps for New Mexico State Plan

**AGENCY:** Occupational Safety and Health Administration, Department of Labor.

**ACTION:** State Plan Certification.

**SUMMARY:** The State of New Mexico on or before December 4, 1978, submitted documentation attesting to the completion of all structural and developmental aspects of its approved State plan. After extensive review of those documents and subsequent revisions, and opportunity for State correction, all developmental plan supplements have now been approved. This notice certifies this completion and the beginning of the final evaluation phase of State plan development. This certification attests only to the fact that New Mexico now has in place those structural components necessary for an effective program. It renders no judgment as to the adequacy of the State's actual performance.

**EFFECTIVE DATE:** December 4, 1984.

**FOR FURTHER INFORMATION CONTACT:** James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3637, Washington, D.C. 20210, (202) 523-8148.

**SUPPLEMENTARY INFORMATION:**

### Background

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act," 29 U.S.C. 667) provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards shall submit for Federal approval a State plan for such development and enforcement. Part 1902 of Title 29, Code of Federal Regulations, sets forth procedures under which the Assistant Secretary of Labor for Occupational Safety and Health ("Assistant Secretary") shall approve such plans. Under the Act and regulations, plan approval is essentially a two step procedure. First a State must submit its plan for an initial determination under section 18(b) of the Act. If the Assistant Secretary, after reviewing the State submission

determines that the plan satisfies or will satisfy within a maximum three year developmental period the criteria set forth in section 18(c) of the Act, a decision of "initial approval" is issued and the State may begin enforcement of its safety and health standards in accordance with the plan and with the maintenance of concurrent enforcement authority by the Occupational Safety and Health Administration (OSHA).

A State plan may receive initial approval even though at the time of submission not all essential components of the plan are in place, pursuant to 29 CFR 1902.2(b), the Assistant Secretary may initially approve the submission as a "developmental plan," and a schedule within which the State must complete specified "development steps" is issued as part of the initial approval decision.

When the Assistant Secretary finds that the State has completed all developmental steps specified in the initial approval decision, a notice of such completion is published in the **Federal Register** (see 29 CFR 1902.34 and 1902.35). Certification of completion of development steps initiates a thorough evaluation of the State plan by the Assistant Secretary to determine on the basis of actual operations, whether the plan adequately provides safety and health protection to the employees in the State. Certification does not render judgment as to the adequacy of State performance.

The second step of the approval process is final approval of the plan under section 18(e) of the Act and 29 CFR Part 1902. Final approval may not be granted until at least three years after initial approval and one year after certification of completion of development steps. Thereafter, when the Assistant Secretary determines on the basis of actual performance under the plan that the criteria are being met, a decision of final approval may be granted. This decision is based on a thorough evaluation of the State plan under section 18(e) of the Act and reflects a determination that on the basis of actual operations the plan adequately protects the safety and health of the State's workers. In making this evaluation under section 18(e), the Assistant Secretary must monitor the continuing development of the State program applying criteria which assure that the State will have an at least as effective program for achieving the goals of the Act, except with respect to staffing and funding levels, which must reflect a fully effective program pursuant to *AFL-CIO* v. *Marshall*, 570 F. 2d 1030 (D.C. Cir. 1978).

On December 10, 1975, a notice was published in the **Federal Register** (40 FR 57455) initially approving the New Mexico developmental plan and adopting Subpart DD of Part 1952 containing the decision, a description of the plan and the developmental schedule. During the three year developmental period ending December 4, 1976, following commencement of State operations, the New Mexico Environmental Improvement Division, the agency designated as responsible for the administration of the approved State program, submitted documentation attesting to the completion of each State development commitment for review and approval as provided in 29 CFR Part 1953. Following agency review and subsequent explanation and modification of the State's submission in response to Federal comment, the Assistant Secretary has approved the completion of all individual developmental steps.

**Completion of Developmental Steps**

All developmental steps specified in the December 10, 1975, notice of initial approval and other relevent steps not explicitly referred to have been completed as follows:

(a) In accordance with the requirements of 29 CFR 1952.363(b) the New Mexico State poster was approved by the Assistant Secretary on July 13, 1976 (41 FR 28708). A revised State poster was approved by the Assistant Secretary on October 30, 1984 (49 FR 44202, November 5, 1984).

(b) In accordance with the intent of 29 CFR 1952.363(e), New Mexico implemented procedural guidelines for its two-tier contested case procedures which were approved by the Assistant Secretary on November 5, 1984. The 1978, 1983, and 1984 amendments to the New Mexico Occupational Health and Safety Act of 1978 (section 50–9–1 et seq., NMSA 1978) which dealt with the imposition of penalties for serious violations by governmental entities; the private questioning of employees and employers by Environmental Improvement Division officials at the worksite; the jurisdiction of the Environmental Improvement Division over working conditions in copper smelters; the use of interview statements as evidence in a civil or enforcement action; and the adoption of emergency temporary standards were also approved by the Assistant Secretary on October 30, 1984 (49 FR 44202, November 5, 1984).

(c) In accordance with the requirements of 29 CFR 1952.363(c), New Mexico Occupational Health and Safety Review Commission Rules of Procedures parallel to 29 CFR Part 2200 adopted on October 1, 1976, and revised on January 11, 1984, were approved by the Assistant Secretary on October 30, 1984 (49 FR 44202, November 5, 1984).

(d) In accordance with the requirements of 29 CFR 1952.363(d) New Mexico documentation that its enforcement program began actual operation in June 1976, was approved by the Assistant Secretary on October 30, 1984 (49 FR 44202, November 5, 1984).

(e) In accordance with the requirements of 29 CFR 1952.363(a), New Mexico submitted documentation on the establishment of its Management Information System on August 12, 1976, and confirmed its participation in the Unified Federal-State Management Information System on June 3, 1983. These supplements were approved by the Assistant Secretary on October 30, 1984 (49 FR 44202, November 5, 1984).

(f) In accordance with the requirements of 29 CFR 1952.363(f), New Mexico developed and began implementation of an occupational health and safety program for public employees in June 1976, which was subsequently revised on February 28, 1980, and approved by the Assistant Secretary on October 30, 1984 (40 FR 44202, November 5, 1984).

(g) In accordance with the requirements of 29 CFR 1952.4, New Mexico State recordkeeping and reporting regulations parallel to 29 CFR Part 1904 adopted on August 8, 1975, and revised on February 19, 1979; June 1, 1981; and October 26, 1983, were approved by the Assistant Secretary on October 30, 1984 (49 FR 44202, November 5, 1984).

(h) New Mexico promulgated regulations for inspections, citations, and proposed penalties parallel to 29 CFR Part 1903 on August 8, 1975, with revisions on April 6, 1981; May 10, 1981; May 27, 1981; June 1, 1981; April 6, 1982; May 11, 1983; June 8, 1983; June 14, 1983; and April 4, 1984. These regulations were approved by the Assistant Secretary on October 30, 1984 (49 FR 44202, November 5, 1984).

(i) New Mexico promulgated rules of practice for variances, limitations, variations, tolerances and exemptions parallel to 29 CFR Part 1905 on August 8, 1975, with a revision dated April 14, 1981, and operational clarifications contained in its Field Operations Manual amendments dated June 18, 1981, and May 11, 1983. These supplements were approved by the Assistant Secretary on October 30, 1984 (49 FR 44202, November 5, 1984).

(j) New Mexico promulgated on-site consultation regulations on March 7, 1979, with an amendment dated October 17, 1983, and assurances dated April 4,

1984, and July 10, 1984. These regulations and Field Operations Manual implementing guidelines were approved by the Assistant Secretary on October 30, 1984 (49 FR 44202, November 5, 1984).

(k) New Mexico adopted non-discrimination regulations on March 29, 1982, with a revision dated June 15, 1983. These regulations were approved by the Assistant Secretary on October 30, 1984 (49 FR 44202, November 5, 1984).

(l) The State of New Mexico Field Operations Manual modeled after the Federal Field Operations Manual was submitted by the State on May 16, 1980, with subsequent amendments dated March 4, 1983; May 11, 1983; May 23, 1983, June 8, 1983; June 16, 1983; June 17, 1983; and June 27, 1983. On July 25, 1980, with a subsequent amendment dated July 24, 1984, the State adopted Federal OSHA's Industrial Hygiene manual. These supplements were approved by the Assistant Secretary on October 30, 1984 (49 FR 44202, November 5, 1984).

(m) As required by 29 CFR 1902.34(b)(3), the personnel operations of the New Mexico Environmental Improvement Division and the servicing merit system were reviewed by the Civil Service Commission and were found to be acceptable. New Mexico has developed and implemented an Affirmative Action plan.

(n) New Mexico occupational safety and health standards as effective as Federal standards have been promulgated and subsequently amended to reflect changes in and additions to Federal standards, and approved by the Regional Administrator on September 7, 1978 (43 FR 51863, November 7, 1978), June 1, 1978 (44 FR 40948, July 13, 1979), March 17, 1980 (45 FR 47544, July 15, 1980), August 28, 1980 (46 FR 15003, March 3, 1981), December 30, 1983 (49 FR 3549, January 27, 1984), August 10, 1983 (49 FR 42655, October 23, 1984), and July 30, 1984 (49 FR 42654, October 23, 1984). New Mexico has responded to all Federal standards changes and is within six months currency on recent standards actions and Federal Program changes.

(o) New Mexico's revised plan narrative with subsequent amendments were approved by the Assistant Secretary on October 30, 1984 (49 FR 44202, November 5, 1984). The State's plan narrative shows that the State has substantially met its compliance commitment by providing for 7 safety and 3 health compliance officers. Although State plan commitments on staffing and resources have been met, these initial commitments do not necessarily meet the ultimate requirements of the Occupational Safety and Health Act of 1970 for "sufficient staff" as interpreted by the U.S. Court of Appeals decision in *AFL–CIO* v. *Marshall*, 570 F.2d 1030 (D.C. Cir. 1978).

This certification covers all occupational safety and health issues covered under the Federal program (with the exception of private sector maritime and longshoring operations which are excluded from coverage under the plan) as well as the State's program covering State and local government employees.

**Location of the Plan and Its Supplements for Inspection and Copying**

A copy of the State's plan and the supplements are available for inspection and copying during normal business hours at the following locations:

Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N3700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210;

Office of the Regional Administrator, Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, Room 602, 555 Griffin Square Building, Dallas, Texas 75202;

Environmental Improvement Division, Crown Building, 725 St. Michael's Drive, Santa Fe, New Mexico 87503.

**Public Participation**

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any good cause which may be consistent with applicable law. The Assistant Secretary finds that all of the New Mexico plan supplements described above are consistent with commitments contained in the approved plan, which was previously made available for public comment. Moreover, the supplements have been adopted by the State in accordance with State administrative procedures which provide for public participation and have all been approved by the Assistant Secretary in earlier notices. Accordingly, it is found that further notice and public comment is unnecessary for certification of the completion of the New Mexico State plan's developmental steps.

**Effect of Certification**

The New Mexico plan is certified effective December 4, 1984, as having completed all developmental steps on or before December 4, 1978. This certification attests to structural completion, but does not render judgment on adequacy of performance.

The New Mexico occupational health and safety program will be monitored and evaluated for a period of not less than one year after publication of this certification to determine whether the State program in operation provides for an effective program.

**Level of Federal Enforcement**

In accordance with 29 CFR 1902.35 Federal enforcement authority under sections 5(a)(2), 8, 9, 10, 13, and 17 of the Act (29 U.S.C. 654(a)(2), 657, 658, 659, 662, and 666) and Federal standards authority under section 6 of the Act (29 U.S.C. 655) will not be relinquished during the evaluation period. However, under the terms of an operational status agreement entered into between the Occupational Safety and Health Administration and the New Mexico Environmental Improvement Division of the Health and Environment Department, effective October 5, 1981 [47 FR 25326], the exercise of this authority will continue to be limited to, among other things: complaints about employee discrimination; enforcement of new Federal standards including emergency temporary standards until such time as the State adopts comparable standards; enforcement relating to any contractors or subcontractors on Federal establishments where the State cannot obtain entry; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry, e.g., Indian Reservations; enforcement in private sector maritime and longshoring operations which issues have been specifically excluded from plan coverage; enforcement of unique and complex standards as determined by the Assistant Secretary; enforcement in situations where the State is temporarily unable to exercise its enforcement authority fully or effectively; and investigations and inspections for the purposes of monitoring and evaluation of the New Mexico State Plan under section 18 (e) and (f) of the Act. The Regional Administrator will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under section 18(e) of the Act whenever and to the degree necessary to assure occupational safety and health protection to employees in New Mexico.

**List of Subjects in 29 CFR Part 1952**

Intergovernmental relations, Law enforcement, Occupational safety and health.

## PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

In accordance with this certification 29 CFR 1952.364 is hereby amended to reflect successful completion of the developmental period by changing the title of the section and by adding a paragraph (n) as follows:

**§ 1952.364 Completion of developmental steps and certification.**

* * * * *

(n) In accordance with § 1902.34 of this chapter, the New Mexico Occupational Health and Safety plan was certified effective December 4, 1984, as having completed all developmental steps specified in the plan as approved on December 4, 1975, on or before December 4, 1978. This certification attests to structural completion, but does not render judgment on adequacy of performance.

(Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9–83 (43 FR 35736))

Signed at Santa Fe, New Mexico, this 4th day of December 1984.

**Robert A. Rowland,**

*Assistant Secretary of Labor.*

[FR Doc. 84–32711 Filed 12–14–84; 8:45 am]

BILLING CODE 4510–26–M

## DEPARTMENT OF THE TREASURY

### Office of the Assistant Secretary for International Affairs

### 31 CFR Part 129

### Foreign Portfolio Investment Survey

Note.—This document was originally published in the **Federal Register** of Tuesday, December 11, 1984, on page 48184. It is being republished today at the request of the agency.

**AGENCY:** Treasury.

**ACTION:** Notice of reporting requirements and availability of forms.

**SUMMARY:** By this notice the Treasury Department is informing the public that it is conducting a survey of foreign portfolio investment in the United States. All persons who meet the reporting requirements set forth in this Notice must report. Survey data is based on foreign holdings as of December 31, 1984, and reports are due at the Treasury by March 31, 1985. Any United States issuer of securities that meets the benchmark survey asset test for a routine large issuer and any United States holder of record that exceeds the exemption level for aggregate foreign holdings should contact the Treasury Department at the telephone number listed below to obtain a copy of the Forms and Instructions if its Chief Financial Officer has not yet received a copy.

**FOR FURTHER INFORMATION CONTACT:** Bertram Wolfe, Foreign Portfolio Investment Project, Office of the Assistant Secretary, International Affairs, U.S. Department of the Treasury, Washington, D.C. 20220, Telephone: (202) 566–5507.

**SUPPLEMENTARY INFORMATION:** The International Investment Survey Act of 1976 (Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3101, et seq.) as amended, [the "Act"], and E.O. 11961 of January 19, 1977, (42 FR 4321), as amended, require the Department of the Treasury to conduct periodic comprehensive surveys of foreign portfolio investment in the United States. Regulations governing the current Survey were published in the **Federal Register**, April 9, 1984, on pp. 14054–14057 (31 CFR Part 129 at pp. 339–344). The preamble to those regulations stated that the exemption levels would subsequently be published in the **Federal Register**.

#### Who Must Report and Exemption Levels

**United States Issuers of Securities.** The reporting obligations of United States issuers are governed by the following classifications:

**Routine Large Issuer Reporters—Asset Test.** A report is required on Form FPI–1 (Report for United States Issuers of Securities) from every United States business enterprise issuer (irrespective of whether it has evidence of foreign investment in its securities) which, as of the latest available closing date of its accounting records, had:

(1) Total consolidated assets of more than *$1 billion*, if it is a nonbanking business enterprise;

(2) Total consolidated assets of more than *$2 billion*, if it is a banking business enterprise.

**Selective Small Issuer Reporters—Response Required When Contacted.** A report on Form FPI–1 is also required from every United States issuer with total consolidated assets of at least $100 million that is informed by the Treasury Department that it must report.

**Total Exemption—Asset Test.** A report on Form FPI–1 is not required from any United States issuer who, as of the latest available closing date of its books, had total consolidated assets of less than $100 million.

**Exempted Holders of Record.** A report on Form FPI–2 (Report for United States Holders of Record) is not required from any holder of record who held, for all its foreign customers, combined investments in securities of United States issuers aggregating $10 million or less based on the fair market value as of December 31, 1984. This exemption does not apply to holders of record under common management or control, except where aggregate holdings of all holders of record under a single parent institution total $10 million or less.

**Charles Schotta,**

*Deputy Assistant Secretary for Arabian Peninsula Affairs.*

[FR Doc. 84–32419 Filed 12–10–84; 10:07 am]

BILLING CODE 4810–25–M

## Fiscal Service

### 31 CFR Part 210

### Amendment to and Clarification of Certain Provisions Relating to Direct Deposit Payments by Means Other Than Check

**AGENCY:** Fiscal Service, Treasury.

**ACTION:** Final rule.

**SUMMARY:** There are five main purposes for the revision to this regulation. First, the liability of financial institutions that credit recurring benefit payments made by means other than check (EFT) after the death or legal incapacity of a recipient or death of the beneficiary, or that otherwise do not comply with the regulations in 31 CFR Part 210, is clarified.

Second, the procedures for collecting the amounts for which financial institutions are liable are simplified and clarified.

Third, it is clarified that a financial institution that executes a Direct Deposit Standard Authorization Form on which the recipient's or beneficiary's signature is forged is liable for any credit payments made by the Government on the basis of that form. However, once the Government is notified that the intended recipient or beneficiary did not receive payment, the loss attributable to further credit payments will revert to the Government.

Fourth, it is newly required that a financial institution send a notice to the account owners when the financial institution receives a reclamation notice relating to an account. This notice is to inform account owners that reclamation is being processed, and explain how errors may be corrected.

Fifth, new procedures are established for financial institutions to follow in the event that the Government sends a reclamation notice because of the death of a recipient or beneficiary, and either the date or fact of death is in error.

**EFFECTIVE DATE:** April 21, 1985. Reclamation actions initiated under 31 CFR Part 210 prior to the effective date will be completed under the terms of the regulation in effect prior to the effective date. Actions initiated after the effective date will be completed in compliance with this final rule. For the purposes of this paragraph, "initiated" means the mailing by the Government of a Notice of Reclamation form or Notice of Accountability (TFS Forms 133), as applicable, which begins the Government's collection activity for a Direct Deposit credit payment.

**FOR FURTHER INFORMATION CONTACT:** James R. Finegan, ACH Programs Branch, Financial Management Service, U.S. Department of the Treasury, Room 222, Treasury Annex, Washington, D.C. 20226, (202) 535–6331.

**SUPPLEMENTARY INFORMATION:** On August 7, 1984 (49 FR 31450), the Department of the Treasury published a Notice of Proposed Rulemaking proposing a number of revisions to the regulations in 31 CFR Part 210 which govern the Direct Deposit of Federal recurring benefit payments by means other than check (EFT). These changes are being adopted with some revisions suggested by the individuals and organizations who commented on the Notice of Proposed Rulemaking.

Part 210 contains the terms of the contract to which financial institutions agree to be bound in executing the Direct Deposit Standard Authorization Form (SF–1199A) or by crediting an EFT Direct Deposit credit payment. The regulations in this Part were promulgated in 1975, revised in 1977 and again in August, 1984. With this revision, we have simplified the reclamation procedures in § 210.10 in response to a number of complaints from financial institutions that the procedures were cumbersome, and established a requirement that account owners be notified at the time reclamation from a financial institution is requested by the Government.

In addition, there have been incidents when the Government's information regarding the death, or date of death, of a recipient or beneficiary of Direct Deposit credit payments was incorrect. Treasury has amended the regulations so that both recipients and financial institutions can take effective steps to remedy such errors and avoid hardship.

An extensive explanation of the changes and new procedures will be published as amendments to the "Green Book" on Direct Deposit which is distributed to financial institutions and other interested parties.

**1. Changes to § 210.9**

Section 210.9 sets forth the liability of financial institutions when benefits payments are credited after the death or legal incapacity of a recipient or the death of a beneficiary, or when a financial institution does not comply with the regulations in Part 210. A number of the comments expressed the belief that the basic liability scheme of § 210.9 is unfair, and that financial institutions are held liable for the receipt of post-death credit payments over which they have no control. The proposed rule did not propose to alter the underlying framework of the shared liability arrangement between the Government and financial institutions. Specifically, Treasury has decided to retain that aspect of the arrangement under which a financial institution is liable for credit payments credited within 45 days after the date of death, unless the Government's efforts to collect that amount from other sources succeed.

One comment was received which expressed concern that the regulation may result in an illegal form of liquidated damages and deprive financial institutions of property without due process. Neither conclusion is warranted. The liability scheme is a contractual allocation of the risk of losses attributable to post-death credit payments, to which the parties have agreed. A financial institution's liability is not based on a finding of fault. The factual bases for determining whether the financial institution's contractual liability is triggered are clear: The date of the recipient's or beneficiary's death; the acceptance of credit payments by the financial institution after that date; the amount the Government is able to collect; and, compliance with the reclamation processes by the financial institution. The procedures specified in §§ 210.10 through 210.12 provide an adequate method for determining when the Government's information on those facts is incorrect, and for correcting erroneous recoveries based on incorrect information.

Section 210.9(a) provides that a financial institution can limit its liability if it had no knowledge of the death or legal incapacity. The financial institution is liable to the Government in accordance with § 210.9 without regard to its ability to recover this amount from any other party. § 210.9(b) sets forth how the amount of limited liability will be measured.

Subsection 201.9(c) states that Treasury does not authorize or direct the financial institution to debit the account of any customer under this Part. The substance of this provision is not new and was the subject of a regulatory clarification published as a final rule on August 10, 1984 (49 FR 32066). In response to comments received, a further clarification has been added that the Government's regulations are not intended to eliminate any rights a financial institution may have under state law or contracts with its depositors.

The revised regulation deletes the provision in former § 210.9 that required financial institutions to make "every practicable administrative effort" to collect from withdrawers in order to limit liability.

Revised § 210.9(d) now makes it clear that when a financial institution learns of the death of a depositor, it must determine whether that individual is a recipient or beneficiary of Direct Deposit credit payments. If it does not do so, it will be unable to limit its liability for post-death credit payments. The earlier regulation did not clearly impose this duty. In response to the comments we received, a sentence was added to make it clear that the regulations do not impose a duty on financial institutions to learn of deaths by searching obituaries or any other means. However, when a financial institution searches obituaries or receives death information for other purposes, it must now also determine whether its deceased customers receive Direct Deposit credit payments.

Comments suggested that the "due diligence" requirement of § 210.9(d) is not sufficiently clear to protect a financial institution from liability if an employee had informal knowledge of a death that had not been imparted to the persons in the financial institution who could act on the knowledge. While we have adopted the due diligence standard, it is our intent that this only means that a financial institution must act on information it receives by way of a formal notification, such as that provided to the financial institution by a family member, executor, obituary (if the financial institution searches them), notification by a Government agency or other source, upon which a financial institution would normally act.

Revised § 210.9(e) clarifies that even if a financial institution had no knowledge of the death or legal incapacity it will forfeit its right to limit its liability if it fails to follow the collection procedures in § 210.10. This result is not new, but it was not clearly stated in the regulations. A financial institution will now also forfeit its right to limit its liability if it fails to mail the Notice to Account Owners required by new § 210.11.

New § 210.9(f) clarifies that financial institutions are not liable for credit payments made after a beneficiary's death when a representative payee or custodian appointed by a program agency for the beneficiary fraudulently executes a Standard Authorization Form after the beneficiary has already died. The financial institution will be liable only if it had knowledge of the death of the beneficiary. A related change also has been made to the definition of "recipient" in § 210.2(f).

New § 210.9(g) states that a financial institution is responsible for verifying the identity of a person who signs a Direct Deposit Standard Authorization Form which the financial institution executes. If the financial institution executes a Standard Authorization Form containing a forged signature, the financial institution will be responsible for any credit payments made on the basis of the form. If the enrollment form is provided by the person directly to the Government agency, that agency must absorb the losses attributable to the forgery. This Section was revised substantially in response to the comments, and now includes a new provision that the loss attributable to credit payments resulting from a forged enrollment form will revert to the Government after it has been notified that the intended recipient or beneficiary did not receive a payment which was due.

**2. Changes to § 210.10**

Section 210.10 simplifies the procedures for the reclamation of post-death credit payments from financial institutions. This replaces a two tier collection procedure under which a financial institution had to return forms, and in some cases funds, at different times during the collection process. Treasury received a number of complaints that the collection procedures were cumbersome and difficult to understand.

Under new § 210.10, the financial institution will only receive one collection notice ("Notice of Reclamation") form which must be completed and returned within sixty days along with the proper amount. A follow-up notice will be sent to ensure that the notice is received by the financial institution if the financial institution does not respond to the Notice of Reclamation within 30 days. This is a provision added at the suggestion of those who commented. Under revised § 210.10(b), failure to comply with the sixty day return period will result in a debit of the financial institution's Federal Reserve account for the full amount of post-death credit payments.

In response to the comments, a new § 210.10(b)(3) has been added to clarify that a financial institution is liable for the "45-day" amount only once for those post-death credit payments made for the same type of payment to the same recipient or beneficiary. Thus, if an agency errs and later seeks the return of credit payments not identified on the first Notice of Reclamation, the financial institution will not be liable for the 45 day amount for that same customer a second time.

The regulations are now explicit that the Government's form must be used in response to the Government's collection activity. This will facilitate processing and lessen the possibility of a financial institution being held fully liable for failure to comply with the collection procedures.

If a financial institution had no knowledge of the death or legal incapacity, and properly and timely returns the reclamation form with a payment measured by the amount in the recipient's or beneficiary's account, the program agency will attempt to recover any outstanding balance from the person who withdrew the funds. § 210.10(d). If the agency is unable to recover, the financial institution's remaining liability cannot exceed the amount of credit payments credited within 45 days after the death or legal incapacity. The amount of remaining liability will be debited from the financial institution's Federal Reserve account, and the Federal Reserve Bank will provide the financial institution with an advice of debit.

In the revised rule, the time at which the "amount in the recipient's or beneficiary's account" will be measured is new. Under the new rule, the amount will be the total in the account when the Notice of Reclamation is received plus any additional amounts credited to the account before the form is returned by the financial institution. Based on the comments, a new provision was added to allow the financial institution until the close of business on the business day following receipt of the Notice of Reclamation to act. Thus, the "measured" balance is set at the close of business on the business day following receipt of the Notice of Reclamation. This change was made to reflect the fact that financial institutions are not able to act instantly upon the receipt of a notice. § 210.10(b)(2)(i), § 210.9(b).

Section 210.10(b)(2)(i) requires that the financial institution must explain on the Notice of Reclamation why it cannot provide the names of withdrawers. The proposed language was modified to identify more succinctly the financial institution's obligations and to clarify the exception when ATM withdrawal makes it impossible to identify the person who withdrew. In these cases, the financial institution must provide the names and addresses of any co-owners of the account and those authorized to use the ATM feature.

Revised § 210.10(b)(1) and § 210.10(e) clarify what a financial institution must do if it learns of the death or legal incapacity after credit payments received after death or legal incapacity have already been credited to the recipient's or beneficiary's account. It will have to return all further credit payments to the Government without regard to whether it has received notification from the Government. If a financial institution fails to return a credit payment after it learns of the death, it will be unable to limit its liability, and will be liable for all credit payments credited after it learned of the death or legal incapacity. However, if the financial institution returns all credit payments received after it learned of the death or legal incapacity, it will be able to limit its liability to the same extent as a financial institution that had no knowledge of the event until notification by the Government.

It should be noted that all references to "Treasury" in § 210.10 are changed to "the Government." This is not a substantive change, but merely recognizes that military and certain other payments are not administered by the Department of the Treasury.

**3. Notice to Account Owners**

New § 210.11 imposes a requirement that when a financial institution receives a Notice of Reclamation, it must send a Government "Notice to Account Owners" to the last known address(es) of the account owner(s). The form will be included with the Notice of Reclamation. (This Notice was published as an Appendix to the Notice of Proposed Rulemaking, and the comments resulted in minor changes to improve the language.) The financial institution must also advise the account owners in writing of any action it intends to take against the account to protect itself from loss in responding to the Government's collection action. Only one comment was received that the requirement to mail the notice to the account owners would present a burden. Many of the comments supported the concept of mailing the notices. Opposition to the financial institution

providing notice about its actions was noted, but this provision was not changed since it is a critical part of the notification process for the financial institution to inform the account owners what action may be taken against the account.

The purpose of the Notice to Account Owners is to inform the account owners that credit payments have been stopped, that reclamation has been initiated and what to do if the Government has made an error. This information is best communicated through the financial institutions because often the Government does not have the current address of a Direct Deposit recipient or beneficiary.

**4. Erroneous Death Information**

Section 210.12 is also new provision. It sets forth the procedures for financial institutions to relieve themselves of liability if the date or fact of death reflected in the Notice of Reclamation is in error. § 210.12(d) advises financial institutions what to do if, after they have returned funds to the Government based on a Notice of Reclamation, it is determined that the date or fact of death was in error. A revision was made as a result of the comments to clarify what steps a financial institution must take if an error in the date of death, identified by the financial institution, would result in the Government being due additional payments. It must notify the Government of the correct date of death. If it does, the liability of a financial institution will be limited to an amount in the account at that time if it receives a subsequent Notice of Reclamation.

Comments were received from twenty-six individuals, financial institutions, trade associations, organizations representing beneficiaries of recurring payments and Government agencies.

*Special Analyses:*

The Department of the Treasury has determined that this is not a major rule for purposes of E.O. 12291. Therefore, no regulatory impact analysis is required.

It has been certified that the rulemaking herein will not have a significant economic impact on a substantial number of small entities. Accordingly, a Regulatory Flexibility Act analysis is not required.

**List of Subjects in 31 CFR Part 210**

Banks, Banking, Electronic funds transfer.

## PART 210—FEDERAL RECURRING PAYMENTS THROUGH FINANCIAL INSTITUTIONS BY MEANS OTHER THAN BY CHECK

Accordingly, 31 CFR Part 210 is amended as follows:

1. By changing all references to "financial organization" to "financial institution" wherever it appears.

2. Section 210.2 is amended by revising paragraph (f) and adding a new paragraph (l) to read:

**§ 210.2 Definitions.**

* * * * *

(f) "Recipient" means a person authorized by the Government to receive recurring credit payments from the Government. Recipient includes a person named by a program agency to receive credit payments for a beneficiary.

* * * * *

(l) Outstanding total: The sum of all credit payments received after death or legal incapacity, minus any amount returned to, or recovered by the Government.

3. Section 210.9 is revised to read:

**§ 210.9 Death or legal incapacity of recipients or death of beneficiaries.**

(a) A financial institution shall be liable to the Government for the total amount of all credit payments received after the death or legal incapacity of the recipient or the death of the beneficiary. A financial institution may limit its liability if the financial institution did not have knowledge of the death or legal incapacity at the time of the deposit or withdrawal of any of the credit payments made after the death or legal incapacity, and if it fulfills the requirements referred to in subsection (e) of this Section.

(b) If limitation of liability is available to a financial institution under this Part, the amount of its liability shall be:

(1) An amount equal to the amount in the recipient's or beneficiary's account as defined in § 210.10(b)(2)(i), plus

(2) An amount equal to the credit payments received by the financial institution within 45 days after the death or legal incapacity of the recipient or the death of the beneficiary; *Provided*, that the financial institution will only be liable for the 45-day amount to the extent described in § 210.10(d).

(c) Although a financial institution shall be liable for an amount equal to the amount in the recipient's or beneficiary's account, plus the amount of credit payments received within 45 days after the death or legal incapacity of the recipient or the death of the beneficiary, this Part does not authorize or direct a financial institution to debit the account of any customer, living or deceased, including that of the recipient or beneficiary, for the financial institution's liability to the Government under this Part. The amount in the recipient's or beneficiary's account is only a measure of the financial institution's liability. Nothing in this Part shall be construed to affect any right a financial institution may have under state law or the financial institution's contract with a customer to recover from the customer's account an amount returned to the Government in compliance with this Part.

(d) A financial institution shall be deemed to have knowledge of the death or legal incapacity of the recipient or beneficiary when it is brought to the attention of a financial institution employee who handles credit payments, or it would have been brought to that person's attention if the financial institution had exercised due diligence. The financial institution will be considered to have exercised due diligence only if it maintains procedures under which, once it learns of the death of a depositor, it determines whether its deceased depositor is a recipient or beneficiary of credit payments under this Part, and immediately communicates such information to the appropriate employees, and it complies with such procedures. This does not impose a duty on a financial institution to learn of the deaths of its customers by searching obituaries or any other means, unless it does so for purposes other than its participation in the payment system governed by this Part.

(e) A financial institution that fails to comply timely with the collection procedures set forth in § 210.10 of this Part or the Notice to Account Owners requirement of § 210.11 of this Part may not limit its liability in accordance with paragraph (a) of this Section.

(f) A financial institution will not be liable under this Part for credit payments made after the death of a beneficiary if the beneficiary was deceased at the time the recipient executed a Standard Authorization Form and if the financial institution had no knowledge of the beneficiary's death.

(g) A financial institution shall verify the identity of any person who signs a Standard Authorization Form and presents it to the financial institution for execution. The Government shall verify the identity of any person who signs a Standard Authorization Form that is presented to the Government and is not executed by a financial institution. A financial institution that executes a Standard Authorization Form on which

the recipient's or beneficiary's signature is forged shall be liable to the Government under this Part for all credit payments made on the basis of such form. However, if the Government fails to take corrective action after it has been notified that a payment has not been received by the correct recipient or beneficiary, the Government shall be liable for any credit payments based on the forged Standard Authorization Form and made after the date of such notice.

4. Section 210.10 is revised to read:

**§ 210.10 Collection Procedures.**

The amount for which the financial institution is liable under § 210.9 shall be collected as follows:

(a) For each type of recurring credit payment, the Government will send a Notice of Reclamation form to the financial institution. The form will identify credit payments sent to the financial institution for credit to the account of a recipient or beneficiary which should have been returned by the financial institution because of the death or legal incapacity of a recipient or the death of a beneficiary.

(b) Upon receipt of the Notice of Reclamation, the financial institution must do one of the following:

(1) If the financial institution had knowledge of the death or legal incapacity and did not immediately return to the Government all credit payments received after it acquired that knowledge, the financial institution shall immediately return to the Government an amount equal to the outstanding total of credit payments listed on the notice form that it received after it learned of the death. With respect to any credit payments received prior to learning of the death that have not been returned, the financial institution shall certify on the Notice of Reclamation the date it learned of the death and follow the procedure in paragraph (2) of this subsection.

(2) If the financial institution had no knowledge of the death or legal incapacity at the time any credit payments made after the death or legal incapacity were credited to the recipient's or beneficiary's account, an appropriate official of the financial institution shall certify on the Notice of Reclamation form that it had no knowledge of the death or legal incapacity and fully complete the form in accordance with its instructions and do the following:

(i) The financial institution shall return to the Government both the executed Notice of Reclamation form and an amount equal to the amount in the account or the outstanding total, whichever is less. The amount in the account is the balance when the financial institution has received the Notice of Reclamation and has had a reasonable time to take action based on its receipt, plus any additions to the account balance made before the financial institution returns the completed Notice of Reclamation to the Government. For the purposes of this paragraph, action is taken within a reasonable time if it is taken not later than the close of business on the business day following receipt of the Notice of Reclamation.

(ii) If the amount returned is less than the amount requested in the notice, the financial institution shall include with the form the name and the most current address on its records of any person(s) who withdrew funds from the account after the death or legal incapacity. If the financial institution is unable to supply the name(s) of the withdrawers(s), it shall provide the names and most current addresses on its records of any co-owners of the account or other persons authorized to withdraw. If it is unable to supply the names or addresses of the withdrawers or co-owners, it shall state the reason for its inability on the form.

(3) If the Government issues a second or subsequent Notice of Reclamation for the same type of payment for the same recipient or beneficiary, the financial institution shall be liable with respect to such second or subsequent Notice only for an amount equal to the amount in the account at the time it receives a second or subsequent Notice of Reclamation, plus any further additions to the account balance up to the date it returns these subsequent Notices of Reclamation. For a second or subsequent Notice of Reclamation for the same type of payment for the same recipient or beneficiary, the financial institution shall not be liable for an amount in excess of the amount determined under the first sentence of this paragraph, attributable to credit payments received within 45 days after the death or legal incapacity if it complied properly and timely to the first Notice of Reclamation.

(c) If the Government does not receive response to the Notice of Reclamation within 30 days it will issue a follow-up to ensure that the original Notice of Reclamation was received. If the Government does not receive from the financial institution the fully completed and properly executed Notice of Reclamation form along with the amount due under § 210.9(b)(1) within sixty days of the date of Notice of Reclamation, the financial institution shall be liable for the outstanding total listed on the form. Following the sixtieth day after the date of the Notice of Reclamation, the Government will instruct the appropriate Federal Reserve Bank to debit the account utilized by the financial institution for receipt of credit payments in the amount of the outstanding total. By receiving credit payments under this Part, the financial institution is deemed to authorize this debit. The Federal Reserve Bank will provide advice of the debit to the financial institution.

(d) If the program agency is unable to collect the entire outstanding total from the withdrawer(s), the financial institution shall be liable for an additional amount equal to the credit payments received by it within 45 days after the death or legal incapacity, or the outstanding total, whichever is less. The Government will instruct the appropriate Federal Reserve Bank to debit the account utilized by the financial institution for receipt of credit payments in the amount of the outstanding total. By receiving credit payments under this Part, the financial institution is deemed to authorize this debit. The Federal Reserve Bank will provide advice of the debit to the financial institution.

(e) Immediately upon learning of the death or legal incapacity, regardless of whether there has been notification from the Government, the financial institution shall return to the Government any further credit payments it receives and notify the Government that it has learned of the death or legal incapacity in order that the above collection procedures can be commenced. See § 210.7(f)(3).

**§ 210.11 [Redesignated as § 210.13]**

5. § 210.11 is redesignated as § 210.13 and new § 210.11 and § 210.12 are added as follows:

**§ 210.11 Notice to account owners of collection action.**

(a) Upon receipt by a financial institution of the Notice of Reclamation as described in § 210.10(a), the financial institution shall immediately mail to the current address(es) of the account owner(s) of record a copy of the Notice to Account Owners form included with the Notice of Reclamation.

(b) The financial institution shall indicate with the Notice to Account Owners any action it has taken or intends to take with respect to the recipient's or beneficiary's account in connection with the Government's collection action against the financial institution.

(c) The financial institution is not authorized by this Part to debit the account of any party or to deposit any funds from any account in a suspense account or escrow account or the

equivalent. If such action is taken, it must be under authority of state law or the financial institution's contract with its depositor(s).

(d) The financial institution's liability under this Part is not affected by any action taken or not taken by the financial institution to recover from any party its liability to the Government.

(e) Failure to mail the Notice to Account Owners, or failure to certify on the Notice of Reclamation that it has done so, shall result in forfeiture by the financial institution of it ability under this Part to limit its liability. See § 210.9(e).

**§ 210.12 Erroneous death information.**

(a) In the event that the financial institution is advised that the Government's information that the recipient or beneficiary is deceased is incorrect, or that the date of death is incorrect, the financial institution shall certify the correct information to the Government by one of the following means:

(1) Certify on the "Notice of Reclamation" that the person whose name is reflected on the notice is alive, or that the date of death is incorrect, and that the financial institution took prudent measures to assure the person was alive or that the date of death was erroneous. Prudent measures to assure that the person was alive would include, but not be limited to, the person providing the financial institution adequate identification, or an individual other than the person providing a signed, dated and notarized statement from the person. Prudent measures to assure the correct date of death would include obtaining a death certificate.

(2) If there is any question regarding the sufficiency of the evidence presented to demonstrate that the date or fact of death is incorrect, the individual presenting the evidence should be referred by the financial institution to the agency making the payment, e.g., the Social Security Administration or the Veterans Administration. The agency will certify in writing to the financial institution the corrected information. The financial institution will return the agency's certification with the Notice of Reclamation.

(b) If the Government's information that the person is dead is in error, upon receipt by the Government, within sixty days of the date the Government mailed the Notice of Reclamation to the financial institution, of an accurate certification in accordance with paragraph (a) of this Section on or with a properly completed Notice of Reclamation, the financial institution will be relieved of its liability, and will no longer be subject to collection procedures under this Part.

(c) If the date of death on the Notice of Reclamation is in error, upon receipt by the Government, within sixty days of the date the Government mailed the Notice of Reclamation to the financial institution, of an accurate certification in accordance with paragraph (a) of this section on or with a properly completed Notice of Reclamation, the financial institution will be relieved of an appropriate part of its liability. If the date of death is in error, the financial institution must adjust the outstanding total on the Notice of Reclamation to exclude credit payments made before the correct date of death. The financial institution must include an explanation of the adjustment with the Notice of Reclamation. If correction of an error to the date of death shown on the Notice of Reclamation would result in additional payments being due to the Government, the financial institution shall so notify the Government when it returns the Notice of Reclamation.

(d) If after the financial institution has returned to the Government a completed Notice of Reclamation and has made payment of its liability, the financial institution learns that the fact of death or date of death was in error, it should bring the information to the attention of the agency which made the credit payments, e.g., the Social Security Administration or the Railroad Retirement Board. The agency will refund to the financial institution, without interest, the appropriate amount of funds paid by the financial institution pursuant to § 210.10, including funds debited from its Federal Reserve account under § 210.10 (b) or (c).

(5 U.S.C. 301; 12 U.S.C. 391; Title 31, U.S.C. and other provisions of law)

Dated: December 10, 1984.

**W.E. Douglas,**

*Commissioner.*

[FR Doc. 84-32606 Filed 12-14-84; 8:45 am]

BILLING CODE 4810-35-M

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 117

**[CGD 08-84-04]**

## Drawbridge Operation Regulations; Amite River, LA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** At the request of the Louisiana Department of Transportation and Development (LDOTD), the Coast Guard is changing the regulation governing the swing span bridge on LA22 over the Amite River, mile 6.0, at Clio, Livingston Parish, Louisiana by requiring that at least four hours advance notice for opening be given at all times. The bridge presently is required to open on signal from 5 a.m. to 9 p.m. and on 12 hours notice from 9 p.m. to 5 a.m. This change is being made because of infrequent requests for opening the draw.

This action will relieve the bridge owner of the burden of having a person constantly available at the bridge to open the draw from 5 a.m. to 9 p.m. and still provide for the reasonable needs of navigation.

**EFFECTIVE DATE:** This regulation becomes effective on January 16, 1985.

**FOR FURTHER INFORMATION CONTACT:** Perry Haynes, Chief, Bridge Administration Branch, telephone (504) 589-2965.

**SUPPLEMENTARY INFORMATION:** On 16 October 1984, the Coast Guard published a proposed rule (49 FR 40422) concerning this amendment. The Commander, Eighth Coast Guard District, also published the proposal as a Public Notice dated 23 October 1984. In each notice interested persons were given until 30 November 1984 to submit comments.

### Drafting Information

The drafters of this regulation are Perry Haynes, project officer, and Steve Crawford, project attorney.

### Discussion of Comments

No comments were received in response to either the Federal Register or the Public Notice.

### Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that the bridge has averaged only 29 openings per month (less than one opening per day) since 1981. These few vessels can reasonably provide four hours notice for a bridge opening by placing a collect call at any time to the LDOTD District Office in Hammond, Louisiana, telephone (504)

345–7390. Scheduling their arrival at the appointed time would inolve little or no additional expense to the mariners. Since the economic impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

**List of Subjects in 33 CFR Part 117**

Bridges.

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

**Regulations**

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising § 117.423(a) to read as follows:

**§ 117.423 Amite River.**

(a) The draw of the S22 bridge, mile 6.0 at Clio, shall open on signal if at least four hours notice is given.

* * * * *

(33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: December 6, 1984.

**W.H. Stewart,**

*Rear Admiral, U.S. Coast Guard.*

[FR Doc. 84–32736 Filed 12–14–84; 8:45 am]

BILLING CODE 4910–14–M

## PANAMA CANAL COMMISSION

## 35 CFR Part 121

## Inspection and Registration of Vessels

**AGENCY:** Panama Canal Commission.

**ACTION:** Final rule.

**SUMMARY:** By means of this document, the Panama Canal Commission is today approving changes in the classification of its motorboat equipment requirements to conform them to the metric dimension standards specified in the revised Rules for the Prevention of Collisions in the Panama Canal, which went into effect on April 1, 1984 (48 FR 52703).

**EFFECTIVE DATE:** January 16, 1985.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Rhode, Jr., Secretary, Panama Canal Commission, (202) 724–0104, or Mr. John L. Haines, Jr., telephone in Balboa Heights, Republic of Panama, 52–7511.

**SUPPLEMENTARY INFORMATION:** On October 1, 1984, a notice of proposed rulemaking was published in the **Federal Register** (49 FR 38660) setting forth changes in the requirements pertaining to motorboat equipment. Interested parties were given the opportunity to submit comments by October 31, 1984. During that time period, no comments were received by the agency; accordingly, the substantive changes hereby adopted by this document are as follows:

The classifications of motorboats and their equipment requirements as provided by 35 CFR 121.131 are being converted to conform to the dimension standards of the various provisions of 35 CFR Part 111, Rules for Prevention of Collisions, which refer to motorboats and their sound and light equipment. These requirements are found in sections 111.3(1), 111.22, 111.23, 111.30 and 111.33.

Presently, section 121.131 lists five classes of motorboats based on their length in feet. These five classes are now reclassified into four categories based on length in meters. In addition, the length and width measurements for line required on board are being converted to the metric system. The red lantern, previously required on all classes of motorboats, will not be required on motorboats 12 meters or under due to the difficulty of storing the lanterns on the smaller craft and the possibility of creating a fire hazard. Also, the summary of "Motorboat Rules and Regulations" required on board is being replaced by a copy of the *Motorboat Operators' Handbook.* Finally, the life preservers, ring buoys and fire extinguishers required by a new section 121.131(e) must be permanently marked with the name of the motorboat on which they are carried and shall be of a type approved by an international regulatory body or equivalent and subject to approval by the Commission's Board of Local Inspectors.

The Commission has determined that this rule does not constitute a major rule within the meaning of Executive Order 12291 dated February 17, 1981 (47 FR 13193). The bases for that determination are, first, that the rule, when implemented, would not have an annual effect on the economy of $100 million or more per year. Secondly, the rule would not result in a major increase in costs or prices for consumers, individual industries or local governmental agencies or geographic regions. Finally, the agency has determined that implementation of the rule would not have a significant adverse effect on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises in domestic or export markets.

Further, the Commission has determined that this rule is not subject to the requirements of sections 603 and 604 of Title 5, United States Code, in that its promulgation will not have a significant impact on a substantial number of small entities, and the Administrator of the Commission so certifies pursuant to 5 U.S.C. 605(b).

**List of Subjects in 35 CFR Part 121**

Marine safety, Navigation (water), Vessels.

## PART 121—MOTORBOATS

Accordingly, under the authority vested in the President by Sec. 1801, Pub. L. 96–70, 93 Stat. 492 (22 U.S.C. 3811) and E.O. 12215, 45 FR 36043, 35 CFR 121.131 is revised as follows:

**§ 121.131 Equipment on Motorboats**

(a) Motorboats less than 7 meters in length shall carry the following equipment:

2 Oars or paddles.
1 Whistle or other sound producing device, hand-, mouth-, or power-operated.
1 Bailer.
20 Meters of manila line not less than 15 millimeters in diameter or synthetic line of comparable strength.
2 Approved fire extinguishers, either 1¼ gallon foam, 4-lb. $CO_2$ or 2-lb. dry chemical, when the engine is inboard or 1 such extinguisher when the motor is outboard.
1 Combination light showing red to port and green to starboard or individual red and green sidelights.
1 Stern light or all-round white light.
1 Anchor with 40 meters of suitable cable.
1 Red flag.
1 Approved life preserver for each person carried.
1 Copy of the *Motorboat Operators' Handbook.*

(b) Motorboats 7 meters or over but less than 12 meters in length shall carry the following equipment:

1 Approved life ring buoy of not less than 600 millimeters outside diameter.
1 Whistle, power-operated, audible at least one mile
1 Bailer.
20 Meters of manila line not less than 18 millimeters in diameter or synthetic line of comparable strength.
3 Approved fire extinguishers, 2 of which shall be 2½ gallon foam, 15-lb. $CO_2$, or 10-lb. dry chemical, and the third of which shall be 1¼ gallon foam 4-lb. $CO_2$, or 2-lb. dry chemical.
1 Boat hook.
1 Combination light showing red to port and green to starboard or individual red and green sidelights.
1 Stern light or all-round white light.
1 Anchor with 40 meters of suitable cable.
1 Fog bell of not less than 200 millimeters outside diameter.
1 Red flag.
1 Approved life preserver for each person carried.
1 Copy of the *Motorboat Operators' Handbook.*

(c) Motorboats 12 meters or over and not more than 20 meters shall carry the following equipment:

2 Approved life ring buoys not less than 600 millimeters outside diameter.

1 Approved fog horn.

1 Whistle, power-operated, audible at least 1 mile.

1 Bailer.

25 Meters of manila line not less than 21 millimeters in diameter or synthetic line of comparable strength.

4 Approved fire extinguishers, three of which shall be 2½ gallon foam, 15-lb. $CO_2$, or 10-lb. dry chemical, and fourth of which shall be 1¼ gallon foam, 4-lb. $CO_2$, or 2-lb. dry chemical.

2 Boat hooks.

1 Masthead light, white, 225 degrees fixed to show the light from right ahead to 22.5 degrees abaft the beam on either side.

1 Combination light showing red to port and green to starboard or individual red and green sidelights.

1 Stern light, white, 135 degrees, placed as nearly as practicable at the stern, and so fixed to show the light 67.5 degrees from right aft on each side.

1 Anchor with 40 meters of suitable cable.

1 Fog bell, not less than 200 millimeters outside diameter.

1 Red lantern.

1 Red flag.

1 Approved life preserver for each person carried.

1 Copy of the *Motorboat Operators' Handbook.*

(d) Any cayuco less than 20 meters in length equipped with an outboard motor or motors operating in Madden Lake or Gatun Lake shall carry the following equipment:

2 Oars or paddles.

1 Whistle or other sound-producing device, hand, mouth or power-operated.

1 Bailer.

20 Meters of manila line not less than 21 millimeters in diameter or synthetic line of comparable strength.

1 Flashlight.

1 Approved life preserver for each person carried.

(e) Life preservers, ring buoys and fire extinguishers required by this section shall be of a type approved by an international regulatory body or equivalent thereto, and subject to approval by the Board of Local Inspectors, and shall be permanently marked with the name of the motorboat on which they are carried.

Dated: November 20, 1984.

**Fernando Manfredo, Jr.,**

*Acting Administrator, Panama Canal Commission.*

[FR Doc. 84-32709 Filed 12-14-84; 8:45 am]

BILLING CODE 3640-04-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 64

**[Docket No. FEMA 6636]**

### Suspension of Community Eligibility Under the National Flood Insurance Program; New York, et al.

**AGENCY:** Federal Emergency Management Agency, FEMA.

**ACTION:** Final rule.

**SUMMARY:** This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

**EFFECTIVE DATES:** The third date ("Susp.") listed in the fourth column.

**FOR FURTHER INFORMATION CONTACT:** Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287-0876, 500 C Street, Southwest, FEMA, Room 509, Washington, D.C. 20472.

**SUPPLEMENTARY INFORMATION:** The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the Federal Register.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended.) This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain

management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

**List of Subjects in 44 CFR Part 64**

Flood insurance, Flood plains.

**PART 64—[AMENDED]**

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

**§ 64.6 List of eligible communities.**

| State and county | Location | Community No. | Effective dates of authorization/cancellation of sale of Flood Insurance in community | Special Flood Hazard Area Identified | Date |
|---|---|---|---|---|---|
| **Region II** | | | | | |
| New York: | | | | | |
| Steuben | Addison, town of | 360761B | May 13, 1975, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Sept. 1974 and Mar. 26, 1976 | Dec. 18, 1984. |
| Erie | Amherst, town of | 360226C | Aug. 9, 1974, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Mar. 8, 1974, and Aug 6, 1976, and July 7, 1978. | Do. |
| Allegany | Amity, town of | 361093B | Sept. 24, 1974, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Nov. 8, 1976 and July 23, 1976 | Do. |
| Do | Belmont, village of | 360025B | Aug. 11, 1974, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Feb. 1, 1974 and Apr. 23, 1976 | Do. |
| Steuben | Cameron, town of | 361208A | Apr. 30, 1980, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Jan. 10, 1975 | Do. |
| Do | Canisteo, town of | 360769A | Nov. 3, 1977, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Aug. 20, 1976 | Do. |
| Wayne | Clyde, village of | 360890B | July 9, 1976, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | May 31, 1974 | Do. |
| Chautauqua | Hanover, town of | 365336B | Oct. 16, 1970, Emerg.; Sept. 17, 1971, Reg.; Dec. 18, 1984, Susp. | Sept. 18, 1971, July 1, 1974 and, Oct. 31, 1975. | Do. |
| Allegany | Hume, town of | 361007A | May 19, 1975, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Sept. 10, 1976 | Do. |
| Livingston | Portage, town of | 361029B | Mar. 17, 1977, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Aug. 16, 1974 and June 18, 1976 | Do. |
| **Region III** | | | | | |
| West Virginia: Raleigh | Unincorporated areas | 540169B | Apr. 26, 1976, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Apr. 25, 1975 and Apr. 23, 1982 | Do. |
| **Region IV** | | | | | |
| Georgia: Gwinnett | Berkeley Lake, city of | 130450A | July 15, 1975, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | July 23, 1976 | Do. |
| **Region V** | | | | | |
| Illinois: | | | | | |
| Clinton and Marion | Centralia, city of | 170453C | July 2, 1975, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | May 19, 1974, Apr. 16, 1976, and Oct. 15, 1976. | Do. |
| White | Crossville, village of | 170682C | May 23, 1975, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Mar. 29, 1974 and Nov. 14, 1975 | Do. |
| Jackson | Elkville, village of | 170876B | Apr. 15, 1976, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Mar. 28, 1975 and Feb. 9, 1979 | Do. |
| Grundy | Morris, city of | 170263 | July 25, 1974, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Apr. 12, 1974 and June 4, 1976 | Do. |
| LaSalle | North Utica, village of | 170822C | Dec. 2, 1976, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Mar. 21, 1975, Jan. 23, 1976, and Aug. 24, 1979. | Do. |
| Indiana: Knox | Vincennes, city of | 180120C | Mar. 17, 1975, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | June 21, 1974, Sept. 24, 1976, and May 27, 1977. | Do. |
| Michigan: Jackson | Blackman, township of | 260714B | May 23, 1978, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Feb. 9, 1979 | Do. |
| Ohio: | | | | | |
| Pickaway | Circleville, city of | 390447C | June 11, 1975, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Apr. 12, 1974, Nov. 28, 1975, and Sept. 15, 1978. | Do. |
| Hamilton | Elmwood Place, village of | 390213B | Feb. 28, 1975, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Feb. 1, 1974 and Apr. 23, 1976 | Do. |
| Portage | Streetsboro, city of | 390797B | Apr. 16, 1976, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | May 26, 1978 | Do. |
| Wisconsin: Sauk and Columbia. | Wisconsin Dells, city of | 550065C | July 17, 1975, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Dec. 17, 1973, June 11, 1976, and Aug. 31, 1979. | Do. |
| **Region VI** | | | | | |
| Texas: Montgomery | Oak Ridge North, city of | 481560 | Oct. 4, 1979, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Dec. 18, 1984 | Dec. 18, 1985. |
| **Region VII** | | | | | |
| Iowa: Clinton | Camanche, city of | 190086B | Feb. 9, 1973, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Jan. 23, 1979 | Dec. 18, 1984. |
| Missouri: Gasconade | Gasconade, city of | 290140B | June 27, 1975, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Oct. 25, 1974 and Nov. 14, 1975 | Do. |
| **Region IX** | | | | | |
| California: Santa Barbara. | Lompoc, city of | 060334B | Nov. 22, 1974, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | May 24, 1974 and July 23, 1976 | Do. |
| **Region X** | | | | | |
| Idaho: Ada | Unincorporated areas | 160001B | May 8, 1975, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | June 28, 1977 | Do. |
| Oregon: Klamath | do | 410109B | July 1, 1975, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Dec. 27, 1974 and July 18, 1978 | Do. |
| Washington: Skagit | LaConner, town of | 530156B | Oct. 15, 1974, Emerg.; Dec. 18, 1984, Reg.; Dec. 18, 1984, Susp. | Mar. 24, 1974 and July 23, 1976 | Do. |

[1] Date certain Federal Assistance no longer available in special flood hazard areas.

Code for reading 5th column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: December 10, 1984.

**Jeffrey S. Bragg,**

*Administrator, Federal Insurance Administration.*

[FR Doc. 84–32582 Filed 12–14–84; 8:45 am]

BILLING CODE 6718–03–M

## FEDERAL MARITIME COMMISSION

### 46 CFR Parts 572, 580, and 585

**[Docket Nos 84–21, 84–23, 84–24, 84–26, and 84–32]**

### Corrections to Final Rules in Subchapter D Agreements, Tariffs, Service Contracts, Time/Volume Rates Loyalty Contracts and Conditions Unfavorable to Trade

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final rules; correction.

**SUMMARY:** This document corrects final Rules in Subchapter D containing regulations affecting maritime carriers and related activities in foreign commerce which appeared in the **Federal Register** of Thursday, November 15, 1984, beginning at 49 FR 45320. The parts corrected here involve agreements (Part 572); tariffs, including Service Contracts, Loyalty Contracts and Time/Volume Rates (Part 580); and regulations to adjust or meet conditions unfavorable to shipping in the foreign commerce of the United States (Part 585). This action is necessary to correct typographical and other errors in the Supplementary Information and in the text of the regulations.

**DATES:** Parts 573, 580, and 585 effective on December 15, 1984.

**FOR FURTHER INFORMATION CONTACT:** Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW, Washington, D.C. 20573, (202) 523–5725.

The following corrections are made in FR Docs. 84–29890, 84–29811 and 84–29615, beginning on page 45320 in the issue of Thursday, November 15, 1984. (No corrections are needed in Part 587 (Docket No. 84–22).)

## PART 572—[CORRECTED]

1. On page 45321, in the Supplementary Information to Part 572, in the last full paragraph in the second column explaining section 572.103(g), in the fifth line, the word "agreement" should be "agreements".

2. On page 45322, in the Supplementary Information to Part 572, in the first full paragraph of the first column, the tenth line should read: "physical location in an agreement is not".

3. On page 45324, in the Supplementary Information to Part 572, in the third full paragraph in the first column, the second line should read: "complaints to written communications".

4. On page 45325, in the Supplementary Information to Part 572, in the second full paragraph in the third column, the last line should read: "years after its termination".

5. On page 45326, in the Supplementary Information to Part 572, in the second column, the first heading should read:

*Section 572.305 (redesignated § 572.303) Husbanding Agreements—Exemption*

6. On page 45326, in the Supplementary Information to Part 572, in the second column, the second heading should read:

*Section 572.306 (redesignated § 572.304) Agency Agreements—Exemption.*

7. On page 45326, in the penultimate line in the penultimate paragraph, and, on page 45327, in the nineteenth line of the second full paragraph in the Supplementary Information to Part 572, the word "policying" should be "policing".

8. On page 45328, in the Supplementary Information to Part 572, in the second full paragraph in the first column, the sixth line should read: "guarantees may have".

9. On page 45328, in the Supplementary Information to Part 572, in the last full paragraph in the third column, the twelfth line should read: "and Appendix A, Part IX(C)) no change".

10. On page 45330 in the Supplementary Information to Part 572, in the first full paragraph in the second column, the eighth line should read: "Form in the discussion of Appendix A.".

11. On page 45332, in the Supplementary Information to Part 572, the sixteenth line from the bottom in the second column should read: "suggested, does not preclude the use of".

12. On page 45336, in the Supplementary Information to Part 572, in the second full paragraph in the first column, the first line should read: "Decisions on rejection of agreements are".

13. On page 45336, in the Supplementary Information to Part 572, in the sixth full paragraph in the first column, the second line should read: "notice to the **Federal Register** identify".

14. On page 45336, in the Supplementary Information to Part 572, in the third column, the sixteenth line of the first full paragraph should read: "the Commission and requester may".

15. On page 45336, in the Supplementary Information to Part 572, in the third column, the eighth line of the second full paragraph should read: "no right of rebuttal is provided".

16. On page 45338, in the Supplementary Information to Part 572, in the sixth full paragraph in the first column, the first line should read: "Comment 26 proposes that this section".

17. On page 45342, in the Supplementary Information to Part 572, in the second full paragraph in the third column, the first line should read: "Section 572.803 provides that".

18. On page 45347, in the Supplementary Information to Part 572, in the second full paragraph in the third column, the twenty-fifth line should read: "service (e.g., interior point or miniland—".

19. On page 45349, in the Supplementary Information to Part 572, in the first full paragraph in the second column, the seventeenth line should read: "does it view as a proper burden to be".

20. On page 45351, in the third column, the fourth line of § 572.101 should read: "(5 U.S.C. 553), and sections 2, 3, 4, 5, 6, 7,".

21. On page 45352, in the third column, the fifth line of § 572.104(i) line should read: "act, or filed and/or effective under the".

22. On page 45353, in the second column, the seventh line in § 572.104(u) should read: "processes the documentation or".

23. On page 45353, in the third column, the third line of § 572.201(a)(1) should read: "rates, cargo space accommodations,".

24. On page 45354, in the first column, the first line of § 572.201(a)(5) should read: "(5) Engage in exclusive, preferential, or".

25. On page 45354, in the third column, the seventeenth line of § 572.303(a) should read: "of cargoes, signing contracts or bills of".

26. On page 45355, in the second column, the first line of § 572.306(d)(4) should read: "(4) The specification of the origin,".

27. On page 45355, in the third column, the third line of § 572.306(d)(13) should read: "and/or delivery of the cargo.".

28. On page 45356, in the second column, the tenth line of § 572.402(g) should read: "numbered using consecutive Roman".

29. On page 45358, in the first column, the last sentence of § 572.501(b)(5) should read: "Article 5 is not necessarily definitive of the authority that the parties may collectively exercise pursuant to the agreement and parties may rely on the contents of the entire agreement as authority for their activities.".

30. On page 45358, in the first column, the tenth line of § 572.501(b)(6) should read: "minimum, specify: (i) the officials with authority".

31. On page 45358, in the second column, the last sentence of § 572.501(b)(7) should read: "In such a case, the article number and name shall be designated as provided in paragraphs (a) and (b)(1) of this section.".

32. On page 45360, in the third column, the tenth line of § 572.703(a) should read: "telephonic or personal polls of the membership".

33. On page 45362, in Appendix A to Part 572, in the second column, the penultimate line of the penultimate full paragraph should read: "cargo movements for all liner operators [Part".

**PART 580—[CORRECTED]**

34. On page 45365, in the Supplementary Information to Part 580, in the second full paragraph in the third column, the sixteenth line should read: "impossible to enforce the tariff adherence".

35. On page 45372, in the Supplementary Information to Part 580, in the first full paragraph in the second column, the first line should read: "Moreover, section 10(b)(6) prohibits".

36. On page 45381, in the second column, the second line of § 580.2(u) should read: "containing the actual rates, charges,".

37. On page 45381, in the third column, the fifth line of the introductory text of § 580.3(b) should read: "conference. In the alternative,".

38. On page 45383, in the second column, the seventh line of § 580.5(b) should read: "paragraphs (a)(6) and (a)(8) of § 580.10.".

39. On page 45383, in the second column, the third line of the quoted material in § 580.5(c)(2)(ii) should read: "by any officer, employee, or agent thereof,".

40. On page 45384, in the first column, the first line of § 580.5(d)(1) should read: "(1) *Scope.* A list of the ports or range".

41. On page 45387, in the first column, the second line of § 580.7(f)(3)(ii) should read: "rejected, performance under the service".

42. On page 45388, in the first column, the ninth line of § 580.9(b) should read: "the common carrier or conference, such".

43. On page 45388, in the third column, the penultimate line of § 580.10(a)(8) should read: "the revised page as it appeared on the".

44. On page 45395, in Exhibit No. 4 to Part 580, the last sample tariff item on "Ingots" should read: "Ingots: Special rate effective 3–16–85 expiring 6–15–85(R)[1] * * *"

**PART 585—[CORRECTED]**

45. On page 45405, in the Authority Citation to Part 585, the third line should read: "876(1)(b)); secs. 15 and 17 of the Shipping Act".

46. On page 45405, in § 585.3, the third line of the second column should read: "trade of the United States, if such".

47. On page 45406, in the first column, the second line of § 585.9(a) should read: "charges.".

48. On page 45406, in the second column, the seventh line of § 585.13 should read: "actions if the President informs the".

By the Commission.

**Francis C. Hurney,**

*Secretary.*

[FR Doc. 84-32751 Filed 12-14-84; 8:45 am]

**BILLING CODE 6730-01-M**

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## FEDERAL COMMUNICATIONS COMMISSION

**47 CFR Part 22**

**[CC Docket Nos. 83-1146 and 80-57; FCC No. 84-485]**

## Elimination of the Separate Frequency Allocation Structure in the Public Land Mobile Service; and Revision of the Public Mobile Radio Service Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rules.

**SUMMARY:** Rules are being adopted to eliminate the separate allocation structure in the Public Land Mobile Services. This will permit all carriers to apply for frequencies which were allocated to wireline and radio common carriers in Section 22.501 of the Rules, 47 CFR Part 22. The separate allocation structure is no longer necessary because there is competition between wireline and radio common carriers providing these services. As a result of the revisions to Section 22.501, revisions of rules for the Rural Radio Service were adopted also. Petitions for reconsideration of the interim procedures established for the filing of applications during the pendency of this rulemaking were denied.

**EFFECTIVE DATE:** January 17, 1985.

**FOR FURTHER INFORMATION CONTACT:** Carmen A.C. Borkowski, (202) 632–6450.

**SUPPLEMENTARY INFORMATION:**

**List of Subjects in 47 CFR Part 22**

Radio.

**Report and Order and Order on Reconsideration**

In the Matter of Elimination of the Separate Frequency Allocation Structure in the Public Land Mobile Service (Rules § 22.501) CC Docket No. 83–1146. In the Matter of Revision and Update of Part 22 of the Public Mobile Radio Service Rules; CC Docket No. 80–57.

Adopted: October 17, 1984.
Released: December 11, 1984.

By the Commission: Commissioner Quello absent.

**I. Introduction**

1. In the *Notice of Proposed Rulemaking (Notice)* in CC Docket No. 83–1146, 95 FCC 2d 834 (1983), the Commission proposed to amend Part 22 of the Public Land Mobile Radio Service rules to eliminate the separate frequency allocation structure set forth in § 22.501 (b), (c), (h), (i) and (j) (47 CFR 22.501). *Elimination of Separate Frequency Allocation*, 95 FCC 2d 834 (1983). The policy of maintaining separate wireline and nonwireline frequency allocations has become known as the "fence".[1] A policy of granting limited waivers of the separate allocation rules had been proposed in the *Revision and Update of Part 22, Notice of Proposed Rulemaking*, 47 FR 43842, 43846 (1982) (proposed § 22.501(n)). However, after examining the comments in that proceeding the Commission determined that the central issue was the separate allocation itself and began this proceeding to examine whether to eliminate the fence. We also proposed revision of certain rural radio service rules, because eliminating the fence could have an impact on this service. After carefully reviewing the comments in this proceeding we have decided to amend our rules to eliminate the separate frequency allocation. Because this action will have an impact

[1] By virtue of the fence, certain frequencies are assigned to Radio Common Carriers (RCCs)—common carriers engaged in the provision of Public Mobile Service who are not also in the business of providing landline local exchange telephone service. A separate group of frequencies are assigned to wireline common carriers (WCCs)—common carriers in the business of providing landline local exchange telephone service.

on the rural radio service, we have also decided to amend certain rules in the rural radio service.

2. We are also addressing in this document certain petitions for reconsideration of our *Report and Order* in CC Docket No. 80–57, which revised numerous sections of Part 22. In that proceeding, we established interim procedures for applications requesting waivers of the separate allocation during the pendency of the "fence" rulemaking. *Revision of Part 22*, 95 FCC 2d 769, 825 (1983). Various parties commented and filed petitions for reconsideration of this decision. To the extent these pleadings addressed the interim waiver policy, we are disposing of them here.[2] After full consideration of the arguments against the interim procedures for applications requesting waivers of the fence, we have decided to deny reconsideration.

## II. Background

3. The separate allocation was first adopted in 1949, in the *General Mobile Radio Service* proceeding, *Report and Order*, 13 FCC 1190, *recon. denied*, 13 FCC 1242 (1949). The Commission stated there:

> The Commission has, in the disposition of this docket and related proceedings, made provision for . . . the development of competitive communications common carrier systems . . . [W]e have taken particular care to provide a family of frequencies within which the development of common carrier mobile radio systems by enterprises other than existing telephone companies may take place. These dispositions have been effected advisedly, and with the purpose, among others, of fostering the development of competing systems, technologies and equipments.

13 FCC at 1218; *See also ITT Mobile Telephone, Inc.*, 1 RR 2d 957, 963 (1963). In the late 1960s, in the "Guardband" paging allocation proceeding, Docket 16778, the Commission made new paging frequencies available under a separate allocation structure. In the Report and Order making these guardband frequencies available, the Commission repeated its concern for the ability of nonwireline carriers to compete effectively with the wireline carriers and imposed several requirements on wireline carriers. *Allocation of Frequencies (Guard Band)*, 12 FCC 2d 841, 846–51 (1968). In its denial of reconsideration of this allocation, the Commission emphasized the growing competition between telephone companies and the other carriers. 14 FCC 2d 269, 271 (1969). This allocation was upheld on appeal in *Radio Relay Corporation v. FCC.*, 409 F.2d 322 (2d Cir. 1969).

4. In recent years, as the market for paging service in particular has become more competitive, we have permitted wireline carriers to provide paging service outside the areas where they provide telephone service. *Bondwel Telephone Co.*, 68 FCC 2d 497 (1978). As competition has continued to grow and large numbers of new non-wireline entities entered the paging business, we have allocated additional paging frequencies without following the separate allocation structure, thereby maximizing the potential for innovative and competitive service offerings without perpetuating a market structure that was properly suited to a fledgling industry. *One-Way Stations in the 928–941 MHz Band*, 89 FCC 2d 1337 (1982), *recon.* 92 FCC 2d 631 (1982), 93 FCC 2d 908 (1983); *One-Way Signaling in the 35 and 43 MHz bands*, 77 FCC 2d 384 (1981).[3]

5. In the *Notice* we stated that non-wireline companies have far more authorizations and applications pending than their wireline counterparts. In a significant number of markets the non-wireline frequencies are completely used, whereas some wireline frequencies remain unused. Further, we noted there was a near-saturation level of use by non-wirelines on their side of the fence.[4] We concluded that if the fence were removed, non-wireline carriers in a saturated market would apply for, and serve the public on, the unused wireline frequencies.

## III. Comments

6. A list of the parties commenting on the proposed rule revision is included in Appendix A. While some of the parties supported the proposals, others objected on various grounds and offered alternatives.

7. MCI Airsignal, Inc. (MCI), Message Center, Inc. (Message Center), Telocator Network of America, (Telocator) and Airphone Company, Inc. (Airphone) [5] support elimination of the separate frequency allocation. In comments that are representative of the non-wireline carriers, MCI agrees with the Commission's goals of ensuring efficient use of scarce spectrum and satisfying the substantial unmet demand for one-way paging services. MCI argues that there is no longer any justification for retaining the separate frequency allocation structure and that it should not be preserved in order to insulate wireline carriers from competition or to afford them further time to apply for frequencies which remain underutilized. Message Center states that availability of additional wireline channels for radio common carriers will reduce the scarcity of guardband [6] and UHF [7] frequencies, which is exacerbated by potential interference with Canadian stations.[8] In addition, Message Center asserts, the quality and efficiency of trunking existing frequencies with additional frequencies can only be achieved by allocating previously unused channels to existing carriers operating in the same frequency band.

8. According to Airphone, in the case of the guardband frequencies the scarcity of spectrum available for RCC use has caused the RCC's to share the channels in most metropolitan areas while the WCC's received exclusive use of their guardband channels in the same areas; in many instances, one of the two wireline channels has remained unassigned. Airfone also contends that removal of the separate allocation would eliminate a barrier to fair competition, because half the spectrum is available only to a small number of WCC's, while the other half must be shared by many RCC's.[9] In addition, according to *Airphone*, the *Bonduel* case exacerbated this problem by making unused spectrum available to WCC's all over the country.

9. Among wireline carriers, United Telespectrum, Inc. (United) stated that if the Commission decides to eliminate the "fence", the elimination should be prospective only; applications filed prior to any adoption of amendments

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[2] All petitions for reconsideration other than those involving the interim waiver policy will be addressed in a separate order.

[3] In the Cellular Service we adopted a separate allocation of limited duration. *See* Cellular Communications Systems, 86 FCC 2d 469 (1981), *modified* 89 FCC 2d 58 (1982), *further modified*, 90 FCC 2d 571 (91982), appeal dismissed *sub nom. U.S. v. FCC*. Cir. No. 82–1526 (D.C. Cir., March 3, 1983). *See also Cellular Lottery Decision*, 49 FR 3628, 56 RR 2d 8 (1984). The separate allocation was adopted because the Commission found that the fence constituted the most practical, and quite possibly the only, way to achieve the Commission's twin goals of making quality mobile telephone service available to the public as rapidly as possible while promoting competition whenever feasible. *See Notice*, 95 FCC 2d at 837, n.7.

[4] A staff study supported these findings. 95 FCC 2d at 838.

[5] Airphone filed jointly with other parties listed in Appendix A.

[6] The guardband frequencies, which are the most coveted paging frequencies, are four frequencies in the 150 MHz band; two are earmarked for wireline carriers and two for non-wirelines.

[7] UHF frequencies are paired channels in the 450 MHz band that may be used for two-way and paging service. There are 12 wireline channels and 14 non-wireline channels. VHF frequencies (11 wireline and 7 non-wireline paired channels in the 150 MHZ band that may be used for two-way and paging service) are already occupied in most markets, so that there are few new licensing opportunities in the VHF band.

[8] Channels within 75 miles of the Canadian Border must be shared with Canadian licensees.

[9] The Commission's tentative conclusions in the NPRM are supported by a study conducted by Comp-Com, Inc. attached to Airphone's comments.

eliminating the fence should be processed under the regulations and policies in effect at the time of filing. It contends that any other result would be contrary to the precepts of administrative law, and would unjustifiably and seriously disadvantage WCC's.[10] The United States Telephone Association (USTA) suggests the establishment of a future date certain for elimination of the fence; it suggests the adoption of a date one year from release of an order for elimination of the wireline/nonwireline allocation, rather than an immediate termination. USTA argues that because wireline carriers have recently demonstrated an increased interest in mobile service in new markets, establishment of a grace period would permit newly interested wireline carriers to provide the competition which seems to be the basic concern of the *Notice*.

10. The joint comments of the Bell Operating Companies (BOCs) contend that there are several technical problems (*e.g.*, frequency coordination for systems that "cross the fence" and problems related to the technical differences between wireline and RCC systems in the 150 MHz band) that cannot be left unresolved when eliminating the fence.[11] The BOCs further argue that unnecessary increases in costs may result from premature crossing of the fence in the 150 MHz band.[12] The BOCs suggest that to remedy this problem the Commission should require all applicants desiring to cross the fence in the 150 MHz band to include in their applications a statement that all frequencies on their side of the fence are unavailable.

11. The Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO) and the National Telephone Cooperative Association (NTCA) believe that there are compelling considerations for maintaining the separate allocation structure. The removal of that structure, according to OPASTCO and NTCA would permit one carrier to become dominant in a market, and reduce or destroy the benefits of competition. They note that the Commission appears to be more concerned with the number of frequencies in use in specific markets than in the competitive effects on the cost to customers of the subject services. Further, OPASTCO and NTCA maintain that the Commission should take a wait-and-see posture rather than take what may be an unnecessary action. Indeed, they note that the Commission has indicated a likelihood "that most two-way service will be provided on cellular systems in the future." Moreover, they argue that the separate allocation encourages technological innovation, such as side-band technology. Finally, OPATSCO and NTCA assert that it would be more productive and consistent with the public interest for the Commission to authorize use of new technologies in these frequencies rather than simply to eliminate the fence. In reply to comments OPATSCO recommends as an alternative temporary adjustments to the fence on as close to a market-by-market basis as is possible.

12. Telephone and Data Systems, Inc. (TDS) asserts that the proposal to eliminate the fence curtails the opportunity for telephone companies to participate in the provision of profitable mobile services like paging and mobile telephone at the very time that their need to do so is greatest.[13] Elimination of the fence would so decrease the odds in Commission lotteries in favor of the more numerous RCC applications that significant telephone company participation in these services would be unlikely. TDS contends that this result would be particularly egregious since mobile telephone and paging are natural adjuncts to local exchange service. According to TDS, it would also impair existing telephone company investments by effectively preventing expansion of service areas on the existing frequencies to achieve competitiveness with the more extensive existing RCC systems and prevent the establishment of telephone company systems in new markets on the same frequencies with concurrent economies and subscriber benefits.[14] TDS recommends retention of the separate allocation for at least 12 months after completion of this rulemaking proceeding (including dismissal of all RCC applications for WCC frequencies now on file and filed in the interim.)[15] TDS also asserts that eliminating the fence would encourage the growth of a crazy-quilt of new geographically isolated RCC mobile systems at the periphery of major markets (unused wireline guardband frequencies are available only on the periphery of large urban areas) while depriving wireline customers of the opportunity to enjoy expanded service on a single frequency.

## IV. Discussion

13. *Elimination of Separate Allocation.* We conclude that elimination of the fence between the wireline and non-wireline frequencies is in the public interest. The fence was established to create and foster competitive alternatives to the wireline carriers. Today, the non-wireline carriers have proliferated, providing real competition with the wireline carriers, and artificial restraints are no longer necessary. Indeed, the existence of the fence may have the effect of restraining the growth of non-wireline carriers, thus lessening the competitive pressure on wireline carries.[16] In a robust,

[10] United asserts that the interim waiver procedures established in our *Revision and Update of Part 22* violate the notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553.

[11] Pacific Bell believes the existance of the fence has kept intact the contiguous spectrum required to implement a new technology of offset channels or channel splitting to relieve congestion in the 150 MHz band, and that when the fence comes down and RCCs begin operating on available channels on the wireless side, the Commission will have lost the ability to use this technology to alleviate overcrowding on land mobile channels in the nation's developing metropolitan areas. It also urges elimination of the separate allocation structure in § 22.501(k) if the Commission eliminates the fence. Section 22.501(k) allows nonwireline carriers to participate in operation of specified UHF frequencies upon a cooperative shared basis.

[12] The BOCs point out that the technical parameters for wireline and mobile systems operating in the 150 MHz band are not identical; for example the separation between transmit and receive channels differs between wireline/nonwireline systems. Systems which add channels from the other side of the fence may have to undergo costly equipment modifications in order to establish intrasystem compatability. If, for instance, an RCC takes up the last remaining WCC frequency in a market, the WCC would have to go to the other side of the fence in order to expand its system (assuming there are RCC frequencies available) with a resultant increase in expenses because of the technical differences. This scenario is so unlikely to occur that we need not consider it in adopting policies here.

[13] According to TDS, the Bell System divestiture, the Commission's revised depreciation policies, and the new competition facing local exchange service from cellular radio and other "bypass" services, have converged to create a great need and incentive for local telephone companies to stabilize their financial well-being by participating in new profitable common carrier services.

[14] Expansion on the same frequency is necessary for a true wide-area paging system because that is the only way customers can be paged throughout the service area with a single paging unit. TDS further observes that dual frequency pagers are being developed but contends that they are not being widely used, and their cost may never be fully competitive.

[15] TDS alleges the interim procedures adopted in the revision to Part 22 unfairly discriminate against wireline carriers and in many areas, are blocking or seriously delaying the provision of new mobile service to the public for extensive periods. It urges they be modified.

[16] We disagree with OPASTCO's and NTCA's comments that removal of the fence will permit one carrier to become dominant in a market and destroy competition. In the existing environment the wirelines have had an advantage over the nonwirelines. There are many nonwirelines with a limited number of frequencies *vis a vis* a limited number of wirelines with the same amount of spectrum as the nonwirelines. Thus, in general, any

Continued

competitive market, regulatory intervention should be minimal or nonexistent. We conclude that even without the fence, competition will continue to thrive to the benefit of the public. *See Notice*, 95 FCC 2d at 837–839.

14. The dual allocation scheme cannot be maintained in order to insulate wireline carriers from competition for spectrum or to afford them further time to apply for frequencies they have not applied for in the past. First, our mandate is not to protect carriers from competition but rather to serve the public interest. When, as here, competition is not only "reasonably feasible" but demonstrably present, resulting in substantial public benefits, policies that will foster a more competitive marketplace with less regulatory intervention are clearly in the public interest. *FCC* v. *RCA Communications, Inc.*, 346 U.S. 86, 96–97 (1953). Elimination of the separate allocation will obviously foster competition for the remaining frequencies. This can be expected to result in wireline carriers facing more robust competitors in the marketplace, to the benefit of the consuming public. Second, we are convinced that no public interest benefits accrue from further delaying the elimination of the separate allocation.[17] In some markets, the wireline frequencies have lain fallow for many years.[18]

15. With respect to TDS's argument that expansion on the same freqency may have inherent benefits such as economies of scale, we note that we have recently adopted a policy in our general lottery proceeding that permits a carrier expanding an existing system within the frequency band had presently used, to request comparative consideration instead of lottery.[19]

given wireline carrier has had access to more frequencies than any one of its non-wireline competitors, thereby virtually ensuring that a wireline carrier will have the ability to serve a larger share of the market than non-wireline carrier.

[17] Wireline carriers have not exhausted their frequency resources, while non-wireline carriers have long faced a lack of available channels. While we are sensitive to the fact that wirelines have increased interest in these frequencies in recent months, we have not been persuaded that this is sufficient reason to maintain a policy which restricts the development of non-wireline common carrier mobile radio systems.

[18] We reject the argument that the elimination of the fence will curtail the opportunity for telephone companies to participate in the provision of profitable mobile services. We are not curtailing the WCC's ability to compete for the provision of these services. Rather, we are eliminating the set of frequencies allocated to the RCCs and WCCs for their exclusive use. This we believe, in the long run, will foster an even more competitive environment devoid of unnecessary regulatory intervention.

[19] Regarding TDS's argument that wireline carriers will have lowered odds of succeeding in a lottery, we note that wireline carriers have until now rarely faced competition for frequencies. Moving from a preferred position to a level playing field may seem unfortunate to the wireline carriers, but the Commission can hardly be expected to preserve an inequity for the benefit of those enjoying their privileged position. Moreover, our previous policies have fostered a truly competitive market place. Under these circumstances, we cannot be but convinced that our removal of this regulatory restraint will not adversely affect any of the competitors. Our decision here is consistent with our previous decision to retain the fence in the cellular service. First, the cellular set aside is of limited duration (unlike the Section 22.501 fence), to prevent the frequencies from going unused. Second, these services, unlike cellular, are firmly entrenched services. Unlike cellular, the first filed applicant establishes the area he wishes to serve and mutual exclusivity is determined by applicants filing electrically mutually exclusive applications within a prescribed cut-off period; because of this the probability that wireline carriers will have lowered odds of succeeding in a lottery is minimal or nonexistent. No evidence has been submitted in this proceeding that by eliminating the separate allocation the wireline carriers will be displaced from providing such services. Moreover, unlike cellular there are no allegations that conventional mobile services could or will supplant landline local exchange service, with possible detrimental effects on universal telephone service. *Compare, Cellular Lottery Decision*, 49 FR 23626, 56 RR 2d 8 at 22–25.

[20] We reject OPASTCO's suggestion that we wait to see whether the wireline carrier's desire for separate frequencies is abated by the availability of cellular service. As we stated in the *NPRM*, "while it is likely that most two-way service will be provided on cellular systems in the future, it is quite possible that conventional two way service will continue to meet the needs of some groups of users. Furthermore, new technologies, such as digital voice transmission and single-sideband, may be developed using the conventional frequencies to complement or provide alternatives to cellular service. Accordingly, we believe that elimination of the fence may well foster innovation in conventional two-way systems."

*Random Selection/Lotteries*, Gen. Docket No. 81–768, Memorandum Opinion and Order, FCC 84–596, released December 4, 1984.

16. Elimination of the separate allocation will have the benefit of encouraging the efficient use of our spectrum resources and helping to satisfy the public demand for mobile service. We reject Telespectrum's and TDS' suggestion to eliminate the fence on a prospective basis (one year after the release of an order removing the separate allocation). We can find no benefits to maintaining the fence for one year.[20] In fact, this suggestion would undoubtedly result in a "gold rush" of wireline filings seeking to take advantage of the fence, if not preempt additional RCC entry, while non-wireline carriers continue to experience a shortage of frequencies.

17. We are not persuaded by the BOCs' argument that technical differences on the two sides of the fence (such as differing base-mobile frequency separation) militate in favor of maintaining the separate allocation. In some cases, these technical differences may add to the cost of cross-fence operation, but we believe that applicants should determine whether, in a competitive marketplace, the benefits of expanding from one frequency block to the other outweigh the costs.[21] OPASTCO's, NTCA's and the BOCs' comments that elimination of the fence will prevent technological improvements, such as offset channels and side-band technology, must also be rejected. There is no negative cause-effect relationship between the fence and technological innovation.[22] If the required showings are made, we will continue to authorize new technologies on the unused frequencies even after the fence is eliminated.

18. We also reject OPASTCO's recommendation of temporary adjustment to the fence on a market-by-market basis as an alternative to the elimination of the fence. This proposal would be administratively costly and inefficient, and would impose a complex patchwork of regulation on carriers. For similar reasons, we reject the BOCs' request that all applicants desiring to cross the fence in the 150 MHz band be required to certify that all frequencies on their side of the fence are unavailable. This unduly burdensome requirement would be tantamount to retaining the separate allocation. Absent a compelling showing, we will not artificially restrain a carrier's business judgment whether to cross the fence. We also do not find any reasons to impose this additional burden on applicants. However, we will, upon the filing of a proper petition, examine whether a cross-fence application was filed for "strike" purposes. *See Edward C. Smith*, 71 FCC 2d 379, 383 (1979).[23]

[21] With respect to fears expressed by the BOCs' that there may be problems such as frequency coordination, difficulties in predicting co-channel interference, and potential problems associated with intermodulation involving nearby systems operating on other frequencies, § 22.100 requires carriers to minimize interference to nearby systems. Carriers applying across the fence are required to demonstrate interference-free operation just as all applicants in the Public Land Mobile Services must. *See* §§ 22.503, 22.504 of the Rules.

[22] We note that the first common-carrier application for interstitially-spaced amplitude—compandored single sideband service was filed by a non-wireline carrier seeking to use frequencies on the wireline side of the fence. Wireline carriers, however, opposed the application. Contemporary Communications Corp., FCC 84–386, released August 14, 1984.

[23] Several commentators requested that the Public Notice listing applications crossing the fence as accepted for filing should include the latitudes and longitudes listed. Our current listing of applications on Public Notice does not include latitude and longitude. We are not currently equipped to handle listing this additional information and we will not adopt a special policy only for these applications.

19. *Section 22.40.* Another issue pending in this proceeding is whether to exempt the guardband paging channels from the trafficking rule, § 22.40, as we did other paging channels. *See Notice,* 95 FCC 2d at 839 n.11; *Rewrite of Part 22,* 95 FCC 2d at 800 n.32. In our *Rewrite,* we maintained a limited trafficking rule but exempted paging stations in the 35, 43, and 900 MHz bands from its scope, permitting relatively free transferability of these stations. Paging frequencies in these bands are not subject to a separate frequency allocation; we postponed a decision on whether the trafficking rule should apply to guardband paging channels, pending a decision on whether to eliminate the fence. No party commented on this subject. Since we have decided to eliminate the separate allocation, we will exempt the guardband paging channels from the trafficking rule as well. While there are only a limited number of guardband frequencies available, no commentor articulated any reason to impose a trafficking rule on paging stations on these frequencies while exempting others. Accordingly, for the reasons given in the *Rewrite of Part 22,* we find that the public interest would be served by eliminating the rule.

20. *470–512 MHz Band.* Frequencies in the 470–512 MHz band, which is shared with UHF television channels 14–20, are presently available on an "open-entry" shared basis only to non-wireline carriers. *See* § 22.501(k). We agree with Pacific Bell that the eligibility restriction in this section should be eliminated. The frequencies in § 22.501(k) were made available only to nonwireline carriers [24] at a time when it was believed that only wireline carriers would offer cellular service.[25] *See Inquiry Relative to Future Use,* note 24, *supra,* 19 RR 2d at 1675. In 1981, however, the Commission took steps to ensure that non-wireline carriers would have as much spectrum for cellular service as the wireline carriers.[26] Because we eliminated the limitation of the cellular service to wireline carriers, we do not believe that the public interest would be served by maintaining the countervailing limitation of the 470–512 MHz channels to non-wireline carriers. We note that no opposition to this proposal has been received. Accordingly, wireline carriers will be able to use the frequencies listed in this section under the same terms and conditions applicable to non-wireline carriers.

21. *Rural Radio.* In the *Notice* we stated that our proposal might have some impact on the rural radio service.[27] To the extent that RCCs, for example, are assigned wireline frequencies on which rural radio service is currently being offered, mobile service congestion on the channel could degrade or jeopardize the quality of the rural radio service. We did not wish, in eliminating the fence, to preclude the possibility of responding to future needs for rural radio service. Because of these concerns, we proposed grandfathering existing rural radio systems to operate on a primary basis rather than secondary as the rules provide. In so doing, we proposed to treat rural radio on an equal footing with the land mobile service and guarantee that rural subscribers in areas with increasing mobile service usage will not be deprived of service.[28] Future applications for rural radio systems would be granted to operate only on a secondary, non-interference basis. To encourage RCCs to serve rural subscribers, we propose to amend § 22.601 to permit RCCs to construct and operate central office stations. In addition, in order to protect the future needs of the public for rural radio service, we proposed to require those RCCs which utilize the former wireline frequencies to provide rural radio service where requested in addition to any other service they may provide. These proposed changes were intended to alleviate concerns that the Rural Radio service would be "bumped" by elimination of the fence. *Notice, supra* at 840. We also proposed to require more detailed technical showings from Rural Radio applicants.[29]

22. Telocator supports the proposals for the Rural Radio Service but objects to the proposal to limit the ability to apply for interoffice stations to wireline carriers (proposed § 22.601(b), note). It asserts this is an inappropriate restriction on RCC use of the spectrum. USTA contends there is an apparent inconsistency between the proposal to grandfather existing rural radio operations but require a substantial degree of technical data from future applicants,[30] with future grants continuing to be on a secondary basis. USTA also asserts that a case could be made for retaining the fence for the purpose of rural radio service licensing, as a means of protecting the essential services using these frequencies and insuring their future availability.[31]

23. We conclude that our proposal to eliminate the fence, while protecting the rural radio service, will serve the public interest. We are sensitive to USTA's arguments in favor of the fence. However, we are convinced that the approach we have taken effectively protects the rural radio service. To this end, we are grandfathering existing rural radio systems to operate on a primary basis instead of a secondary basis; we are also requiring radio common carriers who use former wireline frequencies to provide rural radio common carriers who use former wireline frequencies to provide rural radio service where requested in addition to any other service they may provide. We are convinced that rural radio need not be "bumped" with elimination of the fence and we have taken all necessary steps to guarantee this. We agree with USTA,

[24] *See* Land Mobile use of TV Channels 14 through 20, Docket No. 18261, 23 FCC 2d 325, 349 (1970); 30 FCC 2d 221 (1971); 36 FCC 2d 588 (1972); 43 FCC 2d 949 (1973); 48 FCC 2d 360 (1974). *See also* Land Mobile Channels, 69 FCC 2d 1555 (1978); 77 FCC 2d 201 (1980).

[25] Inquiry Relative to the Future Use of the Frequency Band 806–890 MHz, 19 RR 2d 1663 (1970); recon. granted in part, 31 FCC 2d 50 (1971); 46 FCC 2d 752 (1974), recon. granted in part, 51 FCC 2d 945, clarified, 55 FCC 2d 771 (1975), aff'd sub. nom. *NARUC* v. *FCC,* 525 F.2d 630 (D.C. Cir. 1976), cert. denied, 425 U.S. 992 (1976).

[26] Cellular Communications Systems, *supra* note 3.

[27] The rural radio service presently uses, on a secondary basis, the same frequencies as does the PLMS. In this service, the frequencies are intended primarily for use in rendering public message service, between Rural Subscriber and Central Office stations and to provide radio trunking facilities between central offices. Central office and interoffice station frequencies are allocated only to wireline carriers. RCCs are permitted to use subscriber station facilities which operate through the RCC base station, where the use of wire telephone lines is not practicable or feasible and upon a showing that it will not degrade the mobile communication service rendered by the base station. Rural subscriber stations are mormally authorized to communicate with and through the central office station with which they are associated.

[28] The secondary basis status requires that rural radio service be offered on an interference-free basis to stations in the PLMS. Thus, if a primary station is located close to a secondary station and harmful interference occurs as a result, the secondary station could be ordered to cease operations.

[29] We proposed that rural radio applicants be required to submit a frequency search of all co-channel stations within the radius specified in § 22.15(b) from the proposed base/central office/subscriber/interoffice/relay station, including information concerning height above average terrain and effective radiated power. *See* §§ 22.15(b), 22.115, 22.505 and 22.506. Additionally, applicants would be required to submit a showing of interference-free operation for the proposed station. *See* § 22.15. We proposed to require Rural Radio stations to comply with antenna height-power limits found in part 22 of the Rules. *Id.* at 841.

[30] USTA questions whether as a practical matter, frequency searches, interference-free showings and ERP data, are really necessary in the Rural Radio Service. These showings are not now required, and would not be needed if rural radio use of the frequencies remains limited to wireline carriers.

[31] USTA further argues that where rural radio is used by wireline carriers to serve remotely located subscribers, a strong case can be made for the overriding importance of this essential communications service.

however, that it would be burdensome to require Rural Radio applicants to file interference showings. These showings are not necessary in all cases. Accordingly, we will reserve the right to require this information on a case-by-case basis. Also, all future Rural Radio applicants are required to comply with antenna height-power limits found in Part 22 of the Rules. *See* new § 22.609(c). Further, we have adopted Telocator's suggestion that interoffice stations not be limited to wireline common carriers, as we had proposed. An RCC proposing to provide rural radio service should be given access to all of the frequencies listed in § 22.601 on the same basis as a wireline carrier. With these modifications, we are adopting the rules as proposed. We intend to monitor the development of the rural radio service and we anticipate that any problems that may develop will be brought to our attention quickly and we will take further appropriate action.

24. *Petitions for Reconsideration in CC Docket No. 80–57.* In our rulemaking to revise Part 22, we adopted an interim policy permitting RCC applications for wireline frequencies, accompanied by a waiver request, to be maintained on file pending the outcome of our rulemaking to eliminate the fence. 95 FCC 2d at 825.

25. Three petitions for reconsideration of this decision were filed. See Appendix B. They request that the Commission reverse its decision and dismiss RCC applications requesting waivers that were filed during the interim period specified in the policy.

26. Some petitioners contend that the interim procedures have a substantial negative impact on wireline eligibles who have developed business plans based upon the existing separate allocation system, and that proper notice was not given for the interim waiver policy; they object to the fact that the waiver policy, which became effective on February 27, 1984, applies to applications filed at any time after July 29, 1982, the adoption date of the Notice of Proposed Rulemaking.[32] One petitioner argues that the interim procedures are improper in that they drastically change the *status quo* by permitting the acceptance of applications by carriers ineligible under existing rules.[33]

27. Commenters opposed to these petitions argue that the interim procedures should be made applicable to requests for frequency changes, because the wireline guardband frequencies, which are available in some markets, provide better quality service than low band frequencies, and that accordingly it is in the public interest to allow RCCs to switch from a low band channel to an unused wireline guardband channel if possible. Supporters of the waiver policy argue that the interim procedures do not contravene the notice and comment requirements of the Administrative Procedure Act.

28. We will deny the petitions for reconsideration. As we stated at the time we adopted the interim policies, "we believe these procedures effectively safeguard the public interest and prevent the possibility that elimination of the fence will *de facto* be irrelevant because all frequencies have been assigned in the interim." 95 FCC 2d at 825–26. The acceptance of waiver applications to be held in pending status until the Commission has had an opportunity to determine whether to retain or eliminate the fence was a reasonable way to permit carriers to begin the application process. Wireline applications for expansion of existing systems or frequency changes have no greater claim to immunity from competing applications then non-wireline applications. The purpose of a waiver provision is to permit the filing of applications that may not be consistent with existing rules but may nevertheless serve the public interest. In the instant proceeding, an announced policy of permitting the filing of applications with a waiver request was a proper means for accommodating applicants who would otherwise be barred by a rule the basis for which had been called into question as the result of the maturing of the industry.[34]

29. We disagree with petitioners' arguments that the interim policies violate the Administrative Procedure Act for lack of proper notice and comment. When the interim procedures were established applicants had long been on notice of the limited waiver proposal and had ample opportunity to comment on the proposal. While the waiver policy differed from the proposal, it did so because of input gathered from participants in the rulemaking during the comment process. Under Commission rules parties have always been able to file applications and request waiver of the rules. *See* § 1.3 of the rules. Even in the absence of an announced interim policy, applications properly filed with a waiver request, will not be dismissed unless the waiver is denied. The interim policy merely stated how the Commission intended to process these applications pending a determination on the waiver requests in this proceeding.

30. The interim standards were a reasonable exercise of our discretion. Had we not adopted the interim policies there was a strong probability that our proposed rulemaking would have been a nullity because wireline carriers could have made a last-ditch attempt to preempt use of the remaining unused frequencies by nonwirelines. Accordingly, we will deny the petitions for reconsideration. In light of our decision to eliminate the fence, we will begin processing applications which were filed in accordance with our previously established interim policies.

**Regulatory Flexibility Act—Final Analysis**

31. *Need for Rules and Objective.* The rules adopted eliminate unnecessary regulation and policies and provide service to the public in the most efficient, expeditious manner possible.

32. *Issues Raised by the Public In Response to the Initial Analysis.* None

33. *Alternatives that would lessen impact.* None

**Ordering Clauses**

34. Authority for this rulemaking is contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(4), and section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

35. Accordingly, It is ordered, That part 22 of the Commission's Rules and Regulations is amended as specified in Appendix C, effective January 17, 1985.

36. It is further ordered that the Petitions for Reconsideration filed in CC Docket No. 80–57 by T-Com, Inc., Telephone and Data Systems, Inc. and Schwartz, Woods & Miller are denied.

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

[32] One petitioner argues that the retroactive interim waiver policy disadvantages those RCCs who did not file waiver applications during the pendency of the rulemaking.

[33] One petitioner also argues that subjecting wireline applications to competitive filings under the waiver policy is contrary to the public interest; it argues that at a minimum the Commission should not permit non-wireline carriers to file waiver applications for a change in frequency that are mutually exclusive with wireline applications.

[34] *See* KCST–TV, Inc. v. FCC, 699 F. 2d 1185, 1194–95 (D.C. Cir. 1983) (FCC is obliged to entertain requests for waiver when basis for rule is no longer valid). When the factual predicate for a rule is not necessarily invalid but the policy embodied in the rule is undergoing reexamination, as is the case here, the Commission has substantial discretion in acting on waiver requests. Thomas Radio, Inc. v. FCC, 716 F. 2d 921, 925 & n.21 (D.C. Cir. 1983).

Federal Communications Commission.

**William J. Tricarico,**

*Secretary.*

**Appendix A—List of Parties Filing Comments**

(1) MCI Airsignal, Inc.
(2) Message Center, Inc.
(3) Telocator Network of America.
(4) United TeleSpectrum, Inc.
(5) United States Telephone Association.
(6) Joint Comments by: The Bell Operating Companies:

The Bell Telephone Company of Pennsylvania, The Chesapeake and Potomac Telephone Companies, Diamond State Telephone Company, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Michigan Bell Telephone Company, The Mountain States Bell Telephone and Telegraph Company, Nevada Bell, New England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, Northwestern Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Northwest Bell Telephone Company, Pacific Bell, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, and Wisconsin Bell.

(7) The Organization for the Protection and Advancement of Small Telephone Companies and the National Telephone Cooperative Association
(8) Airphone Company, Inc., Answer, Inc. of San Antonio, Associated Telephone Answering Services System, Inc., Gencom Incorporated, Electronic Engineering Company, Emerald Communications Company, Kelley's Tele-Communications, Inc., Metro Fone Communications, Inc., Omni Communications, and Pacific Paging, Inc.
(9) Telephone and Data Systems, Inc.

*Supplement Comments*

(1) Pacific Bell.

*Reply Comments*

(1) Telocator.
(2) Airphone Company, Inc., Answer, Inc. of San Antonio, Associated Telephone Answering Services System, Inc., Gencom Incorporated, Electronic Engineering Company, Emerald Communications Company, Kelley's Tele-Communications, Inc., Metro Fone Communications, Inc., Omni Communications, Inc., and Pacific Paging, Inc.
(3) Telephone and Data Systems, Inc.
(4) Organization for the Protection and Advancement of Small Telephone Companies and the National Telephone Cooperative Association.

**Appendix B—Petitions for Reconsideration in CC Docket No. 80-57**

(1) T-Com, Inc.
(2) Telephone and Data Systems, Inc.
(3) Schwartz, Wood & Miller.

*Oppositions*

(1) Airphone Company, Inc., Answer, Inc. of San Antonio, Associated Telephone Answering Services System, Inc., Electronic Engineering Company, Emerald Communications Company, Gencom Incorporated, Kelley's Tele-Communications, Inc., Metro Fone Communications, Inc., Omni Communications, Inc., Pacific Paging, Inc.
(2) Telocator Network of America

*Replies*

(1) Schwartz, Woods & Miller.

**Appendix C—Final Rule**

**PART 22—[AMENDED]**

47 CFR Part 22 is revised as follows:
(1) Section 22.40 is amended by revising paragraph (a) to read as follows:

**§ 22.40 Considerations involving transfer or assignment applications.**

(a) *Applicability.* This section applies to all authorizations issued under this Part, except those for exclusive paging frequencies, and to all authorizations obtained as a result of a comparative hearing if the facility has been operated for less than one year.

* * * * *

(2) Section 22.501 is amended by revising paragraphs (b), (c), (h), (i), the introductory language in paragraph (k) and the captions to the table in paragraph (k) to read as follows:

**§ 22.501 Frequencies.**

* * * * *

(b) For assignment to common carriers for two-way public land mobile service. One-way public land mobile service may also be furnished, provided that two-way service is offered.

| Base station frequencies (MHz) | Mobile dispatch, and auxiliary test station frequencies (MHz) |
|---|---|
| 152.03 | 158.49 |
| 152.06 | 158.52 |
| 152.09 | 158.55 |
| 152.12 | 158.58 |
| 152.15 | 158.61 |
| 152.18 | 158.64 |
| 152.21 | 158.67 |
| 152.51* | 157.77* |
| 152.54* | 157.80* |
| 152.57* | 157.83* |
| 152.60* | 157.86* |
| 152.63* | 157.89* |
| 152.66* | 157.92* |
| 152.69* | 157.95* |
| 152.72* | 157.98* |
| 152.75* | 158.01* |
| 152.78* | 158.04* |
| 152.81* | 158.07* |
| 454.025 | 459.025 |
| 454.050 | 459.050 |
| 454.075 | 459.075 |
| 454.100 | 459.100 |
| 454.125 | 459.125 |
| 454.150 | 459.150 |
| 454.175 | 459.175 |
| 454.200 | 459.200 |
| 454.225 | 459.225 |
| 454.250 | 459.250 |
| 454.275 | 459.275 |
| 454.300 | 459.300 |
| 454.325 | 459.325 |
| 454.350 | 459.350 |
| 454.375* | 459.375* |
| 454.400* | 459.400* |
| 454.425* | 459.425* |
| 454.450* | 459.450* |
| 454.475* | 459.475* |
| 454.500* | 459.500* |
| 454.525* | 459.525* |
| 454.550* | 459.550* |
| 454.575* | 459.575* |
| 454.600* | 459.600* |
| 454.625* | 459.625* |
| 454.650* | 459.650* |

(c) All applicants who apply for frequencies listed in (b) with an asterisk must provide rural radio service when requested in addition to any other service that they will provide.

* * * * *

(h) *150 MHz band (paging).* The following frequencies may be used exclusively in providing paging.

152.24 MHz
152.84 MHz
158.10 MHz
158.70 MHz

(i) *450 MHz band (control, repeater).*

(1) The frequencies in this paragraph may be assigned for use for control or repeater stations. Series operation of more than one control or repeater station is not permitted.

| Control station frequencies MHz | Repeater station frequencies (MHz) |
|---|---|
| 454.025 | 459.025 |
| 454.050 | 459.050 |
| 454.075 | 459.075 |
| 454.100 | 459.100 |
| 454.125 | 459.125 |
| 454.150 | 459.150 |
| 454.175 | 459.175 |
| 454.200 | 459.200 |
| 454.225 | 459.225 |
| 454.250 | 459.250 |
| 454.275 | 459.275 |
| 454.300 | 459.300 |
| 454.325 | 459.325 |
| 454.350 | 459.350 |
| 454.375 | 459.375 |
| 454.400 | 459.400 |
| 454.425 | 459.425 |
| 454.450 | 459.450 |
| 454.475 | 459.475 |

| Control station frequencies MHz | Repeater station frequencies (MHz) |
|---|---|
| 454.500 | 459.500 |
| 454.525 | 459.525 |
| 454.550 | 459.550 |
| 454.575 | 459.575 |
| 454.600 | 459.600 |
| 454.625 | 459.625 |
| 454.650 | 459.650 |

(2) *Power.* Effective radiated power shall not exceed 150 watts.

(3) *Interference, secondary basis.* The use of the frequencies by a control or repeater station shall not cause harmful interference to any other station authorized to use such frequencies and shall be on a secondary basis to the provision of mobile and rural radio service by other classes of stations.

* * * * *

(k) *470–512 MHz band (Two-Way)*

The following frequencies may be assigned to common carriers within the listed urban areas:

| Base station frequencies (MHz) | Mobile frequencies (MHz) |
|---|---|
| * * * * * | |

3. Section 22.601 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 22.601 Frequencies.**

(a) *General.* The following frequencies are available on a secondary basis in the rural radio service, provided no harmful interference is caused to stations in the Public Land Mobile Service.

(b) *Frequencies.*

| Central office and interoffice station frequencies (MHz) | Rural subscriber and interoffice station frequencies (MHz) |
|---|---|
| 152.03 | 158.49 |
| 152.06 | 158.52 |
| 152.09 | 158.55 |
| 152.12 | 158.58 |
| 152.15 | 158.61 |
| 152.18 | 158.64 |
| 152.21 | 158.67 |
| 152.51 | 157.77 |
| 152.54 | 157.80 |
| 152.57 | 157.83 |
| 152.60 | 157.86 |
| 152.63 | 157.89 |
| 152.66 | 157.92 |
| 152.69 | 157.95 |
| 152.72 | 157.98 |
| 152.75 | 158.01 |
| 152.78 | 158.04 |
| 152.81 | 158.07 |
| 454.025 | 459.025 |
| 454.050 | 459.050 |
| 454.075 | 459.075 |
| 454.100 | 459.100 |
| 454.125 | 459.125 |
| 454.150 | 459.150 |
| 454.175 | 459.175 |
| 454.200 | 459.200 |
| 454.225 | 459.225 |
| 454.250 | 459.250 |
| 454.275 | 459.275 |
| 454.300 | 459.300 |
| 454.325 | 459.325 |
| 454.350 | 459.350 |
| 454.375 | 459.375 |
| 454.400 | 459.400 |
| 454.425 | 459.425 |
| 454.450 | 459.450 |
| 454.475 | 459.475 |
| 454.500 | 459.500 |
| 454.525 | 459.525 |
| 454.550 | 459.550 |
| 454.575 | 459.575 |
| 454.600 | 459.600 |
| 454.625 | 459.625 |
| 454.650 | 459.650 |

**Note 1.**—Rural stations licensed as of the effective date of the adoption of final rules in this proceeding will be allowed to provide rural radio service on a primary basis (grandfathered).

(1) *Relay Stations.* The frequencies in paragraph (b) in this section may be assigned to relay stations upon a showing why it is impracticable to achieve the required communications without relay stations.

* * * * *

4. Section 22.609 is revised to read as follows:

**§ 22.609 Supplementary Showing Required with Applications for Rural Radio Facilities.**

(a) Each application in this service shall be accompanied by a showing why it is impracticable to provide the required communication service by means of wireline facilities.

(b) Additionally where it is proposed to provide a rural subscriber service through a base station, a showing should be made that the proposed rural subscriber service will not adversely affect the availability or adequacy of service to mobile subscribers.

(c) Applications shall contain calculations of the effective Radiated Power demonstrating compliance with the limits set forth in §§ 22.505 and 22.506.

(d) Only if requested by the Commission the following information may need to be submitted:

(1) The showings required by § 22.15(b), co-channel interference study and an interference study demonstrating that the proposed facility will not cause harmful electrical interference to those co-channel facilities identified in § 22.15(b);

(2) Height above average terrain. *See* § 22.115.

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BILLING CODE 6712-01-M

## 47 CFR Parts 22, 73, 81, and 90

**[Gen. Docket No. 84-705; FCC 84-594]**

## Amendment to Standardize the Use of Digitized Terrain Data for Determining Antenna Height Above Average Terrain

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This action amends the Rules to allow the use of digitized topographic data when computing an antenna's height above average terrain (HAAT).

This action is necessary to standardize the Commission's acceptance of computer-generated HAAT calculations.

**EFFECTIVE DATE:** January 16, 1985.

**FOR FURTHER INFORMATION CONTACT:**

Kathryn Hosford, Mass Media Bureau, (202) 632–9660

Rick Kenney, Private Radio Bureau, (202) 632–6497

Steve Markendorff, Common Carrier Bureau, (202) 653–5560

**SUPPLEMENTARY INFORMATION:**

**List of Subjects**

*47 CFR Part 22*

Radio common carriers.

*47 CFR Part 73*

Radio broadcasting, Television broadcasting.

*47 CFR Part 81*

Radio.

*47 CFR Part 90*

Radio.

**Report and Order (Proceeding Terminated)**

In the matter of amendment of Parts 22, 73, 81, and 90 of the Commission's Rules to Standardize the Use of Digitized Terrain Data for Determining Antenna Height Above Average Terrain; Gen Docket No. 84–705.

Adopted: November 30, 1984.

Released: December 10, 1984.

By the Commission.

**Introduction**

1. The Commission has before it a *Notice of Proposed Rule Making (Notice)* adopted on July 12, 1984, (49 FR 31115 on August 8, 1984) and the filings

made in response thereto. This proceeding was instituted, on the Commission's own motion, to standardize the Commission's acceptance of computer-generated antenna heights above average terrain (HAAT).

2. In two earlier actions, the Commission specified two different automated data files for almost identical calculations in the private radio and common carrier radio services while other parts of the Rules still required a manual process using topographic maps.[1] The *Notice* proposed that a consistent procedure be specified for the use of digital terrain data when calculating HAAT. Noting that a variety of data sources are available, the *Notice* proposed stipulating the use of any 30 second, point or better topographic data file. It stated that, in cases of dispute, the manual process using topographic maps would take precedence.[2]

3. In response to the *Notice*, several parties (listed in Appendix B) submitted filings. All parties expressed support for the acceptance of computer-generated HAAT values in all services. The commenters agreed that the proposal would lessen the burden imposed in preparing applications.

**Issues**

There are three basic issues to be resolved:

1. Are the present sources of digitized terrain data sufficiently accurate for HAAT calculations?

2. Should the automated process be adopted as the standard method with a single file named as the accepted source?

3. What is the minimum number of radials to be used in calculating HAAT?

Each of these issues will be developed separately.

*Issue 1: Accuracy and Computer-Generated HAAT Calculations*

4. All parties indicated that experience has shown that the HAAT values using digitized terrain data are not significantly different from those obtained by manual map reading. Biby and NTIA submitted several exhibits showing the acceptability of using terrain data of the 30 second, point format. Comp Comm argued that the rules should specify that the data must originate from topographic maps of at least the 1:250,000 scale. Likewise, AFCCE requested that a reference map scale be added.

5. Upon review, the Commission finds that adding this detail of specification could limit those who wish to compile unique, but otherwise satisfactory, files of their own. For example, Motorola, in its reply comments, noted that it uses a file created from the Digital Terrain Tapes issued by the National Cartographic Institute in its Mobile Radio Coverage Prediction Model. It stated that test results have shown calculation values of only 2 to 10 feet difference from those done manually. Thus, a specification of map scale will not be added to the rule amendments, because it seems an unnecessary limitation. Consequently, the appropriate rules are being amended to allow HAAT calculations based on the use of terrain data of any file of 30 second, point format or better.

6. Although we are permitting use of topographic data bases, we are doing so only for the calculation of HAAT. The accuracy of data-base derived results depends, in large part, on averaging many points determined individually by linear interpolation; however, the accuracy of any single point may be in substantial error. For this reason, we will continue to require that elevations of individual antenna sites be obtained manually using appropriate topographic maps.

*Issue 2: Optional or Standard*

7. NTIA and Miers, noting the acceptability of the terrain calculations, urged the Commission to adopt the National Geophysical Data Center of the National Oceanographic and Atmospheric Administration (NGDC/NOAA) file as the official source of data and to specify use of digitized data as the standard method of computing HAAT values.[3] Opposing this view, OTC and Dawson argued that the best available data, whether from maps or field surveys, should always take precedence. Biby stated that the lack of reliable information regarding the origin of the NGDC/NOAA data, casts serious doubts on its adoption as a standard reference.

8. Although the Commission is convinced of the acceptability of computer-generated HAAT calculations, there appears to be no guarantee of the NGDC/NOAA file's reliability for every transmitter location. Notwithstanding the processing inconvenience, each HAAT determination should be open to inspection, using the best available source of data, whether via manual or computerized methods. We decline to adopt a digitized data file as taking precedence over topographical maps. Thus, we will permit computer generated data as an option but the manual method using topographical maps will be the definitive standard.

*Issue 3: Number of Radials*

9. Spectra, Miers, and Motorola stated that their experience has shown that improved accuracy could be achieved if the number of radials considered in the HAAT calculation was increased from the present number of 8. Miers urged "no less than 36 radials with the preferred number of 72 should be accepted." Biby submitted detailed exhibits using 24 radials and showed that the improvement in accuracy in this case approached 3 to 1; and he noted that this approximates the ratio of the number of directions considered (*i.e.*, 24 versus 8).

10. Maxcell, NYNEX, and Becker opposed an increase in the number of radials. Becker argued that an increase would represent an unnecessary burden for applicants, since there has been no indication that the use of eight radial calculations has proven problematic. Com Comm stated that the number of radials specified should be the same for both the manual and computerized processes. OTC, stating just the opposite, argued that a 36 radial requirement should apply only to the computerized process. Dawson argued that 36 radials could be used for determining service and interfering contours, while the eight radial requirement is satisfactory for overall HAAT calculations.

11. The Commission finds that, in general, the use of eight radials for the HAAT calculation has been shown to be satisfactory for the manual map reading method. No evidence has been forthcoming that this calculation would dramatically benefit from the use of more radials. Biby's conclusion of a 3 to 1 improvement in accuracy was based on service area calculations, not on the overall HAAT calculations. Therefore, the use of eight radials will remain acceptable. However, the Commission, wishes to grant as much latitude as possible, and therefore will be flexible in this circumstance. For those cases, where increased accuracy is desirable (especially for service and interference contour projections) the applicant is encouraged to use the best information available and include extra radials as appropriate. Where additional radials

[1] The rules affected are §§ 22.15 (c)(2), 73.313, 73.684, 81.805 and 90.309 (a)(4).

[2] With respect to the manual process, a few commenters noted that the current rules require at least 50 points to be plotted along each of 8 radials. Thus, if evenly spaced, at least 40 points would be located between the 2 and 10 mile (3 and 16 kilometer) points.

[3] The data files used by NTIA and NGDC/NOAA have been corrected for known errors and are now identical.

are used for HAAT calculations, all radials must be equally spaced.

**Summary**

12. The Commission finds that the burden on applicants may be lessened by permitting the use of computer-generated HAAT calculations in all rules that are similar. We will not specify a single file as the source nor adopt the computerized method as standard. Further, we are not convinced that the improvement in accuaracy is substantial enough to *require* an increase in the number of radials considered.

13. Therefore, we are amending §§ 22.115(c)(2), 73.313, 73.684, 81.805 and 90.309(a)(4) to allow the optional use of any digitized topographic data file in the 30 second, point format or better. In cases of dispute, the manual method using topographic maps will take precedence. The use of eight radials for HAAT calculations will remain the minimum requirement.

**Regulatory Flexibility Final Analysis**

I. *Reason for action:* Recent Commission decisions have resulted in incongruous requirements in the rules relating to HAAT. This action, would establish uniform guidelines for these calculations.

II. *The objective:* These amendments would lessen the burden on applicants by permitting the use of computer-generated calculations in all rules that are similar.

III. *Legal basis:* The action proposed is in furtherance of Sections 303(r) and 4(i) of the Communications Act of 1934, as amended.

IV. *Description, potential impact and number of small entities affected.* These changes would allow all Commission applicants to calculate an antenna's height above average terrain using computer-generated terrain data. Except in certain situations, small entities would have the flexibility of choosing the best method for their purposes. An unknown number of future applicants will be affected.

V. *Recording, record-keeping and other compliance requirements:* None.

VI. *Federal rules which overlap, duplicate or conflict with this rule:* None.

VII. *Any significant alterations minimizing the impact on small entities and consistent with the stated objectives:* None.

14. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to reduce the burden upon the public.

**Actions**

15. The Secretary shall cause a copy of the Report and Order, Including the Final Regualtory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Pargaraph 603(a) of the Regulatroy Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 50 U.S.C. *et seq.).*

16. Accordingly, it is ordered, pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, that Parts 22, 73, 81, and 90 of the Commission's Rules are amended effective January 16, 1985 as set forth in the attached Appendix A. It is further ordered, that this proceeding is hereby terminated.

17. For further information on this matter, contact Kathryn S. Hosford, Mass Media Bureau, at (202) 632-9660.

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

Federal Communications Commission.

**William J. Tricarico**

*Secretary.*

**Appendix A**

Title 47 CFR Parts 22, 73, 81, and 90 of the Federal Communications Commission's Rules and Regulations are amended as follows:

**PART 22—[AMENDED]**

1. 47 CFR 22.115 is amended by revising paragraph (c)(2) to read as follows:

**§ 22.115 Method of determining average terrain elevation.**

* * * * *

(c) * * *

(2) In lieu of maps, the average terrain elevation may be computer generated, except in cases of dispute, using elevations from a 30 second, point or better topographic data file. The file must be identified and the data processed for intermediate points along each radial using linear interpolation techniques. The height above mean sea level of the antenna site must be obtained manually using appropriate topographic maps. See also § 22.15.

**PART 73—[AMENDED]**

2. 47 CFR 73.312 is amended by adding paragraph (d) as follows:

**§ 73.312 Topographic data.**

* * * * *

(d) In lieu of maps, the average terrain elevation may be computer generated except in cases of dispute, using elevations from a 30 second, point or better topographic data file. The file must be identified and the data processed for intermediate points along each radial using linear interpolation techniques. The height above mean sea level of the antenna site must be obtained manually using appropriate topographic maps.

3. 47 CFR 73.684 is amended by adding the following text to the end of paragraph (g) as follows:

**§ 73.684 Predicition of coverage.**

* * * * *

(g) * * * In lieu of maps, the average terrain elevation may be computer generated, except in cases of dispute, using elevations from a 30 second, point or better topographic data file. The file must be identified and the data processed for intermediate points along each radial using linear interpolation techniques. The height above mean sea level of the antenna site must be obtained manually using appropriate topographic maps.

* * * * *

**PART 81—[AMENDED]**

4. 47 CFR 81.804 is amended by changing the heading, designating the existing paragraph as paragraph (a), adding paragraph (b) as follows:

**§ 81.804 Topographic data.**

* * * * *

(b) In lieu of maps, the average terrain elevation may be computer generated, except in cases of dispute, using elevations from a 30 second, point or better topographic data file such as those available from the U.S. Geological Survey's National Cartographic Information Center or the National Oceanic and Atmospheric Administration's National Geophysical Data Center.

**PART 90—[AMENDED]**

5. 47 CFR 90.309 is amended by revising paragraph (a)(4) as follows:

**§ 90.309 Tables and figures.**

(a) * * *

(4) In determining the average elevation of the terrain, the elevations between 2 and 10 miles (3 and 16 kilometers) from the antenna site are employed. Profile graphs shall be drawn for a minimum of eight radials beginning at the antenna site and extending 10 miles (16 kilometers). The radials should be drawn starting with true north. At least one radial should be constructed in the direction of the nearest co-channel and adjacent channel UHF television stations. The profile graph for each radial shall be plotted by contour

intervals of from 40 to 100 feet (12 to 30 meters) and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. For very rugged terrain 200 to 400 feet (61 to 400 meters) contour intervals may be used. Where the terrain is uniform or gently sloping, the smallest contour interval indicated on the topographic chart may be used. The average elevation of the 8-mile distance between 2 and 10 miles (3 and 10 kilometers) from the antenna site should be determined from the profile graph for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded by 50 percent of the distance) in sectors and averaging those values. In the preparation of the profile graphs, the elevation or contour intervals may be taken from U.S. Geological Survey Topographic Maps, U.S. Army Corps of Engineers Maps, or Tennessee Valley Authority Maps. Maps with a scale of 1:250,000 or larger (such as 1:24,000) shall be used. If such maps are not published for the area in question, the next best topographic information should be used. In lieu of maps, the average terrain elevation may be computer generated, except in cases of dispute, using elevations from a 30 second, point or better topographic data file such as those available from the U.S. Geological Survey's National Cartographic Information Center or the National Oceanic and Atmospheric Administration's National Geophysical Data Center.

* * * * *

**Appendix B**

*Comments*

1. Richard S. Becker and Associates, PC (Becker).
2. Comp Comm, Inc. (Comp Comm).
3. NYNEX Mobile Communications Company (NYNEX).
4. Several Operating Telephone Companies (OTC).

The Bell Telephone Company of Pennsylvania
The Chesapeake and Potomac Telephone Companies
The Diamond State Telephone Company
Illinois Bell Telephone Company
Indiana Bell Telephone Company, Incorporated
Michigan Bell Telephone Company
Nevada Bell
New England Telephone and Telegraph Company
New Jersey Bell Telephone Company
New York Telephone Company
The Ohio Bell Telephone Company
Pacific Bell
South Central Bell Telephone Company
Southern Bell Telephone and Telegraph Company
Southwestern Bell Telephone Company
Wisconsin Bell, Inc.

5. Forest Industries Telecommunications (FIT).
6. Association of American Railroads (Railroads).
7. Association of Federal Communications Consulting Engineers (AFCCE).
8. Spectra Associates Incorporated (Spectra).
9. Maxcell Telecom Plus, Inc. (Maxcell).
10. Richard L. Biby of Communications Engineering Services, PC (Biby).
11. National Telecommunications and Information Administration (NTIA).
12. Robert L. Miers (Miers).

*Reply Comments*

1. Motorola, Inc. (Motorola).
2. OTC.
3. NTIA.

*Informal Late Comments*

1. Hatfield and Dawson, Consulting Engineers (Dawson).

[FR. Doc. 84-32699 Filed 12-14-84; 8:45 am]
BILLING CODE 6712-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

### 49 CFR Part 225

**[Docket No. RAR-2, Notice No. 7]**

### Adjustment of Monetary Threshold for Reporting Accidents/Incidents

**AGENCY:** Federal Railroad Administration (FRA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule increases the reporting threshold from $4,500 to $4,900 for railroad accidents/incidents involving property damage that occur during the calendar year 1985. This action is needed to insure that the FRA reporting requirements reflect cost increases that have occurred since the reporting threshold was last computed in 1982. In addition, FRA is amending six sections in 49 CFR Part 225 to make very minor technical improvements in the regulation.

**EFFECTIVE DATE:** This rule becomes effective on January 1, 1985.

**FOR FURTHER INFORMATION CONTACT:**

(1) *Principal Program Person:* Robert L. Finkelstein, Office of Safety, (RRS-22), FRA, Washington, D.C. 20590. Phone (202) 426-2760.

(2) *Principal Attorney:* Lawrence I. Wagner, Office of Chief Counsel, (RCC-30), FRA, Washington, D.C. 20590. Phone (202) 426-8836.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 225.19(c) of 49 CFR requires that the reporting threshold for railroad accidents will be adjusted every two years in accordance with the procedures outlined in Appendix A to Part 225. Based on increased costs for labor and material, FRA has determined that the current reporting threshold of $4,500 should be increased to $4,900, and §§ 225.5 and 225.19 are being amended accordingly. Appendix A is also being amended to reflect the most recent calculations and the procedures used to determine the new threshold.

In addition, FRA is revising six sections to make minor technical changes in the regulation. In §§ 225.7(a), 225.11(a), and 225.21 the change involves a new mailing address to reflect a relocation of FRA offices. In § 225.1, FRA is inserting the Office of Management and Budget approval number for this information collection activity, and in § 225.9 is revising the cross-reference to reflect a recent amendment of the Locomotive Safety Standards (49 CFR Part 229). Finally, FRA is deleting paragraphs (b) and (c) of § 225.11 since this data is now being acquired directly from the Interstate Commerce Commission.

**Regulatory Impact**

This proposal has been evaluated in accordance with existing regulatory policies. It will not have an adverse economic impact on any entity because it does not place any new requirements or burdens on the public. Accordingly, it is certified that the proposal will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It does not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, an Environment Impact Statement is not required. The proposal does not constitute a major rule under the terms of Executive Order 12291 and does not constitute a significant rule under the Department of Transportation regulatory policies and procedures. Moreover, the final rule is minimal and does not warrant a full regulatory evaluation.

**Notice and Public Procedure**

Since the amendment merely makes minor technical changes and adjusts the

reporting threshold for accidents/incidents in accordance with procedures specified in a longstanding regulation (49 CFR 225.19), it imposes no additional burden on any person and FRA concludes that notice and public procedure are not necessary.

List of **Subjects in 49 CFR Part 225**

Railroad safety.

For reasons set out in the preamble, Part 225 of Chapter II of Title 49 of the Code of Federal Regulations is amended as follows:

1. By revising § 225.1 to read as follows:

**§ 225.1 Purpose.**

The purpose of this part is to provide the Federal Railroad Administration (FRA) with information concerning hazardous conditions on the Nation's railroads. FRA needs this information to carry out effectively its regulatory responsibilities under the Federal Railroad Safety Act of 1970 and the Accidents Reports Act. Although this part is issued under the authority of both Acts, reliance is primarily based upon the authority of the Federal Railroad Safety Act because of its broader scope. Issuance of these regulations under the Federal Railroad Safety Act preempts States from prescribing accident/incident reporting requirements. Reliance on the Federal Railroad Safety Act will facilitate the application and enforcement of the requirements of this part by allowing imposition of civil rather than criminal penalties. Any State may, however, require railroads to submit to it copies of accident/incident reports filed with FRA under this part, for accidents/incidents which occur in that State. The reporting and recordkeeping requirements prescribed in this part have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980.

(Approved by the Office of Management and Budget under contract Number 2130–0500).

2. By revising § 225.5(b)(2) to read as follows:

**§ 225.5 Definitions.**

As used in this part—

* * * * *

(b) "Accident/Incident" means:

* * * * *

(2) Any collision, derailment, fire, explosion, act of God, or other event involving operation of railroad on-track equipment (standing or moving) that results in more than $4,900 in damages to railroad on-track equipment, signals, track, track structures, and roadbed;

* * * * *

3. In § 225.7, paragraph (a) is revised to read as follows:

**§ 225.7 Public examination and use of reports.**

(a) Accident/Incident reports made by railroads in compliance with these rules shall be available to the public in the manner prescribed by Part 7 of this Title. Accident/Incident reports may be inspected at the Office of Safety, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590. Written requests for a copy of a report should be addressed to the Office of Chief Counsel, FRA, 400 Seventh Street, SW, Washington, DC 20590, and be accompanied by the appropriate fee prescribed in Part 7 of this Title. To facilitate expedited handling, each request should be clearly marked "Request for Accident/Incident Report."

* * * * *

4. In section 225.9, footnote 2 is revised to read as follows:

**§ 225.9 Telephonic reports of certain accidents/incidents.**[1, 2]

* * * * *

[2] FRA Locomotive Safety Standards require certain locomotive accidents to be reported by telephone at the same toll free number (See Title 49, Code of Federal Regulations, § 229.17.)

5. By revising § 225.11 to read as follows:

**§ 225.11 Reporting of accidents/incidents.**

Each railroad subject to this part must submit to FRA a monthly report of all railroad accidents/incidents described in § 225.19. The report must be made on the forms prescribed in § 225.21 and must be submitted within 30 days after expiration of the month during which the accidents/incidents occurred. Reports must be completed as required by the current FRA Guide for Preparing Accident/Incident Reports. A copy of this guide may be obtained from the Office of Safety, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590.

6. In § 225.21 by revising the introductory paragraph to read as follows:

**§ 225.21 Forms.**

The following forms and copies of the FRA Guide for Preparing Accident/Incident Reports may be obtained from the Office of Safety, FRA, 400 Seventh Street, SW., Washington, DC 20590.

**§ 225.19 [Amended]**

* * * * *

7. By revising the second sentence in § 225.19(b) and by revising the first, third and fifth sentences of § 225.19(c) to read as follows:

* * * * *

(b) *Group I—Rail Highway Grade Crossing.* * * * In addition, whenever a rail-highway grade crossing accident/incident results in more than $4,900 damages to railroad on-track equipment, signals, track, track structures, or roadbed, that accident/incident must be reported to the FRA on Form FRA F6180.54. * * *

(c) *Group II—Rail Equipment.* Rail equipment accidents/incidents are collisions, derailments, fires, explosions, acts of God, or other events involving the operation of railroad on-track equipment (standing or moving) that result in more than $4,900 in damages to railroad on-track equipment, signals, track, track structures, or roadbed, including labor costs and all other costs for repair or replacement in kind. * * * If the property of more than one railroad is involved in an accident/incident, the $4,900 threshold is calculated by including the damages suffered by all railroads involved. * * * The $4,900 reporting threshold will be reviewed periodically and will be adjusted in increments of $100 every 2 years in accordance with the procedures outlined in Appendix A of this part.

* * * * *

8. By revising Appendix A to read as follows:

**Appendix A—Procedure for Determining Reporting Threshold**

1. Wage figures used for track direct labor rates will be based on the "Average straight time rate" shown in the "Recapitulation by Group of Employees" for Group III Maintenance of Way Structures Employees. This information appears in the most recent annual edition (Year 1983) of "Statement A300 of the Interstate Commerce Commission, Bureau of Accounts, Wage Statistics of Class 1 Railroads in the United States."

2. Wage figures used for mechanical direct labor rates will be based on the "Average straight time rate" shown in the "Recapitulation by Group of Employees" for Group IV Maintenance of Equipment and Stores Employees. This information appears in the most recent annual edition (Year 1983 of "Statement A300 of the Interstate Commerce Commission, Bureau of Accounts, Wage Statistics of Class 1 Railroads in the United States."

3. Fringe benefit surcharges will be added to the average straight time rates for mechanical and track employees based on the Railroad Cost Index data developed for the Interstate Commerce Commission under the provisions of 49 CFR Part 1102. This information was published in summarized form in the September 24, 1984 edition of the **Federal Register** (49 FR 37481).

4. To calculate the index number for mechanical labor, divide the present (1984) mechanical wage rate of $19.16 by the previous (1982) mechanical wage rate of $16.34. The result is a mechanical labor index number of 1.17 for 1984.

5. The track labor index number is calculated by dividing the present (1984) track wage rate of $18.02 by the previous (1982) track wage rate of $15.24. The result is a track labor index number of 1.18 for 1984.

6. Calculation of the labor index number is as follows: [(track labor index number) 1.18 × .20] + [(mechanical labor index number) 1.17 × .80] = labor index number of 1.17.

7. The mechanical material index number is calculated by first totaling the present (1984) cost of the following mechanical materials:

| Quantity | Description | 1982 | 1984 |
|---|---|---|---|
| 8 | 33" CS wheels | $1,960 | $1,983 |
| 8 | 6 by 11" roller bearings | 1,488 | 1,221 |
| 4 | Roller bearing axles | 2,160 | 1,783 |
| 4 | 6 by 11" roller bearing truck sides (750 lbs). | 3,568 | 3,399 |
| 2 | 6 by 11" truck bolsters (1,060 lbs). | 2,567 | 2,533 |
| 2 | E couplers | 612 | 686 |
| 4 | Brake beams | 324 | 315 |
| 1 | AB cylinder | 96 | 96 |
| 1 | AB reservoir | 340 | 263 |
| 1 | ABD control valve | 1,323 | 1,155 |
| 500 lbs | Steel bar | 450 | 445 |
| 1,000 lbs | Steel sheets | 900 | 890 |
| 1,000 lbs | Steel plates | 900 | 890 |
| 8 | Brake shoes | 56 | 52 |
| 8 | Roller bearing adapters | 160 | 151 |
| 24 | Outer coil springs | 240 | 222 |
| 600 | Board feet hardwood lumber. | 296 | 408 |
| 1 | Traction motor | 32,150 | 34,400 |
| 60 ft | 1¼" brake pipe | 74 | 65 |
| 1 | Hand brake | 196 | 225 |
| | Total mechanical material | 49,869 | 51,182 |

The mechanical material index number is determined by dividing the present (1984) total cost for these mechanical materials ($51,182) by the previous (1982) total cost for mechanical materials ($49,869). The result is 1.03.

8. The track material index number is calculated by first totaling the present (1984) cost of the following track materials:

| Quantity | Description | 1982 | 1984 |
|---|---|---|---|
| 4,500 | Ties, wooden | $73,755 | $81,000 |
| 250 tons | Rail | 119,375 | 137,500 |
| 90 tons | Tie plates | 44,764 | 49,500 |
| 27,000 | Spikes (5.8 tons) | 4,002 | 4,408 |
| 800 | Joint bars (25.4 tons) | 20,589 | 22,000 |
| 2,000 | Track bolts | 1,164 | 1,200 |
| 1 | Frog | 4,080 | 4,300 |
| 1 | Switch | 3,704 | 4,000 |
| | Total track material | 271,433 | 303,908 |

The track material index number is determined by dividing the present (1984) total cost for these track materials ($303,908) by the previous (1982) total cost for track materials ($271,433). The result is 1.12.

9. Calculation of the material index number is as follows: [(track material index number) 1.12 × .020] + [(mechanical material index number) 1.03 × .80] = material index number of 1.05.

10. Calculation of the threshold index number is as follows: [(labor index number) 1.17 × .40 + [(material index number) 1.05 × .60] = threshold index number of 1.098.

11. In order to calculate the new reporting threshold, multiply the existing reporting threshold, $4,500, by the threshold index number of 1.098. The result is $4,941. This result, when rounded to the nearest $100.00, is the accident/incident reporting threshold figure of $4,900.

(Secs. 1 and 6, Accident Reports Act (45 U.S.C. 38 and 42); sec. 6 (e) and (f), Department of Transportation Act (49 U.S.C. 1655 (e) and (f)); secs. 202 and 208, Federal Railroad Safety Act of 1970 (45 U.S.C. 431 and 437); sec. 1.49 (g) and (m), Regulations of the Office of the Secretary of Transportation (49 CFR 1.49 (g) and (m)

Issued in Washington, D.C. on December 3, 1984.

**John H. Riley,**

*Administrator.*

[FR Doc. 84-32731 Filed 12-14-84; 8:45 am]

BILLING CODE 4910-06-M

# Proposed Rules

Federal Register
Vol. 49, No. 243
Monday, December 17, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Airspace Docket No. 84-AAL-1]**

### Proposed Transition Area, Togiak, AK

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to lower the base of controlled airspace in the vicinity of Togiak, AK, Airport to provide aircraft conducting flight under instrument flight rules (IFR) with exclusive use of that airspace when the visibility is less than 3 miles, thereby enhancing the safety of such operations.

**DATES:** Comments must be received on or before January 23, 1985.

**ADDRESSES:** Send comments on the proposal in triplicate to: Director, FAA, Alaskan Region, Attention: Manager, Air Traffic Division, Docket No. 84-AAL-1, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

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

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

**FOR FURTHER INFORMATION CONTACT:** William C. Davis, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-AAL-1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of NPRM's**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish the base of controlled airspace at 700 feet above the surface in an area approximately 42 miles by 14 miles (588 square miles) generally centered on a point approximately 2 miles east of the Togiak, AK, Airport. Designation of this airspace as a transition area would exclude aircraft operating under visual flight rules (VFR) when the visibility is less than 3 miles under FAR 91.105(a). However, the transition area would enhance the safety of aircraft conducting flight under IFR. Protection of IFR traffic is necessary due to the establishment of IFR approach and departure procedures, prescribed holding, and missed approach procedures using a nondirectional radio beacon with distance measuring equipment (NDB/DME) recently installed at Togiak. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

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

**ICAO Considerations**

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services

necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic service over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

**List of Subjects in 14 CFR Part 71**

Aviation Safety, Transition areas.

**The Proposed Amendment**

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

**Togiak, AK [New]**

That airspace extending upward from 700 feet above the surface within 9.5 miles east and 4.5 miles west of the 018°T(359°M) bearing from the Togiak NDB (lat. 59°03'53"N., long. 160°22'19" W.) extending from the NDB to 18.5 miles north of the NDB; and within 9.5 miles southeast and 4.5 miles northwest of the 228°T(209°M) bearing from the Togiak NDB extending from the NDB to 23.5 miles southwest of the NDB.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C.1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); (49 U.S.C.106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Washington, D.C., on December 7, 1984.

**John W. Baier,**

*Acting Manager, Airspace-Rules and Aeronautical Information Division.*

[FR Doc. 84-32684 Filed 12-14-84; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 271

**[Docket No. RM79-76-237; (Texas—40 Addition)]**

Issued: December 10, 1984.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additional area of the Strawn Formation be designated as a tight formation under § 271.703(d).

**DATE:** Comments on the proposed rule are due on January 24, 1985.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on December 26, 1984.

**ADDRESS:** Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

**FOR FURTHER INFORMATION CONTACT:** Edward G. Gingold, (202) 357-5491, or Walter W. Lawson, (202) 357-8556.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On October 9, 1984, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that an additional area of the Strawn Formation located in the western part of the state of Texas be designated as a tight formation. The Commission previously adopted a recommendation that the Strawn Formation in the Whitehead (Strawn) Field area in Sutton, Schleicher, and Crockett Counties, Texas, be designated a tight formation (Order No. 405 issued November 8, 1984, in Docket No. 79-76-232 (Texas—40)). Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Strawn Formation in the Massie (Strawn) Field be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

**II. Description of Recommendation**

Texas recommends that the Strawn Formation, located approximately 25 miles south of Ozona, Texas, along the common county lines of Crockett and Val Verde Counties, Texas Railroad Commission Districts 1 and 7C, be designated as a tight formation. The Massie (Strawn) Field is located in the Val Verde Basin along a north-south trending anticline. The recommended area consists of approximately 19,180 acres of which 6,720 acres is the developed portion of the Massie (Strawn) Field. Specifically, the area recommended is the eastern half of Section 13; the entire portion of Sections 14, 15, 16, 25, 26, 27, 28, 52, 53, 54, 55, 56, 65, 66, 67, 68, 69, 92, 93, 94, 95, 96, 105, 106, 107, 108, and 109 of Block O, GH & SA RR Survey; Section 95 of Block A, TC RR Survey; and Section 182 of Block O, M.A. Sharp Survey.

The Strawn Formation is mid-Pennsylvanian age and overlies the lower Pennsylvanian Atoka Formation. It consists mainly of dark gray, finely crystalline limestone, interbedded with black and gray calcareous shale and very find grained siltstone. The productive zones are primarily stratigraphic in nature. Reservoir porosity is mostly intraskeletal porosity in algal grains with most of the productive part of the formation concentrated in the top 300 to 400 feet of the Strawn Formation.

Type logs for the area are the Cities Service Oil and Gas Company (Cities), West A No. 1 well and the Union Oil Company (Union), Wayne West Ranch "B" No. 5 well. The Cities well exhibited

an anomalously high *in situ* permeability and its 320 acre proration unit was excluded from the recommended area. It is the discovery well in the field and is located in the western portion of Section 13, Block O, GH & SA Survey, Val Verde County, Texas. It shows the top of the Strawn at approximately 11,097 feet with the base of the Strawn at 11,655 feet, having a thickness of 558 feet with perforations from 11,102 feet to 11,320 feet. The Union well, located in the northeast corner of Section 15, Block O, GH & SA Survey, shows the top of the Strawn at 11,652 feet, the perforations from 11,566 feet to 11,739 feet, and the base at 12,058 feet, yielding a thickness of 496 feet. Average depth to the top of the formation is 11,165 feet and the thickness is about 200 feet on the top of the north-south trending anticline and thickens off structure to over 550 feet.

**III. Discussion of Recommendation**

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing state and federal regulations assure that development of the formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, under the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶ 30,180 (1980), the Director gives notice of the proposal submitted by Texas that the Strawn Formation as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation under § 271.703.

**IV. Public Comment Procedures**

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 24, 1985. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–237 (Texas—40 Addition), and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E. Washington, D.C., during business hours.

Any persons wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and so request a public hearing. The person shall specify the amount of time requested at the hearing, and should file the request with the Secretary of the Commission no later than December 26, 1984.

**List of Subjects in 18 CFR Part 271**

Natural gas, Incentive price, Tight formations.

Accordingly, the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, will be amended as set forth below, in the event the Commission adopts Texas' recommendation.

**Kenneth A. Williams,**

*Director, Office of Pipeline and Producer Regulation.*

**PART 271—[AMENDED]**

Part 271 is amended as follows:

1. The authority citation for Part 271 reads as follows:

**Authority:** Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(204) to read as follows:

**§ 271.703 Tight formations.**

* * * * *

(d) *Designated tight formations.* * * *

(204) *Strawn Formation in Texas,* RM79–76 (Texas–40)

(i) *Whitehead (Strawn) Field Area, Sutton, Schleicher and Crockett Counties.*

(A) *Delineation of formation.* The Strawn Formation is found in the western part of the state of Texas. The designated area lies primarily in the extreme western part of Sutton County, and extends north into the southwest part of Schleicher County, and to the west into the eastern part of Crockett County.

(B) *Depth.* The vertical limits of the Strawn Formation are defined by the Canyon sand and shale Formations above and the Atoka Formation below. The depth to the top of the formation is approximately 7,383 feet in the northeast part of the designated area and dips to 9,858 feet in the southwest, having an average depth of 8,300 feet to the top of the formation. In a type log, the Amoco Production Company, Edwin S. Mayer, Jr. No. C–8 well, located in the northern part of the designated area, the thickness of the Strawn Formation is 306 feet. A gradual thickening of the formation occurs toward the south part of the designated area.

(ii) *Massie (Strawn) Field, Crockett and Val Verde Counties.*

(A) *Delineation of formation.* The designated area is located approximately 25 miles south of Ozona, Texas, along the common Corckett and Val Verde County lines. The designated area is specifically located in the eastern half of Section 13; the entire portion of Sections 14, 15, 16, 25, 26, 27, 28, 52, 53, 54, 55, 56, 65, 66, 67, 68, 69, 92, 93, 94, 95, 96, 105, 106, 107, 108 and 109 of Block O, GH & SA RR Survey; Section 95 of Block A, TC RR Survey; and Section 182 of Block O, M.A. Sharp Survey.

(B) *Depth.* The average depth to the top of the designated area is 11,165 feet and the thickness varies from approximately 200 feet on the top of the Massie (Strawn) Field anticline to over 550 feet off structure.

[FR Doc. 84–32525 Filed 12–14–84; 8:45 am]

BILLING CODE 6717–01–M

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**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 948**

**Public Comment Period and Opportunity for Public Hearing on Modified Portions of the West Virginia Permanent Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule.

**SUMMARY:** OSM is announcing procedures for a public comment period and hearing on the substantive adequacy of a program amendment submitted by the State of West Virginia as a modification to its permanent regulatory program which was conditionally approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The West Virginia submission consists of two proposed regulation changes and a policy statement. The submission is intended to satisfy three required program amendments to the State's program relating to the training, examination and certification of blasters.

This notice sets forth the times and locations that the West Virginia program and proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the opportunity to request a public hearing.

**DATES:** Written comments not received on or before 4:00 p.m. on January 16, 1985 will not necessarily be considered. If requested, a public hearing on the proposal will be held from 7:00 p.m. to 9:00 p.m. on January 7, 1985 at the OSM Charleston Field office listed below under "**ADDRESS:**" Any person interested in making an oral or written presentation at the hearing should contact Mr. William D. Ellis at the OSM Charleston Field Office by the close of business on or before January 2, 1985. If no one has contacted Mr. Ellis to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Ellis, a public meeting, rather than a hearing, will be held and the results of the meeting included in the Administrative Record.

**ADDRESS:** Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, Attention: West Virginia Administrative Record, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

See "**SUPPLEMENTARY INFORMATION**" for addresses where copies of the West Virginia program, the amendment and the administrative record on the West Virginia program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendment by contracting the OSM Charleston Field Office listed above.

**FOR FURTHER INFORMATION CONTACT:** Mr. William D. Ellis, Acting Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

**SUPPLEMENTARY INFORMATION:** Copies of the proposed modifications to the program, the West Virginia program, and the administrative record on the West Virginia program are available for public review and copying at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, NW., Room 5124, Washington, D.C. 20240, Telephone: (202) 343–7896

West Virginia Department of Natural Resources, Room 630, Building 3, 1800 Washington Street, East, Charleston, West Virginia 25305, Telephone: (304) 348–9160

In addition, copies of the proposed amendment are available for inspection and copying during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, Morgantown, West Virginia 26505, Telephone: (304) 291–5821

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 119 Appalachian Drive, Beckley, West Virginia 25801, Telephone: (304) 255–5265.

### Background on the West Virginia Program

On March 3, 1980, the Secretary of the Interior received a proposed regulatory program from the State of West Virginia. On October 22, 1980, following a review of the proposed program in accordance with 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 69249–69271).

West Virginia resubmitted its proposed program on December 19, 1980, and after a subsequent review, the Secretary conditionally approved the program on January 1, 1981. Information concerning the general background of the permanent program submission, well as the Secretary's findings, the disposition of comments and explanation of the initial conditions of approval of the West Virginia program can be found in the January 21, 1981 **Federal Register** (46 FR 5915–5956).

On January 12, 1984, West Virginia submitted statute and regulations and other material which establish requirements for the training, examination and certification of blasters working in surface coal mining operations. These materials were later supplemented by additional information submitted by the State on June 18, 1984.

On September 20, 1984, the Director approved the State's proposed blaster program based on the correction of three minor deficiencies (49 FR 36837–36840). These deficiencies were required to be corrected by November 19, 1984. The deficiencies related to the lack of the requirements of 30 CFR 850.12(b), 850.13(a)(2) and 850.15(b)(1)(ii) in the State regulations. On November 20, 1984, the State submitted proposed regulations and a policy statement intended to resolve the deficiencies relating to the requirements that: (1) All persons responsible for the use of explosives on or after September 20, 1985, shall be certified pursuant to 30 CFR 850.12(b); (2) a blaster's certification may be revoked for unlawful use of alcohol, narcotics or other dangerous drugs in the workplace as required by 30 CFR 850.15(b)(1)(ii); and (3) the blasting crew or others who assist in the use of explosives and are not certified blasters, receive direction and on-the-job training from a certified blaster as required by 30 CFR 850.13(a)(2).

The Director is now seeking public comment on the adequacy of these proposed modifications. If the modifications are deemed no less effective than the Federal regulations, they will be approved and will become part of the West Virginia program and the required program amendments discussed above will be removed.

### Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SUCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from section 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

**List of Subjects in 30 CFR Part 948**

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: December 10, 1984.

**John D. Ward,**

*Director, Office of Surface Mining.*

[FR Doc. 84–32716 Filed 12–14–84; 8:45 am]

BILLING CODE 4310–05–M

## DEPARTMENT OF THE TREASURY

### Fiscal Service

### 31 CFR Part 391

### Waiver of Late Charges

**AGENCY:** Bureau of the Public Debt, Fiscal Service, Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule sets forth guidelines for the waiver of interest, administrative costs, and penalties which accrue on claims due the United States arising from transactions in Treasury securities, as administered by the Bureau of the Public Debt. This rule is needed to implement the waiver provisions of 31 U.S.C. 3717(h), formerly section 11 of the Debt Collection Act of 1982 (Pub. L. 97–365, 96 Stat. 1749), and the Federal Claims Collection Standards of the General Accounting Office and the Department of Justice, 4 CFR 102.13(g).

**DATE:** Comments must be received by January 16, 1985.

**ADDRESS:** Send comments to the Office of the Chief Counsel, Bureau of the Public Debt, 1435 G Street, N.W., room 309, Washington, D.C. 20239–0001.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Langwiser, Attorney-Adviser, Bureau of the Public Debt, Office of the Chief Counsel, Divisions Office (202) 447–9859.

**SUPPLEMENTARY INFORMATION:** Section 3717(h) of 31 U.S.C. requires the assessment of interest, administrative costs, and penalties on claims due the United States. It authorizes the waiver of these charges where the head of an agency or designee prescribes regulations identifying circumstances appropriate to waiver and in conformity with the joint regulations of the General Accounting Office and the Department of Justice. Under the statute and the joint regulations, 4 CFR 102.13(g), waiver of interest is mandatory on any portion of the debt which is paid within 30 days after the date on which interest began to accrue. Otherwise, waiver is optional.

The Bureau of the Public Debt has adopted the criteria for optional waiver presented in 4 CFR 102.13(g) as part of its proposed rule on waiver. In accordance therewith, it has specified other circumstances under which collection of late charges would be against equity and good conscience or not in the best interests of the United States. The latter is of particular concern where the cost of collecting unpaid late charges would approach or exceed the amount due as late charges. The criteria proposed are intended to provide sufficient leeway to avoid throwing good money after bad.

The collection of interest, administrative costs, and penalties under the Debt Collection Act of 1982 and their waiver do not apply to: (1) A claim where a statute, regulation, loan agreement, or contract prohibits or fixes these charges; or (2) a claim under a contract executed before October 25, 1982.

**Executive Order 12291**

The proposed rule is not a "major rule," as defined in Executive Order 12291, dated February 17, 1981, because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

**Paperwork Reduction Act**

The Paperwork Reduction Act of 1980, Pub. L. 96–511, 94 Stat. 2812 (44 U.S.C. Chapter 35) does not apply to this rule because it does not contain information collection requirements that necessitate approval by the Office of Management and Budget.

**Regulatory Flexibility Act**

The Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1167, does not apply to this proposed rule. The Commissioner of the Public Debt certifies under the provisions of 5 U.S.C. 605(b) that this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities or impose significant reporting or compliance burdens on a substantial number of small entities.

**List of Subjects in 31 CFR Part 391**

Administrative practice and procedure, claims.

Accordingly, it is proposed to add Part 391 to Subtitle B of 31 CFR Chapter II, to read as follows:

## PART 391—WAIVER OF INTEREST, ADMINISTRATIVE COSTS, AND PENALTIES

Sec.

391.0 Scope of regulations.
391.1 General.
391.2 Equitable considerations.
391.3 Resolution of disputes.
391.4 Documentary evidence.
391.5 Waiver approval.

Authority: 31 U.S.C. 3701; 31 U.S.C. 3711; 31 U.S.C. 3717.

### § 391.0 Scope of regulations.

These regulations apply to the waiver of late charges on claims due the Bureau of the Public Debt as authorized by 31 U.S.C. 3717(h). They are consistent with the Federal Claims Collection Standards on interest, administrative costs, and penalties prescribed jointly by the General Accounting Office and the Department of Justice and set forth in 4 CFR 102.13. The term "claim" as used in this Part refers to an amount of money or property that has been determined to be owed to the Bureau of the Public Debt from any person, organization, or entity, except another Federal agency. The term "late charges" as used in this Part includes interest, administrative costs, and penalties. When applying the following regulations, a distinction shall be drawn between an adjustment and a waiver. An adjustment is an account correction under any circumstances where the Bureau records a claim or accrues late charges to which it is not legally entitled. An adjustment may be made without the promulgation of regulations. A waiver applies whenever the Bureau accrues late charges it is entitled to assess and later relinquishes that right. Two examples of an adjustment are: (1) where the underlying claim is without merit, and (2) where the debtor is not notified of the claim as

required by 31 U.S.C. 3717. The latter includes being misinformed as to the amount of the charges or the time of their commencement.

**§ 391.1 General.**

(a) *Waiver of late charges.* Late charges may be waiver:

(1) When the underlying claim is compromised in accordance with 4 CFR Part 103;

(2) Where the underlying claim is not compromised but it is appropriate to waive late charges under the criteria of 4 CFR Part 103 relating to enforcement policy;

(3) When collection of the underlying claim is terminated in accordance with 4 CFR Part 104;

(4) When a claim is suspended in accordance with 4 CFR Part 104;

(5) Where the cost of collecting the unpaid late charges would approach or exceed the amount of unpaid late charges to be collected and the amount of late charges does not qualify for referral to a collection agency or the Department of Justice;

(6) Where the late charges pertain to claims involving savings bonds and notes arising under 31 U.S.C. 3105 and 3106 which are replaced pursuant to 31 U.S.C. 3126;

(7) For reasons of equity or good conscience as provided in § 391.2.

(b) *Partial waiver.* Late charges may be waived in full or in part.

**§ 391.2 Equitable considerations.**

For reasons of equity and good conscience, late charges may be waived under the circumstances identified in this section.

(a) Where, without fault or bad faith, the debtor could not submit payment within 30 days of the interest accrual date, the mandatory waiver provision in 4 CFR 102.13[g] may be extended. Such waiver will be considered on a case-by-case basis. Examples include, but are not limited to: (1) Postal service delays in forwarding the notice of indebtedness to a new address; and (2) late receipt of the notice of indebtedness where the debtor was away from home on an extended vacation or hospitalized.

(b) Where an installment plan is contemplated and the amount of the late charges in relation to the amount of reasonably affordable installment payments is so large that the debt may never be paid, late charges may be waived.

**§ 391.3 Resolution of disputes.**

(a) To avoid the accrual of additional late charges during the resoluton of a dispute, a debtor has the option of paying the amount of the claim and filing a request for a refund together with a request for review of the claim.

(b) Where the claim is a result of the Bureau's administrative error, late charges accruing during the review period may be waived unless the Bureau's actions would have placed a reasonable person on notice that the Bureau erred and that the person should inquire further.

(c) Where the claim is a result of the debtor's error or negligence and the administrative review is unreasonably protracted, late charges accruing during the protracted portion of the review period may be waived.

(d) The period for administrative review begins on the date the request for review is received and ends 10 days after the final determination is mailed to the debtor. This subparagraph shall not apply if the request for review is made in bad faith or for purposes of delay.

**§ 391.4 Documentary evidence.**

(a) When late charges are waived, the debtor's administrative file shall be properly documented with a memorandum. The memorandum shall contain a brief narrative statement describing the circumstances leading to the waiver and the reason(s) for granting the waiver.

(b) A credit report or a financial statement sworn to by the debtor may be required before waiver of late charges is approved for a compromise, suspension, or termination, except where the cost of obtaining such a report or statement exceeds the late charges due.

**§ 391.5 Waiver approval.**

Waivers of late charges shall be approved by the Commissioner of the Bureau of the Public Debt or designee, except that compromises and terminations of the underlying claim shall be upon the recommendation of the Chief Counsel in accordance with 31 CFR 5.3

Dated: December 12, 1984.

W.M. Gregg,

*Commissioner.*

[FR Doc. 84-32738 Filed 12-14-84; 8:45 am]

BILLING CODE 4810-35-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Parts 166 and 167

**[CGD 84-087]**

### Port Access Routes, Entrance to San Francisco Bay

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of Study.

**SUMMARY:** The Coast Guard is undertaking a study of the potential vessel traffic density and the need for safe access routes in the area off the entrance to San Francisco Bay. This study is being conducted in accordance with standards contained in the Ports and Waterways Safety Act (PWSA) (33 U.S.C. 1223 and 1224). As a result of this study, new or modified shipping routing measures may be proposed in a future **Federal Register**. The results of this study could cause restrictions on vessel operations and on the manner in which specific offshore areas leased after the date of this notice may be explored or developed.

**DATES:** Comments should be submitted by February 1, 1985.

**ADDRESS:** Comments should be mailed or delivered to Commander, Twelfth Coast Guard District (mepps), Government Island, Bldgs. 54-B, Room 250, Alameda, CA 94501. Comments received will be available for examination or copying at this address between the hours of 7:30 a.m. and 3:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander W.F. Walker at (415) 437-3465.

**SUPPLEMENTARY INFORMATION:** The study consists of the area enclosed by lines connecting the following geographic positions:

| Latitude | Longitude |
|---|---|
| 37°49'12" N | 122°28'36" W |
| 37°44'30" N | 122°34'30" W |
| 37°44'00" N | 122°44'00" W |
| 37°48'30" N | 122°39'00" W |

Port Access routing needs in this area were previously studied between 1979 and 1981 and results were published in the **Federal Register** on October 14, 1982 (47 FR 46043). Recommendations developed in that study included:

1. a major shipping safety fairway system for the California coast; and

2. a slight shift of the San Francisco TSS lanes and the extension of the southern approach.

Promulgation of rules establishing the fairway have been delayed pending additional study of the southern area near the Santa Barbara Channel, as announced on July 26, 1984 (49 FR 30078). The recommended TSS modification was submitted to the International Maritime Organization (IMO) and adopted by the Maritime Safety Committee as an amendment to the internationally recognized route. The

effective date of this amendment has not yet been determined since IMO adoption was conditional on a new navigational aid near the southern terminus of the scheme which must be tested and established.

Subsequent to the last Port Access Study, the Coast Guard has been notified of certain discrepancies within the vessel traffic routing system off San Francisco. This study will examine these discrepancies along with other proposed modifications of the system.

The TSS off San Francisco was established by the Coast Guard and formally adopted by IMO in 1968. The scheme originally terminated in the offshore precautionary area, but by 1973 it has been extended by common practice through the Main Ship Channel and Golden Gate into San Francisco Bay. Since that time, the TSS, as extended, has been utilized by mariners and is illustrated on nautical charts of the area. However, the TSS extension was never formally adopted by IMO and questions have arisen regarding the applicability of certain navigation rules. The International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) established compulsory procedures (Rule 10) for vessels in or near traffic separation schemes, provided such schemes were IMO adopted. The portions of the Main Ship Channel off San Francisco not formally adopted by IMO and therefore not subject to Rule 10, are subject to Rule 9, the narrow channel rule. Mariners navigating in the San Francisco scheme are thus subject to both rule 9 and rule 10. This situation is further complicated by the location of the nonadopted Main Ship Channel TSS within the IMO adopted precautionary area.

Additionally, representatives from the hydrographic charting services have questioned the use of a separation zone symbol within the circular precautionary area of the TSS. The zone is intended to protect the aid to navigation at the center of the precautionary area; however, this may conflict with TSS design considerations established by IMO. Under IMO definitions, a precautionary area is not technically part of a traffic separation scheme, and consequently the use of a separation zone may not be appropriate within the precautionary area. However, the separation zone has proved an effective measure to protect the aid. This technical anomaly does not appear to confuse mariners or cause a hazard to navigation.

## Proposal

Comments on this proposal including any alternate methods to correct these discrepancies, are being solicited. The Coast Guard is presently evaluating a proposal for two amendments to the subject TSS: (a) Change the hub of the precautionary area from its present description as a separation zone to a designation as an "area to be avoided", and (b) establish a new "Main Channel" TSS segment in the immediate entrance to San Francisco Bay. These two proposals are also being submitted to the IMO Sub-Committee on Safety of Navigation for concurrent technical review. The "Main Channel" TSS segment is described as follows:

### Main Ship Channel

(a) A separation line dividing incoming (eastbound) traffic from outgoing (westbound) traffic by the lines between the following geographical positions:

| Latitude | Longitude |
|---|---|
| 37° 45'.9 N | 122° 38'.0 W |
| 37° 47'.0 N | 122° 34'.3 W |
| 37° 48'.1 N | 122° 31'.0 W |

(b) A traffic lane for eastbound traffic is established between the separation line and a line connecting the following geographical positions:

| Latitude | Longitude |
|---|---|
| 37° 45'.8 N | 122° 37'.7 W |
| 37° 47'.8 N | 122° 30'.8 W |

(c) A traffic lane for westbound traffic is established between the separation line and a line connecting the following geographical positions:

| Latitude | Longitude |
|---|---|
| 37° 46'.2 N | 122° 37'.9 W |
| 37° 46'.9 N | 122° 35'.3 W |
| 37° 48'.5 N | 122° 31'.3 W |

The proposal to designate the Main Channel as a TSS would bring charts officially into agreement with actual vessel traffic management now in effect in the area. The traffic pattern is presently divided into separate east and west bound lanes by the arrangement of the aids to navigation in the channel and by recommendation from the San Francisco Vessel Traffic Service. Although the adopted TSS includes a full circle precautionary area, the United States charts indicate a break in the circle for this channel approach. In order to make Rule 10 directly applicable to this channel approach, and to avoid any confusion with a precautionary area overlaying the divided traffic patterns, a new TSS segment and an amended precautionary area would be proposed to IMO. In order to describe the TSS segments more clearly, it would be proposed that the new TSS segment be labeled "Main Ship Channel Approach" and that the leg now labeled "Main Approach" be renamed "Western Approach."

Interested persons are invited to participate in this study by submitting written views, data, and arguments. Persons submitting comments should include their names, addresses, and organization, if any, mention this notice (CGD 84-087), the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. Specific proposals are discussed herein to encourage more specific comment. Comments from the maritime community, offshore development concerns, environmental groups, and any other interested parties are requested. All comments received will be considered in the study and utilized in developing regulatory proposals.

### Study Parameters

The actions to be taken as a result of this study cannot be specified at this time. However, the Coast Guard will be governed by certain policies which are emphasized here to assist those who wish to submit comments. These policies and intentions are based on Coast Guard experience in the areas of vessel traffic management, navigation, shiphandling, the effects of weather, and prior analysis of the vessel traffic density in certain regions, as well as mandates of the Ports and Waterways Safety Act (PWSA).

The PWSA directs that "in order to provide safe access routes for the movement of vessel traffic proceeding to or from ports * * * the Secretary shall designate necessary fairways and traffic separation schemes" in which the "paramount right of navigation over all other uses" shall be recognized. Before a designation can be made, the Coast Guard is required to "undertake a study of the potential traffic density and the need for safe access routes."

During the study the Coast Guard is directed to consult with federal and state agencies and to consider the views of representatives of the maritime community, port and harbor authorities or associations, environmental groups, and other parties who may be affected by the proposed action.

The use conflicts which are of current concern in the area to be studied involve three factors: The volume of opposing

traffic flow along certain traditional routes, fishing activity, and, though a less significant concern for this study, the present or potential placement of oil exploration and production facilities in or near traffic routes. The location of future oil and gas exploration and development facilities in areas of heavy vessel traffic can be regulated by the establishment of shipping safety fairways. Opposing traffic can be managed by the establishment of a traffic separation scheme (TSS). A TSS is subject to adoption by the International Maritime Organization. In accordance with 33 U.S.C. 1223, the Coast Guard will "to the extent practicable, reconcile the need for safe access routes with the needs of all other reasonable uses of the area involved." If the Coast Guard determines that new routing measure designations or modifications are needed, a Notice of Proposed Rulemaking will be published.

This study is expected to be completed by February 1985.

Dated: December 11, 1984.

**T.J. Wojnar,**

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

[FR Doc. 84-32737 Filed 12-14-84; 8:45 am]

**BILLING CODE 4910-14-M**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 51 and 52

**[AC-FRL-2737-5]**

### Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Extension of public comment period.

**SUMMARY:** On October 26, 1984, EPA proposed revisions, with respect to fugitive emissions, to the various regulations which govern new construction under the Clean Air Act (49 FR 43211). Most significantly, EPA proposed that fugitive emissions be included in the threshold applicability determinations of whether surface coal mines would be required to obtain air quality new source review permits. That document announced a public comment period that continued until December 26, 1984, and provided that the docket would remain open for 30 days beyond that, for the submission of written rebuttal and supplementary information.

Various representatives of the surface coal mining industry have requested that EPA extend this public comment period, noting in part the need for additional time to complete studies. This information is likely to be very valuable in allowing the Agency to study more fully the potential impacts associated with the proposed rulemaking. In response to those requests, I am hereby extending the public comment period with regard to surface coal mines.

**DATES:** The public comment period with regard to surface coal mines is extended from December 26, 1984, until January 28, 1985. The December 26, 1984, comment deadline on the other issues related to fugitive emissions is not extended.

Finally, EPA will, within the next few months, complete and make available to the public a review of the possible effects of including fugitive emissions from surface coal mines in determining whether a major preconstruction review would apply. When that study is completed, its availability will be announced to the public by a **Federal Register** notice. At that time, the public comment period will be reopened for 60 days.

**ADDRESSES:** Comments should be submitted (in triplicate, if possible) to Central Docket Section (LE-131A), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention: Docket No. A-84-33.

**FOR FURTHER INFORMATION CONTACT:** Kirt Q. Cox, New Source Review Section, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711 (919-541-5591, FTS: 629-5591).

Dated: December 2, 1984.

**John C. Topping,**

*Acting Assistant Administrator for Air and Radiation.*

[FR Doc. 84-32611 Filed 12-14-84; 8:45 am]

**BILLING CODE 6560-50-M**

### 40 CFR Part 147

**[OW-10-FRL-2738-3]**

### Idaho Department of Water Resources Underground Injection Control Primacy Application

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Public Comment Period and of Public Hearing.

**SUMMARY:** The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the Idaho Department of Water Resources requesting primary enforcement responsibility for the Underground Injection Control (UIC) Program; (2) the application is now available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part and disapprove in part the application of the Idaho Department of Water Resources to regulate Classes I, II, III, IV, and V injection wells.

**DATES:** The public comment period closes January 24, 1985. The Public Hearing will be held on January 17, 1985, from 7:00 p.m. to 10:00 p.m. Requests to present oral testimony should be filed by January 3, 1985. If sufficient public interest in holding the hearing is not expressed by January 3, 1985, EPA intends to forgo the hearing.

**ADDRESSES:** Comments and/or requests to testify at the hearing should be mailed to Harold Scott, M/S 409, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the application and pertinent material are available during normal business hours at the following locations:

Environmental Protection Agency, Region X (Library), 1200 Sixth Avenue, Seattle, Washington 98101

Environmental Protection Agency, Idaho Operations Office, 422 W. Washington Street; Boise, Idaho 83702

Idaho Department of Water Resources, State Towers, 450 W. State Street, Boise, Idaho 83720

Idaho Department of Water Resources, Eastern Regional Office, 150 Shoup, Idaho Falls, Idaho 83401

Idaho Department of Water Resources, Southern Region, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301

Idaho Department of Water Resources, Northern Region, 4055 Government Way, Coeur D'Alene, Idaho 83814.

The hearing will be held at the City Hall, Les Bois Room, 150 North Capitol Blvd., Boise, Idaho.

**FOR FURTHER INFORMATION CONTACT:** Harold Scott, M/S 409, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101, PH: (206) 442-1846 or (FTS) 399-1846. Comments should also be sent to this address.

**SUPPLEMENTARY INFORMATION:**

Requests for a public hearing should include the following information:

(1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing.

(2) A brief statement of the requesting person's interest in the UIC program and of information that the requesting person intends to submit at such hearing; and,

(3) The signature of the individual making the request, or if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

If the hearing is cancelled, those persons having expressed interest in attending the hearing will be notified of the cancellation either by phone or letter. Others should contact EPA in Seattle at (206) 442–1846 to confirm the date and time.

The Underground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifers capable of yielding a significant amount of water containing less than 10,000 milligrams per liter of total dissolved solids. At present, the State of Idaho has 2000 known Class V injection wells. Class V wells will be studied to assess whether further regulatory measures are required. The State of Idaho does not intend to exempt any aquifers at this time.

The application from the Idaho Department of Water Resources is for the regulation of all injection wells in the State, except for those on Indian lands, which are regulated by EPA. The application includes a description of the State Underground Injection Control program, copies of all applicable statutes and rules, a statement of legal authority and a proposed memorandum of agreement between the Idaho Department of Water Resources and the Region X Office of the Environmental Protection Agency.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 147, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control Program is a part. These terms may not all apply to this particular notice.

**List of Subjects in 40 CFR Part 147**

Indian—lands, Reporting and recordkeeping, Intergovernmental relations, Penalties, Confidential business information, Water supply, Incorporation by reference.

Authority: 42 U.S.C. 300.

Dated: December 10, 1984.

**Henry Longest II,**

*Acting Assistant Administrator for Water.*

[FR Doc. 84-32725 Filed 12-14-84; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 63 and 76

**[Docket Nos. 18891, 19659, 20767, 21002; RM Nos. 2695, 2723, 3999, 4164, 4241; FCC 84-606]**

### Cable Television and the Extension of Lines and Discontinuance of Service by Carriers

**AGENCY:** Federal Communications Commission.

**ACTION:** Memorandum Opinion and Order dismissing petitions and terminating proceedings.

**SUMMARY:** This action dismisses a number of outstanding cable-related petitions and terminates certain rule makings. This action is being taken due to the passage of the Cable Communications Policy Act of 1984 which sets a national cable communications policy. This action is intended to dismiss and terminate proceedings that are inconsistent with the Cable Communications Policy Act of 1984.

**FOR FURTHER INFORMATION CONTACT:** Judith Herman, Mass Media Bureau, (202) 632–6302.

**SUPPLEMENTARY INFORMATION:**

In the Matter of Amendment of Part 76 of the Commission's Rules and Regulations Relative to Diversification of Control of Community Antenna Television System; and Inquiry with Respect Thereto to Formulate Regulatory Policy and Rule Making and-or Legislative proposals (Docket No. 18891), Amendment of Subpart K of Part 76 of the Commission's Rules and Regulations with Respect to Performance Tests and Technical Standards for Cable Television Systems (Docket No. 19659), Inquiry Into the Manner in Which Cable Television Regular Subscriber Rates are Established (Docket No. 20767), Amendment of Subparts B and C of Part 76 of the Commission's Rules Pertaining to Application for Certificates of Compliance and Federal-State/Local Regulatory Relationships (Docket No. 21002, RM–2695, RM–2723), Cable Leased Channel Access on the New, Large Capacity Systems (RM–3999), Public Commercial Access to Broadband Cable TV Distribution Systems for Public Safety Purposes (RM–4164), Repeal of §§ 63.54, 63.55, 63.56, 63.57 and 63.58 of the Commission's Rules (RM–4241).

### Memorandum Opinion and Order (Proceedings Terminated)

Adopted: December, 4, 1984.

Released: December 11, 1984.

By the Commission.

1. On October 30, 1984, the Cable Communications Policy Act of 1984 (Cable Act) was signed into law.[1] This legislation amends the Communications Act of 1934, as amended, by adding a new Title VI, entitled "Cable Communications." The Cable Act establishes national policies and guidelines for the regulation of cable systems in the areas of ownership, channel usage, franchising, rates and services regulations and equal employment opportunity requirements.

2. The Commission has before it several outstanding dockets and petitions for rule making regarding the regulation of cable systems that are now superseded by the Cable Act. Accordingly, we intend to deny the petitions and/or terminate these proceedings, as appropriate. These items are enumerated below.

3. In 1970, the Commission adopted a *Notice of Proposed Rule Making* in Docket No. 18891 concerning cable television system ownership issues (35 FR 11042, July 9, 1970). In particular, this proceeding examined the public interest aspects of a local newspaper-cable crossownership restriction. Section 613 of the Cable Act did not specifically grant to the Commission the authority to impose such an ownership restriction. Therefore, this proceeding is hereby terminated.

4. On December 13, 1972, the Commission issued a *Notice of Inquiry and Proposed Rule Making* (38 FCC 2d 506) concerning the cost burdens on small cable systems for compliance with the technical performance tests required by our rules (Docket 19659 published 12–22–72, 37 FR 28307). Furthermore, compliance with Sections 605(a) (9) and (10) was suspended in a separate *Report and Order* (47 FCC 2d 769) in this proceeding. Section 624 of the Cable Act states that the Commission may establish technical standards that may be required by a franchising authority. Accordingly, the Commission intends to initiate a rule making to address a number of cable technical matters. In light of the fact that the current rule has not been implemented and that the current record is significantly out of date, we are terminating this proceeding. It should be noted that suspension of compliance with § 76.605(a) (9) and (10) remains in effect.

5. On April 1, 1976, the Commission adopted a *Notice of Inquiry* in Docket

[1] Cable Communications Policy Act, Pub. L. 98–549, section 1 *et seq.*, 98 Stat. , (1984).

No. 20767, regarding subscriber rates for basic cable service (41 FR 14929, April 8, 1976). In this *Inquiry*, we solicited comment from the public with respect to the process whereby basic cable television subscriber rates are established. Given the specific guidance given us in Section 623 of the Cable Act, regarding the regulation of basic cable rates, we see no benefit to continuing consideration of this matter in this proceeding. Accordingly, this proceeding is hereby terminated.

6. The Commission adopted a *Memorandum Opinion and Order and a Further Notice of Proposed Rule Making* in Docket No. 21002, on April 12, 1979 (44 FR 25245, April 30, 1979). In this proceeding, the Commission removed many of the franchising standards the Commission had previously imposed on local government authorities. In addition, while the Commission left in place the rule limiting local franchise fees to three percent of a cable system's gross revenue, it also proposed to abolish the fee limit. Section 622 of the Cable Act removes Commission jurisdiction to set a limit on franchise fees. Since the remaining issue in this proceeding is mooted by the legislation, we hereby terminate that proceeding.

7. In 1981, Henry Geller and Ira Barron petitioned the Commission regarding cable television access channel requirements. (RM–3999; filed October 9, 1981; Public Notice date, November 22, 1981). Petitioners requested that the Commission consider requiring cable systems with 30 or more channels to make a specified number of commercial access channels available. Section 612 of the Cable Act delineates specific guidelines cable systems must follow with regard to designating channel capacity for commercial use. The petition is therefore moot and is hereby denied.

8. In 1982, the National Burglar and Fire Alarm Association and the Central Station Electrical Protection Association filed a petition with the Commission requesting that the Commission require that large 2–way capacity cable systems be required to make channels available for use by outside parties to provide security services (RM–4164; filed July 9, 1982). Both the Cable Act and the petition by Cox Cable concerning preemption of state regulation of its institutional cable system in Omaha, Nebraska (*In re* Cox Cable Communications, Inc. Commline, Inc., and Cox DTS, Inc. (CCB–DFD–83–1)) raise a number of issues with regard to the provision of non-cable services. We therefore believe that the matters in this petition are not ripe for decision and are better addressed after the Commission resolves the issues raised by the Cox Cable petition and the implementation of the Cable Act is concluded. Accordingly, the petition is hereby denied.

9. In 1982, the United States Independent Telephone Association filed a petition (filed November 5, 1982) requesting that the Commission consider repealing its telephone company-cable television crossownership prohibitions. Section 613 of the Cable Act codifies, with some minor changes, the Commission's rules which prohibit any telephone common carrier subject to Title II of the Communications Act from owning a cable system in its telephone service area. The petition is therefore moot and is hereby denied.

10. Accordingly, it is ordered that the requests for rule making filed on October 9, 1981 by Henry Geller and Ira Barron, on July 9, 1982, by the National Burglar and Fire Alarm Association, *et. al.*, and on November 5, 1982, by the United States Independent Telephone Association are denied. It is further ordered That the following rule making proceedings, Docket Nos. 18891, 19659, 20767 and 21002, are terminated.

11. This action is taken pursuant to authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended.

Federal Communications Commission.

**William J. Tricarico,**

*Secretary*

[FR Doc. 84–32695 Filed 12–14–84; 8:45 am]

**BILLING CODE 6712–10–M**

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## 47 CFR Part 90

**[PR Docket No. 84–1311; RM–4764; FCC 84–615]**

## Relaxation of the Frequency Tolerance of Portable Seismic Telemetry Transmitters in the 72–76 MHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission proposes to amend 47 CFR 90/65(c)(11) to allow seismic telemetry transmitters type-accepted with mobile equipment frequency tolerance to be operated as temporary fixed stations. This action would simplify the licensing of this equipment in the Petroleum Radio Service.

**DATES:** Comments are due by January 16, 1985 and replies by January 31, 1985.

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

**FOR FURTHER INFORMATION CONTACT:** Keith Plourd, Private Radio Bureau, (202) 634–2443.

**SUPPLEMENTARY INFORMATION:**

### List of Subjects in 47 CFR Part 90

Administrative practice and procedure, Business and industry, Industrial radio services, Land transportation radio services, Private land mobile radio services, Public safety radio services, Radiolocation radio service, Special emergency radio service, Communications, Radio.

In the matter of amendment of Part 90 of the Commission's rules and regulations to relax the frequency tolerance of portable seismic telemetry transmitters in the 72–76 MHz Band PR Docket No. 84–1311, RM–4764.

### Notice of Proposed Rule Making

Adopted: December 6, 1984.
Released: December 10, 1984.

By the Commission.

### Introduction

1. On February 15, 1984, the Commission placed on Public Notice a petition filed by Fairfield Industries, Inc. (Fairfield). The petition requested that the Commission amend its rules to allow fixed use of low power seismic telemetry equipment which has been type-accepted with a mobile frequency tolerance. This equipment operates in the 72–76 MHz band where the rules require a more stringent frequency tolerance for fixed stations than mobile stations. Fairfield is currently authorized to use this equipment for fixed operations under a waiver of the frequency tolerance rules, but now seeks to market portable seismic telemetry transmitters.

### Background

2. In the 72–76 MHz band, fixed and mobile operations are permitted with limitations intended to protect reception of television stations 4 and 5 (66 to 72 MHz, and 76 to 82 MHz). A 1 watt output power limitation applies to mobile units operating in this band.[1] Fixed stations must maintain a frequency tolerance of 0.0005% and mobile stations must maintain a less stringent tolerance of 0.005%. Fairfield's seismic telemetry transmitters have been type accepted by the Commission for use in the 72–76 MHz band as mobile units because they only comply with the mobile frequency tolerance specification.

3. Seismic telemetry transmitters are used in the exploration for oil and other natural resources. When a survey team

[1] 47 CFR 90.257.

collects seismic data from an area, it deploys several telemetry devices at known locations. An explosive charge is detonated at another known location and the telemetry transmitters collect echo data reflected from the various layers of the earth's crust. These devices then transmit the data back to a central point for processing. These seismic transmitters are typically employed in remote areas. Often an exploration team will place these units in a fixed position for the duration of a seismic reading. According to the Commission's rules, such temporary or itinerant fixed operation is permitted only with equipment that meets the stricter frequency tolerance standard for fixed units.

4. Fairfield states that it has carefully designed its transmitters to minimize their weight and thus enhance their portability. This requires them to limit the unit's energy consumption and to keep the battery weight and the overall weight of the transmitter to a minimum. By designing these transmitters to meet the mobile unit frequency tolerance, the units can operate for 6 or more days on light-weight batteries. If they must meet the more strict frequency tolerance applicable to fixed units, Fairfield argues, it would be necessary to enlarge the battery pack and decrease the unit's portability. Fairfield now intends to market these devices to others and it requests that the Commission amend its rules so that Fairfield's customers would not have to request a waiver of the frequency tolerance limitations. Fairfield's request is supported by the Central Committee on Telecommunications of the American Petroleum Institute.[2] No comments have been filed opposing Fairfield's request.

**Discussion**

5. We are aware that frequency tolerances tighter than 0.005% often require the use of crystal ovens and large batteries and/or power supplies. This is the main reason we have consistently allowed mobile units in this band to employ frequency oscillators which meet the less stringent 0.005% tolerance. Because mobile transmitters using 1 to 5 watts typically have 20 to 30 dB less power than base stations operating in the band and thus little potential for interference with other operations, the less stringent mobile frequency tolerance has worked well in the 72–76 MHz band. This has benefitted both Commission licensees and equipment manufacturers by allowing the marketing of lower cost equipment.

6. Licensees in the Manufacturers and Railroad Radio Services have employed 1 watt mobile units with 0.005% frequency tolerance for many years. Fairfield has used its own equipment with similar characteristics since 1981. None of these devices, all operating in the 72–76 MHz band, have caused any documented cases of interference. We believe that the operation of Fairfield's transmitters in isolated areas together with their low power and low duty cycle will continue to result in interference-free operation. For the foregoing reasons we propose to amend Section 90.65 of the rules to allow the temporary fixed operation of seismic transmitters with a frequency tolerance of 0.005%.

**Regulatory Flexibility Act Analysis**

7. The Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rule making proceeding. This proposal, if adopted, would have a modest beneficial economic impact on a small number of entities. The rule amendments would allow the fixed use of low cost, portable seismic telemetry transmitters. No interference to other electrical devices is expected because these transmitters operate at low power and they are generally operated in remote areas. Further, the proposed amendment, if adopted, imposes no new recordkeeping, recording, or other requirements upon applicants or licensees. Accordingly, the Commission certifies that Sections 603 and 604 of the Regulatory Flexibility Act do not apply to this proceeding.

**Ordering Clause**

8. For all the foregoing reasons, the Commission proposes to amend Part 90 of the Commission's Rules and Regulations (47 CFR Part 90) as detailed in the attached Appendix.

9. We encourage all interested parties to respond to this Notice. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Secretary for inclusion in the public file. Any person who initiates an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

10. Authority for issuance of this Notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934 as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to applicable procedures set forth in Section 1.415 of the Commission's Rules, interested persons may file comments on or before January 16, 1985, and reply comments on or before January 31, 1985. 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. A summary of the Commission's procedures governing *ex parte* contacts in informal rule makings is available from the Commission's Consumer Assistance Office, Federal Communications Commission, Washington, D.C. 20554, (202) 632–7000.

11. In accordance with the provisions of Section 1.419 of the Commission's Rules, an original and five copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during business hours in the Commission's Public Reference Room in its headquarters in Washington, D.C.

12. For further information concerning this rule making proceeding, contact Keith Plourd at (202) 634–2443.

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

[2] Comments of the Central Committee on Telecommunications of the American Petroleum Institute, RM–4764, received by the Commission March 16, 1984.

Federal Communications Commission.
**William J. Tricarico,**
*Secretary.*

**Appendix**

**PART 90—[AMENDED]**

The Federal Communications Commission proposes to amend 47 CFR Part 90 by revising § 90.65(c)(11) to read as follows:

**§ 90.65 Petroleum Radio Service.**

* * * * *

(c) * * *

(11) The frequencies available for use at operational fixed stations in the band 72–76 MHz are listed in § 90.257(a)(1). These frequencies are shared with other services and are available only in accordance with the provisions of § 90.257. Seismic telemetry transmitters type accepted with 1 watt or less power and a frequency tolerance not exceeding ±0.005% may be used as temporary operational fixed stations.

* * * * *

[FR Doc. 84-32700 Filed 12-14-84; 8:45 am]
BILLING CODE 6712-01-M

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**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

**49 CFR Part 215**

**[FRA Docket No. RSFC-6, Notice 8]**

**Railroad Freight Car Safety Standards**

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Announcement of additional dates for public hearing on notice of proposed rulemaking and extension of comment period.

**SUMMARY:** FRA announces that two additional public hearings have been scheduled regarding FRA's regulatory provision defining railroad freight car wheels as defective because of thermal abuse. The first hearing will focus on the pending proposal technical amendment to eliminate confusion over the proper measurement criteria in 49 CFR § 215.103 in order to assure adequate time for the presentation of information and views by interested parties on this topic. In addition, FRA is extending the period for filing written comments in response to this proposed change. The second hearing will be on the broader concern that the use of any discoloration criteria, as a method for detecting thermally abused wheels, is scientifically unjustified.

**DATES:** (1) Written comments concerning the proposed technical amendment must be received not later than January 31, 1985. Comments received after that date wil be considered to the extent possible without incurring additional expense or delay.

(2) FRA will hold a public hearing on the proposed technical amendment beginning at 10:00 a.m. on Janaury 17, 1985.

(3) FRA will hold a public hearing on the scientific validity of using the current detection methodology beginning at 10:00 a.m. on March 12, 1985.

**ADDRESSES:** (1) Hearing location for both hearings is Room 8334, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

(2) Written comments should be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street, SW., Washington, D.C. 20590. Persons desiring to be notified that their written comments have been received by FRA shall submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the postcard to the addressee. Written comments will be available for examination, both before and after the closing dates for comments, during regular business hours in Room 8201 of the Nassif Building at the above address.

**FOR FURTHER INFORMATION CONTACT:** Philip Olekszyk, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, telephone (202) 426–0897.

**SUPPLEMENTARY INFORMATION:** FRA is considering amending the Freight Car Safety Standards (49 CFR Part 215) to clarify the definition of defective wheels. Accordingly, it published a notice of proposed rulemaking concerning this issue in the **Federal Register** on June 22, 1984 (49 FR 25645). The proposed amendment would make a technical correction to section 215.103 to eliminate confusion over the proper measurement of the extensiveness of discoloration found on freight car wheels due to an oxidation process that occurs after a wheel has been subjected to thermal abuse.

In accordance with the notice announcing the proposed change, FRA held a public hearing on this proposal July 26, 1984. However, the initiation of that hearing was unavoidably delayed, and as a consequence, the hearing ended before all parties in attendance had been given an adequate opportunity to express their views. In order to provide that opportunity, FRA has scheduled an additional public hearing in this proceeding. That additional hearing will be held in Washington, D.C. beginning at 10:00 a.m. on January 17, 1985, in Room 8334 of the Nassif Building, located at 400 Seventh Street, SW., Washington, D.C. In addition, FRA is extending the period for submitting written comments to January 31, 1985.

Based on the comments made during the initial hearing, FRA has decided to hold an additional hearing to focus on a concern raised by one commenter. The commenter asserts that the use of any discoloration criteria, as a method for detecting thermally abused wheels, is totally misplaced and that FRA's current proposal is intrinsically flawed because it continues to rely on this scientifically unjustified detection methodology. Accordingly, the commenter suggested that FRA consider initiating a test program to obtain data about the thermal abuse of freight car wheels. The test program contemplated by the commenter would permit a freight car wheel that can be described as a "curved" or "S" plate wheel to remain in service, even though discolored, until that wheel displays additional evidence of thermal abuse such as thermal cracking. The service record of these wheels could then be compared to those removed from service on the basis of discoloration to validate or invalidate this detection methodology.

Since the reliability of the detection methodology goes to the heart of this regulatory provision, but is well beyond the scope of the limited technical amendment currently being proposed, FRA has concluded that a two-step process is needed to resolve these issues. Consequently, FRA will first act to resolve the confusion surrounding the existing regulatory provision and then act to address the larger and longer term issues about test programs to validate or invalidate the scientific justification for any reliance on discoloration as a detection methodology. The initial action in the second step of this process is to schedule a hearing for March 12, 1985, devoted exclusively to the scientific validity of using any discoloration criteria and the appropriateness of a test program, involving sanctioned non-compliance with existing regulations. FRA believes that by holding the two distinct hearings all interested parties will be given a full opportunity to express their views on these distinct but related issues.

Issued by Washington, D.C. on December 11, 1984.

John H. Riley,

*Administrator.*

[FR Doc. 84-32734 Filed 12-14-84; 8:45 am]

BILLING CODE 4910-06-M

## National Highway Traffic Safety Administration

## 49 CFR Part 571

## Federal Motor Vehicle Safety Standards; Hydraulic Brake Systems; Denial of Petition for Rulemaking

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Denial of petition for rulemaking.

**SUMMARY:** This notice denies a petition for rulemaking submitted by William Kazmierczak, Automotive Service Manager for the City of Alexandria, Virginia. The petitioner requested that the agency adopt more stringent braking standards, citing the braking performance of police cars in the City of Alexandria fleet. Based on a careful evaluation of the petition, including testing and evaluating the performance of the vehicles in question, the agency concluded that the petition fails to demonstrate any safety need for rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Mr. Scott Shadle, Office of Vehicle Safety Standards, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-2720).

**SUPPLEMENTARY INFORMATION:** William Kazmierczak, Automotive Service Manager, Motor Equipment Division, City of Alexandria, Virginia, submitted a petition for rulemaking requesting that the agency "adopt and enforce more stringent standards regarding the effectiveness of vehicle braking systems."

Mr. Kazmierczak stated that the City of Alexandria's Police Department has 50 police-package-equipped cars in its fleet, all of the same model type and model year, which exhibit an inherent braking system delay or malfunction in a panic or spike stop situation. The petitioner stated that at all speeds, engine temperatures, and operating conditions, the brake pedal is extremely hard to depress when suddenly jabbed in a panic stop situation, and that the vehicles will continue to move forward when this occurs, unaffected by the operator's attempt to stop the vehicle, for one to two seconds. The petitioner added that the vehicles' braking systems all seem to operate normally and safely during normal controlled brake applications. Mr. Kazmierczak provided no other support for his general request that the agency adopt more stringent braking standards.

The agency handled Mr. Kazmierczak's petition both as a petition for defect investigation and a petition for rulemaking. Based on a test and evaluation project conducted by the agency, the petition for defect investigation was denied. As part of this project, agency personnel visited the City of Alexandria's Motor Equipment Division repair facility and evaluated the panic stop performance of the vehicles. Two brake power booster units were removed from the vehicles and subsequently tested by the manufacturer according to its new component standards tests. Agency personnel later visited the repair facility and conducted instrumented brake stops in order to quantify the performance of the vehicles. The agency concluded that none of the test results indicated any significant delay in the onset of braking action as alleged in the petition.

The agency has determined that the petition for rulemaking should be denied. Based on its test and evaluation project, the agency found that the symptom cited by the petitioner in support of his request was not repeated during the agency's subsequent extensive analyses of the situation. The agency has long had an effective braking standard in place for these types of vehicles, Standard No. 105, *Hydraulic Brake Systems.* Among other things, the standard includes requirements for minimum stopping distances, under a variety of circumstances. The petitioner did not address the requirements of Standard No. 105 or indicated what specific requirements should be added or made more stringent.

The agency concludes that Mr. Kazmierczak's petition for rulemaking fails to demonstrate a safety need. Accordingly, the petition is denied.

**List of Subjects in 49 CFR Part 571**

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

(Secs. 103, 119 and 124, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407 and 1410a); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on December 11, 1984.

Barry Felrice,

*Associate Administrator for Rulemaking.*

[FR Doc. 84-32719 Filed 12-14-84; 8:45 am]

BILLING CODE 4910-59-M

# Notices

Federal Register
Vol. 49, No. 243
Monday, December 17, 1984

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 COMMERCE

### International Trade Administration

### President's Export Council, Full Council Meeting; Change of Location

On December 4, 1984, a notice dated November 30, 1984, was published in the **Federal Register** (49 FR 47426), announcing a full Council meeting of the President's Export Council on December 17, 1984, at 10:30 a.m. in the Dunbarton Room of the Four Seasons Hotel, Washington, D.C.

The purpose of this notice is to announce that the location of the meeting has been changed to the Federal Room, at the Capital Hilton, 16th and K St., NW., Washington, D.C. The agenda will include the presentation of the Council's Final Report. Copies of the report can be obtained from the office of the President's Export Council, Room 3213, Department of Commerce, Washington, D.C. 20230, (202) 377–1124.

Dated: December 10, 1984.

**Henry P. Misisco,**

*Acting Director, Office of Planning and Coordination.*

[FR Doc. 84–32721 Filed 12–14–84; 8:45 am]

BILLING CODE 3510–DS–M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Extension of Coverage of Export Visa Requirement To Include Certain Man-Made Fiber Luggage Handbags, and Flatgoods Produced or Manufactured in Taiwan

December 11, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1985. For further information contact Eve Anderson, International Trade Specialist (202) 377–4212.

**Background**

Under the terms of the agreement of December 1, 1982, the American Institute in Taiwan (AIT) and the Coordination Council for North American Affairs (CCNAA) have agreed to amend the existing export visa requirement to include man-made fiber luggage, handbags, and flatgoods in Category 670pt. (all TSUSA numbers in the category except 706.3400), which will be visaed as follows: Luggage—Category 670–L—TSUSA numbers 706.4144 and 706.4152; Handbags—Category 670–H—TSUSA numbers 706.4140; Flatgoods—Category 670–F—TSUSA numbers 706.3900. This coverage is in addition to the coverage of cotton, wool and man-made fiber textiles and textile products described in the CITA directive of September 27, 1972, as amended. The visa stamp is not being changed and the official authorized to issue visas also remains unchanged at this time.

The expanded visa coverage will be effective on January 1, 1985 for the aforementioned products in Category 670pt., produced or manufactured in Taiwan and exported on and after January 1, 1985. Merchandise in this category exported before January 1, 1985 will not be denied entry for lack of visa.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), and November 9, 1984 (49 FR 44782).

**Ronald I. Levin,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

December 11, 1984.

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs,
*Department of the Treasury, Washington, DC.*

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of September 27, 1972, as amended, which established an export visa requirement for certain cotton, wool and man-made fiber textiles and textile products produced or manufactured in Taiwan.

Effective on January 1, 1985 man-made fiber textile products in Category 670pt. (only T.S.U.S.A. numbers 706.4144, 706.4152, 706.4140 and 706.3900), produced or manufactured in Taiwan and exported on and after January, 1, 1985 will be required to be visaed as follows: Luggage—Category 670–L—TSUSA numbers 706.4144 and 706.4152, Handbags—Category 670–H—TSUSA number 706.4140, and Flatgoods—Category 670–F—TSUSA number 706.3900. Merchandise in the foregoing parts of Category 670 which have been exported before January 1, 1985 shall not be denied entry for lack of a visa.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C 553.

Sincerely,

Ronald I. Levin,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 84–32705 Filed 12–14–84; 8:45 am]

BILLING CODE 3510–DR–M

### Requesting Public Comment on Bilateral Consultations With the Government of the People's Republic of China Concerning Category 643

December 11, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on December 18, 1984. For further information contact Diana Bass, International Trade Specialist Office of Textiles and Apparel, U.S. Department of Commerce (202) 377–4212.

**Background**

On November 30, 1984, pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983 between the Governments of the United States and the People's Republic of China, the Government of the United States requested consultations concerning imports into the United States of apparel products in Category 643 (men's and boys' suits of man-made fibers), produced or manufactured in China and exported to the United States. A

summary market disruption statement concerning this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), and November 9, 1984 (49 FR 44782).

Anyone wishing to comment or provide data or information regarding the treatment of this category under the agreement with the People's Republic of China, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Pursuant to the terms of the bilateral agreement, the People's Republic of China is obligated under the consultation provision to limit its exports to the United States of these products during the ninety-day period which began on November 30, 1984 and extends through February 27, 1985 to 6,628 dozen.

The People's Republic of China is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve-months following the ninety-day consultation period, i.e., February 28, 1985–February 27, 1986, to 18,899 dozen.

The United States Government has decided, pending a mutually satisfactory solution, to control imports of textile products in Category 643 exported during the ninety-day period at the level described above. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the Federal Register.

In the event the limit established for Category 643 for the ninety-day period is exceeded, such excess amounts, if allowed to enter at the end of the restraint period, shall be charged to the level (described above) defined in the agreement for the subsequent twelve-month period.

**SUPPLEMENTARY INFORMATION:** On December 22, 1983 a letter to the Commissioner of Customs was published in the Federal Register (48 FR 56626) from the Chairman of the Committee for the Implementation of Textile Agreements which established restraint limits for certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1984. The notice documents which preceded that letter referred to the consultation mechanism which applies to categories of textile product under the bilateral agreement, such as Category 643 which is not subject to a specific limit and for which a level may be established during the year. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of apparel products in Category 643, produced or manufactured in the People's Republic of China and exported during the indicated ninety-day period, in excess of the designated level.

**Ronald I. Levin,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**China—Market Statement**

*Category 643—Men's and Boys' Man-Made Fiber Suits*

November 1984.

U.S. imports of Category 643 from China were 16,363 dozens during the year ending September 1984, nearly five times the imports of a year earlier. Imports from China increased from 343 dozens in 1982 to 6,426 dozens in 1983 and were at an annual rate of 17,549 dozens during the first nine months of 1984. China was the fifth largest supplier and the largest uncontrolled supplier.

This sharp and substantial increase in imports is disrupting the U.S. market for Category 643 and, if continued, threatens further market disruption.

The market for Category 643 has trended downward for several years, imports have expanded, and domestic production has declined. The domestic producers market share declined from 92.7 percent in 1979 to 86.8 percent in 1983. It will decline again in 1984 since imports are increasing.

Domestic production of Category 643 declined from 945,000 dozens in 1982 to 875,000 dozens in 1983, or 7.4 percent. Imports, on the other hand, increased by 9.9 percent from 121,000 dozens to 133,000 dozens. The ratio of imports to production was 15.2 percent in 1983 compared with 12.8 percent in 1982. The ratio will be higher in 1984 since imports for the first eight months were up 78 percent.

December 11, 1984.

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs,
*Department of the Treasury, Washington, D.C.*

Dear Commissioner: Under terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Agreement Regarding International Trade Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on December 18, 1984, entry into United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 643, produced or manufactured in the People's Republic of China and exported during the indicated ninety-day period, in excess of the following level:

| Category | 90-day level [1] |
|---|---|
| 643 | 6,628 dozen (Nov. 30, 1984 to Feb. 27, 1985). |

[1] The level has not been adjusted to reflect any imports exported after November 29, 1984.

Textile products in Category 643 which have been exported to the United States prior to November 30, 1984 shall not be subject to this directive.

Textile products in Category 643 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397, June 28,

1984 (49 FR 26622), July 16, 1984 (49 FR 28754), and November 9, 1984 (49 FR 44782).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 84-32704 Filed 12-12-84; 1:43 pm]

BILLING CODE 3510-DR-M

## COPYRIGHT ROYALTY TRIBUNAL

**[Docket No. CRT 84-2 83JD]**

### Order Directing Partial Distribution of the 1983 Jukebox Royalty Fees

This order is in response to a recently received opposition by A.C.E.M.L.A. to the Motion for Immediate Partial Distribution of 1983 Jukebox Royalty Fund, which motion was granted on November 19, 1984, Vol. 49 FR 228. After careful consideration of A.C.E.M.L.A.'s opposition to said motion, the Copyright Royalty Tribunal has determined that it will proceed with the previous November 19 order to distribute 95% of the fund. This order conforms with the legislative mandate to promptly distribute fees which the Tribunal, in its discretion, determines are not in controversy, 17 U.S.C. 116(c)(4)(C).

The Tribunal rejects the A.C.E.M.L.A. assertion that a pending appellate proceeding for a previous year should require that no subsequent fees be distributed. Such deference to the appellate proceeding would make it impossible to adhere to the one year requirement to conclude proceedings as per 17 U.S.C. 804(e).

The Tribunal reserves comment on A.C.E.M.L.A.'s assertion that all claimants submit detailed justification for their requested entitlement as irrelevant to the decision on the motion before us. We shall address that issue, among others, in a Pre-trial Conference to be held at our offices, Suite 450, 1111 20th St., N.W., Washington, DC 20036, on January 7, 1985 at 11:00 a.m.

Supplementary: Please note the additional numerics and alphas (83JD) appended to the docket number. These shall serve to further identify the proceedings and should be implemented in all correspondence by all parties.

Dated: December 12, 1984.

**Marianne Mele Hall,**

*Chairman.*

[FR Doc. 84-32762 Filed 12-14-84; 8:45 am]

BILLING CODE 1410-13-M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### DOD Advisory Group on Electron Devices; Meeting

**SUMMARY:** Working Group A (Mainly Microwave Devices) of the DOD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

**DATE:** The meeting will be held at 9:00 a.m., Tuesday, 8 January 1985.

**ADDRESS:** The meeting will be held at Palisades Institute for Research Services, Inc. 1215 Jefferson Davis Highway, Crystal Gateway #3, Suite 1203, Arlington, Virginia 22202.

**FOR FURTHER INFORMATION CONTACT:** Harold Summer, AGED Secretariat, 201 Varick Street, New York, 10014.

**SUPPLEMENTARY INFORMATION:** The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. 92-463, as amended, (5 U.S.C. App. II section 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

**Patricia H. Means,**

*OSD Federal Register Liaison Officer, Department of Defense.*

December 12, 1984.

[FR Doc. 84-32703 Filed 12-14-84; 8:45 am]

BILLING CODE 3810-01-M

### Defense Science Board Task Force on Defense Data Network (Defensive Systems Subgroup); Meeting

**ACTION:** Notice of advisory committee meetings.

**SUMMARY:** The Defensive Systems Subgroup of the Defense Science Board Task Force on Defense Data Network will meet in closed session on 8-9 January 1985 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting on 9-10 January 1985 the Subgroup will discuss the application of technology to systems designed to improve future U.S. air defense capabilities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552(b)(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: December 12, 1984.

**Patricia H. Means,**

*OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 84-32701 Filed 12-14-84; 8:45 am]

BILLING CODE 3810-01-M

### Office of the Assistant Secretary of Defense (Health Affairs)

### Blue Ribbon Panel on Sizing DOD Medical Treatment Facilities; Open Meeting

**SUMMARY:** Pursuant to the provisions of Subsection (a) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that an open meeting of the Blue Ribbon Panel on Sizing DOD Medical Treatment Facilities has been scheduled as follows:

**DATE:** 10 January 1985, 8:30 a.m. to 12:30 p.m.

**ADDRESS:** The Pentagon, Room 1E801 (#7), Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** LTC Michael Averbuch, Deputy Staff Director, Blue Ribbon Panel on Sizing DOD MTF c/o ASD (HA), Room 3E349, Pentagon, Washington, D.C. 20301, (202) 653-0080/0081.

**SUPPLEMENTARY INFORMATION:** This will be an initial meeting of the panel which will concentrate on presentation of background information, basic assumptions, and organizational issues

to include further refining the panel's objectives and activities. The meeting is open to the public, however to obtain access to the room where the meeting is being held, members of the public must call 653-0080, by 4:00 p.m. on 9 January 1985 to arrange for an escort.

Dated: December 12, 1984.

Patricia H. Means,

*OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 84-32702 Filed 12-14-84; 8:45 am]

BILLING CODE 3810-01-M

## DEPARTMENT OF EDUCATION

### Office of Educational Research and Improvement

### National Diffusion Network Program; Application for FY 1985

**AGENCY:** Department of Education.

**ACTION:** Application Notice for Fiscal Year 1985.

Applications are invited for new Developer Demonstrator projects under the National Diffusion Network program for fiscal year 1985.

Authority for this program is contained in Section 583 of the Education Consolidation and Improvement Act of 1981, Title V, Subtitle D of Pub. L. 97-35. (20 U.S.C. 3851).

The program issues awards to State educational agencies, local educational agencies, institutions of higher education, and nonprofit institutions or agencies, that have developed exemplary educational programs approved by the Department of Education's Joint Dissemination Review Panel.

The purpose of the program is to promote the widespread installation across the Nation of rigorously evaluated, exemplary educational programs. Developer Demonstrator projects disseminate a specific exemplary educational program nationwide. No funds are available for program development.

*Closing Date for Transmittal of Applications:* An application for a grant must be mailed or hand delivered by March 4, 1985.

*Applications Delivered by Mail:* An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.073 A, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant for a new Developer Demonstrator grant will be notified that its application will not be considered.

*Applications Delivered by Hand:*

An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center (Room 5673, Regional Office Building 3), 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between the hours of 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new Developer Demonstrator grant that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

*Program Information:* Because of the limited resources available, the Secretary has selected priorities taking into account unmet national needs. Projects are selected for funding by a separate competition in each priority area. The Secretary considers only those applications that meet a priority. However, this does not bind the Department of Education to a specific number of projects in each priority, or to selecting projects for funding in every priority.

The Secretary seeks applications for projects in the following priority areas:

1. *Mathematics or Higher Mathematics.*

2. *Science.*

3. *Preservice-Inservice*—Programs that improve teaching and the quality of instruction through either or both of the following—

(i) The identification and transfer of non-traditional practices; or

(ii) The application of current research findings in learning, teaching, and management.

Under this priority, the Secretary will consider applications from programs that improve the quality of instruction in mathematics and science, and programs that utilize incentives for improving instructional effectiveness such as teacher recognition programs, merit pay programs, and career ladder programs.

4. *Educational leadership*—Programs designed to accomplish one or more of the following—

(i) Increase academic standards and expectations;

(ii) Increase the effective use of time in schools;

(iii) Bring esteem and respect to members of the teaching profession;

(iv) Provide support to school boards and administrators who have demonstrated the ability to marshal community, business, or industry resources needed to promote educational excellence.

5. *Foreign Languages*—Foreign language programs that accomplish one or more of the following—

(i) Introduce students to non English-speaking cultures;

(ii) Heighten awareness and comprehension of one's native tongue; or

(iii) Serve the Nation's needs in commerce, diplomacy, defense, and education.

6. *Adult Literacy*—Programs for functionally illiterate adults or pre-adults.

7. *English as a Second Language*—Programs for students with limited proficiency in English.

8. *Reading.*

9. *Written or Oral Communications.*

10. *Gifted and Talented*—Programs for gifted and talented students.

11. *Social Studies.*

12. *Early Childhood*—Programs for preschool and early elementary school children.

13. *Special Education*—Programs for handicapped students.

14. *Technology*—Computer science programs that enable students to accomplish one or more of the following—

(i) Understand the computer as an information, computation, and communication device;

(ii) Use the computer to enhance instruction in English, mathematics, science, social studies, or for personal and work-related purposes; or

(iii) Understand the world of computers, electronics, and related technologies.

15. *Career Education, Vocational Education and the Arts*—Programs that advance students' personal, educational, and occupational goals, such as courses in the fine and performing arts, vocational education, and industrial arts.

16. *Physical Fitness.*

17. *Health.*

It is expected that new Developer Demonstrator awards will be for a project period not to exceed four years.

**Intergovernmental Review**

On June 24, 1984, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

Certain applicants for this program are subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why not; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State post-secondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsbilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

| | | |
|---|---|---|
| Arizona | Illinois | Missouri |
| Arkansas | Indiana | Montana |
| California | Kansas | Nebraska |
| Connecticut | Louisiana | Nevada |
| Delaware | Maine | New Hamshire |
| Florida | Massachusetts | New Jersey |
| Hawaii | Michigan | New Mexico |
| New York | South Carolina | Wisconsin |
| North Dakota | South Dakota | Wyoming |
| Ohio | Texas | Guam |
| Oklahoma | Utah | Northern Mariana Islands |
| Virgin Islands | Vermont | |
| Oregon | Virginia | |
| Pennsylvania | Washington | |

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. However, for this program, if the specific States in which the applicant may work have not been determined, this requirement need not be accomplished. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by May 3, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.073 A, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number: (202) 245–7913. (Proof of mailing will be determined on the same basis as for applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

*Available Funds:* The estimated amount available for new awards included in this announcement will be $500,170. It is estimated that sixteen (16) new projects will be funded. This estimate does not bind the Department of Education to a specific number of grants or to the amount of any grant.

Applicants should be aware that funds for fiscal year 1985 NDN projects are not available at this time. Pursuant to a Congressional directive in the conference report accompanying the Department's fiscal year 1985 appropriation act, the Department is using fiscal year 1985 NDN funds to support 1984 projects that have no funds, or only partial funding, due to the freeze on fiscal year 1984 funds imposed by an Illinois District court in *United States* v. *Board of Education of the City of Chicago.* When the fiscal year 1984 funds are released by the District Court, accounting adjustments will be made so that new fiscal year 1985 grants can be awarded using 1985 funds.

*Application Forms:* Application forms will be available on December 21, 1984 and may be obtained by writing to the National Diffusion Network, U.S. Department of Education, 400 Maryland Avenue, SW., 613 BRN 1604–30, Washington, D.C., 20202. An application must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing this program. The Secretary urges that the narrative portion of an application be as brief as possible. The Secretary urges applicants not to submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1850–0086.)

*Applicable Regulations:* Regulations applicable to this program include the following:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75 (except for § 75.650), 77, 78, and 79.

(b) Final regulations governing the National Diffusion Network Program, as codified in 34 CFR Part 796, published in the **Federal Register** at 49 FR 12924 on March 30, 1984.

*Further Information:* For further information, contact Mrs. Anne M. Barnes, Education Program Specialist, National Diffusion Network, U.S. Department of Education, 400 Maryland Avenue, SW., 613 BRN 1604–30, Washington, D.C., 20202. Telephone: (202) 653–7003.

(20 U.S.C. 3851)

Dated: December 10, 1985.

**T.H. Bell,**

*Secretary of Education.*

(Catalog of Federal Domestic Assistance Number 84.073, National Diffusion Network Program.)

[FR Doc. 84–32715 Filed 12–14–84; 8:45 am]

BILLING CODE 4000–01–M

## Office of Special Education and Rehabilitative Services

## Transmittal of Fiscal Year 1985 Applications for New Cooperative Agreements—Services for Deaf-Blind Children and Youth

**AGENCY:** Department of Education.

**ACTION:** Application Notice.

Applications are invited for new projects under the Services for Deaf-Blind Children and Youth program.

Authority for this program is contained in Section 622 of Part C of the Education of the Handicapped Act. (20 U.S.C. 1422)

Applications may be submitted by public or nonprofit private agencies, institutions, or organizations to enter into cooperative agreements with the Secretary to conduct projects that enhance services to deaf-blind children and youth.

### Closing Date for Transmittal of Applications

Applications for new awards must be mailed or hand delivered on or before March 1, 1985.

*Applications delivered by mail:* An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.025A, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

*Applications delivered by hand:* An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

*Program information:* This program supports projects, as described under 34 CFR 307.11, that provide:

(a)(1) Special education and related services, as well as vocational and transitional services, to deaf-blind children and youth to whom States are not obligated to make available a free appropriate public education under Part B of the Education of the Handicapped Act and to whom the State is not providing those services under some other authority.

(2) Technical assistance to State educational agencies so that they may more effectively—

(i) Provide special education and related services, as well as vocational and transitional services, to those deaf-blind children and youth to whom they are obligated to make available a free appropriate public education under Part B of the Education of the Handicapped Act or some other authority;

(ii) Provide preservice or inservice training to paraprofessionals, professionals, or related services personnel preparing to serve, or serving, deaf-blind children or youth;

(iii) Replicate successful, innovative approaches to providing educational or related services to deaf-blind children and youth;

(iv) Facilitate parental involvement in the education of their deaf-blind children and youth; and

(v) Provide consultative and counseling services for professionals, paraprofessionals, parents, and others who play a direct role in the lives of deaf-blind children and youth, to enable them to understand the special problems of those children and youth, and to assist in the provision of appropriate services to those children and youth.

(3) The services described in paragraph (a)(1) to deaf-blind children and youth to whom a State is obligated to make available a free appropriate public education under Part B of the Education of the Handicapped Act and to whom the State is providing those services under some other authority.

Projects assisted under this program must be designed to:

(i) Give first priority in the use of project funds to the provision of services described in paragraph (a)(1); and

(ii) Give second priority in the use of project funds to the provision of technical assistance to State educational agencies, as described in paragraph (a)(2).

Any remaining funds may be used by the grantee, upon request of the State educational agency, for the services described in paragraph (a)(3).

Certain projects under this program received awards in fiscal year 1984 for a three year period. The States listed in the table which follows, individually or in combination with other States, were included in projects which received one year awards which terminate on September 30, 1985. This announcement invites applications for projects to serve those States receiving services through a cooperative agreement which terminates on September 30, 1985. The regulations for this program (*see* §§ 307.11(e) and 307.20(a)(1)) permit any State to choose to receive services independently from other States or to join with any of the listed States in a multi-State project.

### Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372, entitled "Intergovernmental Review of Federal Programs". The regulations took effect on September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State

and local views or explain why those views will not be accommodated; and

- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and selected this program for review:

| | |
|---|---|
| Alabama | New York |
| Arizona | North Dakota |
| Arkansas | Ohio |
| California | Oklahoma |
| Connecticut | Oregon |
| Delaware | Pennsylvania |
| Florida | South Carolina |
| Hawaii | South Dakota |
| Indiana | Tennessee |
| Kansas | Texas |
| Kentucky | Utah |
| Louisiana | Vermont |
| Maine | Virginia |
| Massachusetts | Washington |
| Michigan | West Virginia |
| Missouri | Wisconsin |
| Montana | Wyoming |
| Nebraska | Guam |
| Nevada | Trust Territory |
| New Hampshire | The Northern Mariana Islands |
| New Jersey | |
| New Mexico | |

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by May 1, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181, (CFDA Number 84.025A), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

*Available funds:* It is estimated that approximately $3,000,000 will be available for support of new projects under 84.025A, Services for Deaf-Blind Children and Youth for fiscal year 1985 as shown in the table below. This estimate of funding level does not bind the U.S. Department of Education to a specific number of awards or to the amount of any award, unless that amount is otherwise specified by statute or regulations. Awards will be for up to a two year period (see 34 CFR 75.253). Funding for awards will be based on the extent to which applicants address the two priorities described under Program Information. However, funds not used for these two priorities may be used by the grantee, upon request of the State educational agency, for the services described in paragraph (a)(3).

**Single and Multi-State Deaf-Blind Projects [1] [CFDA 84.025A]**

*Single State Projects*

Arizona, Michigan, Missouri, Utah, Virginia, West Virginia and Wyoming

*Multi-State Projects*

*States in Project and Anticipated Number of Awards*

Delaware, New Jersey, Puerto Rico, Rhode Island, Virgin Islands; One or more

American Samoa, California, Guam, Hawaii, Nevada, Northern Mariana Islands, Trust Territory of the Pacific Islands; One or more

District of Columbia, North Carolina, South Carolina, Tennessee, Maryland; One or more

*Application forms:* Application forms and program information packages are expected to be ready for mailing on December 19, 1984. These materials may be obtained by writing to the Special Needs Section, Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the application package. However, the program information package is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants submit only the information that is requested. (Approved by the Office of Management and Budget under control number 1820–0028.

*Applicable regulations:* Regulations applicable to this program include the following:

(a) Regulations governing the Services for Deaf-Blind Children and Youth program **(34 CFR Part 307). Final regulations for this program were** published on July 11, 1984 (49 FR 28360).

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

*For further information contact:* Charles W. Freeman, Special Needs Section, Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202. Telephone (202) 732–1165.

(20 U.S.C. 1422)

Dated: December 10, 1984.

**T.H. Bell,**

*Secretary of Education.*

(Catalog of Federal Domestic Assistance Number 84.025; Services for Deaf-Blind Children and Youth)

[FR Doc. 84–32714 Filed 12–14–84; 8:45 am]

BILLING CODE 4000–01–M

[1] The number of awards issued under this priority will depend on the number of individual States and the groups of States electing to participate independently from any present multi-state group, as authorized under 34 CFR 307.11(e).

## DEPARTMENT OF ENERGY

### Energy Information Administration

### Industrial Emissions of Sulfur and Nitrogen Oxides; Solicitation of Comments on Survey Design

**AGENCY:** Office of Energy Markets and End Use, Energy Information Administration, DOE.

**ACTION:** Notice of request for comments.

**SUMMARY:** The Energy Information Administration (EIA) of the Department of Energy (DOE) is examining data requirements and design approaches for a survey to gather information for research purposes from industrial sources of emissions of sulfur and nitrogen oxides. The EIA is undertaking this activity in response to a

Congressional directive in the conference report accompanying the FY 1985 Interior and Related Agencies Appropriations Act section 101(c) of Pub. L 98–473). The EIA will report to the Congress later this year on survey recommendations and on the resources required for the conduct of such a survey. To ensure that a reasonable and not unduly burdensome survey is designed, EIA is soliciting comments from data users on the minimum level of data they require for research purposes and from data providers on the types of information which industry currently has available or can provide.

Any written comments received in response to this notice will be available for public inspection at the DOE Freedom of Information Office, Room 1E–090, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which is believed to be confidential and exempt by law from public disclosure, should submit one complete copy of the document and, if possible, 10 copies from which the information believed to be confidential has been deleted. The DOE will make its own determination with regard to the confidential status of the information or data and treat it according to its determination.

**DATE:** Comments concerning this notice should be submitted by January 16, 1985.

**ADDRESS:** Comments should be submitted in writing to: Ms. Loretta Beaumont, Office of Energy Markets and End Use Energy Information Administration, EI–652, Room 1F–093, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

**FOR FURTHER INFORMATION CONTACT:** Loretta Beaumont, (202) 252–1129.

**SUPPLEMENTARY INFORMATION:** Industrial emissions of sulfur and nitrogen oxides and their relationship to acid precipitation have been a subject of Congressional and public concern over the past few years. The EIA has been directed by Congress, via the conference report accompanying the FY 1985 Appropriations Act, to design a survey which would collect industrial oxides emissions data for research purposes only. At present the EIA is not aware of any complete, up-to-date, and statistically reliable base of information on major industrial facilities and their associated sulfur and nitrogen oxide emissions. As part of the survey design effort, the EIA will examine the feasibility of using/enhancing the National Emissions Data System maintained by the Environmental Protection Agency (EPA).

Because the data proposed to be collected would be used for research purposes only, a census of all major emitting facilities may be unnecessary. The EIA will examine the feasibility of designing a sample survey for the collection of emissions data, with the sample to be selected either from a single list or amalgamated lists of industrial establishments.

The EIA will also consult with EPA and other agencies of the Federal Government on the design of the survey. This includes, but is not limited to, the Bureau of the Census, the Bureau of Economic Analysis and the Interagency Task Force on Acid Precipitation.

Preliminary discussions with potential data users indicate that the kinds of minimum information necessary for understanding and describing industrial sulfur and nitrogen oxide emissions may include such variables as:

- The type, amount, and sulfur content of fuel consumed;
- Information on the design characteristics of industrial boilers and other major industrial oxide emitting facilities (e.g., process heaters), including size, type, and estimated emissions;
- The number and maximum design firing rates of various industrial equipment;
- Equipment utilization, including typical daily operating cycle and seasonal variations; and
- Emissions control methods and equipment.

In order to focus the initial development of the survey design, the EIA has prepared two lists of questions. The first series of questions is aimed at potential data users and solicits comments on the types of data needed and the uses to which these data would be put. The second list contains questions for potential survey respondents and deals with the availability of information from industry.

Questions for potential data users:

1. Are the types of minimum information listed above sufficient for your needs? How would this information be used?

2. Is some of the information listed above unnecessary and, if so, what would you eliminate and why?

3. Is additional information required and, if so, what is it and how would it be used?

4. Do you now use or know of any existing, up-to-date, and reasonably complete sources of industrial oxides emissions data? What are they?

Questions for potential data providers:

1. Can you suggest a categorization scheme to simplify the reporting process (e.g., by major type and size ranges of equipment)?

2. Are the minimum types of information listed above available at the establishment level? If not, which ones are unavailable? Can you suggest alternatives to provide substitutes for the unavailable information?

3. Do you currently report oxide emissions information to the government? If so what, to whom, and how often?

Comments (excluding those comments DOE has determined are confidential) submitted in response to this notice will become a matter of public record.

Issued in Washington, D.C., December 12, 1984.

**Albert H. Linden, Jr.,**

*Deputy Administrator, Energy Information Administration.*

[FR Doc. 84–32807 Filed 12–14–84; 8:45 am]

**BILLING CODE 6450–01–M**

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## Federal Energy Regulatory Commission

**[Docket No. ER85–157–000]**

### Arkansas Power & Light Co.; Filing

December 12, 1984.

The filing company submits the following:

Take notice that on November 30, 1984, Arkansas Power & Light Company (AP&L) tendered for filing an Amendment dated November 12, 1984 to a Letter Agreement dated December 9, 1983 between AP&L and the Louisiana Energy & Power Authority (LEPA) for transmission services through the system of AP&L to the system of Louisiana Power & Light Company to permit a sale by the Southwestern Power Administration to LEPA of 14 MW of capacity and associated energy.

AP&L requests an effective date of December 1, 1984 for the Agreement, 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 December 27, 1984. 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. 84-32790 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER85-149-000]**

## Bangor Hydro Electric Co., Filing

December 12, 1984.

The filing Company submits the following:

Take notice that on November 23, 1984, Bangor Hydro Electric Company (Bangor) tendered for filing Notices of Termination of FPC Rate Schedules Nos. 8, 14, 20, 21, 23, 25, 26, and 29 and FERC Rate Schedules Nos. 30, 31, 32, 33, 34, 35, 37, 38, and 40.

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 December 26, 1984. Protests will be considered by the Commisison 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. 84-32791 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER85-139-000]**

## Central Vermont Public Service Corp.; Termination

December 12, 1984.

The filing Company submits the following:

Take notice that Central Vermont Public Service Corporation ("Central Vermont") on November 23, 1984, filed a Notice of Termination of its Rate Schedule FPC No. 94 and Green Mountain Power Corporation Rate Schedule FPC No. 55 (concurred in above) for the sale of sixty-thousand kilowatts (60,000 KW) and related energy from certain Vermont gas turbines to the Central Maine Power Company. Under the terms of the purchase agreement the sale took place in the period from February 28, 1975 to April 30, 1975.

Certificates of Concurrence by Green Mountain Power Corporation and Burlington Electric Department were also filed by Central Vermont.

Central Vermont states that the Notice of Termination was served on the contracting parties and the regulatory commissions of the states of Maine and Vermont where the contracting parties operate. Central Vermont has also requested a waiver of the notice requirement so that the Notice of Termination will be made effective as of the April 30, 1975 termination date provided for in the purchase agreement with Central Maine Power Company.

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 December 21, 1984. 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. 84-32784 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP85-43-000]**

## Columbia Gas Transmission Corp.; Petition for Refund Authority

December 11, 1984.

Take notice that on December 6, 1984, Columbia Gas Transmission Corporation (Columbia) tendered for filing a Petition For Refund Authority. Columbia states that it is petitioning for a similar refund authority, as requested by Consolidated Gas Transmission Corporation (Consolidated) on November 21, 1984, in Docket No. RP85-28-000. At that time, Consolidated petitioned the Commission for authority for flow-through the refund received from Consolidated LNG by crediting such amounts to Account No. 191 in accordance with its currently effective tariff. Consolidated's proposed refund procedure would be in lieu of the lump-sum refund contained in Ordering Paragraph (E) of Commission Opinion No. 202-A, 27 FERC ¶ 61,089 at 61,169 (1984).

Columbia asserts that if the Commission grants Consolidated's petition, it must also allow Columbia to follow the same Account No. 191 crediting procedure for the refunds it receives from Columbia LNG. It should be noted that § 20.5(a)(2) of the General Terms and Conditions of Columbia's tariff is similar to § 12.6 of the General Terms and Conditions of Consolidated's tariff, which requires that supplier refunds be creditied to Account No. 191. Columbia's provision became effective on January 1, 1983, or before either Opinion No. 202 or Opinion No. 202-A was issued.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32786 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. CP85-125-000]**

## Columbia Gas Transmission Corp.; Request Under Blanket Authorization

December 12, 1984.

Take notice that on November 21, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE, Charleston, West Virginia 25314, filed in Docket No. CP85-125-000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate the facilities necessary to provide fourteen (14) additional points of delivery to three of its existing customers, Columbia Gas of Kentucky, Inc.; Columbia Gas of Pennsylvania, Inc.; and Mountaineer Gas Company, under the certificate issued in Docket No. CP83-76-000 pursuant to section 7 of

the Natural Gas Act, all as more fully set fourth in the request on file with the Commission and open to public inspection.

Specifically, Columbia proposes to add the following points:

| | |
|---|---|
| Columbia Gas of Kentucky, Inc: | |
| 1 tap for combined commercial and residential service. | Estimated annual usage of 320,600 Mcf. |
| 4 taps for residential service... | Do. |
| Columbia Gas of Pennsylvania, Inc.: | |
| 1 tap for residential service .... | Estimated annual usage of 150 Mcf. |
| Mountaineer Gas Co.. | |
| 7 taps for residential service... | Estimated annual usage of 24,250 Mcf. |
| 1 tap for combined residential and commercial service. | Do. |

Columbia Gas of Kentucky, Inc., Columbia Gas of Pennsylvania, Inc., and Mountaineer Gas Company are served under Columbia's CDS (Contract Demand Service) Rate Schedule. Columbia asserts the additional volumes to be provided through the proposed new points of delivery are within Columbia's currently authorized level of sales and that such volumes would not affect Columbia's peak day and annual deliveries to which Columbia's existing wholesale customers are entitled.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32792 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. CP85-122-000]**

## Commonwealth Gas Pipeline Corp.; Application

December 12, 1984.

Take notice that on November 19, 1984, Commonwealth Gas Pipeline Corporation (Applicant), P.O. Box 2350, Richmond, Virginia 23219, filed in Docket No. CP85-122-000 an application pursuant to section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and services, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has filed, concurrent with this application, an application (CP85-121-000) for a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to continue its current operations, sales and services. Applicant states that the application in Docket No. CP85-121-000 has been filed in response to the Commission's Order Revoking Exemption issued August 20, 1984, in *Commonwealth Gas Pipeline Corporation, et al.*, Docket No. G-2500-000, 28 FERC 61,223, and subsequent order in the same proceeding issued October 15, 1984. Applicant explains that the application herein is premised upon the grant of certificate authority for Applicant to continue operations under the jurisdiction of the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 2, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32793 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-10-M

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**[Docket No. CP85-110-000]**

## Consolidated Gas Transmission Corp.; Application

December 11, 1984.

Take notice that on November 13, 1984, Consolidated Gas Transmission Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP85-110-000 an application pursuant to section 7 of the Natural Gas Act for permission and approval to abandon service for Cabot Corporation (Cabot) rendered pursuant to authorization granted by orders issued December 20, 1967, and for a certificate of public convenience and necessity authorizing the transportation of gas for Cabot's affiliate, Cranberry Pipeline Corporation (Cranberry), all as more fully set forth in the application which is on file with Commission and open to public inspection.

It is stated that by orders issued December 20, 1967, in Docket Nos. CP68-113 and CP68-492 the Commission authorized an exchange between Applicant and Cabot pursuant to an agreement dated July 5, 1967, and the construction and operation of facilities necessary to implement such agreement. It is further stated that pursuant to a corporate reorganization Cabot transferred effective May 26, 1983, its pipeline and gathering facilities to Cranberry. It is explained that Cranberry and Applicant have entered into a long term transportation agreement on March 1, 1983, to provide services formerly performed by Applicant for Cabot pursuant to the July 5, 1967, agreement.

It is explained that the March 1, 1983, transportation agreement provides that Applicant would accept from Cranberry up to 6,000 dt equivalent of natrual gas per day at Applicant's Cabot compression station in Calhoun County.

West Virginia, and redeliver such quantities to Cabot's carbon black plant near Waverly, Pleasants County, West Virginia. Applicant has also proposed alternate points of delivery and redelivery.

Applicant states that the proposed service would begin upon approval of the requested abandonment authority and continue for a primary term ending March 1, 1998, and thereafter unless terminated by either party upon twelve months written notice. Applicant further states it estimates that a total of 30,660,000 dt equivalent of natural gas would be transported and that it would charge Cranberry at a rate equal to that contained in Applicant's Rate Schedule T of its F.E.R.C. gas tariff, currently 18.76 cents per dt. Applicant proposes to retain the revenues attributable to the proposed transportation in accordance with the terms of the stipulation and agreement approved and accepted by the Commission on March 2, 1983, in its general rate proceeding in Docket No. RP82-115.

Applicant further requests authorization for the March 1, 1983, transportation agreement and to charge Cabot, effective March 1, 1983, a transportation rate as provided in the letter agreement of the same date. Applicant avers that the appropriate regulatory approvals were not sought within the intended time frame and Applicant now requests waiver of any applicable provisions of the Commission's regulations necessary to permit Applicant to charge Cabot a transportation fee as provided for in the March 1, 1983, letter agreement. It is further avered that the March 1, 1983, agreements between the Applicant and Cranberry would provide for essentially the same service as the July 5, 1968, exchange embodied in Applicant's Rate Schedule X-4 and is a product of the restructuring of agreements between Cabot and Applicant necessitated by Cabot's reorganization.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 31, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32765 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER85-158-000]**

## Duke Power Co.; Filing

December 12, 1984.

The filing company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on November 30, 1984 a supplement to the company's Electric Power Contract with the Town of Prosperity. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 242.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increase in contract demand: Delivery Point No. 1 from 1,600 KW to 1,800 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

Duke Power proposes an effective date of September 19, 1984, and therefore requests waiver of the Commission's notice requirements.

According to Duke Power, copies of this filing were mailed to the Town of Prosperity and the South Carolina 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 December 27, 1984. 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 Comission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32794 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER85-159-000]**

## Duke Power Co.; Filing

December 12, 1984.

The filing company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on November 30, 1984, a supplement to the Company's Electric Power Contract with the Commissioners of Public Works of the City of Greenwood. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 250.

Duke Power further states that the Company's contract supplement, made at the request of the customers and with agreement obtained from the customer, provides for the following increase in contract demand: Delivery Point No. 3 from 10,500 KW to 12,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

Duke Power proposes an effective date of February 18, 1985.

According to Duke Power, copies of this filing were mailed to the Commissioners of Public Works of the City of Greenwood and the South Carolina 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 December 27, 1984. 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. 84-32795 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER85-163-000]**

## Duke Power Co.; Filing

December 12, 1984.

The filing company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on December 3, 1984, a supplement to the Company's Electric Power contract with the Town of Forest City. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 237.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following decrease in contract demand: Delivery Point No. 1 from 5,800 KW to 2,500 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date.

Duke Power proposes an effective date of October 19, 1984, and therefore requests waiver of the Commission's notice requirements.

According to Duke Power, copies of this filing were mailed to the Town of Forest City and the North Carolina Utilities 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 December 27, 1984. 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. 84-32796 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER85-150-000]**

## El Paso Electric Co., Filing

December 12, 1984.

The filing company submits the following:

Take notice that on November 27, 1984, El Paso Electric Company (EPE) submitted for filing, as an initial rate filing, an "Interchange Agreement between EPE and City of Anaheim," dated November 12, 1984, (Agreement). EPE states that this Agreement provides a basis for the exchange of energy between parties on a returnable basis and on an economy basis. The Agreement also provides for emergency assistance. EPE has requested that this Agreement be accepted for filing and made effective on November 12, 1984, and that waiver of the notice provisions and other requirements of the Commission's Regulations be granted as appropriate.

EPE further states that copies of this filing have been served upon the Public Utility Commission of Texas, the New Mexico Public Service Commission, and the City of Anaheim.

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 December 27, 1984. 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. 84-32797 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. CP85-90-000]**

## El Paso Natural Gas Co.; Application

December 12, 1984

Take notice that on November 16, 1984, El Paso Natural Gas Company (Applicant), Post Office Box 1982, El Paso, Texas 79978, filed in Docket No. CP85-90-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain minor pipeline and appurtenant facilities necessary to permit the interconnection of Applicant's existing Panoma No. 1 plant with Getty Oil Company's (Getty) proposed McLean processing plant, located in Gray County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to a processing agreement dated June 14, 1957, as amended, between El Paso and Getty, Getty is entitled to process quantities of natural gas purchased or produced by Applicant from the Panoma field area located in parts of Collingsworth, Donley, Gray and Wheeler Counties, Texas, and in parts of Beckham and Greer Counties, Oklahoma. Pursuant to said processing agreement, Applicant states that it currently delivers quantities of natural gas to Getty at the Getty Schafer plant complex (Shafer plant) located in Carson County, Texas, and ultimately receives at the discharge side of the Schafer plant quantities of residue gas for its system supply.

Applicant further states that it has been informed by Getty that, as a result of the increasing dilution of the gas stream, Getty's liquid extraction operations at its Schafer plant have become inefficient and uneconomical. In view of this situation, Getty has advised Applicant that Getty proposes to close its Schafer plant facilities and construct a new cryogenic liquid extraction facility (McLean plant) upstream of its Schafer plant at a more advantageous location from a processing standpoint. It is explained that Getty's McLean plant would provide Getty with a state of the art facility designed to process more efficiently and economically available quantities of natural gas and therefore

maximize Getty's overall operations. Getty proposes to construct the McLean plant on a site located in Gray County, Texas, which site in just outside of the northern plant yard fence of Applicant's existing Panoma No. 1 plant. In conjunction with Getty's proposal to construct and operate the McLean plant, Applicant and Getty have entered into a new processing agreement dated February 27, 1984, providing for, *inter alia*, the processing of natural gas by Getty, for Applicant's account at the McLean plant, it is stated.

Applicant further states that it would be required to construct and operate certain minor pipeline facilities, with appurtenances, necessary to interconnect its existing Panoma No. 1 plant with Getty's proposed McLean plant. It is maintained that such facilities would provide Applicant with the capability to deliver gas to Getty for processing and receive a processed gas stream from Getty. Accordingly, Applicant proposes to construct and operate approximately 610 feet of 10¾-inch O.D. pipeline, with appurtenances, commencing at the discharge side of its Panoma No. 1 plant and terminating at Getty's proposed McLean plant and approximately 595 feet of 8⅝ inch O.D. pipeline, with appurtenances, commencing at Getty's proposed McLean plant and terminating at the inlet of Applicant's existing Panoma No. 1 plant. The total estimated cost of the proposed facilities, including overhead, contingency and filing fees is $386,662. Measurement facilities would be constructed and operated by Getty at the inlet and outlet of the McLean plant.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 2, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdication conferred upon the Federal Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32798 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. CP85-109-000]**

## Florida Gas Transmission Corp.; Application

December 11, 1984.

Take notice that on November 13, 1984, Florida Gas Transmission Corporation (FGT), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP85-109-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Entex, Inc. (Entex) in lieu of to the Texas Department of Corrections (Department of Corrections) for resale and use in its gas distribution system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

FGT states that by order issued July 24, 1981, in Docket No. CP80-192, the Commission authorized FGT to continue operating the facilities necessary to render service to certain direct sale customers in Texas and Louisiana and the continued sale of gas to certain resale customers in Texas, including the Department of Corrections. FGT states that pursuant to a service agreement effective July 10, 1981, it agreed to sell and deliver natural gas to the Department of Corrections for resale and use in its gas distribution system, more particularly described as the Ramsey Unit located in Brazoria County, Texas.

It is indicated that the Department of Corrections has informed FGT that it has assigned, transferred and conveyed to Entex, by assignment of service agreement dated September 26, 1984, all of its rights under the July 10, 1981 service agreement, and that the Department of Corrections has leased by agreement dated August 28, 1984, gas facilities in the Ramsey Unit. FGT therefore proposes to sell gas to Entex rather than the Department of Corrections.

FGT proposed to sell to Entex up to 1,000 Mcf of gas per day at a price established under FGT's Rate Schedule G which is on file with the Commission. FGT states that no changes in service are contemplated by the proposed assignment.

Any person desiring to be heard or to make any protest with reference to said application should on or before

December 31, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for FGT to appear or be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32767 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-160-000]

## Florida Power & Light Co.; Filing

December 12, 1984.

The filing company submits the following:

Take notice that Florida Power & Light Company (FPL) on November 30, 1984, tendered for filing a document entitled "Amendment Number Two to Contract for Interchange Service Between FPL and Tampa Electric Company (TECO)."

FPL states that under the Amendment FPL and TECO utilize the provisions of the existing Contract for Interchange Service between FPL and TECO for the parties to establish additional service schedules. FPL states that the additional Service Schedule X provides the parties with the necessary vehicle to better maximize the overall economy of power production in the State of Florida.

FPL respectfully requests that the proposed Amendment be made effective December 1, 1984 and therefore requests waiver of the Commission's notice requirements. According to FPL, a copy of this filing was served upon TECO.

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 December 27, 1984. 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. 84-32799 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. GP85-6-000]

## Gulf Oil Corp.; Petition for Declaratory Order to Remove Uncertainty

Issued: December 11, 1984.

On October 9, 1984, Gulf Oil Corporation (Gulf) filed a petition for a declaratory order to remove uncertainty which Gulf claims exists regarding section 503(d) of the Natural Gas Policy Act of 1978 [1] and 275.205 of the Commission's regulations.[2]

Gulf is the operator and 100% working interest owner of the Federal Outer Continental Shelf lease OCS-0982, Eugene Island Block 238. Gulf states that the No. 3 Well (later renamed H-1 and hereinafter referred to as the No. 3(H-1) Well), located on the OCS lease-0982, was spudded on December 19, 1976 and production commenced therefrom in July 1979, from the C-28 Sand, Reservoir "G". Based on the available seismic and geological data, Gulf concluded that the No. 3(H-1) Well was in a separate fault block for other adjacent wells at the same depth. Gulf applied for and received an NGPA section 102(d) determination for the No. 3(H-1) Well from the United States Geological Survey (USGS).[3] The USGS determination was received by the Commission and became final on August 11, 1979. Gulf states further that the last production from the C-28 Sand, Reservoir "G" was recorded in September, 1981, and after that date production ceased from the C-28 Sand, Reservoir "G".

According to Gulf, it began workover operations on January 5, 1982 to plugback the No. 3(H-1) Well to the D-5b sand. Based on subsequently obtained information, Gulf changed its geological interpretation for the C-28 Sand, Reservoir "G". The subsequent information showed that the No. 3(H-1) Well had produced from the same sand and fault block as had Well No. F-1. Well No. F-1 had penetrated the sand in January 1972. Remapping was necessitated, and the sand name was changed with the Minerals Management Service in November 1983 from the C-28 Sand, Reservoir "G" to the D-6 Sand, Reservoir "G".

Gulf now seeks a declaratory order that under the facts of this petition, the No. 3(H-1) Well determination by the USGS is final and not subject to Commission review. Gulf argues that both Congress and the Commission intend that only geological information available at the time of filing and not subsequent information is to be relied upon when determining whether a reservoir is a separate reservoir for qualification under NGPA section 102(d). Gulf states that its petition involves similar facts and common issues of law as two pending proceedings: *Mobil Oil Exploration and Producing Southeast, Inc.*, Docket No. GP84-44-000 and *Exxon Corporation*, Docket No. GP84-45-000.

Any person desiring to be heard or to protest this Motion should file within 30 days after notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, a Motion to Intervene or a Protest in accordance with the requirements of Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceedings.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32768 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. ER85-161-000]

## Kansas Gas and Electric Co.; Filing

December 12, 1984.

The filing company submits the following:

Take notice that Kansas Gas and Electric Company (KG&E) on November 30, 1984, tendered for filing proposed changes in its FERC Rate Schedule No. 133 and the proposed withdrawal of FERC Rate Schedule No. 158.

Kansas Gas and Electric Company states that the filing assures continued full requirements service to the City of Erie, Kansas (City) for a limited two year period.

This filing is necessary because the City has decided to investigate alternatives to full requirements municipal service. This filing will permit continuity of service to Erie while the alternatives are investigated.

KG&E has requested an effective date of November 11, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the City of Erie, Kansas and the Utilities Division of the Kansas Corporation 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 December 27, 1984. 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

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[1] 15 U.S.C. 3301-3432 (1982).

[2] 18 CFR 275.205 (1983).

[3] The USGS was renamed the Minerals Management Service.

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. 84-32800 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. ES85-18-000]

## The Kansas Power and Light Co.; of Application

December 12, 1984

Take notice that on November 23, 1984, The Kansas Power and Light Company (Applicant) filed an application seeking authority pursuant to section 204 of the Federal Power Act to issue up to $120,000,000 in the aggregate principal amount of short-term unsecured Promissory Notes on or before January 31, 1986, with a final maturity date of not later than January 31, 1987.

Any person desiring to be heard or to make any protest with reference to said Application should on or before December 24, 1984, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file motions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 84-32799 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. TA85-1-47-004]

## MIGC, Inc.; Compliance Filing

December 12, 1984.

Take notice that on November 30, 1984, MIGC, Inc. (MIGC) tendered for filing Substitute Thirty-First Revised Sheet No. 32 to its FERC Gas Tariff, Original Volume No. 1. MIGC states this filing is in compliance with the Federal Energy Regulatory Commission's (Commission) order of October 31, 1984, which directed MIGC (1) to correct and refile its Schedule A, (2) to explain the projection of certain purchases of NGPA Section 103 and 104 gas from MGPC, Inc., (3) to recalculate carrying charges in order to eliminate interest on certain Order No. 94-A costs and to correct the interest rate used for July, 1984, and (4) to provide certain data related to MIGC's projected reductions in purchased gas costs as of January 1, 1985.

On December 4, 1984, MIGC filed a supplement to its November 30, 1984 filing to provide the Commission with MIGC's responses to certain data requests contained in the October 31, 1984, suspension order.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 84-32801 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. CP85-137-000]

## Mississippi River Transmission Corp.; Application

December 12, 1984.

Take notice that on November 30, 1984, Mississippi River Transmission Corporation (Applicant), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP85-137-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an increase in contract demand to Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Arlka), one of its existing jurisdictional sales customers, and the construction and operation of certain facilities for the transportation and sale of natural gas in interstate commerce, as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant indicates it is seeking authorization to increase Arkla's contract demand by 1,100 Mcf of gas per day which would be used by Arkla to provide new natural gas service in two areas. Applicant states that one would be the town of Portia, Arkansas, where Applicant proposes to deliver up to 400 Mcf per day to Arkla by means of a new delivery point. Applicant states that the second area to receive new natural gas service of up to 700 Mcf per day would be a developing residential area near the town of Monticello, Arkansas. Applicant indicates that Monticello currently is separately served by Arkla by means of gas supply provided by Applicant.

Applicant states that Arkla would continue to be a Rate Schedule CD-1 customer of Applicant. Applicant also states that the increase of 1,100 Mcf per day in Arkla's contract demand would amount to 1.4 percent of Applicant's current systemwide jurisdictional firm service obligation of 770,900 Mcf per day.

Applicant indicates that its existing gas supply would be sufficient to implement the nominal change of service proposed in the application, as well as to maintain Applicant's ability to render adequate and reliable service to all of its customers.

Applicant proposes to construct and operate new tap and meter facilities at the two new delivery points located in Lawrence (Portia) and Drew (New Monticello) Counties, Arkansas. Applicant states that the estimated cost of the proposed facilities would be approximately $114,500 and would be financed from general corporate funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 2, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20416, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a moton to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice

and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unecessary for Applicant to appear or be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32802 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP85-30-000]**

## Natural Gas Pipeline Company of America; Petition for Declaratory Order on Minimum Bill Dispute and Motion for Summary Disposition

December 12, 1984.

Take notice that on November 19, 1984, Natural Gas Pipeline Company of American (Natural) tendered for filing a Petition For Declaratory Order On Minimum Bill Dispute. Natural requests the Commission to issue a declaratory order resolving a dispute between Natural and Great Lakes Gas Transmission Compnay (Great Lakes) relating to amounts which Great Lakes claims are due from Natural pursuant to the minimum commodity bill provisions of Great Lakes' FERC Gas Tariff. Natural states that Great Lakes has sought to impose an annual minimum commodity bill on Natural as of October 31, 1984, a date which falls well after the Commission's Order No. 380 became effective. Order No. 380 prohibits the collection by interstate pipelines of gas costs through a minimum commodity bill. Natural claims that no minimum bill amount can be assessed under an annual gas cost minimum commodity bill for any year which commenced prior to the effective date of Order No. 380 but which ended or "balanced" after the effective date of Order No. 380. Further, Natural asserts that gas volumes taken during a year for which an annual gas cost minimum commodity bill has been voided by Order No. 380 should be considered as "make-up" for minimum commodity bill volume deficiences incurred prior to the year in which Order No. 380 became effective.

Take notice also that on December 6, 1984, Natural tendered for filing a Motion For Summary Disposition in this docket. According to Natural, the Commission's decision in *Northwest Pipeline Corporation v. Colorado Interstate Gas Co.*, issued November 23, 1984 in Docket No. RP84-59-000, decided the first of the two basic issues posed by Natural's Petition For Declaratory Order filed November 19, 1984. Natural further claims that the *Northwest* order full supports Natural's argument on the issue concerning the make-up of prior minimum commodity bill deficiences.

Any person desiring to be heard or to protest said filing should file a petition ot intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol, Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 11, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32804 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket Nos. ST81-241-002, et al.]**

## Natural Gas Pipeline Co. of America, et al.; Extension Reports

December 11, 1984.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transporation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. Three other symbols are used for transactions pursuant to a blanket certificate issued under Section 284.222 of the Commission's Regulations. A "G(HS)" indicates transportation, sale or assignments by a Hinshaw pipeline; A "G(LT)" indicates transportation by a local distribution company, and a "G(LS)" indicates sales or assignments by a local distribution company.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before January 4, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

**Kenneth F. Plumb,**

*Secretary.*

| Docket No. | Transporter/seller | Recipient | Date filed | Part 284 subpart | Effective date |
|---|---|---|---|---|---|
| ST81-241-002 | Natural Gas Pipeline Co. of America, P.O. Box 1208, Lombard, IL 60148 | Delhi Gas Pipeline Corp | 11-01-84 | B | 02-01-85 |
| ST83-264-001 | Oasis Pipe Line Co., 1200 Travis, Box 1188, Houston, TX 77001 | United Gas Pipe Line Co | 11-06-84 | C | 02-07-85 |
| ST83-267-001 | Seagull Energy Corp., 1100 Louisiana, Houston, TX 77002 | Florida Gas Transmission Co | 11-09-84 | C | 02-25-85 |
| ST83-273-001 [1] | Delhi Gas Pipeline Corp., 1700 Pacific Ave., Dallas, TX 75201 | Florida Gas Transmission Co | 11-08-84 | D | 02-01-85 |
| ST83-277-001 [1] | Natural Gas Pipeline Co. of America, P.O. Box 1208, Lombard, IL 60148 | Southern Natural Gas Co | 11-09-84 | G | 01-01-85 |
| ST83-280-001 | Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102 | Delhi Gas Pipeline Co | 11-08-84 | B | 02-18-85 |

| Docket No. | Transporter/seller | Recipient | Date filed | Part 284 subpart | Effective date |
|---|---|---|---|---|---|
| ST83-281-001 | Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102 | Intratex Gas Co | 11-06-84 | B | 02-15-85 |
| ST83-285-001 | Hydrocarbon, Ltd., 8800 N. Central Expressway, Dallas, TX 75231 | Texas Eastern Transmission Corp | 11-14-84 | C | 02-16-85 |
| ST83-293-001 | Houston Pipe Line Co., 1200 Travis, Box 1188, Houston, TX 77001 | United Gas Pipe Line Co | 11-14-84 | C | 03-01-85 |
| ST83-311-001 | Trunkline Gas Co., P.O. Box 1642, Houston, TX 77001 | Panhandle Eastern Pipe Line Co | 11-13-84 | G | 02-28-85 |
| ST83-327-001 | Producer's Gas Co., 4925 Greenville Ave., Dallas, TX 75206 | Tennessee Gas Pipeline Co | 11-13-84 | C | 03-18-85 |
| ST83-339-001 | Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102 | Cajun Natural Gas Co | 11-08-84 | B | 03-25-85 |
| ST83-367-001 | Trunkline Gas Co., P.O. Box 1642, Houston, TX 77001 | Southern Natural Gas Co | 11-02-84 | G | 02-06-85 |
| ST84-54-001 [1] | Delhi Gas Pipeline Corp., 1700 Pacific Ave., Dallas, TX 75201 | Tennessee Gas Pipeline Co | 11-08-84 | C | 10-31-84 |
| ST84-657-001 [1] | Oklahoma Natural Gas Co., P.O. Box 871, Tulsa, OK 74102 | Arkansas-Louisiana Gas Co | 10-09-84 | C | 09-30-84 |

[1] These extension reports were filed after the date specified by the Commission's Regulation, and shall be the subject of a further Commission order.

Note.—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 84-32771 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER-162-000]

## New England Power Co.; Filing

December 12, 1984.

The filing company submits the following:

Take notice that on December 3, 1984 New England Power Company (NEP) filed a letter agreement and revised pages to a power contract dated May 1, 1977 that provides for (1) changes in the quantities of capacity and energy to be sold and (2) an increase in the transmission charges payable by Hudson.

NEP requests an effective date of November 1, 1984, pursuant to the parties' agreements, and in connection therewith requests waiver of the Commission's Regulations.

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 December 27, 1984. 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. 84-32778 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-155-000]

## Niagara Mohawk Power Corp.; Filing

December 12, 1984.

The filing company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara), on November 29, 1984 tendered for filing as a rate schedule, an agreement between Niagara and Orange and Rockland Utilities Inc. (Orange and Rockland) dated October 1, 1984.

Niagara presently has on file an agreement with Orange and Rockland dated February 14, 1975, last amended by Letter dated May 17, 1983. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule F.E.R.C. No. 89. This new agreement is being transmitted as a supplement to the existing agreement.

This supplement revises the transmission rate for transmitting Fitzpatrick power and energy from the power Authority of the State of New York to Orange and Rockland as provided for in the terms of the original agreement.

Niagara requests waiver of the Commission's prior notice requirements in order to allow said agreement to become effective as of September 1, 1984.

Copies of this filing were served upon the following: Orange and Rockland Utilities Inc. and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a 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 Procedures (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not service to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32779 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP74-145-006]

## Northern Natural Gas Co. Division of InterNorth, Inc.; Petition To Amend

December 11, 1984.

Take notice that on November 21, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP74-145-006 a petition to amend further the order issued May 29, 1975, in Docket Nos. CP74-134 and CP74-145 [1], as amended, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the addition of a delivery point in Custer County, Oklahoma, for an existing exchange arrangement between Northern and Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Northern requests authorization to add a delivery point to permit the delivery of gas to Northern for the account of Natural at the existing interconnection of Northern's gathering and measurement facilities and the Smith "B" No. 1-21 well in Custer County. It is stated that no new facilities are required and that the addition of the delivery point would not change the maximum daily volume exchanged, which would remain at 5,000 Mcf of gas. It is asserted that deliveries at the Custer County delivery point have commenced under the provisions of Order No. 60 and Northern's blanket certificate in Docket No. CP80-131, as reported in Docket Nos. ST84-210 (Northern) and ST84-221 (Natural).

[1] Issued jointly to Northern and to Natural Gas Pipeline Company of America.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Dec. 31, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32770 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. EC85-5-000]**

## Northern States Power Co.; Filing

December 12, 1984.

The filing company submits the following:

Take notice that Northern States Power Company (NSP) on December 3, 1984, tendered for filing an Application for Sale, Lease or Other Disposition, Merger or Consolidation of Facilities, or for Purchase or Acquisition of Securities of a Public Utility. The Application provides for the sale of a segment of NSP's 345 Kv transmission facilities and a portion of related substations to Cooperative Power Association and United Power Association for purposes of establishing a Joint Transmission Network between the parties.

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 January 4, 1985. 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. 84-32780 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. CP85-116-000]**

## Northwest Pipeline Corp.; Application

December 11, 1984.

Take notice that on November 16, 1984, Northwest Pipeline Corporation (Northwest), 205 Chipeta Way, Salt Lake City, Utah 84108, filed at Docket No. CP85-116-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for the account of the Washington Water Power Company (Water Power), all as more fully set forth in the application which is on file and open to public inspection.

Northwest proposes to transport for a one-year term, on a best-efforts basis, up to 10 billion Btu's of natural gas per day for the account of Water Power pursuant to a gas transportation agreement (agreement) dated November 7, 1984.

Northwest states that Water Power has arranged to purchase up to 15 billion Btu's of Canadian natural gas per day from Amoco Canada Petroleum Ltd. (Amoco Canada) for a term of two years. It is explained that Water Power would purchase the gas from Amoco Canada at the existing interconnection between Westcoast Transmission Company Limited (Westcoast) and Northwest at Sumas, Washington.

Northwest proposes to accept up to 10 billion Btu's per day for Water Power's account at Sumas and to transport and redeliver thermally equivalent volumes to Water Power at three existing delivery points in Spokane and Whitman Counties, Washington.

It is stated that Water Power then would utilize its existing distribution facilities to sell and deliver the subject gas to three of its end-user customers which, absent the availability of this competitively priced gas, would utilize coal as a fuel instead of natural gas.

Northwest proposes to charge Water Power a transportation rate of 18.3 cents per million Btu, inclusive of the Gas Research Institute (GRI) charge which is currently 1.18 cents per million Btu.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 31, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32772 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. CP85-117-000]**

## Northwest Pipeline Corp.; Application

December 11, 1984.

Take notice that on November 16, 1984, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP85-117-000, an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the off-system sale of natural gas in interstate commerce to El Paso Natural Gas Company (EPNG), all as more fully set forth in the application which is on file and open to public inspection.

Northwest proposes to sell, on a best-efforts basis, up to 200 billion Btu's of natural gas per day to EPNG pursuant to

an interruptible gas sale agreement (agreement) dated November 1, 1984, for a primary term of one year.

It is said that Northwest would make the proposed sale from its existing system supplies which are in excess of the supply necessary to serve its present market requirement. It is explained that the sale and delivery of gas to EPNG under the agreement would take place at an existing interconnection between Northwest's and EPNG's facilities in La Plata County, Colorado (Ignacio Meter Station).

Northwest proposes to charge EPNG $3.15 per million Btu for all volumes sold and delivered to EPNG under the agreement. Northwest proposes to credit all but one cent per million Btu of the resulting sales revenues to Account No. 191.

Northwest states that its proposed rate is compensatory because it would recover all the variable costs associated with the sale plus it would make a contribution to the recovery of fixed costs.

An additional economic benefit of this proposal is said to be the reduction in take-or-pay deficiencies and associated carrying costs, which would result from Northwest increasing its otherwise scheduled domestic takes in order to serve this incremental market.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 31, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northwest to appear or be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32773 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP85-33-000]**

## Pacific Interstate Offshore Co., Petition for Waiver of Commission Regulation Prohibiting Recovery of Purchased Gas or Variable Costs Associated With Gas Not Taken

December 12, 1984.

Take notice that on November 28, 1984, Pacific Interstate Offshore Company (PIOC) tendered for filing a Petition For Waiver Of Commission Regulation Prohibiting Recovery Of Purchased Gas Or Variable Costs Associated With Gas Not Taken. PIOC requests waiver of § 154.111 of the Commission's regulations, which prohibits the recovery of purchased gas costs for gas not taken by the buyer. PIOC requests this relief on the grounds that recent developments directly attributable to the adoption of the rule have caused and immediately threaten severe financial harm to PIOC. PIOC states that its sole customer ceased making any purchases whatsoever from PIOC as a direct result of the minimum bill rule. According to PIOC, it has no assurance as to if or when its customer will resume purchases. PIOC states that it has made diligent efforts over several months to renegotiate its contracts with its two producer suppliers, but these efforts have been unsuccessful. PIOC also states that it is required to make take-or-pay payments which would be far in excess of its financial ability. According to PIOC, waiver of the Commission's regulation is necessary to forestall the very real threat of the financial failure of PIOC.

On December 4, 1984, PIOC filed a supplement to its petition for waiver of the Commission's regulation. PIOC informs the Commission that on November 29, 1984, Union Oil Company of California and Texaco, Inc. filed suit in the U.S. District Court, Central District of California, against PIOC and several corporations affiliated with it, including Pacific Lighting Gas Supply Company, PIOC's sole customer. PIOC states that the filing of the suit places new urgency on PIOC's request for waiver of the Commission's regulation adopted in Order No. 380. In light of this new development, PIOC requests the Commission to consider and act favorably upon PIOC's petition for waiver as expeditiously as possible.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32782 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER85-166-000]**

## Pacific Power & Light Co., an Assumed Business Name of PacifiCorp; Filing

December 12, 1984.

The filing company submits the following:

Take notice that Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp, on December 4, 1984, tendered for filing, Exhibit A, Load and Resource Forecast Revision No. 9 to the Service Agreement between Pacific and the Town of Torrington (Torrington) under Pacific's FERC Electric Tariff, Original Volume No. 4 (Tariff).

Exhibit A to the Wholesale Purchase Power Agreement, dated July 30, 1976 between Pacific and the Town of Torrington, is revised annually in accordance with Article 2(d) of this Agreement, specifying commitments for service for a three-year rolling period.

Copies of the filing were supplied to the Town of Torrington and the Public Service Commission of the State of Wyoming.

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 December 27, 1984. 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. 84-32783 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. CP85-19-000]

## Panhandle Eastern Pipeline Co.; Application

December 11, 1984.

Take notice that on October 9, 1984, as supplemented November 14, 1984, Panhandle Eastern Pipe Line Company (Panhandle), 300 Bissonnet, Houston, Texas and 3444 Broadway, Kansas City, Missouri, filed in Docket No. CP85-19-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of gas and the construction and operation of facilities required for the direct sale of natural gas to a right-of-way grantor for irrigation use, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Panhandle proposes to install and operate a farm tap which is required to make a direct sale of natural gas to Samuel Wilson McCloy, a right-of-way grantor in Hansford County, Texas. Panhandle estimates that the total cost of the proposed facilities would be $5,300. It is indicated that the sales would involve approximately 20 billion Btu of gas per year. Panhandle states that it does not propose to increase its currently authorized level of sales.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 31, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commisson on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Panhandle to appear or be represented at the hearing.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 84-32774 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. ER85-164-000]

## Public Service Company of Indiana, Inc.; Filing)

December 12, 1984.

The filing company submits the following:

Take notice that Public Service Company of Indiana, Inc. in December 3, 1984, tendered for filing pursuant to the Interconnection Agreement, dated March 9, 1971, as amended, by between the United States of America, Indiana Statewide Rural Electric Cooperative, Inc., now Hoosier Energy Rural Electric Cooperative, Inc. (Hoosier), Southern Indiana Gas and Electric Company (SIGECO), and Public Service Company of Indiana, Inc. (Public Service) a fifth Supplemental Agreement to become effective January 29, 1985, pursuant to Part 35.2 of the Commission's Regulations.

The purpose of this filing is as follows:

1. Inserts a new Service Schedule D—Short Term Power which supersedes the existing Service Schedule D, as modified. The new service schedule increases the demand charge from $.85 per kilowatt per week to a rate not to exceed $1.05 per kilowatt per week.

2. Amends Service Schedule A—Emergency Service, Service Schedule C—Interchange Power, and Service Schedule E—Coordination of Scheduled Maintenance of Generating Facilities to incorporate Order 84 language for third party transactions of SIGECO and Public Service.

Copies of the filing were served upon Southern Indiana Gas and Electric Company, Hoosier Energy Rural Electric Cooperative, Inc., and the Public Service Commission of Indiana.

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 December 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make profestants 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. 84-32784 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. CP85-96-000]

## Superior Offshore Pipeline Co.; Application

December 11, 1984.

Take notice that on November 8, 1984, Superior Offshore Pipeline Co. (SOPCO), P.O. Box 1521, Houston, Texas 77001, filed in Docket No. CP85-96-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 7.6 miles of 12-inch pipeline in the West Cameron Area, offshore Louisiana and 0.5 mile of 12-inch pipeline onshore near The Superior Oil Company's (Superior) Lowry gas plant in Louisiana, and the acquisition and operation of approximately 31.6 miles of pipeline extending from West Cameron Block 67, offshore Louisiana to 0.5 mile from Superior's Lowry plant onshore, Louisiana, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

SOPCO proposes to construct and operate approximately 7.6 miles of 12-inch pipeline from Superior's West Cameron platform 102-7, offshore Louisiana to the terminus point of an existing Trunkline Gas Company

(Trunkline) pipeline located in West Cameron Block 67 and approximately 0.5 mile of 12-inch pipeline from the existing Trunkline pipeline onshore Louisiana to Superior's Lowry gas plant in Louisiana. Additionally, SOPCO proposes to acquire from Trunkline and operate approximately 31.6 miles of the pipeline extending from a point in West Cameron Block 67, offshore Louisiana to a point onshore 0.5 mile from Superior's Lowry gas plant.

SOPCO states that the primary purpose of this application is to enable SOPCO in effect to "Loop" the existing 16-inch segment of the West Cameron portion of SOPCO's system and to eliminate an almost certain deliverability bottleneck in the 16-inch segment of the SOPCO system this coming winter. Further, these additional facilities would significantly enhance Superior's ability to recover the remaining reserves in the West Cameron 71 Field by enabling Superior to initiate a compression program for the West Cameron 71 Field area with existing onshore compression facilities at the Lowry plant, it is indicated.

Further, SOPCO states that the estimated cost of looping the 16-inch line with a new line would be $23,102,640 while the estimated cost of the proposed facilities is $5,383,832.

SOPCO states that the current maximum operating capacity of SOPCO's 16-inch line segment of the West Cameron mainline is 180,000 Mcf of gas per day while it appears that SOPCO would be required to deliver onshore to Superior's Lowry gas plant more than 190,000 Mcf of gas per day by January 1985, due to Superior's planned drilling program in the West Cameron area and its existing gas purchase contracts. Also, SOPCO states that this proposal would extend the useful economic life of Trunkline's 31.6 miles of pipeline which is not presently rendering any certificated service. Further, SOPCO does not contemplate any change in its one-cent per Mcf transportation rate for its transportation services nor would it change the basic transportation service currently provided by SOPCO with the addition of these proposed facilities, it is indicated.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 31, 1984, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32775 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP85-41-000]**

## Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 12, 1984.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on November 30, 1984 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheet:

First Revised Sheet No. 117.

According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until December 6, 1984.

Texas Eastern states the tariff sheet is being filed pursuant to Commission Opinion No. 226 and Docket No. RP84-85-000 issued September 28, 1984, which amended and approved Gas Research Institute's (GRI) 1985 Research and Development Program and Related Five-Year Plan for 1985-1989. The tariff sheet reflects the change ordered in Opinion No. 226 that collection of the GRI funding unit be remitted to GRI within fifteen (15) days of receipt. The proposed effective date of the filing is January 1, 1985. Texas Eastern states that copies of the filing were served on its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32786 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP85-35-000]**

## Texas Gas Transmission Corp.; Filing of Revised Tariff Sheet

December 12, 1984.

Take notice that on November 30, 1984, Texas Gas Transmission Corporation (Texas Gas) tendered for filing Second Revised Sheet No. 107 to its FPC Gas Tariff, Third Revised Volume No. 1. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until December 7, 1984.

Texas Gas states the tariff sheet is being filed pursuant to ordering paragraph (C) of Opinion No. 226 and requires the remittance of all funds collected by means of the General RD&D Funding Unit to GRI within fifteen (15) days of receipt. Texas Gas states that copies of the revised tariff sheet were mailed to all its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Streeet, 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 December 19, 1984. 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. 84-32785 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. RP85-40-000]

## Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 12, 1984.

Take notice that Transwestern Pipeline Company (Transwestern) on November 30, 1984 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheet:

Third Revised Sheet No. 80.

According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until December 6, 1984.

Transwestern states the tariff sheet is being filed pursuant to Commission Opinion No. 226 and Docket No. RP84-85-000 issued September 28, 1984, which amended and approved Gas Research Institute's (GRI) 1985 Research and Development Programs and Related Five-Year Plan for 1985-1989. The tariff sheet reflects the change ordered in Opinion No. 226 that collection of the GRI funding unit be remitted to GRI within fifteen (15) days of receipt. The proposed effective date of the filing is January 1, 1985. Transwestern states that copies of the filing were served on its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Stree, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 19, 1984. 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 avaliable for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 84-32787 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. ER85-165-000]

## Virginia Electric and Power Co., Filing

December 12, 1984.

The filing company submits the following:

Take notice that Virginia Electric and Power Company (Vepco) on December 3, 1984, tendered for filing proposed changes in its transmission service rate schedule presently on file with the Commission which is applicable to North Carolina Eastern Municipal Power Agency (NCEMPA). Based on the test period 12 months ending August 31, 1985, Vepco estimates that the proposed changes in the transmission service rate will reduce annual revenues from NCEMPA by $654,945.

Vepco states that NCEMPA has leased or purchased from the Company a number of the delivery point facilities serving its delivery points pursuant to NCEMPA's Agreement for Transmission Use with Vepco. Also, other costs have changed since the transmission service rate was last revised in Docket Nos. ER83-430-000 and ER83-618-000. Revised rates tendered for filing reflect these changes.

Vepco requests waiver of the Commission's notice requirements to allow for an effective date of August 30, 1984.

Copies of the proposed rate were served upon NCEMPA, the North Carolina Utilities Commission and other interested parties.

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 and Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 27, 1984. Portests 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. 84-32789 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. QF85-95-000]

## Ventus Energy Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

December 12, 1984.

On November 19, 1984, Ventus Energy Corp., of 3642 St. Elizabeth Road, Glendale, California 91206 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is located in Riverside County, California and consists of wind turbine generators with a total maximum capacity of 6,426 kW. The facility is expected to be fully operational in December 1984.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 84-32788 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. QF85-87-000]

## M.M.B. Energy Glen Cove Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

December 12, 1984.

On November 13, 1984, M.M.B. Energy Glen Cove Corp of 100 Morris Avenue P.O. Box 960, Glen Cove, New York

11542, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is located at 100 Morris Avenue, Glen Cove, New York 11542 and consists of two 125 ton per day incinerators, two waste heat convection boilers, and a 2.5 MW steam turbine generator. The incinerator fuel is municipal solid waste and sewage sludge, which are the sole energy sources for the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32693 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. QF85-24-000]**

## Oklahoma Vawt Associates; Application for Commission Certification of Qualifying Status of a Small Power Production Facility; Correction

December 12, 1984.

*Correction*

In Docket No. QF85-24-000 appearing in the **Federal Register** issue of November 21, 1984 on page 45922, make the following correction: On page 45922, in the second column, in the second paragraph, line one.

"The 36 megawatt wind facility is" is corrected to read "The 3 megawatt wind facility is".

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-32781 Filed 12-14-84; 8:45 am]

BILLING CODE 6717-01-M

## Office of Hearings and Appeals

## Cases Filed; Week of November 23 Through November 30, 1984

During the Week of November 23 through November 30, 1984, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: December 10, 1984.

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Nov. 23 through Nov. 30, 1984]

| Date | Name and location of applicant | Case No. | Type of submission |
|---|---|---|---|
| Nov. 23, 1984 | Abajo Petroleum, Inc., Monticello, UT | HEE-0108 | Exception to the reporting requirements. If granted: Abajo Petroleum, Inc. would not be required to file Form EIA-782B, "Reseller/Retailer's Monthly Petroleum Product Sales Report." |
| Nov. 27, 1984 | Ball Tire & Gas, Inc., Alpena, MI | HEE-0109 | Exception to the reporting requirements. If granted: Ball Tire & Gas, Inc. would not be required to file Form EIA-782B "Reseller/Retailers' Monthly Petroleum Product Sales Report." |
| Nov. 29, 1984 | Lucky Stores, Inc., Tampa, FL | HEX-0110 | Supplemental order. If granted: A schedule for the convening of an evidentiary hearing would be established pursuant to the Office of Hearings and Appeals' *sua sponte* motion. |
| Do | Transcomm, Inc., Falls Church, VA | HFA-0264 | Appeal of an information request denial. If granted: The November 1, 1984, Freedom of Information Request Denial issued by the DOE Office of Procurement Operations would be rescinded and Transcomm, Inc. would receive access to portions of the Electrotek Concepts, Inc. contract proposal. |

REFUND APPLICATIONS RECEIVED

[Week of Nov. 23 to Nov. 30, 1984]

| Date | Name of refund proceeding/name of refund applicant | Case No. |
|---|---|---|
| Nov. 23, 1984 | Apache Corp./Cities Service Oil & Gas Corp | RF55-1. |
| Do | Gulf/Baker's Gulf Service | RF40-262. |
| Do | Gulf/Metcalf Service Station, Inc | RF40-263. |
| Nov. 26, 1984 | Gulf/Burkhalter Gulf | RF40-264. |
| Do | Gulf/Rishel's Gulf Service | RF40-265. |
| Do | Gulf/Columbia Drive Gulf | RF40-266. |
| Do | Gulf/Champy's Service Tire & Supply, Inc | RF40-267. |
| Do | Gulf/Classic Gulf Service | RF40-268. |
| Do | Gulf/Slocum Gulf Service | RF40-269. |
| Do | Gulf/J.T. Christmas | RF40-270. |
| Do | Gulf/Hastings | RF40-271. |
| Do | Texas Oil & Gas Co./Mobil Oil Corp | RF42-7. |
| Do | Gulf/Goodspeed's Gulf Service | RF40-272. |
| Do | Gulf/Puritan Schaefer Gulf Service | RF40-273. |
| Do | Gary Energy Corp./H.S. Soward & Sons, Inc | RF47-5. |
| Do | Gary Energy Corp./Utah-Colorado Gas, Inc | RF47-6. |
| Do | Gary Energy Corp./Pargas | RF47-7. |
| Do | Amtel/Whitco, Inc | RF46-24. |

REFUND APPLICATIONS RECEIVED—Continued

[Week of Nov. 23 to Nov. 30, 1984]

| Date | Name of refund proceeding/name of refund applicant | Case No. |
|---|---|---|
| Do | Texas Oil & Gas Corp./Excel Corp | RF42-9. |
| Do | Houston Natural Gas Corp./Tenneco Oil Co | RF53-4. |
| Do | Texas Oil & Gas Corp./Commerce, Inc | RF42-6. |
| Nov. 21, 1984 | Texas Oil & Gas Corp./Bruin Corp | RF42-5. |
| Nov. 26, 1984 | Gary/R.M.T. Properties, Inc | RF47-4. |
| Nov. 27, 1984 | Crystal Oil Co./Enterprise Products Co | RF62-1. |
| Do | Texas Oil & Gas Corp./Conoco, Inc | RF42-8. |
| Do | Montana Power Co./Farmers Union Central Exchange | RF45-3. |
| Do | Houston Natural Gas Refund/Enterprise Products Co | RF53-3. |
| Do | Texas Gas Exploration/Enterprise Products Co | RF44-3. |
| Do | Gulf/Agway, Inc | RF40-275. |
| Do | Gulf/Gopher State Truck Stop | RF40-274. |
| Do | Petro-Lewis Corp./Enterprise Products Co | RF63-1. |
| Nov. 28, 1984 | Gulf/Birmingham Auto | RF40-279. |
| Do | Gulf/Martus Brothers | RF40-278. |
| Do | Gulf/Agoura Gulf Service | RF40-277. |
| Do | Gulf/Garden View Gulf Service | RF40-276. |
| Do | Texas Oil & Gas Corp./Farmland Industries | RF42-10. |
| Do | Crystal Oil Co./Farmland Industries, Inc | RF62-2. |
| Do | J.M. Huber Corp./Farmland Industries, Inc | RF64-1. |
| Do | Planet Engineers, Inc./Farmland Ind | RF65-1. |
| Do | Mississippi River Transmission Corp./Kerr-McGee Corp | RF66-1. |
| Nov. 29, 1984 | Gulf/Gilbert J. Plain | RF40-280. |
| Do | Gulf/Helen Hubach | RF40-281. |
| Do | Gulf/Helen Hubach | RF40-282. |
| Do | Montana Power/Chevron U.S.A | RF47-8. |
| Do | Texas Gas Exploration/Chevron, U.S.A | RF44-4. |
| Nov. 28, 1984 | Conoco/Jack Ritter Oil Co | RF34-29. |
| Do | Conoco/Hi-Lo Distributes | RF34-30. |
| May 2, 1984 | Amoco/Farmland Industries, Inc | RF21-12367. |
| Nov. 20, 1984 | Amoco/Illini Standard #8597 | RF21-12368. |
| Nov. 29, 1984 | Gulf/Jacksonville Electric Authority | RF40-283. |
| Do | Gulf/H.C. Thompson Service | RF40-284. |
| Do | Gulf/Fortson Store | RF40-285. |
| Do | Gulf/McCabe Gulf | RF40-286. |
| Do | Gulf/Richter's Bakery | RF40-287. |
| Do | Gulf/Richter's Bakery | RF40-288. |
| Do | Gulf/Richter's Bakery | RF40-289. |
| Do | Gulf/Richter's Bakery | RF40-290. |
| Do | Gulf/Austin Baking Co | RF40-291. |
| Do | Gulf/Austin Baking Co | RF40-292. |
| Do | Gulf/Colonial Cake Co | RF40-293. |
| Do | Gulf/H.P. Harper | RF40-294. |
| Do | Gulf/Al & Jerry's Service Center | RF40-295. |
| Do | Gulf/Johnson & Neighbors Ser | RF40-296. |
| Nov. 30, 1984 | Gulf/Burns Motor Freight | RF40-297. |
| Do | Gulf/Russ's Gulf | RF40-298. |
| Do | Gulf/Mass & Vassar Gulf | RF40-299. |

[FR Doc. 84-32815 Filed 12-14-84; 8:45 am]

BILLING CODE 6450-01-M

## Issuance of Proposed Decision and Order; Period of October 8 Through October 26, 1984

During the period of October 8 through October 26, 1984, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decison and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decison and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decison and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decison and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: December 5, 1984.

**George E. Breznay,**

*Director, Office of Hearings and Appeals.*

*Seneca Oil Co.; Oklahoma City, OK; HEE-0075 Crude Oil*

Seneca Oil Company filed an Application for Exception from the provisons of 10 CFR 212.79(b). The exception request, if granted, would relieve the firm of the obligation to refund certain overcharges resulting from the sales of crude oil in violation of 10 CFR 212.79, as interpreted in DOE ruling 1980-3, 45 FR 48577 (July 21, 1980), defining "newly discovered crude oil." On October 24, 1984, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 84-32813 filed 12-14-84; 8:45 am]

BILLING CODE 6450-01-M

## Objection to Proposed Remedial Orders Filed; Week of October 22 Through October 26, 1984

During the week of October 22 through October 26, 1984, the notice of objection to the proposed remedial order

listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: December 5, 1984.

**George B. Breznay,**

*Director,*

*Office of Hearings and Appeals.*

*Bayport Refining Co., et al.; Dallas, TX; HRO-0255, Crude Oil*

On October 25, 1984, Bayport Refining Co., 2805 Southland Center, Dallas, Texas 75201, filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas field office of the Economic Regulatory Administration issued to the firm on September 20, 1984.

In the PRO, the Dallas Office found that during the period September 1978 through December 1980, Bayport Refining violated the pricing regulations at 10 CFR 212.186 in its resales of crude oil. According to the PRO, the Bayport Refining violation resulted in $11,810,639.84 of overcharges.

[FR Doc. 84-32814 Filed 12-14-84; 8:45 am]

BILLING CODE 6450-01-M

## Implementation of Special Refund Procedures

**AGENCY:** Office Of Hearings and Appeals, Department of Energy.

**ACTION:** Notice of Implementation of Special Refund Procedures.

**SUMMARY:** The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropiate procedures to be followed in refunding three consent order funds totalling $43,714.31 to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving Blex Oil, Inc. (Case Number HEF-0038), Cross Oil Company (Case Number HEF-0058), and Independent Oil and Tire Company (Case Number HEF-0094).

**DATE AND ADDRESS:** Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. All comments should conspicuously display a reference to the appropriate case number.

**FOR FURTHER INFORMATION CONTACT:** Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20582, (202) 252-2860.

**SUPPLEMENTARY INFORMATION:** In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to consent orderes entered into by Blex Oil, Inc., Cross Oil Company, and Independent Oil and Tire Company (hereinafter collectively referred to as the consent order firms). Each consent order involves a particular audit period and a distinct consent order fund as set forth in the Proposed Decision. The consent orders settled possible pricing violations in the consent order firms' sales of refined petroleum porducts to customers during the relevant audit periods.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of the escrow accounts funded by the consent order firms pursuant to the consent orders. The DOE has tentatively decided that the consent order funds should be distributed to those customers of the consent order firms who establish that they were injured by one of the consent order firms' alleged overcharges. Such customers will receive refunds proportionate to the volume of petroleum products they purchased from one of the consent order firms. However, Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the addresss set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, S.W., Washington, D.C. 20265.

Dated: December 10, 1984

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

**Proposed Decision and Order of the Department of Energy**

December 10, 1984.

*Special Refund Procedures*

Name of Firms: Blex Oil, Inc., Cross Oil Company, Independent Oil and Tire Company.

Date of Filing: October 13, 1983.

Case Numbers: HEF-0038; HEF-0058; and HEF-0094.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) of the DOE may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. The ERA filed such a petition on October 13, 1983, requesting that the OHA implement proceedings to distribute the funds received pursuant to Consent Orders entered into by the DOE and the following parties: Blex Oil, Inc. (Blex), Cross Oil Company (Cross), and Independent Oil and Tire Company (Independent) (hereinafter collectively referred to as the consent order firms).

**I. Background**

Each of the consent order firms is a "reseller-retailer" of "refined petroleum products" as these terms were defined in 10 CFR 212.31. ERA audits of the consent order firms revealed possible violations of the Mandatory Petroleum Price Regulations. Subsequently, each of these firms entered into a separate Consent Order with the DOE in order to settle its disputes with the DOE concerning certain sales of refined petroleum products. Each Consent Order refers to the ERA allegations of overcharges, but notes that no findings of violations were made. In addition, each Consent Order states that the consent order firm does not admit that it committed such violations.

Pursuant to these Consent Orders, the firms agreed to pay to the DOE specified amounts in settlement of their potential liability regarding sales to their respective customers during the consent order periods. The firms' payments are currently being held in separate interest-

bearing escrow accounts pending distribution by the DOE. The names and locations of the firms, the settlement amounts, the products covered by the Consent Orders, and the dates of the consent order periods are set forth in Appendix A to this Proposed Decision.

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to readily identify persons who may have been injured by alleged or adjudicated violations, or unable to ascertain the amounts of such persons' injuries. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*).

**II. Proposed Refund Procedures**

We have considered the ERA petition to implement Subpart V proceedings with respect to the three consent order funds and have determined that it is appropriate to establish such proceedings. Insofar as possible, these consent order funds should be distributed to those customers of the consent order firms who were injured by the consent order firms' pricing practices which allegedly were in violation of DOE regulations. The ERA audit files identify a number of customers who purchased petroleum products directly from the consent order firms during the audit periods. The names of these customers are set forth in Appendix B.(*1*) While no specific alleged overcharge amounts are indicated for these customers, in our view they may well have been adversely affected by the alleged overcharges by the consent order firms and should be given notice of this proceeding and an opportunity to request a refund. We also recognize, however, that there may be other purchasers of petroleum products from the consent order firms who were not mentioned in the ERA audit files and who may have been injured by the pricing practices of one of the consent order firms during the relevant consent order period. We therefore propose to establish a claims procedure in which we will accept applications for refund from customers, including those not listed in Appendix B, who can demonstrate that they were injured as a result of any alleged overcharges made by one of the consent order firms during the appropriate consent order period.

Several of the consent order firms' customers are petroleum product resellers, i.e., retailers and wholesalers. We propose that these firms be required to demonstrate that they did not pass on to their customers the price increases implemented by the consent order firm. *See, e.g., Vickers*. In order to qualify for a refund, resellers of refined petroleum products purchased from one of the consent order firms must show that during the consent order period they would have maintained their prices for the products at the same level had the alleged overcharges not occurred.(*2*) While there are a variety of ways to make this showing, a reseller should generally demonstrate that at the time it purchased petroleum products from a consent order firm, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. In addition, the reseller must show that it maintained a "bank" of unrecovered costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices.(*3*) The maintenance of a bank will not, however, automatically establish injury. *See Tenneco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982); *Vickers Energy Corp./Standard Oil Co.*, 10 DOE ¶ 85,036 (1982); *Vickers Energy Corp./Koch Industries, Inc.*, 10 DOE ¶ 85,038 (1982).

As in many prior special refund cases, we will adopt certain presumptions. First, we will adopt a presumption that the alleged overcharges were dispersed equally in all sales of products made by the consent order firms during the consent order periods. The OHA has referred to this presumption in the past as a volumetric refund amount. Second, we will adopt a presumption of injury with respect to small claims.

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> In establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR § 205.282(e). The presumptions we will adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

The volumetric refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by a particular firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact of a firm's pricing practices on an individual purchaser could have been greater, and any purchaser is allowed to file a refund application based on a claim that the impact of the alleged overcharge on it was greater than the pro rata amount determined by the volumetric presumption. *See, e.g., Amtel, Inc.*, 12 DOE ¶ 85,073 at 88,233–34 (1984); *Sid Richardson Carbon and Gasoline Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984).

In each of the three cases being considered here, the information available in the ERA audit files is insufficient to base refunds on the amount each individual applicant was allegedly overcharged. Although the audit files identify a number of customers who purchased petroleum products directly from one of the consent order firms, they do not provide individual alleged overcharge amounts. We therefore propose to use the volumetric method to allocate the consent order fund in each case. To determine the volumetric factor, each consent order fund will be divided by the estimated total volume of petroleum products sold by the consent order firm during the relevant consent order period.(*4*) The per gallon volumetric refund amounts are set forth in Appendix A.(*5*) In each case, this results in a refund amount for each gallon of petroleum products which an applicant purchased from the consent order firm. The interest which has accrued on the money in each escrow account will be added to the refund of each successful claimant in proportion to the size of its refund.

The presumption that reseller claimants seeking smaller refunds were injured by the pricing practices settled in each Consent Order is based on a number of considerations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expenses involved in gathering the types

of data needed to support a detailed claim of injury. In order to provide such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost to the firm of gathering this factual information and the cost to the OHA of analyzing it may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows the OHA to process a large number of refund claims quickly, and use its limited resources more efficiently. Finally, we know that these smaller claimants did purchase covered products from one of the consent order firms and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially. The presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the presumptions we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold level. (*6*) Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consent order firm, or as a dollar refund amount. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. We propose that the same approach be followed in this case. The adoption of a threshold level below which a claimant is not required to submit any further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are especially concerned that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. Since the per gallon refund amount is fairly low in the case of Blex and Independent, and the time period of the consent order was quite distant in the case of Cross, we believe that the establishment of a presumption of injury for all claims of $5,000 or less is reasonable in the present proceeding. (*7*) *See Id., Marion Corp.*, 12 DOE ¶ 85,014 (1984).

In addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers, including businesses that are unrelated to the petroleum industry, were injured by the alleged overcharges settled in the Consent Orders. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein. We have therefore concluded that end-users of petroleum products purchased from one of the consent order firms need only document their purchase volumes from the firm to make a sufficient showing that they were injured by the alleged overcharges.(*8*)

We further propose to establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Amoco; Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982). *See also* 10 CFR 205.286(b).

Refund applications in these proceedings should not be filed until issuance of a final Decision and Order. Detailed procedures for filing applications will be provided in the final Decision and Order. Before disposing of any of the funds received, we intend to publicize the distribution process and to provide an opportunity for any affected party to file a claim. In addition to publishing copies of the proposed and final decisions in the **Federal Register**, copies will be provided to the consent order firms' customers whose names and addresses we have obtained from the ERA audit files. If appropriate, we also intend to publicize this proceeding in local newspapers in the areas where the consent order firms conducted business.

In the event that money remains after all first stage claims have been disposed of, these funds could be distributed in various ways. We will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed.

It Is Therefore Ordered That:

The refund amounts remitted to the Department of Energy by the consent order firms listed in Appendix A to this Decision and Order will be distributed in accordance with the foregoing Decision.

**Footnotes**

(*1*) We currently do not have the addresses of many of the customers identified in the ERA audit files. In order to insure that these customers receive notice of this proceeding, we solicit information concerning the addresses of these firms and individuals.

(*2*) The ERA audit files pertaining to Blex identify four retail outlets which sold motor gasoline supplied by Blex. These outlets appear to be consignees of Blex Oil, rather than independently operated retail outlets. As in previous cases, we will adopt a rebuttable presumption that consignees of a consent order firm experienced no injury as a result of the consent order firm's pricing practices. *See Aztex Energy Co.*, 12 DOE ¶ ——— (November 20, 1984). Accordingly, these four outlets will not be eligible to apply for a refund unless they can show that they operated as independent retailers during Blex's consent order period.

(*3*) Some of the petroleum product sales covered by the Consent Orders occurred subsequent to the amendment of the retailer price rule that eliminated the bank requirement for retailers. *See* 10 CFR 212.93(a)(2), 44 FR 42542 (July 19, 1979) (effective July 15, 1979). Accordingly, retailers will not be required to submit bank information concerning any purchases of petroleum products they may have made after July 15, 1979.

(*4*) Because the ERA audit files do not list the volumes of petroleum products sold by Cross during the entire Cross consent order period, we have extrapolated sales figures for Cross from the available audit data.

(*5*) The Cross Consent Order requires the firm to remit $21,611.69 to the DOE for deposit into an interest-bearing escrow account pending distribution by the DOE. The Consent Order designates $12,553.29 for distribution to retail service stations that purchased and resold Cross motor gasoline, and $9,058.70 for distribution to jobbers that purchased and resold Cross #2 heating oil. In order to carry out the mandate of the Consent Order and to fashion a refund plan which is likely to correspond closely to the injuries experienced, we have calculated a separate per gallon volumetric factor for each portion of the escrow amount, as set forth in Appendix A.

(*6*) We propose that resellers who made only spot purchases from the consent order firms be presumed to have suffered no injury. They would therefore be ineligible for any refund, even a refund at or below the threshold level. As we have previously stated with respect to spot purchasers:

[T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers. *Vickers*, 8 DOE at 85,396–97. *See Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,200 (1982) (hereinafter cited as *Amoco*). The same rationale holds true in the present case. Accordingly, in order to overcome the rebuttable presumption that they were not injured, in addition to the proof of injury required of those resellers claiming more than the threshold amount, any reseller claimants who were spot purchasers must submit additional evidence to establish that they were unable to exercise considerable discretion as to where and when they made the purchase(s) on which their refund claims are based.

(7) Any reseller whose potential refund exceeds the threshold level may elect to apply for a refund based on the threshold amount.

(8) End-user customers who purchased motor gasoline or heating oil directly from Cross during the consent order period should have received a direct refund from Cross, as mandated by the Cross Consent Order. Accordingly, these end-users will not be eligible to apply for a refund in this proceeding, unless they can show that they did not receive a direct refund from Cross.

| Name of firm | Consent order period | Consent order amount | Products covered | Volumetric amount |
|---|---|---|---|---|
| Blex Oil, Inc., 1010 Washington Avenue, Minneapolis, MO 55415. | Jan. 1, 1979–June 30, 1980 | $7,100.00 | Motor gasoline | .000996 |
| Cross Oil Co., 6291 Suburban, Wellstone, MO. | A. Nov. 1, 1973–Jan. 8, 1975 | *$9,058.65 | No. 2 Heating Oil | .009924 |
| | B. Nov. 1, 1973–July 31, 1975 | *13,384.69 | Motor gasoline | .015392 |
| Independent Oil & Tire Company, 39479 Center, Ridge Road, Elyria, OH 44035. | Jan. 1, 1979–Dec. 31, 1979 | *14,170.97 | Motor gasoline and gasohol | .001144 |

*Includes interest that accrued on the consent order amount prior to payment to the DOE.

Appendix B–1

*List of Customers*

*Blex Oil, Inc. No identified customers.*

Appendix B–2

*List of Customers*

*Cross Oil Company:*

Adams Store
Corless
Dock Side Marina
Grover Service
Gordons
Gray
Dave Harness
Mauer Service
Payton
Pete's Service
Pond Motor
Schott's Pontiac
Read's Store
Ron's Service
Riverbend 66 Service Station
Olive Street Road
Chesterfield, MI

Appendix B–3

*List of Customers*

*Independent Oil and Tire Company:*

Ainsley
Bolen Oil
Cochran Oil
Chagrin il
C & D Products
Dalco
Deichler
Dave's Arco
Holland Oil
Lojecks
Mid-Penn
Monroeville Oil
Morgan Truck Stop
Mansfield Truck Plaza
Oil Power Waller
Paul's Arco
Ravenna Oil
Sines & Sines
B. Ullman, Inc.
D. Walters
Weekly Oil
Walker Oil

[FR Doc. 84–32810 Filed 12–14–84; 8:45 am]

BILLING CODE 6450–01–M

## Implementation of Special Refund Procedures

**AGENCY:** Office of Hearings and Appeals, Department of Energy.

**ACTION:** Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

**SUMMARY:** The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $148,250 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving The Boswell Oil Company.

**DATE AND ADDRESS:** Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF–0040.

**FOR FURTHER INFORMATION CONTACT:** Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–2860.

**SUPPLEMENTARY INFORMATION:** In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a consent order entered into by The Boswell Oil Company, which settled possible pricing violations in the firm's sales of motor gasoline, Nos. 2 and 6 fuel oils, and other refined petroleum products to customers during the November 1, 1973 through April 30, 1974 consent order period.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by Boswell pursuant to the consent order. The DOE has tentatively decided that refunds should be granted to claimants who satisfactorily demonstrate that they purchased Boswell petroleum products during the consent order period. Claimants who demonstrate that they were consumers of Boswell petroleum products will be presumed to have absorbed the alleged overcharges and will not be required to provide further evidence of injury to qualify for a refund. With respect to resellers, claimants will be required to establish that they absorbed Boswell's alleged overcharges. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room

1E–234, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Dated: December 10, 1984.

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

**Proposed Decision and Order of the Department of Energy**

*Special Refund Procedures*

December 10, 1984.

Name of Firm: The Boswell Oil Company.

Date of Filing: October 13, 1983.

Case Number: HEF–0040.

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to make refunds in order to remedy the effects of violations of DOE regulations. *See* 10 CFR Part 205, Subpart V. The Subpart V regulations set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received pursuant to a settlement agreement or remedial order. The Subpart V process may be used in situations where the DOE is unable readily to ascertain the persons or firms who may have been injured as a result of alleged or adjudicated violations, or to ascertain the amount of each person's injury. *See Office of Enforcement,* 9 DOE ¶ 82,553 (1982).

**I. Background**

Pursuant to the provsions of Subpart V, on October 13, 1983, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with The Boswell Oil Company (Boswell) on October 21, 1981. Boswell's headquarters are located in Cincinnati, Ohio. The firm operates two petroleum product storage facilities, one in Cincinnati (the Midland Marine terminal) and the other in Dravosburg, Pennsylvania (the Dravosburg terminal). According to the ERA, Boswell is a "reseller-retailer" as that term was defined in 10 CFR 212.31, and was therefore subject to the Mandatory Petroleum Price Regulations set forth in 10 CFR Part 212, Subpart F. An ERA audit of Boswell's operations revealed possible pricing violations in sales of motor gasoline, No. 2 and No. 6 fuel oils, and other refined petroleum products during the audit period from November 1, 1973 through April 30, 1974. On June 30, 1980, a Notice of Probable Violation (NOPV) was issued to Boswell in which the ERA alleged that the firm had overcharged its customers by $690,158.31 in its sales of refined petroleum products during the audit period. In order to settle all claims and disputes between Boswell and the DOE regarding the firm's sales of motor gasoline, No. 2 and No. 6 fuel oils, and other refined petroleum products during the period November 1, 1973 through April 30, 1974, the firm entered into a consent order agreement with the DOE. The consent order refers to the ERA's overcharge allegations, but notes that the issues raised by the NOPV were not adjudicated. Under the terms of the consent order, Boswell agreed to remit $148,250 to the DOE and the ERA agreed to release Boswell from any civil claims that the DOE may have had pertaining to the specified transactions during the audit period.

**II. Proposed Refund Procedures**

We have determined that it is appropriate to establish a special refund proceeding under Subpart V with respect to the Boswell consent order fund. Based upon our experience with Subpart V cases, we believe that the distribution of funds to persons who were adversely affected by the alleged overcharges should generally take place in two stages. In the first stage of the process, payment should be made to persons and firms who file applications for refund and demonstrate that they are entitled to a portion of the funds received by the DOE. After meritorious claims are paid in the first stage, the remaining funds will be distributed through a second stage refund procedure to entities which will indirectly benefit persons and firms who were likely injured but who failed to file claims or do not meet the minimum refund threshold. *See generally Office of Special Counsel,* 10 DOE ¶ 85,048 (1982) (*Amoco*) (refund procedures established for first stage applicants; second stage refund procedures tentatively proposed); *Standard Oil Co., (Indiana)* 11 DOE ¶ 85,185 (1983) (second stage refund procedures established).

With respect to the first stage, we propose that the Boswell consent order fund be distributed to claimants who satisfactorily demonstrate that they were injured by Boswell's pricing practices during the six-month consent order period (November 1, 1973 through April 30, 1974). The audit files indicate that Boswell's customers were generally resellers (including retailers) of motor gasoline and No. 2 fuel oil, and also included industrial end-users of No. 2 and No. 6 fuel oils. The petroleum products purchased by these potential claimants were either purchased directly from Boswell or from firms in a chain of distribution leading back to Boswell.

In order to receive a refund, we propose that each claimant be required to submit a schedule of its monthly purchases of Boswell motor gasoline, No. 2 and No. 6 fuel oils, and other refined petroleum products for the period November 1, 1973 through April 30, 1974. If the product was not purchased directly from Boswell, the claimant must include a statement setting forth the reasons for believing the product originated from Boswell. In addition, a reseller or retailer that files a claim generally will be required to establish that it absorbed the alleged overcharges and was thereby injured. To make this showing, a reseller or retailer will be required to show that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover alleged overcharges associated with purchases from Boswell by increasing its prices. *See Office of Enforcement,* 10 DOE ¶ 85,029 at 88,125 (1982). In addition, it will have to demonstrate that, at the time it purchased the Boswell product, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. *See, e.g., Marion Corp.,* 12 DOE ¶ 85,014 at 88,030 (1984) (*Marion*); *Webster Oil Co.,* 12 DOE ¶ 85,070 at 88,223 (1984) (*Webster*).

As in many prior special refund cases, we will adopt certain presumptions. First, we will adopt a presumption that the alleged overcharges were dispersed equally in all sales of covered products sold by Boswell during the consent order period. The OHA has referred to this presumption in the past as a volumetric refund amount. Second, we will adopt a presumption of injury with respect to small claims.

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> In establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaulation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we will adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable the OHA to consider the refund applications in the most efficient way

possible in view of the limited resources available.

The volumetric refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by a particular firm. In the absence of better information, this assumption is sound because of the manner in which the DOE price regulations required a regulated firm to account for increased costs in determining its prices. However, we also recognize that the impact of a seller's pricing practices on an individual purchaser could have been greater, and any purchaser is allowed to file a refund application based on a claim that the impact of the alleged overcharge on it was greater than the pro rata amount determined by the volumetric presumption. *See, e.g., Amtel Inc.*, 12 DOE ¶ 85,073 at 88,233–34 (1984); *Sid Richardson Carbon and Gasoline Co./ Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984).

In applying the volumetric method, refunds are computed by multiplying an applicant's gallonage by the per gallon volumetric refund amount, which is calculated by dividing the settlement amount by the total volume of covered products sold by the consent order firm during the consent order period. In this case, the volumetric amount is $0.001940 ($148,250 remitted to the DOE divided by 76,400,000 gallons of covered products sold during the consent order period). An eligible applicant will also receive a proportionate share of the interest accrued on the consent order fund since its remittance to the DOE.

In addition, we propose to presume that small purchasers were injured to some extent by the pricing practices which led to the issuance of the consent order. *See, e.g., Webster; Uban Oil Co.* 9 DOE ¶ 82,541 (1982) (*Uban*). A reseller or retailer claimant will not be required to submit any further proof of injury if its refund claim is below a threshold level. The presumption that reseller claimants seeking smaller refunds were injured by the pricing practices settled in the Boswell consent order is based on a number of considerations. As we have noted in many previous refund decisions, there may be considerable expense involved in gathering the type of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed financial information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive. In the case of small claims, the cost to the firm of gathering this factual information, and the cost to the OHA of analyzing it, may exceed the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows the OHA to process a large number of routine refund claims quickly, and to utilize its limited resources more efficiently. Finally, these smaller claimants did purchase covered petroleum products from Boswell and were in the chain of distribution where the alleged overcharges occured. Therefore they bore some impact of the alleged overcharges at least initially. The presumption eliminates the need for a claimant to submit, and the OHA to analyze, detailed proof of what happened downstream of that initial impact.

Under the presumptions we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below the threshold level of $5,000. Previous OHA refund decisions have expressed the threshold either in terms of a purchase volume figure from the consenting form, or as a dollar refund figure. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984) (*Texas Oil*), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. We propose that the same approach be followed in this case. The adoption of a threshold level below which a claimant does not have to submit further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are specially concerned that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be granted. In this case, the per gallon volumetric amount is fairly low, and the consent order covers only a six-month period more than 10 years ago. Accordingly, we believe that the establishment of a presumption of injury for all claims of $5,000 or less is reasonable. *Id.; see also Marion. (1)*

In addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers, including businesses that are unrelated to the petroleum industry, were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases with reference to cost increases. For these reasons, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum goods and services would be beyond the scope of a non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983); *Marion; Texas Oil*, 12 DOE at 88,209. We have therefore concluded that end-users of Boswell petroleum products need only document their purchase volumes from Boswell to make a sufficient showing that they were injured by the alleged overcharges. *See generally Thornton Oil Corp.*, 12 DOE ¶ No. HEF-0497 (November 14, 1984); *Standard Oil Company (Indiana) / Union Camp Corp.*, 11 DOE ¶ 85,007 (1983); *Standard Oil Company (Indiana) / Elgin, Joilet, and Eastern Railway*, 11 DOE ¶ 85,105 (1983)

As in prior special refund cases, we propose not to grant refunds for less than $15.00 (the approximate cost to the government of issuing refund checks) because the cost to the public of issuing such small refunds exceeds the restitutionary benefits. Which may be achieved. *See e.g., Amoco*, 10 DOE at 88,214; *Uban*, 9 DOE at 85,225.

Generally in special refund proceedings, we attempt to identify specific customers who may have been injured by the consent order firm's pricing practices and provide those customers with notice of the refund proceeding. The Boswell audit files provide the names and addresses of seven known customers, as well as a listing of 43 firms who were customers during early 1973, but may not have been purchasers during the consent order period. *See* Appendices A and B. Since the firms may have been injured by Boswell's alleged overcharges, we intend to make additional efforts to identify those firms. (*2*) In this regard, we have sought Boswell's cooperation in identifying and apprising such customers of this special refund proceeding.

After all meritorious claimants have received the share of the Boswell settlement fund to which they are entitled, the settlement fund, while diminished, may not be exhausted. Any remainder of the settlement fund will be distributed during a second stage of the refund process.

It is Therefore Ordered That:

The refund amount remitted to the Department of Energy by The Boswell Oil Company pursuant to the Consent Order executed on October 21, 1981, will be distributed in accordance with the foregoing Decision.

**Footnotes**

(1) If a reseller or retailer made only spot purchases from Boswell, however, we propose that, absent evidence to the contrary, it should not receive a refund because it is not likely to have suffered an injury. As we have previously stated with respect to spot purchasers:

[T]hose customers tend to have considerable discretion in where and when to make spot purchases and would therefore not have made spot purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

*Office of Enforcement*, 8 DOE ¶82,597 at 85,396–97 (1981). We believe that the same rationale holds true in the present case. Accordingly, in addition to demonstrating injury, a spot purchaser which files a claim should submit evidence to establish that it is inappropriate to presume that the firm had discretion as to where and when it made the purchase(s) on which its refund claim is based.

(2) We currently do not have the addresses of 23 of the 1973 customers listed in the ERA audit files. *See* Appendix B. In order to ensure that these customers receive notice of this proceeding, we solicit information concerning the addresses of these firms.

**Appendix A**

*Boswell's 1973 Customers, addresses known*

Air Products, Route 28, Pittsburgh, PA 15219
Armoco Steel Company, 703 Curtis Street, Middletown, OH 45042
Barton Brands, Barton Road, Bardstown, KY 40004
Champion Paper Company, 601 North B, Hamilton, OH 45011
Clark Oil Company, 300 S.W., End Avenue, Dayton, OH 45426
Commerce Oil Corp., 10 Rockefeller Plaza, New York, NY 10020
Crucible, Inc., P.O. Box 226, Midland, PA 15059
Dana Corporation, 2700 East Plum, New Castle, IN 47362
Emery Industries, Carew Tower, Cincinnati, OH
Foster Forbes, East Charles, Marion, IN 46952
General Motors, Inland Division, 2701 Home Avenue, Dayton, OH 45417
Gold Circle Stores, 8755 Colerain Avenue, Cincinnati, OH 45239
Harris-Thomas Drop Forge, 1400 East 1st Street, Dayton, OH 45403
Mead Corporation, South Paint, Chillicothe, OH 45601
Monsanto Company, River Road, Addyston, OH 45001
Ohio Brass Company, 380 North Main Street, Mansfield, OH 44903
Quaker State Oil Refining Corp., Quaker State Building, Oil City, PA 16301
R & W Oil Products, 440 West 5th Avenue, McKeesport, PA 15132
Randall Company, Randall Street, Greensburg, IN 47240
Reilly Tar & Chemical, 1500 S. Tibbs Avenue, Indianapolis, IN 46217
Sinclair Koppers, P.O. Box 219, Bridgeville, PA 15017
Standard Oil Company, 20600 Chagrin Boulevard, Cleveland, OH 44122
Sorg Paper Company, 901 Manchester, Middletown, OH 45042
Susan Rockwell, Esq., U.S. Steel Corp., 600 Grant Street, Pittsburgh, PA 15230
Volney Felt Mills, West 8, Brookville, IN 47012
Wagoner Gas & Oil, 178 West 5th Avenue, McKeesport, PA 15132
Weirton Steel, P.O. Box 431, Weirton, WV 26062

**Appendix B**

*Boswell's 1973 Customers, Addresses Unknown*

Belle Vernon Oil
Bernard Miller
Best Oil Co.
Brite Oil
C. Block
C.E. Glass
Campbell Bard
Diamond International
E.C. Smith
Gil Products
Golden Flame
Green Line Steamers
Harrison Steel Castings
Industrial Oil Co.
Jenkins Atlantic
King & Keeny
Logan—Long
Paul Corry Construction
Pittron
Standard Terminal
Suchko
The Flintcote Co.
Univerisal Oil

[FR Doc. 84-32811 Filed 12-14-84; 8:45 am]
BILLING CODE 6450-01

## Implementation of Special Refund Procedures

**AGENCY:** Office of Hearings and Appeals, Department of Energy.

**ACTION:** Notice of Implementation of Special Refund Procedures.

**SUMMARY:** The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $400,000 obtained as the result of a consent order which the DOE entered into with Richards Oil Company, a reseller of petroleum products located in Savage, Minnesota.

**DATE AND ADDRESS:** Applications for refund of a portion of the Richards consent order funds must be received within 90 days of publication of this notice in the **Federal Register**. All applications should refer to Case Number HEF–0165 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

**FOR FURTHER INFORMATION CONTACT:** Amy Resner, Office of Hearings and Appeals, S.W., Washington, D.C. 20585, (202) 252–6602.

**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 relates to a consent order entered into by Richard Oil Company, which settled possible pricing violations in the firm's sales of refined petroleum products to its customers during the period November 1, 1973 through January 31, 1976.

The Decision sets forth procedures and standards that the DOE has formulated to distribute the contents of an escrow account funded by Richards pursuant to the consent order. The DOE has decided that a portion of the consent order funds should be distributed to thirty-two first purchasers after each has filed an application for refund. These purchasers were identified by a DOE audit and alloted funds based on findings and presumptions of injury which the DOE has utilized in past proceedings. In addition, applications for refund will be accepted from purchasers not identified by the DOE audit.

A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the Richards consent order funds was issued on August 20, 1984. 49 FR 35235 (September 6, 1984).

As the Decision and Order published with this Notice indicates, applications for refunds may now be filed by customers who purchased petroleum products from Richards during the audit period. Applications will be accepted provided they are received no later than 90 days after publication of this Decision and Order in the **Federal Register**. The specific information

required in an application for refund is set forth in the Decision and Order.

Dated: December 10, 1984.

George B. Breznay,

*Director, Office of Hearings and Appeals.*

**Decision and Order of the Department of Energy**

*Special Refund Procedures*

December 10, 1984.

Name of Petitioner: Richards Oil Company, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF–0165.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA), on October 13, 1983, filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA). The petition request that the OHA formulate and implement procedures for the distribution of funds received in connection with a consent order that ERA entered into with Richards Oil Company, Inc. (Richards).

**I. Background**

Richards is a "reseller" of "covered products," as those terms were defined in 10 CFR 212.31, and is located in Savage, Minnesota. A DOE audit of the firm's records revealed possible pricing violations amounting to $1,026,222.50 with respect to sales of No. 2 fuel oil and Nos. 4, 5, and 6 residual fuel oil, during the period November 1, 1973 through January 31, 1976. In order to settle all claims and disputes between Richards and the DOE regarding the firm's sales of these refined petroleum products during the audit period, Richards and the DOE entered into a consent order on June 15, 1979 (modified on March 17, 1980). The Consent Order refers to the ERA's allegations of overcharges, but notes that no findings of violation were made. Additionally, the Consent Order states that the consent order firm does not admit that it committed any such violations. Finally, according to the Richards consent order, the firm agreed to deposit $400,000, plus interest, into an interest bearing escrow account for ultimate distribution by DOE. This decision concerns the distribution of the consent order amount plus accrued interest to date. (*1*)

On August 20, 1984, we issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the Richards consent order funds. 49 FR 35235 (September 6, 1984). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries which were probably suffered as a result of alleged or actual violations of the DOE regulations. In order to effect restitution in this proceeding, we tentatively determined to rely in part on the information contained in the ERA audit file. We observed that this approach was warranted based upon our experience in prior Subpart V cases where all or most of the purchasers of the firm's products are identified in the audit file, *see, e.g., Marion Corp.*, 12 DOE ¶ 85.014 (1984) (*Marion*). We also noted that under such circumstances, a more precise determination with respect to the identity of the allegedly overcharged parties was possible. At the same time, we recognized that there may have been other purchasers who were not identified by the ERA audit, who were possibly injured as a result of Richards's pricing practices during the audit period, and who would therefore be entitled to a portion of the consent order funds.

A copy of the PD&O was published in the **Federal Register** and comments were solicited regarding the proposed refund procedures. In addition, a copy of the PD&O was sent to each purchaser identified in the ERA audit file.(*2*) While none of Richards's customers filed comments on the proposed procedures, comments were filed on behalf of the State of New Mexico and the State of North Carolina. However, these comments discuss the distribution of any residual funds in a subsequent proceeding. The purpose of this Decision and Order is limited to establishing procedures to be used for filing and processing claims in the first stage of the Richards refund proceeding. This Decision sets forth the information that a purchaser of Richards products should submit in an Application for Refund in order to establish eligibility for a portion of the consent order funds. The formulation of procedures for the final disposition of any remaining funds will necessarily depend on the size of the fund. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Therefore, it would be premature for us to address at this time the issues raised by the states' comments concerning the disposition of any funds remaining after all the meritorious first-stage claims have been paid.(*3*)

**II. Refund Procedures**

The procedural regulations of the DOE set forth general guidelines to be used by the OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process is intended to be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), *and Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

In the PD&O we stated that during DOE's audit of Richards, thirty-four first purchasers were identified as having allegedly been overcharged. We recognize that the DOE audit file does not provide conclusive evidence as to the identity of possible refund recipients or the amount of money that they should receive in a Subpart V proceeding. *See Armstrong and Associates/City of San Antonio*, 10 DOE ¶85,050 at 88, 259 (1983). Nevertheless, the information contained in the audit file can be used for guidance in fashioning a refund plan which is likely to correspond more closely to the injuries probably experienced than would a distribution plan based solely on a volumetric approach. *Marion* at 88,031. In previous cases of this type, we have proposed that the lists of customer names and alleged overcharges attributed to each which were provided by the ERA audit should be utilized in reaching a determination on how the funds in the escrow account should be distributed. *See, e.g., Bob's Oil Co.*, 12 DOE ¶ 85,024 (1984); *Brown Oil Co.*, 12 DOE ¶ 85,028 (1984). The thirty-four first purchasers identified by the audit, along with the share of settlement amount allotted to each, are listed in the Appendix.

As we stated in the PD&O, besides considering the information which the audit file provides, we will also make certain findings and adopt certain presumptions in order to distribute the escrow accounts in this case. Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations state that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions and findings we will adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable the OHA to consider the

refund applications in the most efficient way possible in view of the limited resources available. As in previous special refund procedures, we are making a finding in this case that end-users or ultimate consumers were injured by the alleged overcharges settled in the consent order. In addition, we will adopt a presumption that spot purchasers were generally not injured by alleged overcharges, and are therefore not entitled to receive refunds from consent order funds.

End-users or ultimate consumers, unlike regulated firms in the petroleum industry, generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984) and cases cited therein. We have therefore concluded that end-users of Richards petroleum products need only document their purchase volumes from Richards to make a sufficient showing that they were injured by the alleged overcharges. In the PD&O we stated that after analysis of the information in the record, thirty-two of the customers listed on the Appendix appeared to be end-users of Richards products.

As we stated in the PD&O, the presumption that claimants who were spot purchasers are not entitled to refunds from consent order funds is based on the rationale that spot purchasers are presumed not to have been injured by a supplier's pricing violations. *See Office of Enforcement*, 8 DOE ¶ 82,597 (1981). As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they are able to pass through the full amount of [the firm's] quoted selling price at the time of purchase of their own customers.

*Eddy Refining Co.*, Case No. HEF-0206 (November 7, 1984) (proposed decision) 49 FR 45645.

The record in this proceeding reveals that two of Richards customers, Boswell Oil (Boswell), and Midwest Industrial Fuels (Midwest), made what appear to be only spot purchases of No. 6 residual fuel oil from Richards during the consent order period. As we stated in the PD&O, we have therefore determined that the Richards consent order funds should not be distributed to Boswell or Midwest. We will, however, give Boswell and Midwest an opportunity to present evidence to rebut this presumption and establish the extent to which each was injured as a result of its purchase of No. 6 residual fuel oil from Richards during the consent order period.

On the basis of the information in the record, and after adopting a finding and presumption of injury with respect to ultimate consumers and spot purchasers, refunds will be authorized to thirty-two of the purchasers listed in the Appendix, for the shares of the settlement amount indicated, plus a proportionate share of the accrued interest to date.(4) As we explained in the PD&O, we believe that using the information in the ERA audit file along with certain findings and presumptions in order to distribute the Richards escrow funds to the identified purchasers, is equitable, administratively efficient, and the most appropriate method of accomplishing restitution in this proceeding. However, in order to actually receive a refund, each customer will still be required to file an application for refund in this proceeding (*see* discussion *infra*). If additional meritorious claims are filed, we will adjust the figures listed in the Appendix accordingly. Actual refunds will be determined only after analyzing all appropriate claims.(5) Finally, as we indicated in the PD&O, we will establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). *See also* 10 CFR 205.286(b). Other than the states' comments discussed above, no comments were received with regard to the refund procedures proposed in the PD&O. Accordingly, for the reasons stated in the PD&O we will implement those proposals.

### III. Applications for Refund

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the Richards consent order funds. Accordingly, we shall now accept applications for refunds from customers who purchased petroleum products from Richards during the audit period. As we proposed, the consent order funds will be distributed to the firms that the ERA alleged in its audit were overcharged by Richards, provided each files an application, as well as to other eligible customers of Richards who apply for a refund.

In order to receive a refund each claimant will be required to submit with its application, either a schedule of its monthly purchases of petroleum products from Richards, or to submit a statement verifying that it purchased petroleum products from Richards and is willing to rely on the data in the audit file. Claimants must indicate, as well, whether they have previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying this proceeding. Purchasers not identified by the ERA audit will be required to provide specific information concerning the date, place, and volume or product purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged. A purchaser must indicate, as well, how it used the Richards product, *i.e.*, whether it was a reseller or ultimate consumer. Each applicant must also state whether there has been a change in ownership of the firm since the audit period, and must provide the names and addresses of any other owners. If there has been a change in ownership, the applicant should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund.

All applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register**. A copy of each application will be available for public inspection in the Public Document Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted. Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name and telephone number of a person who may be contacted by this Office for additional information concerning the application. All applications should refer to Case Number HEF-0165 and should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585.

It Is Therefore Ordered That:

(1) Applications for refunds from the funds remitted to the Department of Energy by Richards Oil Company, Inc. pursuant to the consent order executed on June 15, 1979, may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the Federal Register.

Date: December 10, 1984.

George B. Breznay,

*Director, Office of Hearings and Appeals.*

Footnotes

(1) Richards paid $444,412.22, including interest, to the DOE. The escrow account, along with accrued interest, totaled approximately $637,374.22 as of November 2, 1984.

(2) The copies of the PD&O which we sent to two identified purchasers, MN&S Railway, and A. V. McDonald Co., were returned unclaimed. We attempted to contact these purchasers, but were unsuccessful in locating either. While copies of this Final Decision and Order will not be sent to these two customers, either may still submit an application for refund in this proceeding

(3) Furthermore, these comments have virtually no bearing on this proceeding. As we have stated previously, we request states to participate only in those cases where they can demonstrate a significant interest and in which they can participate in a meaningful and constructive way. We note that in this instance there is no apparent connection between the violations alleged in this proceeding and the interests of New Mexico and North Carolina, or their respective citizens. The refined petroleum products in this case were sold primarily in the State of Minnesota.

(4) The share of the escrow fund which the listed puchasers may receive represents 39% of the amount each was allegedly overcharged, and is consistent with the terms of the consent order, which settled for 39% of the total amount of alleged overcharges identified by the audit.

(5) Purchasers identified in the ERA audit as having allegedly been overcharged may also submit information to show that they should receive larger refunds than those indicated in the Appendix.

Appendix

| First purchasers | Portion of settlement amount* |
|---|---|
| A & L Laboratories, 1001 Glenwood Avenue, Minneapolis, MN 55405 | $98.22 |
| American Linen Services, 700 Industrial Blvd., NE., Minneapolis, MN 55413 | 2,676.69 |
| Armour Food Company, 238 Chester Street, St. Paul, MN 55107 | 315.53 |
| Boswell Oil, Central Trust Tower, Cincinnati, OH 45202 | 6,888.39 |
| Brown Company (now d/b/a Pope & Talbot, Inc.), 1200 Forest Street, Eau Claire, WI 54701, Att: Donald A. Mecrier, Operation Controller | 15,211.79 |
| Cargill, Inc., Post Office Box 1139, Burnsville, MN 55337 | 10,033.94 |
| Dayton's 700 Nicollet Mall, Minneapolis, MN 55402 | 5,819.13 |
| Donaldson's, Att: Gregory Binkley, 600 Nicollet Mall, Minneapolis, MN 55402 | 3,016.67 |
| Duluth AFB (Defense Fuel Supply Center), Cameron Station, Alexandria, VA 22314 | 35,065.46 |
| Farmers Co-op, c/o Adolph Schuman, 715 Madison Ave., S., Box 866, Eyota, MN 55934 | 1,125.25 |
| Flour City Architectural Metals, 2637 27th Ave. South, Minneapolis, MN | 1,844.76 |
| Ford Motor Company, 966 S. Mississippi River Blvd., St. Paul, MN 55116 | 14,571.83 |
| Fremont Creamery, Utica, MN 55979 | 1,593.22 |
| Honeymead Products, 704 Minneopa Road, Mankato, MN 56001 | 11,471.17 |
| Hyatt Lodge, 41 North 10th, Minneapolis, MN 55429 | 80.44 |
| Joslyn Man. Co., 49th & France North, Minneapolis, MN 55429 | 339.09 |
| Local Roofing, Eau Claire, WI 54703 | 8,298.06 |
| MN and S Railway, 911 Hennepin Avenue, Minneapolis, MN 55414 | 174.21 |
| A.Y. McDonald Co., 8225 3rd Street, Minneapolis, MN 55415 | 2,034.07 |
| Mid American Dairymen, Inc., 2424 Territorial Road, St. Paul, MN 55114, Att: Wayne H. Hoecker | 13,447.02 |
| Midwest Industrial Fuels, 615 Summer Street, La Crosse, WI 54601 | 563.51 |
| Munsingwear, Inc., 719 Glenwood Avenue, Minneapolis, MN 55440 | 13,898.55 |
| New London Concrete, New London, MN 56273 | 1,020.37 |
| Owatonna Public Utilities, 208 S. Walnut Street, Owatonna, MN 55060 | 2,159.84 |
| Owens Illinois, Shakopee, MN 55379 | 1,523.00 |
| Paper Calmenson, Highway 280 and Highway 36, St. Paul, MN 55165 | 3,060.67 |
| St. Francis Campus Service, 8th Avenue and 2nd Street, Little Falls, MN 56345 | 6,621.30 |
| St. Paul-Ramsey Hospital, c/o Ramsey County Attorney, 40 Jackson, St. Paul, MN 55101 | 8,826.69 |
| Sears, 2929 Elliot Avenue South, Department 206, Minneapolis, MN 55407 | 8,463.39 |
| State of Minnesota, 50 Sherburne Avenue, St. Paul, MN 55155 | 258,879.89 |
| Stevens County Court House, Morris, MN 56207 | 2,623.37 |
| Waste Research, Eau Claire, WI 54703 | 339.09 |
| Western Electric, 3100 East 28th Street, Minneapolis, MN 55406 | 1,102.59 |
| Ziegler, Inc., 901 W. 94th Street, Minneapolis, MN 55420 | 1,223.02 |

*Includes both principal and interest as of January 2, 1982. Actual refunds will also include the additional interest which has accrued on these amounts since DOE received the Richards consent order funds.

[FR Doc. 84-32812 Filed 12-14-84; 8:45 am]

BILLING CODE 6450-01-M

## Southeastern Power Administration

## Proposed Short-term Minor Rate Adjustment, and Opportunity for Public Review and Comment

**AGENCY:** Southeastern Power Administration (Southeastern), DOE.

**ACTION:** Notice for proposed short-term minor rate adjustment for Alabama Electric Cooperative for the sale of power from the Georgia-Alabama System of Projects, and opportunity for review and comment.

**SUMMARY:** Southeastern proposes to implement an additional schedule of the rates and charges applicable to the sale of power to Alabama Electric Cooperative from the Georgia-Alabama System of Projects effective for a one-year period, October 1, 1984, through September 30, 1985.

Opportunities will be made available for interested persons to submit written comments. Southeastern will evaluate all comments received in this process.

**DATE:** Written comments are due on or before January 21, 1985.

**ADDRESSES:** Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635.

**FOR FURTHER INFORMATION CONTACT:** Leon Jourolmon, Jr., Director, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, (404) 283-3261.

Discussion

The need for the development of this additional rate schedule for power sold to Alabama Electric Cooperative from the Georgia-Alabama System of Projects results from the temporary extension of prior contractual arrangements. Existing contracts were extended to allow time to complete negotiation of long-term contracts based on the new power marketing policy. The Rate Schedule applicable to Alabama Electric Cooperative, ALA-1-C, which was in effect prior to October 1, 1984, as well as the present contract which was expected to expire prior to September 30, 1984, included provisions for sale of standby capacity. The replacement contract will not include a provision for sale of standby capacity and therefore Rate Schedule ALA-1-D did not include rates for standby capacity.

Southeastern plans to establish a new rate schedule ALA-2-A which will provide a rate for standby capacity for the interim period before the new contract is implemented. The Department of Energy delegation Order Number 0204-108 delegates to the Administrator the authority to develop and place short-term minor rates into effect on a final basis. Unless there are persuasive comments to the contrary, Southeastern plans to use this method for Rate Schedule ALA-2-A

If there are no substantive comments created by this notice of proposed short-term minor rate adjustment concerning the proposed rate schedule, there will be no further notification in the Federal Register when the rates are approved on a final basis.

A copy of Rate Schedule ALA-2-A is available for examination at the Samuel Elbert Building, Elberton, Georgia 30635,

or copies may be secured upon request of interested parties.

Issued at Elberton, Georgia, December 6, 1984.

**Harry C. Geisinger,**

*Administrator.*

[FR Doc. 84-32809 Filed 12-14-84; 8:45 am]

BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

**[OPPE-FRL-2732-2]**

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget for review. The ICR describes the nature of the solicitation and the expected impact, and, where appropriate, includes the actual data collection instrument. The following ICRs are available to the public for review and comment.

**FOR FURTHER INFORMATION CONTACT:** Nanette Liepman (PM-223); Office of Standards and Regulations; Regulation and Information Management Division; U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

**SUPPLEMENTARY INFORMATION:**

**Water Programs**

*National Pollutant Discharge Elimination System (NPDES)*

• Title: NPDES Discharge Monitoring Report (EPA #0229).

Abstract: Facilities discharging any pollutant into national waters must obtain an NPDES permit, monitor discharges, and report at least annually to EPA or the designated state agency. The report is used to determine compliance with permit conditions, and to support possible enforcement action.

Respondents: Businesses, publicly owned treatment works and other facilities discharging wastewater.

**Agency PRA Clearance Requests Completed by OMB**

EPA #0283, Wastewater Permit Quarterly Noncompliance Report, was approved 10/22/84 (OMB #2040-0082: expires 4/30/85).

EPA #1042, Hazardous Waste as Fuel/Used Oil Survey, was approved 11/21/84 (OMB #2050-0019: expires 12/31/84).

EPA #1105, Examination of Costs for Related Water Systems, was approved 10/21/84 (OMB #2080-0007: expires 9/30/85).

EPA #1204, Notification of Unreasonable Adverse Effects, was approved 10/21/84 (OMB #2070-0039: expires 11/30/87).

EPA #1233, Application for Loan/Grant Under the Asbestos School Hazard Abatement Act of 1984, was approved 11/19/84 (OMB #2070-0062: expires 8/31/85).

EPA #0994, Survey Report on Great Lakes Beach Closings, was approved 11/30/84 (OMB #2090-0003: expires 7/31/85).

Comments on all parts of this notice should be sent to:

Nanette Liepman (PM-223), U.S. Environmental Protection Agency, Office of Standards and Regulations, Regulation & Information Management Division, 401 M Street, SW., Washington, D.C. 20460

and

Rick Otis, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503.

Dated: December 10, 1984.

**Daniel J. Fiorino,**

*Acting Director, Regulation and Information Management Division.*

[FR Doc. 84-32812 Filed 12-14-84; 8:45 am]

BILLING CODE 6560-50-M

**[A-10-FRL-2736-8]**

### Issuance of PSD Permit to the Potlatch Corp.

Notice is hereby given that on December 17, 1984, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit to the Potlatch Corporation to construct a recovery boiler at the Lewiston, Idaho, mill.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulation, subject to certain conditions specified in the permit.

Copies of the permit are available for public inspection upon request at the following location: Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Room 11D, M/S 532, Seattle, Washington 98101.

**FOR FURTHER INFORMATION CONTACT:** Ray Nye, (206) 442-8574.

Dated: December 3, 1984.

**Randall F. Smith,**

*Acting Director, Air and Toxics Division.*

[FR Doc. 84-32724 Filed 12-14-84; 8:45 am]

BILLING CODE 6560-50

## FEDERAL COMMUNICATIONS COMMISSION

### Caballero Spanish Radio, Inc., et al.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

| Applicant, city, and State | File No. | MM Docket No. |
|---|---|---|
| A. Caballero Spanish Radio, Inc.; Bakersfield, CA. | BPH-831202AD | 84-967 |
| B. Glenn L. Orsburn; Bakersfield, CA. | BPH-830526AA | 84-968 |
| C. Louis B. Burke, Jr.; Bakersfield, CA. | BPH-830620AA | 84-969 |
| D. Margaret Garza; Bakersfield, CA. | BPH-831202AG | 84-970 |
| E. Kern Communications Co.; Bakersfield, CA. | BPH-831202AX | 84-971 |

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 Fed. Reg. 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

*Issue Heading and Applicant(s)*

1. (See Appendix), C
2. Air Hazard, A, C, D
3. Comparative, A, B, C, D, E
4. Ultimate, A, B, C, D, E

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919

M Street, N.W., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

*Assistant Chief, Audio Services Division, Mass Media Bureau.*

Appendix

*Issue*

1. If a final environmental impact statement is issued with respect to C (Burke) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by § 1.1301–1319 of the Commission's Rules; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 84–32689 Filed 12–14–84; 8:45 am]

BILLING CODE 6712–01–M

## Federal-State Joint Board; Meeting

December 12, 1984.

The Federal-State Joint Board will hold a meeting on Wednesday, December 19, 1984, on the subject of *Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board CC Docket No. 80–286. The Joint Board will consider separations issues including questions raised by the New York State Department of Public Service Petition concerning the billing inquiry contact factor.* This meeting is open to the public and will commence following the Open and Closed Commission Meetings, in Room 856, at 1919 M Street, NW., Washington, D.C.

Additional information concerning this meeting may be obtained from Claudia Pabo, of the Common Carrier Bureau, telephone number (202) 632–9342.

William J. Tricarico,

*Federal Communications Commission.*

[FR Doc. 84–32494 Filed 12–14–84; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket Nos. 84–1098, et al.; File Nos. BR–43, et al.]

## RKO General, Inc., et al.; Hearing Designation Order

In re Applications of:

| | |
|---|---|
| RKO General, Inc. (KFRC), San Francisco, California. | MM Docket No. 84–1098; File No. BR–43. |

For Renewal of License.

| | |
|---|---|
| Gold Coast Broadcasting, Inc., San Francisco, California. | MM Docket No. 84–1099; File No. BP–80090AL. |
| Paul J. Growald, San Francisco, California. | MM Docket No. 84–1100; File No. BP–830509AE. |
| South Jersey Radio, Inc., Richmond, California. | MM Docket No. 84–1101; File No. BP–830511AG. |
| Horizon Communications, Inc., San Francisco, California. | MM Docket No. 84–1102; File No. BP–830511AH. |
| Bryan Benware, San Francisco, California. | MM Docket No. 84–1103; File No. BP–830511AK. |
| N.T. Media Company, San Francisco, California. | MM Docket No. 84–1104; File No. BP–830512AN. |
| Presidio Broadcasters Ltd., partnership, San Francisco, California. | MM Docket No. 84–1105; File No. BP–830512AO. |
| City Broadcasting Company, Inc., San Francisco, California. | MM Docket No. 84–1106; File No. BP–830512AQ. |
| Stephen E. Powell, San Francisco, California. | MM Docket No. 84–1107; File No. BP–830512AB. |
| Women in Broadcasting, Corporation, San Francisco, California. | MM Docket No. 84–1108; File No. BP–830512AT. |
| First City Communications, Inc., San Francisco, California. | MM Docket No. 84–1109; File No. BP–830512AU. |
| Gold Mountain Broadcasting Co., San Francisco, California. | MM Docket No. 84–1110; File No. BP–830512BX. |
| Cozzin Communications Corporation, Richmond, California. | MM Docket No. 84–1111; File No. BP–830512BQ. |

For Construction Permit.

Adopted: November 8, 1984.

Released: December 11, 1984.

By the Commission.

1. The Commission has under consideration the license renewal application of RKO General, Inc. (RKO), for Station KFRC, San Francisco, California,[1] and the above-captioned mutually exclusive applications to operate on the same channel with identical facilities. In addition, we have before us motions for leave to amend the accompanying amendments filed by RKO [2] and South Jersey Radio, Inc. (South Jersey),[3] and related pleadings. In view of the matters already being considered in the KHJ–TV case, note 1, *supra*, and in view of the fact that those matters may have a bearing upon the ultimate resolution of this case, we believe that it would be premature to commence any consideration of either RKO's qualifications or the comparative elements of the applicants' proposals, pending the outcome of the KHJ–TV case. Accordingly, in the interest of managing and ordering our docket of adjudicatory proceedings so as to permit the most efficient and effective utilization of Commission resources, we direct the parties to deal first with any petitions to enlarge issues and/or basic qualifying issues that involve the mutually exclusive applicants (i.e., applicants other than RKO) who seek construction permits to operate on the channel(s) now held by RKO. Upon completion of all appropriate proceedings, including such evidentiary hearings as may be warranted, relating to these questions concerning the mutually exclusive applications for construction permits, the presiding Administrative Law Judge should so inform the Commission and await guidance from the Commission before setting the date for filing any proposed findings and conclusions or going forward with any further proceedings. In other cases involving multiple license owners, we have assigned all of the proceedings to a single Administrative Law Judge for the purpose of considering the impact of common qualifications questions on each of the owner's stations, *e.g., Intercontinental Radio, Inc.*, 88 FCC 2d 819 (1981). Here, we have already made provision for consideration of the questions concerning RKO's overall qualifications by a single ALJ in the Los Angeles, California, KHJ–TV, proceeding. Thus, the procedures used in cases such as *Intercontinental, supra*, are unnecessary for the instant proceeding. Indeed, the *Intercontinental* approach, if applied here, involving substantial numbers of comparative hearings and competing applicants presided over by a single Judge, will inevitably delay resolution of these matters. Instead, we believe that the interests of administrative efficiency will be better served by providing for assignment of a presiding Administrative Law Judge for this proceeding by the Chief Administrative Law Judge in accordance with his

[1] We have designated the license renewal application of RKO's Station KHJ–TV, Los Angeles, California, as the forum for inquiring into the impact of RKO's disqualification as the licensee of WNAC–TV, Boston, Massachusetts on its overall basic and comparative qualifications to remain a licensee elsewhere. See our Memorandum Opinion and Order adopted this same date, *RKO General, Inc. (WHBQ–TV)*, —— FCC 2d —— (1984), for a full discussion of this matter.

[2] Since the "B" cut-off date (March 29, 1984), RKO has filed several petitions for leave to amend the accompanying amendments to its renewal application. The purpose of these amendments is to update information previously submitted to the Commission. We have reviewed the motions and amendments and find that in each case good cause exists for accepting the amendments for 1.65 purposes only.

[3] For the reasons set forth in *RKO General, Inc. (WHBQ–TV), supra*, concerning a similar pleading filed by South Jersey, we will grant the motion and accept the amendment.

regular and ordinary rotational procedures.

2. *The Gold Coast Broadcasting, Inc. (Gold Coast), application.* Several Gold Coast principals have committed themselves to the divestiture of all ownership interests in other broadcast stations and media of mass communication should the instant application be granted. An appropriate condition is reflected in an appropriate ordering clause of this Memorandum Opinion and Order.

3. Applicants for new broadcast stations are required to give local notice of the filing of their applications in accordance with Section 73.3580 of the Commission's Rules. They must then file proof of such notice or certify that they have or will comply with the public notice requirement. We have no evidence, however, that Gold Coast has done either. If it has not already done so, the applicant will be required to give local public notice and to file a statement that it has complied with the local public notice requirement with the presiding Administrative Law Judge within 20 days.

4. *The South Jersey application.* South Jersey proposes to serve the community of Richmond, California, with the facilities employed by RKO to serve San Francisco. While the applicant has established compliance with all coverage requirements for its specified community, it has not proposed a main studio location consistent with the requirements of Section 73.1125 of our Rules. An appropriate amendment is called for under these circumstances.

5. *The Bryan Benware application.* The Benware application was submitted on our prior Form 301, with a certification of financial qualification substituted for the detailed showing required by that Form. This certification, however, does not conform precisely to the wording contained in our present Form 301. This difference in certifications must be corrected by appropriate amendment, as must Benware's failure to establish compliance with our public notice requirements (see paragraph 3, *supra*).

6. *The City Broadcasting Company, Inc., application.* City Broadcasting Company's principal Alejandro Ante', Jr., is listed in its application as program director of Stations KABL and KABL-FM, San Francisco. Mr. Ante' is also a proposed full-time employee of the station sought here. Given the conflicting nature of the two responsibilities, it seems logical to presume that Mr. Ante' would resign from the former position before assuming the latter. This presumption should be confirmed by appropriate amendment, however,[4]

7. *The Stephen E. Powell application.* The Powell application was not complete when filed in that Powell's applications for other facilities now operated by RKO were not listed. Given the public nature of this information, no motive to conceal or misrepresent is apparent. Hence, we will specify no issues in this regard. Powell should amend its application here to reflect all pending proposals, however.

8. *The COZZIN Communications Corporation (COZZIN) application.* COZZIN, like South Jersey, proposes to serve Richmond, California, rather than RKO's community of license, with the present RKO facilities. While this applicant has not independently established compliance with our coverage requirements, we will credit COZZIN with the South Jersey technical showing. COZZIN must, however, independently establish compliance with the main studio location requirements of § 73.1125.

9. Except as indicated by the issues specified below, all applicants are qualified to construct and operate as proposed. However, since the proposals are mutally exclusive, they must be designated for hearing in a consolidated proceeding. Although some of the applications are for different communities, all would serve the same area. Therefore, in addition to determining pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will be specified.

10. 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: (a) The areas and populations which would receive primary aural service from the proposals and the availability of other primary service to such areas and populations, and (b) in light thereof and pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

2. To determine, in the event it is concluded that a choice among the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

11. It is further ordered, that the petitions for leave to amend filed by RKO General, Inc. are granted for the purposes of § 1.65 of the Commission's Rules.

12. It is further ordered, that the motion for leave to amend filed by South Jersey Radio, Inc. is granted and the accompanying amendment is accepted *nunc pro tunc.*

13. It is further ordered, that in the event of a grant of the Gold Coast Broadcasting, Inc., application, the construction permit shall be conditioned as follows:

Prior to the commencement of operation of the station authorized herein, permittee shall certify to the Commission that the following have severed all ownership interests in any broadcast stations and other media of mass communication: Alan T. Fong, Ianthia Kimiko Hall-Smith, Ralph M. Harris, Jr., Robert A. D. Schwartz, Lynn M. Jimenez, Harry W. Low, Belva Davis Moore, Roy Nakedegwa.

14. It is further ordered, that Gold Coast Broadcasting, Inc. and Bryan Benware shall comply with the local notice provisions of Section 73.3580 of the Commission's Rules and shall advise the presiding Administrative Law Judge of compliance within 20 days after this Order is released.

15. It is further ordered, that South Jersey Radio, Inc. and COZZIN Communications Corporation shall establish compliance with § 73.1125 of the Commission's Rules with the presiding Administrative Law Judge within 20 days after this Order is released.

16. It is further ordered, that Bryan Benware shall submit a complete certification of financial qualification to the presiding Administrative Law Judge within 20 days after this Order is released.

17. It is further ordered, that City Broadcasting Company, Inc., shall clarify the proposed broadcast interests of its principal Alejandro Ante', Jr., to the presiding Administrative Law Judge within 20 days after this Order is released.

18. It is further ordered, that Stephen E. Powell shall file the amendment

[4] In the event that Mr. Ante' intends to hold positions in both KABL/KABL-FM and the station proposed here, the presiding Administrative Law Judge may wish to consider the validity of such an arrangement under our cross interest policy.

specified herein with the presiding Administrative Law Judge within 20 days after this Order is released.

19. It is further ordered, that in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M St., NW., Washington, D.C. 20554.

20. It is further ordered, that the Initial Decision in this proceeding shall consider the findings in Docket No. 16679 (KHJ-TV) as to RKO's basic or comparative qualifications.

21. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants 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 present evidence on the issue specified in this Order.

22. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 74.3594 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.

23. Finally, copies of this Memorandum Opinion Order shall be sent Certified Mail-Return Receipt Requested to the parties to this proceeding by the Secretary of the Commission.

Federal Communications Commission.

**William J. Tricarico,**

*Secretary.*

[FR Doc. 84-32698 Filed 12-14-84; 8:45 am]

BILLING CODE 6712-01-M

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**[MM Docket Nos. 84-1122, et al.; File Nos. BR-177, et al.]**

## RKO General, Inc., et al.; Hearing Designation Order

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| In re Applications of: | |
| RKO General, Inc. (WOR), New York, New York. | MM Docket No. 84-1122; File No. BR-177. |
| For Renewal of License. | |
| Magna Media Corporation, New York, New York. | MM Docket No. 84-1123; File No. BP-830427AB. |
| Freedom Broadcasting Corporation, New York, New York. | MM Docket No. 84-1124; File No. BP-830511AF. |
| Michael G. Lacy, New York, New York. | MM Docket No. 84-1125; File No. BP-830511AJ. |
| South Jersey Radio Inc., Yonkers, New York. | MM Docket No. 84-1126; File No. BP-830511AL. |
| Broadway Broadcasters Ltd., Partnership, New York, New York. | MM Docket No. 84-1127; File No. BP-830512AI. |
| Women Owning Radio, Inc., New York, New York. | MM Docket No. 84-1128; File No. BP-830512AJ. |
| Las Americas Communications, Inc., New York, New York. | MM Docket No. 84-1129; File No. BP-830512AK. |
| Stephen E. Powell, New York, New York. | MM Docket No. 84-1130; File No. BP-830512AL. |
| First City Communications, Inc., New York, New York. | MM Docket No. 84-1131; File No. BP-830512AM. |
| S/G Communications, New York, New York. | MM Docket No. 84-1132; File No. BP-830512BT. |
| Cozzin Communications Corporations, Scarsdale, New York. | MM Docket No. 84-1133; File No. BP-830512BO. |
| For Construction Permit. | |
| RKO General, Inc. (WRKS-FM), New York, New York. | MM Docket No. 84-1134; File No. BRH-14. |
| For Renewal of License. | |
| Magna Media Corporation, New York, New York. | MM Docket No. 84-1135; File No. BPH-830427AB. |
| Gary L. Portmess, New York, New York. | MM Docket No. 84-1136; File No. BPH-830511AH. |
| Spanish Radio For New York, Inc., New York, New York. | MM Docket No. 84-1137; File No. BPH-830512AA. |
| South Jersey Radio, Inc., New York, New York. | MM Docket No. 84-1138; File No. BPH-830512AH. |
| S/G Communications, New York, New York. | MM Docket No. 84-1139; File No. BPH-830512AN. |
| Cozzin Communications Corporation, New York, New York. | MM Docket No. 84-1140; File No. BPH-830512BB. |
| Stephen E. Powell, New York, New York. | MM Docket No. 84-1141; File No. BPH-830512BL. |
| Manhattan Broadcast Associates, limited partnership, New York, New York. | MM Docket No. 84-1142; File No. BPH-830512BN. |
| Donnie Simpson Enterprises, Inc., New York, New York. | MM Docket No. 84-1143; File No. BPH-830512BP. |
| First City Communications, Inc., New York, New York. | MM Docket No. 84-1144; File No. BPH-830512BU. |
| Latin-Onyx Broadcasters Corporation, New York, New York. | MM Docket No. 84-1145; File No. BPH-830512BX. |
| People Broadcasting Corporation, New York, New York. | MM Docket No. 84-1146; File No. BP-830512BY. |
| BCCL Radio, a partnership, New York, New York. | MM Docket No. 84-1147; File No. BPH-830512CE. |
| For Construction Permit. | |

Adopted: November 8, 1984.
Released: December 11, 1984.
By the Commission.

1. The Commission has under consideration the license renewal application of RKO General, Inc. (RKO), for stations WOR and WRKS-FM, New York, New York [1] and the above-captioned mutually exclusive applications to operate on the same channel with identical facilities. In addition, we have before us motions for leave to amend and accompanying amendments filed by RKO, People Broadcasting Corporation (People) [2] and South Jersey Radio, Inc. (South Jersey), [3] and related pleadings. In view of the matters already being considered in the KHJ-TV case, note 1 *supra*, and in view of the fact that these matters may have a bearing upon the ultimate resolution of this case, we believe that it would be premature to commence any consideration of either RKO's qualifications or the comparative elements of the applicants' proposals, pending the outcome of the KHJ-TV case. Accordingly, in the interest of managing and ordering our docket of adjudicatory proceedings so as to permit the most efficient and effective utilization of Commission resources, we direct the parties to deal first with any petitions to enlarge issues and/or basic qualifying issues that involve the mutually exclusive applicants (i.e., applicants other than RKO) who seek construction permits to operate on the channel(s) now held by RKO. Upon completion of all appropriate proceedings, including such evidentiary hearings as may be warranted, relating to these questions concerning the mutually exclusive applications for construction permits, the presiding Administrative Law Judge should so inform the Commission and await guidance from the Commission before setting the date for filing any proposed findings and conclusions or going forward with any further proceedings. In other cases involving multiple license owners, we have assigned all of the proceedings to a single Administrative

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[1] We have designated the license renewal application of RKO's Station KHJ-TV, Los Angeles, California, as the forum for inquiring into the impact of RKO's disqualification as the licensee of WNAC-TV, Boston, Massachusetts on its overall basic and comparative qualifications to remain a licensee elsewhere. See our Memorandum Opinion and Order adopted this same date, *RKO General, Inc. (WHBQ-TV)*, ——, FCC 2d —— (1984, for a full discussion of this matter.

[2] Since the "B" cut-off date (March 29, 1984), RKO has filed several petitions for leave to amend and accompanying amendments to its renewal application. People has filed a petition and amendment as well. The purpose of these amendments is to update information previously submitted to the Commission. We have reviewed the motions and amendments and find that in each case good cause exists for accepting the amendments for 1.65 purposes only.

For the reasons set forth in *RKO General, Inc. (WHBQ-TV), supra*, concerning a similar pleading filed by South Jersey, we will grant the motion and accept the amendment.

Law Judge for the purpose of considering the impact of common qualifications questions on each of the owner's station's, *e.g., Intercontinental Radio, Inc.*, 88 FCC 2d 819 (1981). Here, we have already made provision for consideration of the questions concerning RKO's overall qualifications by a single ALJ in the Los Angeles, California, KHJ–TV, proceeding. Thus, the procedures used in cases such as *Intercontinental, supra,* are unnecessary for the instant proceeding. Indeed, the *Intercontinental* approach, if applied here, involving substantial numbers of comparative hearings and competing applicants presided over by a single Judge, will inevitably delay resolution of these matters. Instead, we believe that the interests of administrative efficiency will be better served by providing for assignment of a presiding Administrative Law Judge for this proceeding by the Chief Administrative Law Judge in accordance with his regular and ordinary rotational procedures.

2. *The Michael G. Lacy application.* The Lacy application was submitted on our prior Form 301, with a certification of financial qualification substituted for the detailed showing required by that Form. This certification, however, does not conform precisely to the wording contained in our present Form 301. This difference in certifications must be corrected by appropriate amendment.

3. Applicants for new broadcast stations are required to give local notice of the fillng of their applications in accordance with Section 73.3580 of the Commission's Rules. They must then file proof of such notice or certify that they have or will comply with the public notice requirement. We have no evidence, however, that Lacy has done either. If it has not already done so, the applicant will be required to give local public notice and to file a statement that it has compiled with the local notice requirement with the presiding Administrative Law Judge within 20 days.

4. *The South Jersey application.* South Jersey proposes to serve with its AM station the community of Yonkers, New York, using the facilities employed by RKO to serve New York, New York. While the applicant has established compliance with all coverage requirements for its specified community, it has not proposed a main studio location consistent with the requirements of Section 73.1125 of our Rules. An appropriate amendment is called for under these circumstances.

5. *The Broadway Broadcasters Limited Partnership application.* As originally filed, the Broadway Broadcasters application included a commitment from its principal H. Carl McCall to divest all interests in the Inter-City Broadcasting, licensee of several stations including WLIB and WBLS–FM, New York, New York. The applicant's most recent amendment to its proposal eliminates this commitment. Given Mr. McCall's plan to serve as general manager of the stations sought here, the difference in the two showings is a significant one. Hence a clarifing amendment, to be evaluated by the presiding Administrative Law Judge, is necessary.

6. *The Women Owning Radio, Inc. application.* C & W Electronics has filed an informal objection to this proposal, alleging potential hazards to air traffic. As the applicant proposes to operate with the facilities now used by RKO, however, no new issues of this nature are properly raised. The informal objection will therefore be denied.

7. *The Stephen E. Powell and Donnie Simpson Enterprises, Inc. applications.* The Powell and Simpson applications were not complete when filed in that applications for other facilities now operated by RKO were not listed. Given the public nature of this information, no motive to conceal or misrepresent is apparent. Hence, we will specify no issues in this regard. Both should amend their applications here to reflect all pending proposals, however.

8. *The COZZIN Communications Corporation (COZZIN) application.* Like South Jersey Radio, COZZIN proposes to serve a community other than New York with RKO's AM facility. The applicant, however, has not established compliance with either our coverage [Sections 73.24(j) and 73.182(f)] or main studio location (Section 73.1125) requirements for its specified community. An appropriate amendment is necessary.

9. *The Spanish Radio for New York, Inc. application.* The applicant's principals have agreed to divest all other interests in and connections with media of mass communication, including, but not limited to, Station WSUA, Miami, Florida, in the event of a grant here. An appropriate condition will be specified.

10. The Spanish Radio application indicates that a principal, Herbert M. Levin, is a defendant in a pending antitrust action. As we lack at this time sufficient information to assess the impact of the litigation on the applicant's qualifications to be a licensee, we will specify no issues or conditions. Spanish Radio should keep the presiding Administrative Law Judge informed of any changes in the status of the suit, though, and he in turn may take such action as he deems appropriate in light of this information.

11. *The S/G Communications application.* While the applicant has indicated that there are documents, namely its limited partnership agreement, relating to ownership or future ownership rights, it has not provided the particulars requested by Question 9, Section II of the application form. An appropriate amendment is thus necessary to render the application complete.

12. *The BCCL Radio, A Partnership, application.* This applicant has not established its financial qualifications, in that only one of the two necessary certifications has been made. An appropriate issue will therefore be specified.*

13. Except as indicated by the issues specified below, all applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Although some of the applications are for different communities, all would serve the same area. Therefore, in addition to determining pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will be specified.

14. 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 whether BCCL Radio, a Partnerhip, is financially qualified to construct and operate as proposed.

2. To determine with respect to the AM applicants: (a) The areas and populations which would receive primary aural service from the proposals and the availability of other primary service to such areas and populations, and (b) in the light thereof and pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

* In the event that the applicant has misunderstood Section III of the application form to provide alternative rather than complimentary certifications, it may properly resolve the issue by submitting an amended Section III with both certifications marked "yes".

3. To determine with respect to the AM applicants, in the event it is concluded that a choice among the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine with respect to the FM applicants which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

15. It is further ordered, that the petitions for leave to amend filed by RKO General, Inc., and People Broadcasting Corporation are granted for the purposes of Section 1.65 of the Commission's Rules.

16. It is further ordered, that the motion for leave to amend filed by South Jersey Radio, Inc. is granted and the accompanying amendment is accepted *nunc pro tunc.*

17. It is further ordered, that Michael G. Lacy shall submit a complete certification of financial qualification to the presiding Administrative Law Judge within 20 days after this Order is released.

18. It is further ordered, that Michael G. Lacy shall comply with the local notice provision of § 73.3580 of the Commission's Rules and shall advise the presiding Administrative Law Judge within 20 days after this Order is released.

19. It is further ordered, that South Jersey Radio, Inc. shall establish compliance with § 73.1125 of the Commission's Rules with the presiding Administrative Law Judge within 20 days after this Order is released.

20. It is further ordered, that Broadway Broadcasters Limited Partnership shall clarify the broadcast interests and divestiture commitments of its principal H. Carl McCall to the presiding Administrative Law Judge within 20 days after this Order is released.

21. It is further ordered, that the informal objection filed by C & W Electronics is denied.

22. It is further ordered, that Stephen E. Powell and Donnie Simpson Enterprises, Inc. shall file the amendments specified herein with the presiding Administrative Law Judge within 20 days after this Order is released.

23. It is further ordered, that COZZIN Communications Corporation shall establish compliance with §§ 73.24(j), 73.182(f) and 73.1125 of the Commission's Rules within 20 days after this Order is released.

24. It is further ordered, that in the event of a grant of the Spanish Radio for New York, Inc. application, the construction permit shall be conditioned as follows:

Prior to the commencement of operation of the station authorized herein, permittee shall certify to the Commission that the following have divested all other interests in and connections with media of mass communications: Julio Rumbaut, Norma Martinez de Arizala Levin, Sergio R. Fuenterfria and Herbert Levin.

25. It is further ordered, that S/G Communications shall file the amendment specified herein with the presiding Administrative Law Judge within 20 days after this Order is released.

26. It is further ordered, that in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M St., NW., Washington, D.C. 20554.

27. It is further ordered, that the Initial Decision in this proceeding shall consider the findings in Docket No. 16679 (KHJ–TV) as to RKO's basic or comparative qualifications.

28. 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 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.

29. 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.

30. Finally, copies of this Memorandum Opinion and Order shall be sent Certified Mail-Returned Receipt Requested to the parties to this proceeding by the Secretary of the Commission.

Federal Communications Commission.

**William J. Tricarico,**

*Secretary.*

[FR Doc. 84–32697 Filed 12–14–84; 8:45 am]

BILLING CODE 6712–01–M

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**[Report No. 1489]**

## Petitions for Reconsideration of Actions in Rulemaking Proceedings

December 6, 1984.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Reno, Nevada, and Redding, California). (MM Docket No. 83–374, RM's 4293 & 4484)

Filed by: Robert B. Jacobi & Martin I. Levy, Attorneys for Sarkes Tarzian, Inc., (KTVN–TV) on 11–19–84.

Subject: Amendment of Parts 1 and 61 of the Commission's Rules. (CC Docket No. 83–992)

Filed by: Joseph M. Kittner & Randolph J. May, Attorneys for American Broadcasting Companies, Inc., CBS Inc., & National Broadcasting Company, Inc., & Robert J. Kaufman, Attorney for American Broadcasting Companies, Inc., Joseph De Franco, Attorney for CBS Inc., & Howard Monderer, Attorney for National Broadcasting Company, Inc., on 11–19–84. J. Manning Lee & Jeffrey H. Matsuura, Attorneys for Satellite Business Systems on 11–19–84.

Subject: Amendment of Part 90 of the Commission's Rules and Regulations to Reserve Frequencies for Emergency Electrical Alarm Protection. (PR Docket No. 84–30, RM–4444)

Filed by: Wayne V. Black & Russell H. Fox, Attorneys for Cental Committee on Telecommunications of the American Petroleum Institute on 11–14–84.

**William J. Tricarico,**

*Secretary, Federal Communications Commission.*

[FR Doc. 84–32694 Filed 12–14–84; 8:45 am]

BILLING CODE 6712–01–M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**[FEMA-729-DR]**

### Virgin Islands; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the Virgin Islands of the United States (FEMA-729-DR), dated December 10, 1984, and related determinations.

**DATED:** December 10, 1984.

**FOR FURTHER INFORMATION CONTACT:** Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

Notice: Notice is hereby given that, in a letter of December 10, 1984, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288), as follows:

I have determined that the damage in certain areas of the Virgin Islands of the United States of America, resulting from Tropical Storm Klaus and flooding beginning on or about November 5, 1984, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the Virgin Islands of the United States of America.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Curtis R. Carleton of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Virgin Islands of the United States to have been affected adversely by this declared major disaster:

The Virgin Islands of the United States for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

**Joseph A. Moreland,**

*Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.*

[FR Doc. 84-32706 Filed 12-14-84; 8:45 am]

**BILLING CODE 6718-02-M**

### Performance Review Board; SES Bonus Issuance

The Federal Emergency Management Agency has awarded bonuses to the following Senior Executive Service members: Bruce Campbell, Gregg Chappell, Robert Crawford, John Dickey, Robert Goffus, John Hwang, George Jett, William Jones, Richard Krimm, John La Barre, Joseph Mealy, John Powers, Robert Volland and William Williams.

The bonuses recognize the members' outstanding performance ratings for the period from July 1, 1983 to June 30, 1984.

Dated: December 11, 1984.

**Barry G. Oertel,**

*Chief, Executive, Personnel Division.*

[FR Doc. 84-32707 Filed 12-14-84; 8:45 am]

**BILLING CODE 6718-01-M**

## FEDERAL MARITIME COMMISSION

### Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-000017-050.

Title: Far East Conference.

Parties:

Japan Line, Ltd.

Kawasaki Kisen Kaisha, Ltd.

Mitsui O.S.K. Lines, Ltd.

A.P. Moller-Maersk Line

Nippon Yusen Kaisha

United States Lines, Inc.

Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed amendment would authorize the optional employment of a neutral body by the conference, upon the request of any member, in accordance with the Shipping Act of 1984. The parties have requested a shortened review period.

Agreement No.: 202-010669-001.

Title: United States/Netherlands Antilles Ocean Carriers Association.

Parties:

Concorde Caribe Lines, Ltd.

Coordinated Caribbean Transport, Inc.

King Ocean Services, S.A.

Sea-Land Services, Inc.

Synopsis: The proposed amendment reflects the addition of Tec Lines, Ltd. as a new member of the Association. The parties have requested a shortened review period.

Agreement No.: 217-010703.

Title: Hanjin Container Lines, Ltd./Korea Marine Transport Co., Ltd. Space Charter Agreement.

Parties:

Hanjin Container Lines, Ltd.

Korea Marine Transport Co., Ltd.

Synopsis: The proposed agreement would permit either party to charter space on the other's vessels in the trade between ports on the West Coast of the United States and Canada and ports in Japan, Korea, Taiwan and Hong Kong/Macao and inland points via such ports. It would also provide for the related exchange of information, equipment interchange, etc. as required to effectuate the arrangement.

By order of the Federal Maritime Commission.

Dated: December 12, 1984.

**Francis C. Hurney,**

*Secretary.*

[FR Doc. 84-32749 Filed 12-14-84; 8:45 am]

**BILLING CODE 6730-01-M**

## FEDERAL RESERVE SYSTEM

### Columbia Bancorp, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. 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 is available for immediate inspection at the Federal

Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. 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.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 9, 1985.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Streeet, Richmond, Virginia 23261:

1. *Columbia Bancorp, Inc.*, Charleston, South Carolina; to become a bank holding company by acquiring 80 percent of the voting shares of Republic National Bank, Columbia, South Carolina, thereby indirectly acquiring Republic Bancorp of South Carolina, Inc., Columbia, South Carolina.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Allied Bankshares, Inc.*, Thomson, Georgia; to acquire 11.26 of the voting shares of Bank of Greensboro, Greensboro, Georgia. Comments on this application must be received not later than December 26, 1284.

2. *First State Holding Corp.*, Sulligent, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of First State Bank of Lamar County, Sulligent, Alabama. Comments on this application must be received not later than January 7, 1985.

3. *The Peoples BancTrust Co., Inc.*, Selma, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Bank & Trust Company, Selma, Alabama.

Board of Governors of the Federal Reserve System.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 84-32687 Filed 12-14-84; 8:45 am]

BILLING CODE 6216-01-M

## Marine Midland Banks, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing 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 gain in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than January 7, 1985.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Marine Midland Banks, Inc.*, Buffalo, New York; *Marine Midland National Corporation*, Buffalo, New York; *The Hongkong and Shanghai Banking Corporation*, Hong Kong; *Kellett N.V.*, Curacao, Netherlands Antilles; and *HSBC Holdings, B.V.*, Amsterdam, The Netherlands; to acquire through a newly-formed subsidiary of Marine Midland National Corporation, loans and other assets attributable to the commercial finance operations of UnibancTrust Company, Chicago, Illinois, and thereafter to engage through the new subsidiary in commercial finance lending activities. These activities are to be conducted initially from an office located at 250 South Wacker Drive, Chicago, Illinois.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Alabama Bancshares, Inc.*, Montgomery, Alabama; to acquire Real Estate Financing, Inc., thereby performing nonbanking activities commonly performed by a mortgage banking firm, namely, the origination of single family residential loans, long-term loans for multi-family dwellings, commercial and industrial loans and loans for special purpose properties. These activities are to be conducted in the State of Alabama.

Board of Governors of the Federal Reserve System, December 11, 1984.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 84-32688 Filed 12-14-84; 8:45 am]

BILLING CODE 6210-01-M

## Horizon Bancorp; Notice of Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing 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 interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing,

identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 7, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Horizon Bancorp*, Morristown, New Jersey; to engage *de novo* through its subsidiary, Horizon Trust Company of Florida, N.A., Boca Raton, Florida, in performing functions and activities that may be performed by a trust company (including activities of a fiduciary, agency or custodial nature) and such other activities as are necessary, incident or related to the activities of a trust company. These activities are to be conducted in the State of Florida.

Board of Governors of the Federal Reserve System, December 11, 1984.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 84-32689 Filed 12-14-84; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control

### Project Grants for Sexually Transmitted Disease Research, Demonstrations, and Public and Professional Education; Availability of Funds for Fiscal Year 1985

The Centers for Disease Control (CDC) announces the availability of funds for Fiscal Year 1985 for Project Grants for Sexually Transmitted Diseases Research, Demonstrations, and Public Information and Education, and Professional Education, Training, and Clinical Skills Improvement Activities (formerly Venereal Disease Research, Demonstrations, and Public Information and Education), Catalog of Federal Domestic Assistance Number 13.978. This grant program is authorized by section 318(b) of the Public Health Service Act (42 U.S.C. 247c(b)) as amended. Regulations governing programs for preventive health services are codified at 42 CFR Part 51b, Subparts A and F.

The objectives of this grant program are to develop, improve, and evaluate methods for the prevention and control of sexually transmitted diseases (STD) through demonstrations and applied research; to develop, improve, apply, and evaluate methods and strategies for public information and education about STD; and to support particularly deserving STD public information and education programs. Any State, political subdivisions of States, and other public or nonprofit private entities are eligible to apply for a grant.

Approximately $3,332,200 to $4,111,900 will be available in Fiscal Year 1985 to award 28 continuation grants and up to 4 new grants from the existing backlog of approved but unfunded applications. Awards will be made in accordance with criteria announced in the **Federal Register**, Volume 49, Number 1, January 3, 1984. The average award is expected to be $105,000, ranging from approximately $14,700 to $176,400. No new applications are being accepted. Initial grants are usually funded for 12 months in a 1- to 5-year project period. Continuation awards within the project period are made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change.

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs, and regulations (42 CFR Part 122, as amended, and Part 123) implementing the National Health Planning and Resource Development Act of 1974.

Information on application procedures, copies of application forms, copies of application guidelines, and other material may be obtained from Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grant Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 321, Atlanta, Georgia 30305, or by calling (404) 262-6576 or FTS 236-6575. Technical assistance may be obtained from Mr. Jack Kirby, Division of Sexually Transmitted Diseases Control, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329-2550, or FTS 236-2550.

Dated: December 6, 1984.

**William E. Muldoon,**

*Acting Director, Office of Program Support, Centers for Disease Control.*

#### Department of Health and Human Services (HHS) Regional Offices

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223-6827

Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, Room 3337, New York, New York 10278, (202) 264-2561

Regional Health Administrator, PHS, HHS Region III, Gateway Building #1, 3521-35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596-6637

Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Tower, Suite 1007, Atlanta, Georgia 30323, (404) 221-2316

Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353-1385

Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767-3879

Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374-3291

Regional Health Administrator, PHS, HHS Region VIII, 1185 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 844-6163

Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556-5810

Regional Health Administrator, PHS, HHS Region X, 2901 Third Avenue, M.S. 402, Seattle, Washington 98121, (206) 442-0430

[FR Doc. 84-32742 Filed 12-14-84; 8:45 am]

BILLING CODE 4160-18-M

### Project Grants for Preventive Health Services—Childhood Immunization; Availability of Funds for Fiscal Year 1985.

The Centers for Disease Control announces the availability of funds for Fiscal Year 1985 for Project Grants for Preventive Health Services—Childhood Immunization, Catalog of Federal Domestic Assistance Number 13.268. This grant program is authorized by section 317 of the Public Health Service Act (42 U.S.C. 247b), as amended. Regulations governing programs for preventive health services are codified at 42 CFR Part 51b, Subparts A and B.

The objectives of this grant program are to reduce morbidity and mortality due to common vaccine-preventable diseases; to maintain interruption of indigenous measles transmission; to maintain 90 percent immunization levels for school children under age 15 against measles, poliomyelitis, diphtheria, tetanus, and rubella; to maintain 95 percent immunization levels for school enterers and 90 percent immunization levels for children enrolled in licensed

day-care centers against measles, poliomyelitis, diphtheria, tetanus, pertussis, rubella, and mumps; and to develop, test, and implement systems for use in the States to unsure that 90 percent or more of all children complete basic immunizations by age 2 and to hasten the elimination of congenital rubella syndrome.

Eligible applicants for this program are the official public health agencies of State and local governments, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa.

Approximately $42,400,000 will be available in Fiscal Year 1985 to award 62 continuation grants with the average award expected to be $684,000, ranging from $13,000 to $2,500,000. Grants are usually funded for 12 months in a 3- to 5-year project period. Continuation awards within the project period are made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. No new grants are expected to be made in 1985 since current grantees are coordinating activities in all political jurisdictions in the United States. Funding estimates outlined above may vary and are subject to change.

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs, and regulations (42 CFR Part 122, as amended, and Part 123) implementing the National Health Planning and Resource Development Act of 1974. Program guidelines, information on application and review procedures, deadlines, the consequences of late submission, and other materials may be obtained from the appropriate Department of Health and Human Services Regional Office as set forth below.

Dated: December 6, 1984.

William E. Muldoon,

*Acting Director, Office of Program Support, Centers for Disease Control.*

**Department of Health and Human Services (HHS) Regional Offices**

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223–6827

Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, Room 3337, New York, New York 10278, (212) 264–2561

Regional Health Administrator, PHS, HHS Region III, Gateway Building #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637

Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Tower, Suite 1007, Atlanta, Georgia 30323, (404) 221–2316

Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353–1385

Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879

Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291

Regional Health Administrator, PHS, HHS Region VIII, 1185 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 844–6163

Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810

Regional Health Administrator, PHS, HHS Region X, 2901 Third Avenue, M.S. 402, Seattle, Washington 98121, (206) 442–0430

[FR Doc. 84–32743 Filed 12–14–84; 8:45 am]

BILLING CODE 4160–18–M

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## Project Grants—Health Programs for Refugees; Availability of Funds for Fiscal Year 1985

The Centers for Disease Control announces the availability of funds for Fiscal Year 1985 for Project Grants for Health Programs for Refugees, Catalog of Federal Domestic Assistance Number 13.987. This grant program is authorized by section 412(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1522(b)(5)), as amended by the Refugee Act of 1980, Pub. L. 96–212; the Refugee Amendments of 1982, Pub. L. 97–363; and the Further Continuing Appropriations for Fiscal Year 1985, Pub. L. 98–473.

The purpose of the program is to augment State and local resources in providing public health and general health assessments for refugees newly arrived in the United States. The term "refugee" is defined in section 101(a)(42) of the Immigration and Nationality Act. Any person so classified, regardless of national origin (except Soviet refugees for whom there is another special program to promote their private care and resettlement), shall be eligible for health assessment services under this program.

Eligible applicants are the official State health agencies and, in consultation with the State health agency, health agencies of political subdivisions of a State. Direct grants to health agencies of political subdivisions will not be considered for funding in 1985 where the State health agency applies for and receives a grant for programs within the State, except in special situations which are clearly justified to the Regional Health Administrator, Public Health Service, of the appropriate Department of Health and Human Services Regional Office. States are expected to work with agencies and organizations in localities with significant refugee populations to identify their health needs and to develop programs to meet these needs.

Based upon the Continuing Resolution for Fiscal Year 1985, approximately $5,850,000 is available to award up to 6 new and approximately 46 continuation grants with the average award expected to be $121,000, ranging from $5,800 to $1,500,000. Initial grants are usually funded for 12 months in a 1- to 3-year project period. Continuation awards within the project period are made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change.

Priority for funding new grants will be placed on: (1) The extent of unmet public health needs associated with refugees; and (2) the need for general health assessments for refugees, with particular attention given to the identification of health problems which might affect employability, the referral of refugees for appropriate diagnostic and treatment services, and the identification of funding sources for needed services.

Applications for new grants will be reviewed on the basis of: (1) The size of the refugee population; (2) the extent of health problems among refugees; (3) the need for assistance in addressing health problems; (4) the capability of the applicant agencies to deliver or coordinate the delivery of needed services particularly in those areas with high concentration of refugees needing intensified outreach and followup services for tuberculosis preventive therapy, including the identification of providers of services, the establishment of referral programs, and the identification of financing arrangements for services; and (5) consistency with the State's comprehensive plan for refugee resettlement activities.

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs. Information on application and review procedures, deadlines, the consequences of late submission, and

other materials may be obtained from the appropriate Department of Health and Human Services Regional Office as set forth below.

Dated: December 6, 1984.

**William E. Muldoon,**

*Acting Director, Office of Program Support, Centers for Disease Control.*

**Department of Health and Human Services (HHS) Regional Offices**

Regional Health Administrator, PHB, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223–6827
Regional Health Administrator, PHB, HHS Region II, Federal Building, 26 Federal Plaza, Room 3337, New York, New York, 10278, (212) 264–2561
Regional Health Administrator, PHB, HHS Region III, Gateway Building #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637
Regional Health Administrator, PHB, HHS Region IV, 101 Marietta Tower, Suite 1007, Atlanta, Georgia 30323, (404) 221–2316
Regional Health Administrator, PHB, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353–1385
Regional Health Administrator, PHB, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879
Regional Health Administrator, PHB, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291
Regional Health Administrator, PHB, HHS Region VIII, 1185 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 844–6163
Regional Health Administrator, PHB, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810
Regional Health Administrator, PHB, HHS Region X, 2901 Third Avenue, M.S. 402, Seattle, Washington 98121, (206) 442–0430

[FR Doc. 84–32744 Filed 12–14–84; 8:45 am]

BILLING CODE 4160–18–M

## Project Grants for the Prevention and Control of Sexually Transmitted Diseases; Availability of Funds for Fiscal Year 1985

The Centers for Disease Control announces the availability of funds for Fiscal Year 1985 for Project Grants for the Prevention and Control of Sexually Transmitted Diseases (formerly Venereal Disease Control), Catalog of Federal Domestic Assistance Number 13.977. This grant program is authorized by section 318 of the Public Health Service Act (42 U.S.C. 247c), as amended. Regulations governing programs for preventive health services are codified at 42 CFR Part 51b, Subparts A and D.

The objective of this grant program is to reduce morbidity and mortality from sexually transmitted diseases (STD) by preventing cases and complications. Eligible applicants for this program are the official public health agencies of State and local governments, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guan, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa.

Approximately $40,943,000 to $41,722,700 will be available in Fiscal Year 1985 to award 64 continuation grants to supplement programs to control STD and prevent its complications. The average award in Fiscal Year 1985 is expected to be $640,000, ranging from $26,900 to $3,050,400. Grants are usually funded for 12 months in a 3- to 5-year project period. Continuation awards within the project period are made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. No new grants are expected to be made in 1985 since current grantees are coordinating activities in all political jurisdictions in the United States. Funding estimates outlined above may vary and are subject to change.

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs, and regulations (42 CFR Part 122, as amended, and Part 123) implementing the National Health Planning and Resource Development Act of 1974. Program guidelines, information on application and review procedures, deadlines, the consequences of late submission, and other materials may be obtained from the appropriate Department of Health and Human Services Regional Office as set forth below.

Dated: December 10, 1984.

**William E. Muldoon,**

*Acting Director, Office of Program Support, Centers for Disease Control.*

**Department of Health and Human Services (HHS) Regional Offices**

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203 (617) 223–6827
Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, Room 3337, New York, New York 10278 (212) 264–2561
Regional Health Administrator, PHS, HHS Region III, Gateway Building #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101 (215) 596–6637
Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Tower, Suite 1007, Atlanta, Georgia 30323 (404) 221–2316
Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606 (312) 353–1385
Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202 (214) 767–3879
Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106 (816) 374–3291
Regional Health Administrator, PHS, HHS Region VIII, 1185 Federal Building, 1961 Stout Street, Denver, Colorado 80294 (303) 844–6163
Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102 (415) 556–5810
Regional Health Administrator, PHS, HHS Region X, 2901 Third Avenue, M.S. 402, Seattle, Washington 98121 (206) 442–0430

[FR Doc. 84–32745 Filed 12–14–84; 8:45 am]

BILLING CODE 4160–18–M

## Public Health Service

## Health Information and Health Promotion; Delegation of Authority

Notice is hereby given that, pursuant to the authority delegated by the Secretary of Health and Human Services to the Assistant Secretary for Health on September 28, 1979, under Title XVII of the Public Health Service Act (42 U.S.C. 300u *et seq.*), as amended, the Assistant Secretary for Health has delegated to the Director, Centers for Disease Control, with authority to redelegate, authority under section 1706 of the Public Health Service Act, as amended, concerning Centers for Research and Demonstration of Health Promotion and Disease Prevention. The delegation dated September 28, 1979, from the Assistant Secretary for Health to the Director, Centers for Disease Control, of authority under sections 1702, 1703, and 1704 of Title XVII of the Public Health Service Act, as amended, is unchanged by this delegation and remains in effect.

The above delegation became effective December 5, 1984.

Dated: December 5, 1984.

**Edward N. Brandt, Jr.,**

*Assistant Secretary for Health.*

[FR Doc. 84-32805 Filed 12-14-84; 8:45 am]

BILLING CODE 4160-17-M

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

### Garrison Diversion Unit Commission; Change of Meeting

Time and place of the Commission business meeting, announced in the Federal Register (V. 49 No. 235, P. 47575) of Wednesday, December, 5, 1984, has been changed. The business meeting will be held December 19 from 9:30 a.m. to 6:00 p.m., Room 628 of the Dirksen Senate Office Building, C Street, NE, Washington, D.C. If necessary, the Commission will reconvene December 20 at the same time and place.

Dated: December 11, 1984.

**Robert N. Broadbent,**

*Federal Representative.*

[FR Doc. 84-32717 Filed 12-14-84; 8:45 am]

BILLING CODE 4310-10-M

### Bureau of Land Management

[AA-8447-B]

### Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance (DIC) under the provisions of sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611(a) (1976), will be issued to, The Eyak Corporation for approximately 20.3 acres. The lands involved are within the Copper River Meridian, Alaska:

T. 16 S., R. 1 W.

Upon issuance, the DIC will be published once a week, for four (4) consecutive weeks, in the CORDOVA TIMES. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until January 17, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

**Barbara A. Lange,**

*Section Chief, Branch of ANCSA Adjudication.*

[FR Doc. 84-32729 Filed 12-14-84; 8:45 am]

BILLING CODE 4310-JA-M

### Anchorage District Advisory Council Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Public Meeting.

**SUMMARY:** The Bureau of Land Management's Anchorage District Advisory Council will meet at 1 p.m. January 28, 1985, to discuss implementation of recreation fees and the Gulkana River management plan.

As required by regulation, time will be scheduled during the meeting for any member of the public wishing to address the council. Individuals requesting time on the agenda are asked to notify Joette Storm, Public Affairs Specialist, before January 28, 1985, by calling 267-1200.

**DATE:** Monday, January 28, 1985.

**TIME:** 1 p.m.-5 p.m.

**PLACE:** Anchorage District Office, 4700 East 72nd Avenue, Anchorage, Alaska.

**SUPPLEMENTARY INFORMATION:**

Agenda

1:00 Call to order and reading of the minutes
1:15 Recreation fee implementation
2:30 Gulkana River Management Plan
4:00 Public comment period
5:00 Adjourn.

**Wayne A. Boden,**

*District Manager.*

[FR Doc. 84-32746 Filed 12-14-84; 8:45 am]

BILLING CODE 4310-JA-M

[ES-31807, 31811, 31814, 31815 and 31823]

### Realty Action; Recreation and Public Purposes Classification in Kittson and Roseau Counties, MI

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Land Classification for Recreation and Public Purposes.

**SUMMARY:** The following public lands have been examined and found to be suitable for classification and sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869):

**Fifth Principal Meridian, Minnesota**

Kittson County:

1. *ES-31807,* Halma Swamp Wildlife Area, T. 159N., R47W., Sec. 2: Lot 1 (40.35 acres)
2. *ES-31823,* Caribou Wildlife Area, T.164N. R.46W., Sec 34: SE ¼ NW ¼

Roseau County:

3. *ES-31811,* Nereson Wildlife Area, T. 159N., R.41W., Sec 5: Lot 1 (17.90 acres)
4. *ES-31814,* Roseau River Wildlife Area, T. 162N., R.44W., Sec. 30: NE ¼ SW ¼
5. ES-31815, Roseau River Wildlife Area, T. 164N., R.44W., Sec. 29: Lot 6 (17.13 acres)

The Minnesota Department of Natural Resources has applied for these lands so that they can be added to the State Wildlife Management Area System to be used for wildlife habitat and recreational purposes.

The lands are physically suited to the proposed use and are not of national significance. Since the lands are valuable for a State program they are considered chiefly valuable for public purposes and therefore suitable for clasification and sale under the Recreation and Public Purposes Act. This action is consistent with local and Federal government plans, programs and policies.

Any patent issued under this notice shall be subject to the provisions in 43 CFR 2741.8. In the event of noncompliance with the terms of the patent, title to the land shall revert to the United States. In addition the patent for ES-31815 will be subject to Presidental Proclamation of June 15, 1908 which reserved public lands lying within 60 feet of the U.S.-Canada border.

The classification of these lands will segregate them from all appropriation except as to applications under the mineral leasing laws and the Recreation and Public Purposes Act. Segregation will terminate upon issuance of a patent; or eighteen (18) months from the date of this notice; or upon publication of a notice of termination, whichever occurs first.

**Comments**

For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to: District Manager, Milwaukee District Office, Bureau of Land Management, P.O. Box 631, Milwaukee, Wisconsin 53201-0631. Any adverse comments will be evaluated by the District Manager who may vacate or modify this classification. In the absence of any action by the State Director, this Realty Action will become the final

determination of the Department of Interior.

*For further information*: Detailed information concerning these applications is available for review at the Milwaukee District Office, Suite 225, 310 W. Wisconsin Ave., Milwaukee, Wisconsin 53201, or by calling Priscilla McLain at (414) 291–4427.

Chuck Steele,

*District Manager.*

[FR Doc. 84-32755 Filed 12-14-84; 8:45 am]

BILLING CODE 4310-84-M

## INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

### Agency for International Development

### Assistant Administrator for Near East; Redelegation of Authority No. 147

Pursuant to the Authority delegated to me by IDCA Delegation of Authority No. 1 dated October 5, 1979 (44 FR 57521 and 57522) as amended October 30, 1980 (45 FR 74090), I hereby redelegate to the Assistant Administrator for the Near East, with respect to the Egypt Mission only, the authority to exercise any of the following functions delegated to me, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to authorize a project or non-project activity without dollar limitation when:

(a) The project does not require waivers which may only be approved by the Administrator or, if such waivers are required, that they have been approved prior to such authorization; and

(b) The project does not have a life of project in excess of ten years.

2. Authority to amend a project or non-project assistance authorization executed by any A.I.D. official without dollar limitation if:

(a) The amendment does not result in a total life of project in excess of ten years; and

(b) The amendment does not require the issuance of waivers which may only be approved by the Administrator or, if such waivers are required, that they have been approved prior to such authorization.

3. Authority to approve, negotiate, execute and implement trust fund agreements, and project and non-project assistance agreements (both loan and grant) and amendments and ancillary agreements thereto duly authorized under the Foreign Assistance Act of 1961, as amended, in accordance with applicable law, regulations, policies and procedures now or hereafter established or modified and promulgated within A.I.D. This authority shall include, without limitation, the following:

(a) Authority to approve, prepare, negotiate, and execute letters of implementation;

(b) Authority to review and approve documents and other evidence by borrowers or grantees in satisfaction of conditions precedent to financing under such agreements; and

(c) Authority to approve, negotiate, execute and implement all documents ancillary to such agreements.

4. Authority to sign or approve Project Implementation Orders.

5. Authority to review and approve the terms of host country contracts, contractors, amendments and modifications to such contracts, and invitations for bids and requests for proposals with respect thereto.

6. Authority to waive, in accordance with the criteria prescribed in Supplement B of A.I.D. Handbook 1:

(a) U.S. source, origin, and nationality requirements to permit A.I.D. financing of the procurement of goods and services including transportation services and motor vehicles in countries included in A.I.D. Geographic Code 941 (Selected Free World) and the cooperating country without limitation as to amount of the waiver.

(b) U.S. or Code 941 source, origin and nationality requirements to permit A.I.D. financing the procurement of goods and services, including transportation services and motor vehicles in any country included in A.I.D. Geographic Code 935 (Special Free World) without limitation as to amount of the waiver; provided, however:

(1) That all waivers of source origin, and nationality for procurement of goods authorized pursuant to this section 6(b) shall contain a certification by the approving official that "Exclusion of procurement from free world countries other than the cooperating country and countries included in Code 941 would seriously impede attainment of U.S. foreign policy objectives and objectives of the foreign assistance program";

(2) That all waivers of the nationality requirements for services, authorized pursuant to section 6(b) shall contain a certification by the approving official that "the interests of the United States are best served by permitting the procurement of services from free world countries other than the cooperating country and countries included in Code 941"; and

(3) That determinations of non-availability of U.S. flag vessels in the case of a waiver of source, origin or nationality for transportation services have been made by AID/W, SER/COM.

7. Authority to waive competition in accordance with the criteria set forth in Handbook 11, without dollar limitation in the procurement of goods and services for country contracts and approve single-source negotiated contracts therefor for goods and services; provided however, that this waiver authority is exercised in consultation with the Agency's non-competitive review board.

8. Authority to waive advertising in the Commerce Business Daily and A.I.D. Bulletin for project-funded transactions without limitation as to dollar amount or scope of the proposed procurement; provided, however that such waivers shall be granted only where required to avoid serious delay in project implementation as to length of time. Efforts shall be made, in any event, to secure proposals from a reasonable number of potential contractors.

9. Authority to extend terminal dates for signing project agreements, and meeting initial and additional conditions precedent, and the authority to extend terminal dates for requesting disbursement authorizations, terminal disbursement dates and Project Assistance Completion Dates (PACD's) without limitation; provided however that the extension of the PACD date does not result in a total life of project (from initial obligation to revised PACD) in excess of ten years.

10. The authority to exercise all other implementation functions which would affect the Egypt Mission not specifically set forth herein, with the exception of implementation functions regarding direct A.I.D. contracting, to the extent that the authority to exercise these implementation functions is redelegable.

11. The authorities herein redelegated shall be exercised in accordance with applicable law as amended, agency handbooks, regulations and other official guidance as modified from time to time. In the exercise of the authority contained herein the Assistant Administrator must obtain necessary engineering, economic, financial, legal and other technical clearances.

12. The authorities contained herein shall be redelegated to the Mission Director in Egypt with the authority to redelegate as follows:

(a) The authorities contained in section 1(a) with respect to project and non-project assistance agreements under $20 million and section 3 may be exercised by an officer serving in an "Acting" capacity and may also be redelegated by the Director to his or her principal deputy. With the exception of the authority to approve and execute project and non-project assistance

agreements, the authorities contained in section 3 may be further redelegated under the general supervision of the Mission Director.

(b) The authorities contained in sections 4, 5, 6 and 7 may be exercised by an office serving in an "Acting" capacity and may also be redelegated by the Director to his or her principal deputy; provided however, that:

(1) The amount of the waiver does not exceed $5,000,000 per transaction (exclusive of transportation costs) in the case of a waiver issued pursuant to section 6;

(2) That the amount of the waiver does not exceed $1,000,000 per transaction (exclusive of transportation costs) for waivers issued pursuant to section 7; and

(3) For waivers issued pursuant to section 7, that the Mission's non-competitive review board finds such waivers justified in accordance with Handbook 11.

(c) The remainder of the authorities redelegated by virture of this redelegation shall be redelegated to the Mission Director without authority to redelegate further.

13. The signature of the Mission Director or other A.I.D. officer as appropriate under this redelegation is required for all project or non-project assistance agreements and amendments thereto. The Ambassador or Charge d' Affairs may also sign such project and non-project assistance agreement as has been signed by the Mission Director.

14. This Redelegation shall be effective immediately and shall remain in effect until modified or revoked.

Dated: December 15, 1984.

**M. Peter McPherson,**

*Administrator, Agency for International Development.*

[FR Doc. 84-32752 Filed 12-14-84; 8:45 am]

BILLING CODE 6116-01-M

## A.I.D. Mission Director in Egypt; Redelegation of Authority No. 113.3C

Pursuant to the authority redelegated to me by A.I.D. Delegations of Authority No. 5, dated December 29, 1961 (27 FR 449), as amended, with respect to loan Agreements; No. 38, dated June 21, 1977 (42 FR 31511), as amended, with respect to Project Agreements, Trust Fund Agreements, and Grant Agreements; No. 40 dated December 29, 1981 (47 FR 1049) with respect to Source, Origin and Nationality for Procurement; No. 113, dated October 15, 1975, No. 133 dated December 11, 1981, and No. 147, dated November 15, 1984, I hereby redelegate to the Director of the A.I.D. Mission in Egypt authority to exercise any of the following functions redelegated to me for that country retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to authorize a project or non-project activity without dollar limitation when:

(a) A Project Identification Document ("PID") in the case of project or a Program Assistance Initial Proposal ("PAIP") in the case of a non-project activity has been approved by AID/W for projects over $20 million. (Projects of $20 million and under do not require prior approval of the PID or PAIP by AID/W);

(b) The project does not require waivers which may only be approved in AID/W or, if such waivers are required, that they have been approved prior to such authorization; and

(c) The project does not have a life of project in excess of ten years.

2. Authority to amend project or non-project assistance authorizations executed by any A.I.D. official without dollar limitation if:

(a) The amendment does not present significant policy issues (if such issues are presented by the amendment, prior consultation with AID/W is required); and

(b) The amendment does not require the issuance of waivers which may only be approved in AID/W or, if such waivers are required, that they have been approved prior to such authorization; and

(c) The amendment does not result in total life of Project in excess of ten years.

3. Authority to approve, negotiate, execute and implement trust fund agreements, and project and non-project assistance agreements (both loan and grant) and amendments and ancillary agreements thereto duly authorized under the Foreign Assistance Act of 1961, as amended, in accordance with applicable law, regulations, policies and procedures now or hereafter established or modified and promulgated within A.I.D. This authority shall include, without limitation, the following:

(a) Authority to approve, prepare, negotiate and execute letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such agreements; and

(c) Authority to approve, negotiate, execute and implement all documents ancillary to such agreements.

4. Authority to sign or approve Project Implementation Orders.

5. Authority to review and approve the terms of host-country contracts, contractors, amendments and modifications to such contracts, and invitations for bids and requests for proposals with respect thereto.

6. Authority to waive, in accordance with the criteria prescribed in Supplement B of A.I.D. Handbook 1:

(a) U.S. source, origin and nationality requirements to permit A.I.D. financing of the procurement of goods and services including transportation services and motor vehicles in countries included in A.I.D. Geographic Code 941 (Selected Free World) and the cooperating country without limitations as to amount of the waiver; and

(b) U.S. or Code 941 source, origin and nationality requirements to permit A.I.D. financing of the procurement of goods and services, including transportation services and motor vehicles in any country included in A.I.D. Geographic Code 935 (Special Free World) without limitation as to amount of the waiver; provided, however:

(1) That all waivers of source, origin, and nationality for procurement of goods authorized pursuant to this section 6(b) shall contain a certification by the approving official that "Exclusion of procurement from free world countries other than the cooperating country and countries included in Code 941 would seriously impede attainment of U.S. foreign policy objectives and objectives of the foreign assistance program";

(2) That all waivers of the nationality requirements for services, authorized pursuant to section 6(b) shall contain a certification by the approving official that "the interest of the United States are best served by permitting the procurement of services from free world countries other than the cooperating country and countries included in Code 941;" and

(3) That determinations of the non-availability of U.S. flag vessels in the case of a waiver of source, origin or nationality for transportation services has been made by AID/W, SER/COM.

7. Authority to waive competition in accordance with the criteria set forth in Handbook 11, without dollar limitation in the procurement of goods and services for host country contracts and approve single-source negotiated contracts therefor for goods and services; provided however, that this waiver authority is exercised in consultation with the mission's non-competitive review board.

8. Authority to waive advertising in the Commerce Business Daily and A.I.D. Bulletin for project-funded transactions without limitation as to dollar amount or scope of the proposed procurement;

provided, however that such waivers shall be granted only where required to avoid serious delay in project implementation as to length of time. Efforts shall be made, in any event, to secure proposals from a reasonable number of potential contractors.

9. Authority to extend terminal dates for signing project agreements, and meeting initial and additional conditions precedent, and the authority to extend terminal dates for requesting disbursement authorizations, terminal disbursement dates and Project Assistance Completion Dates (PACD's) without limitation; provided however that the extension of a PACD (from initial obligation to revised PACD) does not result in a total life of project in excess of ten years.

10. The authority to exercise all other implementation functions which would affect the Egypt Mission not specifically set forth herein, with the exception of implementation functions regarding direct A.I.D. contracting, to the extent that the authority to exercise these implementation functions is redelegable.

11. The authorities herein redelegated shall be exercised in accordance with applicable law as amended, agency handbooks, regulations and other official guidance as modified from time to time. Each officer exercising any such authority must obtain necessary engineering, economic, financial, legal and other technical clearances calling upon regional or AID/W offices and personnel as appropriate.

12. The authorities contained in sections 1(a) with respect to project and non-project activities up to $20 million, and section 3 may be exercised by an officer serving in an "Acting" capacity and may also be redelegated by the Director to his or her principal deputy. With the exception of the authority to approve and execute project and non-project assistance agreements, the authorities contained in section 3 may be further redelegated under the general supervision of the Mission Director. The authorities contained in sections 4, 5, 6 and 7 may be exercised by an officer serving in an "Acting" capacity and may also be redelegated by the Director to his or her principal deputy; provided however, that:

(a) The amount of the waiver does not exceed $5,000,000 per transaction (exclusive of transportation costs) in the case of a waiver issued pursuant to section 6;

(b) That the amount of the waiver does not exceed $1,000,000 per transaction (exclusive of transportation costs) for waivers issued pursuant to section 7; and

(c) For waivers issued pursuant to section 7, that the mission's non-competitive review board finds such waiver justified in accordance with Handbook 11.

The remainder of the authorities redelegated by virtue of this redelegation may only be exercised by the Mission Director.

13. The signature of the Mission Director or other A.I.D. officers as appropriate under this Redelegation is required for all project or non-project assistance agreements and amendments thereto. The Ambassador or Charge d' Affairs may also sign such project and non-project assistance agreement as has been signed by the Mission Director.

14. The following Redelegation of Authority is hereby revoked: No. 113.3C dated May 21, 1982 as it affects the Egypt Mission.

15. This Redelegation shall be effective immediately and shall remain in effect until modified or revoked.

Dated: November 15, 1984.

**Antoinette Ford,**

*Assistant Administrator, Bureau for the Near East.*

[FR Doc. 84-32753 Filed 12-14-84; 8:45 am]

BILLING CODE 6116-01-M

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## President's Task Force on International Private Enterprise; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting sponsored by the President's Task Force on International Private Enterprise which will be held December 12, 1984 at the White House.

This will be the eighth meeting of the Task Force.

The meeting will be closed to the public. The Task Force will present its final report to the President.

There will be an AID representative at the meeting. It is suggested that those desiring or in need of further information contact Birge Watkins, Assistant Director, on (202) 944-3350 or by mail c/o The President's Task Force on International Private Enterprise, Agency for International Development, Washington, D.C. 20523.

Dated: December 5, 1984.

**Christian R. Holmes,**

*Executive Director, The President's Task Force on International Private Enterprise.*

[FR Doc. 84-32754 Filed 12-14-84; 8:45 am]

BILLING CODE 6116-01-M

## INTERSTATE COMMERCE COMMISSION

[OP5MCF-636]

## Motor Carriers; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

*Amendments to the request for authority will not be accepted after the date of this publication.* However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

*We find,* with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the

human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: December 10, 1984.

By the Commission.

James H. Bayne,

*Secretary.*

No. MC–F–15984

**A.A. Crow Corporation (Crow) (313 Jordan Avenue, Tallassee, AL 36078)—Control—Ingram Bus Lines Inc. (Ingram) (313 Jordan Avenue, Tallassee, AL 36078)**

Filed November 9, 1984.

Representative: Lawrence E. Lindeman, 805 King Street, Alexandria, VA 22314

Crow, a non-carrier, seeks authority to acquire control of Ingram through the purchase of the issued and outstanding capital stock. Thomas R. Hamilton, Mary C. Montgomery, Ruth C. Baker, James G. Pruett, Sarita C. Ford, and Ann C. Batty, who control Crow through ownership of its issued and outstanding capital stock, seek approval to acquire control of Ingram through the transaction. Ingram holds authority under Certificate No. MC–58719 and Alabama Certificate No. 251 to transport passengers and their baggage over a network of regular routes between Montgomery, AL, and Columbus, GA. Ingram also holds authority in its Sub-No. 10 certificate to transport passengers, in special and charter operations, between points in the United States (except Hawaii).

Mary C. Montgomery, Ruth C. Baker, James G. Pruett, Sarita C. Ford, and Ann C. Batty also control Capital Motor Lines and Colonial Trailways, both of which operate as motor common carriers of passengers, in interstate or foreign commerce, under authorities issued in No. MC–2908 and MC–67308 and Sub-numbers thereunder, respectively.

Note.—This notice does not purport to be a complete description of the operating rights of the carriers involved.

[FR Doc. 84–32712 Filed 12–14–84; 8:45 am]

BILLING CODE 7035–01–M

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**[Docket No. AB–229 (Sub-1)]**

**Prairie Central Railway Co.; Abandonment Exemption Between Paris and Mt. Carmel, IL**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of Exemption.

**SUMMARY:** The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10903 *et seq.* the abandonment by Prairie Central Railway Company, Inc., of 88.07 miles of railroad extending from milepost 38.18 near Paris to milepost 126.25 near Mt. Carmel, IL, subject to employee protective conditions.

**DATES:** This exemption will be effective on December 17, 1984. Petitions to reopen must be filed by January 7, 1985.

**ADDRESSES:** Send pleadings referring to Docket No. AB–229 (Sub No. 1) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Fritz R. Kahn, Suite 1000, 1600 L Street, NW, Washington, DC 20036.

**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 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: December 10, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett, Gradison, Simmons, Lamboley, and Strenio. Commissioner Lamboley concurred with a separate expression.

James H. Bayne,

*Secretary.*

[FR Doc. 84–32713 Filed 12–14–84; 8:45 am]

BILLING CODE 7035–01–M

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## NATIONAL TRANSPORTATION SAFETY BOARD

### Availability of Recommendation Responses

Responses from

Aviation—*Federal Aviation Administration: Sep. 13: A–84–63:* Beech Aircraft Corporation type design data for the Model 1900C airplane has been revised to include the Board's recommendation concerning main circuit breaker panel installations. *Sep. 17: A–82–64 through –66:* Expects to issue a notice of proposed rulemaking by the end of 1984 concerning digital flight data recorder systems in aircraft. *Sep. 19: A–82–24:* Revised procedures for the determination of landing air distances have become FAA certification policy for landing distance testing even though the revised Engineering Flight Test Guide for Transport Category Airplanes has not been completed. *A–82–25:* The present 14 CFR 121.195 landing distance field lengths are acceptable. *Sep. 24: A–84–66:* Is reviewing the service history of the stall avoidance system on Fairchild Swearingen Models SA 226 and SA 227 airplanes to verify system reliability and maintainability. *Sep. 24: A–80–50:* The entire Service Difficulty Reporting Program has been revised as necessary and is being improved through use of the hardware provided by the FAA Field Office Modernization Program and by making the SDR program part of ASAS. *Sep. 24: A–84–55:* Has developed Advisory Circular 105–2A, Sport Parachute Jumping, which discusses the need for closer attention to the requirements for the proper modification of aircraft, the maximum number of persons to be carried, and the weight and balance operating requirements related to the aircraft used in parachute jumping. *A–84–56:* As a matter of district office normal work programs, inspectors periodically contact operators known to use aircraft in parachute jump activities. *A–84–57:* Maintains liaison with the United States Parachute Association and local parachute clubs to require compliance with all appropriate regulations and to encourage and foster good safety practices. *Oct. 3: A–84–18:* Change 37, dated July 2, 1984, to FAA Order 8430.17, Air Carrier Operations Bulletin, transmits ACOB-No. 1–76–19, Flight and Cabin Crewmember Coordination and Communication, and Safety During Potentially Hazardous Conditions of Flight which instructs Principal Operations Inspectors to ensure that their assigned air carrier/operator has established or establishes

standardized communication and coordination procedures between the flightcrew and the cabin crew to improve safety during potentially hazardous conditions of flight. *Oct. 3: A–84–65:* A review of incidents of main landing gear malfunctions involving Boeing 727 airplanes modified in accordance with Airworthiness Directive 79–04–01 has not revealed any basis on which to question the reliability of the gear lock system. Issued Maintenance Bulletin 32–28 instructing FAA maintenance inspectors that the attachment fittings for the landing gear door actuator should be properly maintained and inspected. Boeing issued Service Letter 727–SL–32–47 about the problem. Does no plan to require the mandatory installation of the "improved" safety bar identified in Boeing Service Bulletin No. 727–32–275. *Oct. 3: A–84–79 and –80:* Intends to issue a Notice of Proposed Rulemaking that, if adopted, would require for Cessna Models 206, 207, and nonturbocharged Model 210 the following: (a) Within 25 hours of operation, a one-time inspection for airbox integrity; (b) inspection of the engine induction airbox assembly at each 100 hours or annual inspection, whichever comes first; and (c) all airboxes replaced with Cessna Part Number 1250705–8 will not require the initial or repetitive inspections. *A–84–81:* An article describing the problem associated with induction airbox damage and recommending a modification that will be consistent with the proposed NPRM on this subject has been prepared for inclusion in the FAA's General Aviation Airworthiness Alerts (Advisory Circular 43–16) publication. *Oct. 3: A–83–50 and –51:* Plans to require mandatory compliance with Piper Service Bulletin No. 771 of May 19, 1984, which provides for a placard to be installed near the parking brake control and states the proper sequence for operation of the parking brake. *Oct. 9: A–84–45:* The threshold level at which impairment of pilot performance can be scientifically shown is .04 percent blood alcohol concentration, which FAA believes is adequate for the identification of persons under the influence of alcohol and accommodates the problem of possible "false positive" BAC readings. *A–84–46:* Is considering an implied-consent rule for toxicological testing of crewmembers suspected of violating 14 CFR 91.11. *A–84–47:* Has developed and disseminated numerous publications and educational materials on the effects of alcohol on airman performance. *A–84–48:* Aviation medical examiners and FAA physicians have information to improve their ability to detect airment with alcohol problems in the *Guide for Aviation Medical Examiners. A–84–49:* Is reluctant to commit funds to the effort required to seek statutory authority and initiate regulatory changes to use the National Driver Register to identify airmen whose driving licenses have been suspended or revoked for alcohol-related offenses until there is a clear indication from the Safety Board that such data would be given substantial weight in enforcement actions. *A–84–50:* Will instruct field inspectors to increase surveillance and enforcement of the rquirement for possession of a valid medical certificate. *Oct. 9: A–80–103:* The FAA Alaskan Region continues to expand the "Meteor Burst" project for transmission of weather observations from rural villages to regional aviation hubs in Alaska. *A–80–104:* Because of difficulties with camera resolution and physical location, exacerbated by local terrain and climatological conditions, the performance of the television weather observation system was not satisfactory, and further installations are unwarranted. *Oct. 11: A–84–58:* Issued two emergency telegraphic airworthiness directives concerning the Sikorsky S–76A helicopter equipped with Allison 250–C30 engines. One required installation of an engine compartment protection shield and essential bus modification kit on Sikorsky Model S–76A helicopters. The other required inspection for abnormal rub of the second stage turbine nozzle seal of Allison Model 250–C30 and 250–C30S engines having less than 100 hours time-in-service since gas producer turbine rotor assembly repair or disassembly, and installed in Sikorsky S–76A helicopters. *A–84–60:* The engine compartment design of virtually all turbine-powered multiengine helicopters includes features which present some risk of catastrophic damage in the event of an uncontained turbine wheel failure. However, a review of the preceding 5 years of accident/incident data indicates that only the Detroit Allison 250–C30 engine in the Sikorsky S–76 helicopter has a significant failure history. *A–84–59:* Detroit Diesel Allison is conducting a Failure Modes and Effects Analysis of the Allison 250–C30 engine design to identify the existence of further critical failure modes. FAA is reviewing and evaluating the engine certification data to determine whether the engine complies with its type certification requirements. *Oct. 11: A–84–67:* Distributed Operations Safety Notice 206–83–10 concerning loss of tail rotor effectiveness in certain model helicopters to all General Aviation District Offices and Flight Standards District Offices. Is preparing a general notice (GENOT) to emphasize the OSN information. Will distribute the contents of the Bell Information Letter to airmen holding U.S.A. helicopter pilot certificates. *A–84–68:* A review of the Bell Model 206 data in OSN 206–83–10 and Information Letter 206–84–41 was not intended to imply that the existing tail rotor control margin is inadequate, so a review of the flight test data substantiating compliance with the 14 CFR 27.143 controllability requirements is not warranted. *Oct. 11: A–83–44:* The August 1984 issue of the General Aviation Airworthiness Alert (Advisory Circular 43–16) advised owners/operators that procedures for inspection and replacement of affected Cessna main landing gear trunnions are included in Cessna Service Letters, Numbers ME 78–28 and ME 79–11 and in the Service/Maintenance Manual. *Oct. 15: A–80–115 and –119:* Installation of the remote radar weather displays in the air route traffic control centers' center weather service units has been completed. *Oct. 15: A–84–10 and –11:* The August 1984 issue of the General Aviation Airworthiness Alerts (Advisory Circular 43–16) encouraged owners/operators of Pipe PA–28 series airplanes operating in extremely cold weather conditions to protect the engine oil breather tube from icing. *Nov. 19: A–83–57:* Issued a Notice of Proposed Rulemaking for a proposed Airworthiness Directive applicable to Beech Models 19, 23, and 24 series airplanes to require incorporation of Beechcraft Service Instructions No. 1095, Revision 1, concerning installation of a fuel selector stop. *Nov. 19: A–83–67:* Issued a Notice of Proposed Rulemaking on August 29, 1984, concerning paper induction air filters. *Nov. 20: A–84–5:* Issued Airworthiness Directive 84–19–02 applicable to Cessna Models 402C, 404, 414A, 421C, 425, and 441 airplanes that requires replacement of nose landing gear actuator rod ends which may be under strength. *Nov. 20: A–83–34:* Issued a Notice of Proposed Rulemaking on October 24, 1984, proposing to adopt an Airworthiness Directive applicable to certain model Cessna airplanes that would require inspection of the ends of the engine throttle and mixture control cables to determine if the sleeve and bushing are secured by a drive screw. *Nov. 19: A–83–64:* Issued a Notice of Proposed Rulemaking on August 27, 1984, proposing an Airworthiness Directive that would require compliance with Cessna Aircraft Company Service Information Letter SE84–5 that specifies using safety wire to secure a roll pin in

the fuel selector valve handle. *A–83–65:* The problem of the fuel tank selector valve linkages on certain Cessna aircraft was described in the March 1984 issue of the General Aviation Airworthiness Alerts. *Nov. 20: A–82–18:* Issued a Cessna Model 210 Icing Special Certification Review Final Report on July 23, 1984. *A–82–21 and –23:* A review of vacuum pump service histories and the effects of environmental conditions shows that dry vacuum pump reliability is less than desired. Is considering the issuance of an Airworthiness Directive or changing the operating and certification rules to require more reliable vacuum sources. *Nov. 15: A–84–109:* Issued on September 27, 1984, Emergency Telegraphic Airworthiness Directive T85–19–51 concerning the operation of Sikorsky Model S–76A helicopters with damaged, bent, or fractured firewall support stiffeners and doublers. *Oct. 22: A–84–85:* Is reviewing recommendation concerning inspection of the strut housing assembly and replacement of the landing gear upper bearing retaining pins on certain Piper aircraft. *Oct. 22: A–83–56:* Conducted a special certification review of Mitsubishi MU–2 airplanes relative to the engines, fuel system, autopilot, and flight control systems; flight in known icing conditions; engine inoperative characteristics;

and handling characteristics during IMC landing approaches. Two Airworthiness Directives concerning design changes have been proposed, and Mitsubishi has volunteered to accomplish several changes to the airplane flight manuals, service bulletins, and maintenance manuals to improve operation and maintenance of all MU–2B airplanes. *Oct. 22: A–83–8 and –9:* Issued a Notice of Proposed Rulemaking on August 7, 1984, proposing to adopt an Airworthiness Directive applicable to certain model Piper aircraft that would require the installation of fuel tank quick drains. *Oct. 24: A–84–16:* Has proposed a change to FAA Order 8440.5A, Chapter 14, Section 5, Paragraph 234, concerning clarification of the requirements for helicopter low-level movie-making operators. *Oct. 29: A–84–86:* Has initiated a detailed investigation of all makes and models of twin-engine airplanes equipped with Prestolite 100–ampere alternators to determine if the Prestolite 100–ampere alternator is susceptible to power generation failures due to ice formation in the alternator brush holders. *Oct. 30: A–83–54:* Published in the July-August 1984 issue of the *FAA General Aviation News* an article on the visual scan techniques contained in Advisory Circular 90–48C, Pilots' Role in Collision Avoidance, and also information extracted from the Aircraft Owners and Pilots Association's film title "Take Two and See." *Oct. 31: A–84–103:* Revised FAA Form 8430–5, Air Carrier Enroute Inspection Report—Operations to focus en route surveillance more effectively into the flightcrews' fuel consumption planning. Issued on Oct. 11, 1984, an Air Carrier Operations Bulletin advising principal operations inspectors to require their assigned carriers' operating manuals to have adequate procedures for certain fuel system-related operations. *Nov. 2: A–84–76:* Believes that current regulations regarding carrier training of employees in fire emergencies are adequate. *A–84–77 and –78:* Believes that amendment of Airplane Flight Manuals regarding locations in the aircraft cabin where a fire ax can be used safely to gain access to a fire or smoke emission source would be inappropriate and impracticable. *Nov. 2: A–81–107:* Airplane Flight Manuals for all models of the DC–9 series have now been revised to provide detailed discussions of the adverse effect of reverse thrust on rudder effectiveness and directional control and to provide procedures for use of reverse thrust for landings on wet/slippery runways and when landing with complete loss of hydraulic system pressure. *A–81–111:* The Airplane Operations Manual and Crew Training Manual for the Boeing 727, which has aft pod-mounted engine/thrust reversers, adequately address the problem of reduced tracking ability on wet runways during reverse thrust operations and on how to avoid it. *Nov. 2: A–84–97:* Examined the adequacy of several nondestructive test methods when used in a controlled laboratory environment and also reviewed the methods with respect to sensitivity and reliability when applied to the actual complex geometry of the CF–50 high-pressure turbine rotor (HPTR) first-stage disk. The double fluorescent penetrant inspection process and the introduction of new design disks required in Airworthiness Directive Amendment 39–4464 have been effective. *Nov. 2: A–81–27:* Will discuss at a public meeting the week of October 22, 1984, proposals received in response to the FAA's review of 14 CFR Part 23, including the proposal from the Board to require certain aircraft to have an emergency exit located on the opposite side of the cabin from the main door and to require that each emergency exit can be opened from both the inside and the outside of the aircraft. *Nov. 8: A–82–54:* Reviewed the deicing boot resistance testing procedures specified in the Ratier-Figeac maintenance manual for model FH 146 propellers and founded them to be adequate. *A–82–55:* Since the materials of electric deicers of numerous aircraft constructed and approved in the United States are identical to the FH 146 propeller deicer, the manufacturer does not recommend any change in the deicer composition. *Nov. 13: A84–104 through –106:* Is considering issuing an Airworthiness Directive that would require certain new requirements concerning fuel reservoir drains on certain Cessna aircraft. *A–84–107:* Is evaluating recommendation to require installation of a decal on the lower fuselage of certain model Cessna aircraft, irrespective of the date of manufacture, to assist in locating the fuel reservoir tanks. *Nov. 13: A–84–1:* Investigation and review of an incident involving decay in the wing spars of a Bellanca aircraft leads to the conclusion that wood wing spar decay can be discovered by adherence to present Airworthiness Directives 76–08–04 and 76–20–07. *A–84–2:* Has reevaluated AD 76–08–04 and AD 76–20–07 and Bellanca Service Letter No. 87A in conjunction with the manufacturer and believes that they are adequate for inspection of the wood wing spar. *A–84–3:* Published in the June 1984, Alert No. 71, issue of the General Aviation Airworthiness Alerts (Advisory Circular 43–16) information on detecting deterioration of wooden components in aircraft.

*Secretary of U.S. Department of Transportation: Oct. 30: A–84–75:* Considers the construction of radar installations in Nassau, Bahamas and Grand Turk Island, necessary to expand the over-ocean radar coverage in the Miami Air Route Traffic Control Center, to be high priority matter and is doing everything possible to maintain the present schedule.

*National Oceanic and Atmospheric Administration: Nov. 7: A–84–108:* Is reviewing the recommendation regarding forecasting of severe clear air turbulence and waring of pilots.

**Note.**—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

**H. Ray Smith, Jr.,**

*Federal Register Liasion Officer.*

December 12, 1984.

[FR Doc. 84–32708 Filed 12–14–84; 8:45 am]

BILLING CODE 7533–01–M

## NUCLEAR REGULATORY COMMISSION

[Docket No. STN 50-529]

### Arizona Public Service Co., et al., Palo Verde Nuclear Generating Station, Unit 2; Order Extending Construction Completion Date

Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District, Southern California Edison Company, El Paso Electric Company, Public Service Company of New Mexico, Los Angeles Department of Water and Power and Southern California Public Power Authority are the holders of Construction Permit No. CPPR-142 issued by the Nuclear Regulatory Commission on May 25, 1976 for the Palo Verde Nuclear Generating Station, Unit 2. This facility is presently under construction at the applicants' site in Maricopa County, Arizona.

By letter dated October 25, 1984, as amended by letter dated November 13, 1984, the Arizona Public Service Company filed a request for extension of the latest construction completion date for the facility. This request is to extend the latest completion date from November 1, 1984 to December 31, 1985.

Arizona Public Service Company states that this extension is requested because construction has been delayed due to the following:

(1) Palo Verde Unit 2 is being constructed sequentially with Palo Verde Unit 1 (CPPR-141) and Palo Verde Unit 3 (CPPR-143) and, therefore, the completion of Unit 2 is largely dependent on the progress of Unit 1.

(2) At the current time, basic construction of Palo Verde Units 1 and 2 is substantially complete, and preoperational testing is at an advanced stage for Unit 1 and has been initiated for Unit 2.

(3) On November 4, 1982 and December 29, 1983, the Commission issued Orders extending the construction completion date for Palo Verde Unit 1, in response to previous requests by the Arizona Public Service Company dated October 12, 1982, May 12, 1983 and September 9, 1983. In its current request, the Arizona Public Service Company states that the factors impacting the completion of construction of Unit 1 cited in its previous requests and in the Commission Orders also impacted the completion of construction of Unit 2.

(4) Based upon the current status of construction and current schedules for remaining work and preoperational testing for Palo Verde Unit 1, it is expected that the construction of Unit 1 will be completed to permit the loading of fuel into its reactor on or before March 31, 1985.

(5) Prudence requires that (a) the sequential construction of Palo Verde Units 1, 2 and 3 should be maintained and (b) the sequential interval between the fuel load dates for Units 1 and 2 should not be scheduled at less than nine months. Acceleration of the construction and preoperational testing of Palo Verde Unit 2 to reduce the scheduled interval between the fuel load dates for Palo Verde Units 1 and 2 to less than a nine-month period would overtax the resources readily available to the Arizona Public Service Company.

The staff has performed an evaluation of the request for extension. Based on this review, the staff has determined that the above factors have resulted in significant delays in construction completion and that the request is for a reasonable period of time when considering the nature of the delays. In addition, the extension of the latest completion date in the construction permit does not involve any significant hazards consideration since the extension will not allow any work to be performed that is not already allowed by the existing construction permit.

Prior public notice of this extension was not required since the Commission has determined that this action involves no significant hazards consideration; good cause has been shown for the delays; and the requested extension is for a reasonable period of time.

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's 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 Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

It is hereby ordered that the latest completion date for CPPR-142 is extended from November 1, 1984 to December 31, 1985.

For the Nuclear Regulatory Commission.

Date of Issuance: December 10, 1984.

**Darrell G. Eisenhut,**

*Director, Division of Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 84-32757 Filed 12-14-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-454]

### Commonwealth Edison Co.; Granting of Relief From Certain Requirements of ASME Code Section XI Inservice (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to the Commonwealth Edison Company (the licensee). The relief relates to inservice testing of pumps and valves for Byron Station, Unit 1 (the facility) located in Rockvale Township, Ogle County, Illinois. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief relates to certain inservice testing requirements, pursuant to the Commission's regulations in 10 CFR 50.55a(g)(6)(i). The specific reliefs relate to the inservice testing of pumps and valves and are identified in the licensee's November 16, 1984 letter, which revises the program submitted by letter dated November 4, 1982 and evaluated in the staff's Safety Evaluation Report, Supplement 5, for Byron Station, Units 1 and 2. Each relief request proposes alternative tests and/or test frequencies for identified pumps and valves.

For example, relief has been requested for the accumulator check valves from the ASME code requirement that check valves be exercised for operability every 3 months. (See VR-5 in the November 16, 1984 letter.) The licensee states that these valves cannot be tested during unit operation because of the pressure differential across the valves. Instead, the licensee proposes to partial stroke test the valves during cold shutdown.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings that are required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1. Pursuant to 10 CFR 51.32, the Commission has determined that granting this relief will have no significant impact on the environment and an Assessment to that effect was published in the **Federal Register** on December 10, 1984 (49 FR 48117).

For further details with respect to the actions, see (1) the licensee's request for relief dated November 16,1984, (2) the

Commission's letter to the licensee dated December 10, 1984, and (3) the Commission's related Safety Evaluation Report. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington D.C. and at the Rockford Public Library, Rockford, Illinois. 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 10th day of December 1984.

For the Nuclear Regulatory Commission.

**B.J. Youngblood,**

*Chief, Licensing Branch No. 1, Division of Licensing.*

[FR Doc. 84-32758 Filed 12-14-84; 8:45 am]

BILLING CODE 7590-01-M

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[Docket No. 50-244]

## Rochester Gas and Electric Corp.; Issuance of a Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Facility Operating License No. DPR-18 to Rochester Gas and Electric Corporation (the licensee) authorizing operation of the R. E. Ginna Nuclear Power Plant at steady-state reactor core power levels not in excess of 1520 megawatts (thermal) in accordance with the provisions of the license and the Technical Specifications. The R. E. Ginna Nuclear Power Plant is a pressurized water reactor located in Wayne County, New York.

The R. E. Ginna Nuclear Power Plant has operated since September 19, 1969 under Provisional Operating License No. DPR-18. Facility Operating License No. DPR-18 supersedes Provisional Operating License No. DPR-18 in its entirety.

Notice of Consideration of Conversion of Provisional Operating License to a full-term operating license was published in the **Federal Register** on December 8, 1972 (37 FR 26144) and December 9, 1983 (48 FR 55222). The full-term operating license was not issued previously, pending completion of proceedings before the Atomic Safety and Licensing and the Systematic Evaluation Program for Ginna. On August 30, 1984, subsequent to the withdrawal of the sole intervenor, the Licensing Board dismissed the proceeding before it. The Final Environmental Statement (FES) in connection with the conversion to a full-term operating license was issued in December 1973. A Notice of availability of the FES was published in the **Federal Register** on December 19, 1973 (38 FR 34830). An environmental evaluation of the Final Environmental Statement was issued on June 7, 1983 [notice of which was published in the **Federal Register** on June 28, 1983 (48 FR 29764)].

The application for the full-term operating license complies with the standards and requirements of the Atomic Energy Act of 1954 as amended (the Act) and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license.

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

The license is effective as of its date of issuance and shall expire on April 25, 2006.

For further information concerning this action, see: (1) The licensee's application for a full-term operating license dated August 15, 1972, (2) Rochester Gas and Electric Corporation "R. E. Ginna Nuclear Power Plant Unit 1, Environmental Report", August 1972, (3) the Commission's Draft Environmental Statement, April 1973, (4) the Commission's Final Environmental Statement, December 1973, (5) the Commission's Environmental Evaluation, dated June 17, 1983, (6) Facility Operating License No. DPR-18, complete with Technical Specifications (Appendix A), (7) the Commission's related Safety Evaluation Report (NUREG-0944), October 1983 and Supplement No. 1 to this Safety Evaluation Report, October 1984, which are available for public inspection at the Commission's Public Document Room (PDR), 1717 H Street, NW, Washington D.C., and at the Rochester Public Library, 115 South Avenue, Rochester, New York.

A copy of Facility Operating License DPR-18 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing. Copies of the Safety Evaluation Report and Supplement 1 (NUREG-0944) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285, Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing to the U.S. Nuclear Regulatory Commission, Attention: Sales Manager, Washington, D.C. 20555. GPO deposit account holders may call 301-492-9530. The Commission's Draft and Final Environmental Statements and Environmental Evaluation may be copied for a fee at the Commission's PDR and at the Rochester Public Library.

Dated at Bethesda, Maryland, this 10 day of December 1984.

For the Nuclear Regulatory Commission.

**John A. Zwolinski,**

*Chief, Operating Reactors Branch No. 5, Division of Licensing.*

[FR Doc. 84-32759 Filed 12-14-84; 8:45 am]

BILLING CODE 7590-01-M

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## Advisory Committee on Reactor Safeguards; Revised Notice of Meeting

This revised **Federal Register** Notice reflects changes in the conduct of the 296th ACRS meeting previously announced in the **Federal Register** (Vol. 49, No. 232, Friday, November 30, 1984) to provide for discussion not open to the public during the ACRS' preparation of its report to the NRC on the Hope Creek Nuclear Plant. This session of the meeting will be closed consistent with 5 U.S.C. 552b(c)(10) to permit discussion of information involved in an adjudicatory proceeding.

*Saturday, December 15, 1984*

*8:30 a.m.-10:30 a.m.: ACRS Reports to NRC* (Open/Closed)—The members will discuss proposed reports to the NRC regarding items considered during this meeting, including the Hope Creek Generating Station, Unit 1.

Portions of this session will be closed as required to discuss Proprietary Information related to the Applicant's detailed security measures and information involved in an adjudicatory proceeding.

I have determined in accordance with Subsection 10(d) Pub. L. 92-463 that it is necessary to close portions of this session as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)), detailed plant security measures (5 U.S.C. 552b(c)(10)).

Dated: December 12, 1984.

**John C. Hoyle,**

*Advisory Committee Management Officer.*

[FR Doc. 84-32750 Filed 12-14-84; 8:45 am]

BILLING CODE 7590-01-M

## RAILROAD RETIREMENT BOARD

### Agency Forms Submitted for OMB Review

**AGENCY:** Railroad Retirement Board.

**ACTION:** In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

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**Summary of Proposal(s)**

(1) Collection title: Prior Service Reports.

(2) Form(s) submitted: AA–15, AA–2P(R), G–86.

(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(4) Frequency of use: On occasion.

(5) Respondents: Individuals or households, Business or other for profit.

(6) Annual responses: 840.

(7) Annual reporting hours: 307.

(8) Collection description: Railroad service prior to 1937 which can be used to determine entitlement to and amount of annuity under the RRA is not carried on Board records. The reports obtain verification of such service from employer records, or in the absence of such records, obtain information from the applicant to support the claim.

*Additional information or comments:* Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Robert Fishman (202–395–6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

**Pauline Lohens,**

*Director of Information and Data Management.*

[FR Doc. 84–32747 Filed 12–14–84; 8:45 am]

BILLING CODE 7905–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–21550; File No. SR–MCC–84–8]**

### Self-Regulatory Organizations; Proposed Rule Change by Midwest Clearing Corp. Relating to Continuous Net Settlement System

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 9, 1984, the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Attached to the filing as Exhibit A is the text of proposed changes to MCC Article I, Rules 1 and 2 and MCC Article III, Rule 4.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below of the most significant aspects of such statements.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The proposed rules, and the procedures contained in Exhibit B will allow municipal securities transactions to settle in the Continuous Net Settlement (CNS) System. The proposed rules supplement MCC's prior filing, SR–MCC–84–4, implementing its Municipal Bond Comparison System (MBCS). MBCS is operated as a link with the National Municipal Securities Comparison System offered by the National Securities Clearing Corporation (NSCC). The proposed rule change ensures that registered municipal securities transactions may be effectively compared and may be settled in CNS through the interface with NSCC.

By establishing special buy-in rules for municipal securities transactions, MCC's procedures relating to fails will be compatible with NSCC's in order to facilitate settlements through the interface. Participants with long CNS values who have not received their buy-in positions may instruct MCC to exist the positions from CNS. MCC will then exit these positions, and provide the long and short sides with special receive and deliver orders. If the exited short position is at NSCC, the clearing corporations will identify their participants, and generate receive and deliver orders accordingly. In all cases, the participants will be responsible for closing out their positions pursuant to the receive and deliver orders, subject to the rules of the Municipal Securities Rulemaking Board. At this point, MCC will no longer guarantee the settlement obligations of the parties involved. A similar procedure will apply when a buy-in notice is received from NSCC and MCC's short participant(s) does not deliver within the applicable time frames.

The proposed procedures also address the situation where a municipal issue is declared ineligible for CNS. The Depository Trust Company (DTC) designates which municipal issues are CNS eligible at NSCC. When DTC declares an issue ineligible, thereby making the issue ineligible for the interface between NSCC and MCC, MCC will exit the issue from CNS. As under the special buy-in rules, receive and deliver orders will be issued to the appropriate Participants and MCC's settlement guarantee will no longer apply.

The proposed rule change also amends MCC's rules to make bearer securities eligible for deposit and clearance at MCC.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934, and the rules thereunder in that it provides for the prompt and accurate clearance and settlement of securities transactions. The proposed changes will allow MCC Participants to more efficiently compare and settle trades effected with NSCC members. This will assist the establishment of a national system for securities clearance and settlement.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Midwest Clearing Corporation does not believe that any burdens will be placed on competition as a result of the proposed rule change.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Comments have neither been solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 18, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 10, 1984.

**John Wheeler,**

*Secretary.*

[FR Doc. 84-32720 Filed 12-14-84; 8:45 am]

BILLING CODE 8010-01-M

**[File No. 1-7210]**

## Application To Withdraw From Listing and Registration; Republic System Co.; Common Stock, $1.00 Par Value

December 11, 1984.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

(1) The common stock of the Registrant has been listed for trailing on the Amex and, pursuant to a Registration Statement on Form 8-A which became effective November 13, 1984, the New York Stock Exchange ("NYSE"). Trading in the Registrant's common stock on the NYSE commenced at the opening of business on November 27, 1984 and concurrently therewith such common stock was suspended from trading on the Amex.

(2) The Registrant has considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and the Amex. The Registrant does not see any particular advantage in the dual trading of its stock and believes that dual listing would constitute an unnecessary expense.

(3) The Amex has informed the Registrant that it has no objection to the withdrawal of the Registrant's common stock from listing on the Amex. This application relates solely to the withdrawal from listing of the Registrant's common stock from the Amex and shall have no effect upon the continued listing of such common stock on the NYSE.

Any interested person may, on or before January 3, 1985, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**John Wheeler,**

*Secretary.*

[FR Doc. 84-32760 Filed 12-14-84; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

### Petitions for Exemption or Waiver of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for an exemption from or waiver of compliance with certain requirements of its safety standards. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate Docket Number (e.g., waiver petition Docket Number HS-84-2) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before January 31, 1985 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

The individual petitions seeking an exemption or waiver of compliance are as follows:

Petition for Exemption from the Hours of Service Act

| Petitioners' name | Waiver petition docket No. |
|---|---|
| Caney Fork and Western Railroad, Inc. | HS-84-2. |
| The Corinth and Counce Railroad Company | HS-84-3. |
| Kyle Railways, Inc. on behalf of Pend Oreille Valley Railroad, Inc. | HS-84-4. |
| Northern Missouri Railroad, Inc | HS-84-5. |
| Colorado and Eastern Railroad Company | HS-84-6. |
| South Central Tennessee Railroad | HS-84-7. |
| Winchester and Western Railroad Company | HS-84-8. |
| Lancaster and Chester Railway Company | HS-84-9. |
| Transkentucky Transportation Railroad, Inc. | HS-84-10. |
| State of Vermont Railway, Inc. | HS-84-11. |
| Magma Arizona Railroad Company | HS-84-12. |
| Hartford and Slocomb Railroad Company | HS-84-13. |
| Clarendon and Pittsford Railroad Company | HS-84-14. |
| Tradewater Railway Company | HS-84-16. |
| Port Terminal Railroad of South Carolina | HS-84-17. |
| Port Utilities Commission of Charleston, South Carolina. | HS-84-18. |
| East Cooper and Berkeley Railroad Company | HS-84-19. |
| San Diego and Imperial Valley Railroad | HS-84-20. |

The above named railroads seek an exemption to permit specified employees to remain on duty continuously for a period in excess of 12 hours. Because each of these railroads individually employs no more than 15 employees subject to the Hours of Service Act (45 U.S.C. 64a(e)), it may seek an exemption to permit its employees to remain on duty continuously for periods not to exceed 16 hours. Each petitioner indicates that granting their exemption is in the public interest and will not adversely affect safety.

**Bay Colony Railroad Corporation**

[Waiver Petition Docket Number RSRM-84-3]

*Rear End Marking Devices*

The Bay Colony Railroad Corporation (BCLR) has petitioned the FRA seeking relief from the requirements of 49 CFR 221.13. Section 221.13 provides that, after June 30, 1978, rear end marking devices must be displayed on the trailing end of the rear car of all passenger, commuter and freight trains. The BCLR relief request is applicable only to freight trains when only one train is to be operated on a line segment at any given time.

**Grand Trunk Western Railroad Company**

[Waiver Petition Docket Number RSRM-84-4]

*Rear End Marking Devices*

The Grand Trunk Western Railroad Company (GTW) has petitioned the FRA seeking relief from the requirements of 49 CFR 221.15(d). Section 221.15(d) provides that, after June 30, 1978, rear end marking devices displayed in compliance with this Part shall be inspected by the train crew at each crew change point to assure that they are in proper operating condition. The GTW's petition requests that it be granted the authority to deviate from the exclusivity of the rule. The GTW proposes to implement an operating rule that would designate employees, such as yardmasters, car inspectors, or other employees to perform the required inspection task in the absence of a train crewmember.

**Chicago and North Western Transportation Company**

[Waiver Petition Docket Number RSRM-84-5]

*Rear End Marking Devices*

The Chicago and North Western Transportation Company (CNW) seeks relief from the requirements of 49 CFR 221.13. Section 221.13 provides that, after June 30, 1978, trains occupying or operating on main track shall be equipped with a marking device located on the trailing end of the rear car of the train. The CNW's petition requests that it be granted authority to operate freight trains in 26 subdivisions of their system without the use of the required rear and marker. This is proposed in three different situations: (1) Where operations are governed by the absolute block system where only one train is authorized at any given time; (2) on subdivisions governed by Rule 99(D) and following trains are not authorized, and; (3) where the yard limit rule exists and is coupled with a maximum speed of ten miles per hour.

**The Atchison, Topeka and Santa Fe Railway Company**

[Waiver Petition Docket Number RSRM-84-6]

*Rear End Marking Devices*

The Atchison, Topeka, and Santa Fe Railway Company (ATSF) has petitioned the FRA seeking relief from the requirements of 49 CFR 221.15(d). This section requires that, after June 30, 1978, marking devices displayed in accordance with this Part shall be inspected by the train crew at each crew change point to assure that they are in proper operating condition. In lieu of an inspection by a member of the train crew, the ATSF proposes that a supervisor-operations, car inspector or other responsible employee be allowed to undertake the task required by the rule.

**Burlington Northern Railroad**

[Waiver Petition Docket Number RSRM-84-7]

*Rear End Marking Devices*

The Burlington Northern Railroad (BN) has petitioned the FRA seeking relief from the requirements of 49 CFR 221.15(d). Section 221.15(d) requires that, after June 30, 1978, marking devices in compliance with this Part shall be inspected by the train crew at each crew change point to assure that they are in proper operating condition. BN proposes the use of specially designed rear end marking devices capable of transmitting to a receiving unit in the locomotive cab the operational status of the market device. The information provided by the device would be in lieu of the crew inspection. Further, when the conventional rear marker is in use, the BN requests that they, at their discretion, be allowed to designate other responsible employees to inspect and advise train crews of the operational status.

**Consolidated Rail Corporation**

[Waiver Petition Docket Number RSRM-84-8]

*Rear End Marking Devices*

The Consolidated Rail Corporation (CR) has petitioned the FRA for relief from the requirements of 49 CFR 221.15(d). Section 221.15(d) requires that, after June 30, 1978, marking devices displayed in compliance with this Part shall be inspected by a member of the train crew at each crew change point to assure that they are in proper operating condition. CR proposes alternative measures in lieu of the required inspection by a member of the train crew. Instead, a specially designed rear end marking device capable of transmitting to a receiving unit in the locomotive cab will transmit the operational status otherwise provided by a member of the train crew.

**Ontario Midland Railroad**

[Waiver Petition Docket Number RSOR-84-1]

*Blue Signal Protection for Workmen*

The Ontario Midland Railroad has petitioned the FRA seeking a waiver of compliance with the requirements of 49 CFR 218.27 and 218.28. These sections provide for specific methods of protection when workmen are on, under, or between rolling equipment on track other than main track. The Ontario Midland Railroad has described their repair facility as being unique in that switching is not performed in the immediate area and the facility is also located at a higher grade elevation, thereby, precluding any unattended car movement from rolling into the facility. Therefore, the OMR believes that compliance with these sections is not necessary to protect workmen in their repair facility.

### Grand Trunk Western Railroad Company

[Waiver Petition Docket Number RSOR–84–2]

*Blue Signal Protection for Workmen*

The Grand Trunk Western Railroad Company (GTW) has petitioned the FRA seeking relief from the requirements of 49 CFR 218.29(c). Section 218.29(c), in part, requires a minimum of 150 feet distance to clear equipment for the installations of a derail mechanism. Because of the very constricted area of the six loading tracks at the Oldsmobile Plant at Lansing, Michigan, the GTW cannot comply with this distance requirement. The GTW believes that placement of the derails at a reduced distance of 50 feet from the protected equipment will provide the desired level of protection to other factors that improve the level of protection at this location include: (1) The fact that the tracks are stub ended; the access end of the track is fenced; (2) only one crew working at any given time; and (3) operating speed is limited to five mph.

### Norfolk Southern Corporation

[Waiver Petition Docket Number RSOR–84–4]

*Blue Signal Protection for Workmen*

The Norfolk Southern Corporation (NS) has petitioned the FRA for relief from the requirements of 49 CFR Part 218 as it applies to workmen providing installation, removal, battery exchange, unit exchange, or other service to rear end markers of manned trains. The NS proposes the implementation of carrier required procedures in lieu of the blue flag requirements. These procedures establish communication between the workmen and the engineer of the manned train covering the application of the train braking system until he is notified that such is no longer necessary.

Issued in Washington, D.C., on December 6, 1984.

**Joseph W. Walsh,**

*Associate Administrator for Safety.*

[FR Doc. 84–32732 Filed 2–14–84; 8:45 am]

BILLING CODE 4910–06–M

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[BS–Ap–No. 2346]

### Chicago and North Western Transportation Co.; Petition to Discontinue Automatic Control System

The Chicago and North Western Transportation Company has petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance of the automatic train control system between West Denison and Council Bluffs, Iowa, on its Iowa Division, a distance of about 58 miles. This proceeding is identified as FRA Block Signal Application No. 2346.

After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10:00 a.m. on February 20, 1985, in Room 807 of the Federal Office Building at 106 South 15th Street, Omaha, Nebraska.

The hearing will be an informal one, and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons who wish to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC., on December 12, 1984.

**J. W. Walsh,**

*Associate Administrator for Safety.*

[FR Doc. 84–32733 Filed 12–14–84; 8:45 am]

BILLING CODE 4910–06–M

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## Research and Special Programs Administration

### Grants and Denials of Applications for Exemptions

**AGENCY:** Materials Transportation Bureau, D.O.T.

**ACTION:** Notice of Grants and Denials of Applications for Exemption.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in November 1984. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

| Application No. | Exemption No. | Applicant | Regulation(s) affected | Nature of Exemption thereof |
|---|---|---|---|---|
| 2136–X | DOT–E 2136 | U.S. Department of Defense, Washington, DC. | 49 CFR 173.1, 173.3(a), 173.7(a), 174.10, 174.104, 174.3, 174.90(a), 177.801, 177.802. | To authorize shipment of radioactive materials with explosives in Department of Defense containers packaged and loaded by the Department of Defense without carrier inspection. (Modes 1, 2.) |
| 4698–X | DOT–E 4698 | United Technologies, Diesel Systems, Inc., Springfield, MA. | 49 CFR 173.302(a)(1), 175.3 | To authorize use of non-DOT specification hydraulic accumulators, for shipment of a certain nonflammable compressed gas. (Modes 1, 2, 3, 4.) |
| 5557–X | DOT–E 5557 | U.S. Department of Energy, Washington, DC. | 49 CFR Part 173, Subpart C | To authorize use of non-DOT specification containers, for shipment of certain explosives, and gross weight exceeding prescribed limits. (Mode 1.) |
| 6418–P | DOT–E 6418 | Western Farm Service, Inc., Walnut Creek, CA. | 49 CFR 173.357(b) | To become a party to Exemption 6418. (Mode 1.) |
| 6614–P | DOT–E 6614 | Guard-Rite Chemicals, Inc., Torrance, CA | 49 CFR, 173.263(a)(28), 173.277(a)(6) | To become a party to Exemption 6614. (Mode 1.) |
| 6614 | DOT–E 6614 | Willy's Pool Service, Torrance, CA | 49 CFR 173.263(a)(28), 173.277(a)(6) | To become a party to Exemption 6614. (Mode 1.) |
| 6651–X | DOT–E 6651 | Heatbath Corp., Chicago, IL | 49 CFR 173.28(h), 173.28(m) | To authorize on time reuse of single-trip containers, for transportation of certain Class B poisonous solids. (Mode 1.) |
| 7052–P | DOT–E 7052 | Union Carbide Corp., Danbury, CT | 49 CFR 172.101, 175.3 | To become a party to Exemption 7052. (Mode 1, 2, 3, 4.) |
| 7096–X | DOT–E 7096 | Fike Metal Products, Corp., Blue Springs, MO. | 49 CFR 173.304(a) (1), 178.55 | To authorize shipment of bromotrifluoromethane (Freon 1301) in non-DOT specification cylinders, fabricated in accordance with DOT Specification 4B240ET with certain exceptions. (Modes 1, 2, 3.) |
| 7247–X | DOT–E 7247 | U.S. Department of Defense, Washington, DC. | 49 CFR 146.29–11(c)(19), 146.29–75(b)(2). | To authorize a bulkhead in the lower hold of a vessel separating military explosives from general cargo to be secured on 4 inch by 6 inch uprights, in in lieu of the required 6 by 6 inch uprights (Mode 3.) |

RENEWAL AND PARTY TO EXEMPTIONS—Continued

| Application No. | Exemption No. | Applicant | Regulation(s) affected | Nature of Exemption thereof |
|---|---|---|---|---|
| 7694-X | DOT-E 7694 | Applied Environments Corp., Woodland Hills, CA. | 49 CFR 173.302(a)(4), 175,3 | To authorize use of non-DOT specification welded, or seamless, nonrefillable cylinders, containing non-liquefied compressed gases. (Modes 1, 2, 4.) |
| 7694-X | DOT-E 7694 | Borg-Warner Corp., Van Nuys, CA | 49 CFR 173.302(a)(4), 173.3 | To authorize use of non-DOT specification welded, or seamless, nonrefillable cylinders, containing non-liquefied compressed gases. (Modes 1, 2, 4.) |
| 7719-X | DOT-E 7719 | Turner Co. Sycamore, IL | 49 CFR 173.304, 178.65 | To authorize use of brazed DOT Specification 39 cylinders, for transportation of methylacetylene propadiene, stabilized. (Modes 1, 2.) |
| 7778-X | DOT-E 7778 | Schenley Industries, Inc., New York, NY | 49 CFR 172.400(a), Part 107, Appendix B | To authorize barrels of distilled spirits to be transported without being labeled or having the exemption number marked on the barrel or shipping paper. (Modes 1, 2.) |
| 7846-X | DOT-E 7846 | Union Carbide Corp., Danbury, CT | 49 CFR 173.314(c) | To authorize frame mounting manifolding of DOT Specification seamless steel tank cars, for shipment of certain nonflammable gases. (Modes 1, 3.) |
| 7891-P | DOT-E 7891 | J.T. Baker Chemical Co., Phillipsburg, NJ | 49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 172.502(a), 172.504, Table 1, 173.126, 173.138, 173.237, 173.246, 173.25(a), 175.3. | To become a party to Exemption 7891. (Modes 1, 2, 4.) |
| 7907-X | DOT-E 7907 | Hercules, Inc., Wilmington, DE | 49 CFR 173.127, 173.184, 178.224 | To add cargo vessel as an additional mode of transportation, and to authorize use of 18.5 and 35 gallon capacity fiberboard drums, for shipment of nitrocellulose. (Modes 1, 2, 3.) |
| 8023-X | DOT-E 8023 | Acurex Corp., Mountain View, CA | 49 CFR 173.102(a)(1), 173.304(a), 173.304(d), 175.3. | To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic hoop wrapped cylinders, for shipment of certain flammable and nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.) |
| 8059-X | DOT-E 8059 | Acurex Corp., Mountain View, CA | 49 CFR 173.302(a) (1), 173.304(a), 173.304(d), 175.3. | To renew and to authorize carbon dioxide and compressed air as additional commodities. (Modes 1, 2, 3, 4, 5.) |
| 8080-X | DOT-E 8080 | Diamond Shamrock Corp., Deer Park, TX | CFR 173.164 | To authorize transport of dry chromic acid in DOT-105A300W Tank car which has been coverted to a DOT-103W; a DOT-111A100W2; tank car converted to DOT-111A100W1; or a true DOT-111AW1 tank car. (Mode 2.) |
| 8080-X | DOT-E 8080 | American Chrome & Chemicals Inc., Corpus Christi, TX. | 49 CFR 173.164 | To authorize transport of dry chromic acid in DOT-105A300W tank car which has been converted to DOT-111A100W1; a DOT-103AW tank car converted to DOT-103AW; a DOT-111A100W tank car converted to DOT-111A100W1; or a true DOT-11A100W1 tank car. (Mode 2.) |
| 8080-X | DOT-E 8080 | Allied Chemical, Morristown, NJ | 49 CFR 173.164 | To authorize transport of dry chromic acid in DOT-105A300W tank car which has been converted to DOT-111A00W1; a DOT-103AW tank car converted to DOT-103W; a DOT-111A100W2 tank car converted to DOT-111A100W1; or a true DOT-111A100W1 tank car. (Mode 2.) |
| 8362-X | DOT-E 8362 | Altus Corp., San Jose, CA | 49 CFR 172.101, 173.206, 173.247 | To increase number of cells authorized in one outside packaging. (Mode 1.) |
| 8410-P | DOT-E 8410 | EM Diagnostic Systems, Inc., Gibbstown, NJ. | 49 CFR 173.269(a)(1) | To become a party to Exemption 8410. (Mode 1, 3.) |
| 8450-X | DOT-E 8450 | The LTV Aerospace and Defense Co., Dallas, TX. | 49 CFR 173.92 | To authorize use of a modified DOT Specification 15A wooden box, for shipment of rocket motors. (Mode 1.) |
| 8477-X | DOT-E 8477 | Mobay Chemical Corp., Pittsburgh, PA | 49 CFR 173.247(a) | To authorize use of a noninsulated DOT Specification 111A100W6 tank car tanks, for transportation of thionyl chloride. (Mode 2.) |
| 8509-X | DOT-E 8509 | FMC Corp., Philadelphia, PA | 49 CFR 173.263(a)(9), 179.201-1 | To authorize use of a safety relief valve in lieu of a safety vent in DOT Specification 111A100W5 tank car tanks, for transportation of hydrochloric acid. (Mode 2.) |
| 8509-X | DOT-E 8509 | Mobay Chemical Corp., Pittsburgh, PA | 49 CFR 173.263(a)(9), 179.201-1 | To authorize use of a safety relief valve in lieu of a safety vent in DOT Specification 111A100W5 tank car tanks, for transportation of hydrochloric acid. (Mode 2.) |
| 8509-P | DOT-E 8509 | Chemtech Industries, Inc., St. Louis, MO | 49 CFR 173.263(a)(9), 179.201-1 | To become a party to Exemption 8509. (Mode 2.) |
| 8509-X | DOT-E 8509 | Dow Chemical Co., Midland, MI | 49 CFR 173. 263(a) (9), | To authorize use of a safety relief valve in lieu of a safety vent in DOT Specification 111A100W5 tank car tanks, for transportation of hydrochloric acid. (Mode 2.) |
| 8522-X | DOT-E 8522 | Tuscarora Plastics, Inc., Sterling, VA | 49 CFR 177.839(a), 177.839(b), 178.150, Part 173 Subpart F. | To authorize manufacture, marking and sale of non-reusable expanded polystyrene cases similar to DOT Specification 33A, except that it will incorporate 6 cavities to contain not more than six 5-pint bottles, or 6 20-ounce bottles, for shipment of those commodities presently authorized in DOT-33A. (Modes 1, 2, 3.) |
| 8526-X | DOT-E 8526 | National Starch and Chemical Corp., Bridgewater, NJ. | 49 CFR 177.834(L)(2)(i) | To authorize shipment of flammable liquids and/or flammable gases, in temperature controlled equipment. (Mode 1.) |
| 8526-X | DOT-E 8526 | 3M Co., Saint Paul, MN | 49 CFR 177.834(L)(2)(i) | To authorize shipment of flammable liquids and/or flammable gases, in temperature controlled equipment. (Mode 1.) |
| 8526-X | DOT-E 8526 | ServiceMaster Manufacturing Corp., Lancaster, PA. | 49 CFR 177.834(L)(2)(i) | To become a party to Exemption 8526. (Mode 1.) |
| 8723-X | DOT-E 8723 | Ireco Inc., Salt Lake City, UT | 49 CFR 173.114a(h)(3) | To authorize use of non-DOT specification motor vehicles and portable tanks, for bulk shipment of certain blasting agents. (Mode 1) |
| 8794-X | DOT-E 8794 | Applied Technology, Inc., Barnewell, SC | 49 CFR 172.202(b), 172.203(d)(1)(ii), 172.203(d)(1)(iii), 173.425(c)(1)(iv), 173.425(c)(5). | To authorize transport unpackaged built-on equipment that has residual radioactive contamination resulting in limited radiation levels; it provides relief from certain requirements associated with transport of unpackaged (bulk) low specific activity radioactive materials. (Mode 1.) |
| 8831-X | DOT-E 8831 | Teledyne Energy Systems, Timonium, MD | 49 CFR 172.400, 173.249, 175.3 | To renew and to authorize passenger carrying aircraft as an additional mode of transportation for one quart packages. (Modes 1, 4, 5.) |
| 8339-X | DOT-E 8839 | Poly Cal Plastics, Inc., French Camp, CA | 49 CFR 173.266, 178.19, Part 173, Subpart D, F. | To authorize flammable liquid as additional commodity. (Modes 1, 2, 3.) |
| 8839-X | DOT-E 8839 | Poly Cal Plastics, Inc., French Camp, CA | 49 CFR 173.266, 178.19, Part 173, Subpart D, F. | To authorize manufacture, marking and sale of non-DOT specification rationally molded, cross-linked polyethylene portable tanks, for shipment of flammable liquids, corrosive liquids and an oxidizer. (Modes 1, 2, 3.) |
| 8839-X | DOT-E 8839 | Poly Processing Co., Inc., Monroe, LA | 49 CFR 173.266, 178.19, Part 173, Subpart D, F. | To authorize manufacture, marking and sale of non-DOT specification rationally molded, cross-linked polyethylene portable tanks, for shipment of flammable liquids, corrosive liquids and an oxidizer. (Modes 1, 2, 3.) |

## RENEWAL AND PARTY TO EXEMPTIONS—Continued

| Application No. | Exemption No. | Applicant | Regulation(s) affected | Nature of Exemption thereof |
|---|---|---|---|---|
| 8879-X | DOT-E 8878 | Amalgamet Canada—Division of Premetalco Inc., Toronto, Ontario, Canada. | 49 CFR 173.245 | To authorize shipment of germanium tetrachloride, corrosive liquid, n.o.s., in glass containers or less than 3 gallon capacity, surrounded by vermiculite placed in a cylindrical steel overpack, packed six to a compartmented wooden box. (Mode 1.) |
| 8878-X | DOT-E 8878 | Preussag AG Metall, Bostar, West Germany. | 49 CFR 173.245 | To authorize shipment of germainium terachloride, corrosive liquid, n.o.s., in glass containers of less than 3 gallon capacity, surrounded by vermiculit placed in a cylindrical steel overpack, packed six to a compartment wooden box. (Mode 1.) |
| 8878-X | DOT-E 8878 | Corning Glass Works, Corning, NY | 49 CFR 173.245 | To authorize shipment of germanium tetrachloride, corrosive liquid, n.o.s., in glass containers of less than 3 gallon capacity, surrounded by vermiculite placed in a cylindrical steel overpack, packed six to a compartmented woooden box. (Mode 1.) |
| 8908-P | DOT-E 8908 | Allied Corp., Morristown, NJ | 49 CFR 173.164 | To become a party to Exemption 8908. (Mode 1.) |
| 8923-X | DOT-E 8923 | Union Carbide Corp., Danbury, CT | 49 CFR 173.119(m) | To authorize transport of a flammable liquid which is also corrosive in DOT Specification 51 portable tanks. (Mode 1.) |
| 8931-X | DOT-E 8931 | C-I-L Inc., North York, Ontario | 49 CFR 173.272, 179.201-1 | To authorize shipment of sulfuric acid, in DOT Specification 111A100W2 tank cars equipped with bottom outlets. (Mode 2.) |
| 8942-X | DOT-E 8942 | Poly Processing Co., Inc., Monroe, LA | 49 CFR 173.266, 178.19, 178.251, 178.253, Part 173, Subpart F. | To authorize methanol and ethanol, classed as flammable liquids, as additional commodities. (Modes 1, 2, 3.) |
| 8942-X | DOT-E 8942 | Poly Processing Co., Inc., Monroe, LA | 49 CFR 173.266, 178.19, 178.251, 178.253, Part 173, Subpart F. | To authorize manufacture, marking and sale of steel jacketed non-DOT specification rotationally molded, cross-linked polyethylene portable tanks, for shipment of flammable liquids, corrosive liquids and an oxidizer. (Modes 1, 2, 3.) |
| 8942-X | DOT-E 8942 | Poly Cal Plastics, Inc., French Camp, CA | 49 CFR 173.266, 178.19, 178.251, 178.253, Part 173, Subpart F. | To authorize flammable liquids as additional commodity. (Modes 1, 2, 3.) |
| 8988-X | DOT-E 8988 | Schlumberger Well, Services, Houston, TX. | 49 CFR 172.101, 173.110, 173.80, 175.30. | To authorize cargo-only aircraft as an additional mode of transportation. (Modes 1, 3, 4.) |
| 9121-P | DOT-E 9121 | Spar Aerospace Ld., Quebec, Canada | 49 CFR 172.101-6(b) | To become a party to Exemption 9121. (Mode 4.) |

## NEW EXEMPTIONS

| Application No. | Exemption No. | Applicant | Regulation(s) affected | Nature of exemption thereof |
|---|---|---|---|---|
| 9252-N | DOT-E 9252 | Harcostar Ltd., Huntingdon, England | 49 CFR 173.266(a) | To authorize manufacture, marking and sale of DOT Specification 34 reusable, blow-molded, polyethylene drums, for shipment of certain oxidizers. (Modes 1, 2, 3.) |
| 9268-N | DOT-E 9268 | Transway Systems Inc., Stoney Creek, Ont. Canada. | 49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5. | To authorize manufacture, marking and sale of non-DOT specification cargo tanks similar to DOT Specification MC-312/307 except for bottom outlet valve variations, for shipment of various flammable, corrosive or poisonous waste liquids or semi-solids. (Mode 1.) |
| 9277-N | DOT-E 9277 | American Cyanamid Co., Wayne, NJ | 49 CFR 173.377(j) | To authorize shipment of organic phosphate compound mixture, dry, Class B poison, in non-DOT specification five-ply kraft multiwall bags of 50 pounds capacity having a minimum total basis weight of 250 pounds. (Modes 1, 2.) |
| 9298-N | DOT-E 9298 | Eli Lilly Co., Indianapolis, IN | 49 CFR 173.252 | To authorize transport of bromine in a non-DOT specification ASME Code stamped tanks. (Mode 1.) |
| 9304-N | DOT-E 9304 | Metz Metallurgical Corp., So. Plainfield, NJ. | 49 CFR 173.182 | To authorize shipment of silver nitrate, solid, in DOT Specification 35 nonreusable removable head plastic containers. (Modes 1, 2.) |
| 9316-N | DOT-E 9316 | Fluoroware, Inc., Chaska, MN | 49 CFR 173.268, 178.35, 178.35a, Part 173, Subpart F. | To authorize manufacture, marking and sale of a non-DOT specification inside packaging of teflon PFA plastic, similar to DOT-2SL, contained in a DOT-6D steel overpack, for shipment of up to 70% nitric acid and those corrosive liquids authorized in a DOT-6D/2L or 2SL composite packaging. (Modes 1, 2.) |
| 9325-N | DOT-E 9325 | LTV Aerospace and Defense Co., Dallas, TX. | 49 CFR 172.101, 175.30 | To authorize a one-time shipment of rocket ammunition with explosive projectile by cargo aircraft only. Mode 4.) |

## EMERGENCY EXEMPTIONS

| Application No. | Exemption No. | Applicant | Regulation(s) affected | Nature of exemption thereof |
|---|---|---|---|---|
| EE 8480-X | DOT-E 8480 | The Gillette Co., Boston, MA | 49 CFR 173.24(a)(1), 175.3, Parts 172 & 177. | To authorize transport of a flammable gas in a device which allows a slow rate of leakage of the gas. (Modes 1, 2, 3, 5.) |
| EE 8748-P | DOT-E 8748 | Battelle, Pacific Northwest Laboratories, Richland, WA. | 49 CFR 172.101, 173.302, 175.3 | To become a party to Exemption 8748. (Modes 1, 2, 3, 4, 5.) |
| EE 9342-N | DOT-E 9342 | C.F. Industries, Inc., Long Grove, IL | 49 CFR 172.426 | To authorize use of mislabled multi-wall paper bags, for transportation of ammonium nitrate fertilizer. (Modes 1, 2.) |

## WITHDRAWALS

| Application No. | Applicant | Regulation(s) affected | Nature of exemption thereof |
|---|---|---|---|
| 6205-X | Beech Aircraft Corp., Boulder, CO | 49 CFR 172.101, 173.315(a)(1) | To authorize use of a non-DOT specification vacuum insulated cargo tank, for transportation of certain flammable gases. (Modes 1.) |
| 6760-X | Terra Chemicals International, Inc., Sioux City, IA | 49 CFR 173.358(a)(13), 173.359(a)(15). | To authorize use of DOT Specification 51 portable tanks equipped with bottom outlet for unloading, for transportation of certain Class B poisonous liquids. (Mode 1.) |
| 7220-X | Greif Brothers Corp., Springfield, NJ | 49 CFR Parts 173, Subpart D, E, F, & H. | To authorize manufacture, marking and sale of non-DOT specification reusable, blow-molded, polyethylene containers, for shipment of certain corrosive, flammable liquids, oxidizers and Class B poisonous liquids. (Modes 1, 2, 3, 4.) |

**Denials**

9273–N Request by Faith—Air Taxi Service, Lemoore, CA to authorize carriage of various class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment denied November 9, 1984.

9314–N Request by Lely Corporation, Wilson, NC to manufacture, mark and sell non–DOT specification cargo tanks similar to DOT Specification MC–307/312, for shipment of various hazardous waste liquids and semi-solids denied November 15, 1984.

Issued in Washington, DC, on December 11, 1984.

**J.R. Grothe,**

*Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.*

[FR Doc. 84–32718 Filed 12–14–84; 8:45 am]

BILLING CODE 4910–60–M

## DEPARTMENT OF THE TREASURY

### Public Information Collection Requirements Submitted to OMB for Review

Dated: December 12, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, N.W., Washington, D.C. 20220.

**Internal Revenue Service**

*OMB Number:* New
*Form Number:* IRS Form 8362
*Type of Review:* New
*Title:* Currency Transaction Report by Casinos

*OMB Number:* 1545–0553
*Form Number:* IRS Form RCMW 1–727
*Type of Review:* Revision
*Title:* Availability Statement
Clearance Officer: Garrick Shear (202) 566–6254 Room 5571 1111 Constitution Avenue, N.W. Washington, D.C. 20224
OMB Reviewer: Norman Frumkin (202) 395–6880 Office of Management and Budget Room 3208, New Executive Office Building Washington, D.C. 20503

**Joseph F. Maty,**

*Departmental Reports, Management Office.*

[FR Doc. 84–32761 Filed 12–14–84; 8:45 am]

BILLING CODE 4810–25–M

**Customs Service**

### Application for Recordation of Trade Name; "Gerber Products Company"

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Notice of application for recordation of trade name.

**SUMMARY:** Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "GERBER PRODUCTS COMPANY" used by Gerber Products Company, a corporation organized under the laws of the State of Michigan, located at 445 State Street, Fremont, Michigan 49412.

The application states that the trade name is used in connection with plush toys, crib toys and other merchandise intended for use by infants and small children manufactured in Hong Kong, Taiwan, Malaysia, West Germany, Japan and Thailand.

Before final action is taken on the application, consideration will be given to any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register.**

**DATE:** Comments must be received on or before February 15, 1985.

**ADDRESS:** Written comments should be addressed to the Commissioner of Customs, Attention: Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Room 2417, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5765).

Dated: December 12, 1984.

**Donald W. Lewis,**

*Director, Entry Procedures and Penalties Division.*

[FR Doc. 84–32739 Filed 12–14–84; 8:45 am]

BILLING CODE 4820–02–M

## VETERANS ADMINISTRATION

### Veterans Administration Medical Center; Tucson, AZ; 120-Bed Nursing Home Care Unit; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a 120-Bed Nursing Home Care Unit (NHCU) and has determined that the potential environmental impacts will be minimal from the development of this project.

This project proposes the construction of a one-story VA prototype 120-Bed NHCU north of building No. 38. It will contain approximately 30,000 net square feet. One and two-story prototype alternatives were evaluated as part of the environmental assessment. Parking for approximately 65 cars is included in this project.

Alternatives for this project are based upon the siting of the one-story and two-story prototype NHCU on two sites. Each alternative is connected to building No. 38, the clinical building by means of a connecting corridor through which the NHCU shall receive all of its supplies and materials. No service truck access is provided to this building.

Development of this project will cause minor short and long-term impacts in the form of air pollution (dust and fumes) during the construction phase. Minimal impacts to the historic district of VAMC Tucson are expected; however, "no adverse effects" are anticipated.

The VA will adhere to all applicable Federal, State, and local environmental regulations during construction and operation of this project.

The significance of the identified impacts has been evaluated relative to considerations of both context and intensity as defined by the Council on Environmental Quality, (40 CFR 1508.27).

An Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9. A "Finding of No Significant Impact"has been reached based upon the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director, Office of Environmental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389–3316. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: December 11, 1984.

By direction of the Administrator.

**Everett Alvarez, Jr.,**

*Deputy Administrator.*

[FR Doc. 84–32756 Filed 12–14–84; 8:45 am]

BILLING CODE 8320–01–M

# Sunshine Act Meetings

Federal Register
Vol. 49, No. 243
Monday, December 17, 1984

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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| | Item |
|---|---|
| Federal Deposit Insurance Corporation | 1 |
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| Federal Mine Safety and Health Review Commission | 3 |
| Federal Trade Commission | 4 |
| Interstate Commerce Commission | 5 |
| Tennessee Valley Authority | 6 |

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**FEDERAL DEPOSIT INSURANCE CORPORATION**

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:50 p.m. on Tuesday, December 11, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in University Bank of Wichita, Wichita, Kansas, which was closed by the State Bank Commissioner for the State of Kansas on Tuesday, December 11, 1984; (2) accept the bid for the transaction submitted by Charter Bank, National Association, Wichita, Kansas, a newly-chartered national bank; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: December 12, 1984.

Federal Deposit Insurance Corporation.

**Hoyle L. Robinson,**

*Executive Secretary.*

[FR Doc. 84-32890 Filed 12-13-84; 3:27 pm]

BILLING CODE 6714-01-M

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**FEDERAL ENERGY REGULATORY COMMISSION**

**TIME AND DATE:** 10:00 a.m., December 20, 1984.

**PLACE:** 825 North Capitol Street, NE., Room 9306, Washington, D.C. 20426.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Agenda.

**Note.**—Items listed on the agenda may be deleted without further notice.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

**Consent Power Agenda 804th Meeting—December 20, 1984 Regular Meeting (10:00 a.m.)**

CAP-1.
Project No. 8066-001, American Hydro Power Company
CAP-2.
Project Nos. 6775-005 and 006, Winchester Water Control District and Elektra Power Corporation
CAP-3.
Project No. 7633-001, Kenai Hydro, Inc.
CAP-4.
Omitted
CAP-5.
Project Nos. 7439-001, 7440-002 and 7441-001, Michael Arkoosh
CAP-6.
Docket No. QF84-324-002, Roche Products, Inc.
Docket No. QF84-188-000, Merck, Sharp & Dohme, Quimica de Puerto Rico, Inc.
Docket No. OF84-147-000, Alcon (Puerto Rico), Inc.
Docket No. EL84-22-000, Puerto Rico Electric Power Authority
CAP-7.
Docket No. ER85-106-000, Montaup Electric Company
CAP-8.
Docket No. ER84-582-001, Union Electric Company
CAP-9.
Docket No. ER85-81-000, West Texas Utilities Company
CAP-10.
Docket No. ER85-109-000, Niagara Mohawk Power Corporation
CAP-11.
Docket No. ER85-60-000, Southern Company Services, Inc.
CAP-12.
Docket No. ER84-74-000, Canal Electric Company
CAP-13.
Docket No. ER84-707-001, AEP Generating Company, Appalachian Power Company, Indiana & Michigan Electric Company and Virginia Electric and Power Company
Docket No. ER84-579-000, AEP Generating Company
CAP-14.
Docket No. QF84-350-000, University Energy
CAP-15.
Docket No. EL84-33-000, Seminole Electric Cooperative, Inc.
CAP-16.
Docket Nos. ER84-472-000 and 001, Public Service Company of Colorado
CAP-17.
Project No. 6096-001, Mini-Watt Electric Company
CAP-18.
Project No. 8184-002, Iowa Hydropower Development Corporation
CAP-19.
Project No. 8461-000, Valley High Ranch, Inc.
CAP-20.
Project No. 5363-004, Warrensburg Board and Paper Corporation

**Consent Miscellaneous Agenda**

CAM-1.
Docket Nos. RM83-71-035 through 038, Elimination of Variable Costs From Certain Natural Gas Pipeline Minimum Commodity Bill Provisions
CAM-2.
Docket No. RM79-76-230 (West Virginia-4), High-Cost Gas Produced From Tight Formations
CAM-3.
Docket No. GP84-58-000, State of New Mexico, Section 108 Determination, Sun Exploration and Production Company, State "A" A/C-3 No. 7 Well, FERC Docket No. JD84-33557
CAM-4.
Docket Nos. RA81-49-000, RA81-56-000 and RA81-57-000 (Consolidated), Young Refining Corporation

**Consent Gas Agenda**

CAG-1.

Docket No. OR78-1-031 (Quality Bank), Trans Alaska Pipeline System
CAG-2.
Docket No. RP82-54-015, Colorado Interstate Gas Company
CAG-3.
Docket No. RP84-101-001, Great Lakes Gas Transmission Company
Docket Nos. RP84-115-002 and 003, Midwestern Gas Transmission Company
Docket No. RP84-111-001, MIGC, Inc.
Docket No. RP84-109-001, Distrigas Corporation and Distrigas of Massachusetts Corporation
CAG-4.
Docket Nos. TA85-1-37-002, 003, TA85-2-37-002 and RP85-1-002, Northwest Pipeline Corporation
CAG-5.
Docket No. TA85-1-47-003, MIGC, Inc.
CAG-6.
Docket Nos. TA84-2-9-005, 004, 003 (PGA84-2, GRI84-2, IPR84-2) and RP84-84-002, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
CAG-7.
Docket No. RP85-3-001, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
CAG-8.
Docket Nos. TA82-2-33-027 and RP82-33-008, El Paso Natural Gas Company
CAG-9.
Docket Nos. TA85-1-1-000 and 001, Alabama-Tennessee Natural Gas Company
CAG-10.
Docket Nos. TA85-1-2-000 and 001, East Tennessee Natural Gas Company
CAG-11.
Docket Nos. TA85-1-4-000 and 001, Granite State Gas Transmission, Inc.
CAG-12.
Docket No. TA85-1-5-000 (PGA85-1), Midwestern Gas Transmission Company
CAG-13.
Docket Nos. TA85-1-6-000,001 and 002, Sea Robin Pipeline Company
CAG-14.
Docket Nos. TA85-1-8-000 and 001, South Georgia Natural Gas Company
CAG-15.
Docket Nos. TA85-1-9-000 and 001 (PGA85-1, GRI85-1 and IPR85-1), Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
CAG-16.
Docket Nos. TA85-1-11-000 and 001 (PGA85-1), United Gas Pipe Line Company
CAG-17.
Docket Nos. TA85-1-12-000 and 001, Distrigas of Massachusetts Corporation, Distrigas Corporation
CAG-18.
Docket Nos. TA85-1-13-000 and 001, Gas Gathering Corporation
CAG-19.
Docket Nos. TA85-1-15-000 and 001, Mid-Louisiana Gas Company
CAG-20.
Docket Nos. TA85-1-56-000, 001, 002 and 003 (PGA85-1, 85-1a and 85-1b), Valero Interstate Transmission Company
CAG-21.
Docket Nos. TA85-1-59-000 and 001, Northern Natural Gas Company
CAG-22.
Docket Nos. TA85-2-5-000, 001 and RP85-42-000, Midwestern Gas Transmission Company
CAG-23.
Docket No. RP85-34-000, Pacific Offshore Pipeline Company
CAG-24.
Docket No. RP85-37-000, High Island Offshore System
CAG-25.
Docket No. RP85-38-000 U-T Offshore System
CAG-26.
Docket No. RP85-31-000, Transcontinental Gas Pipe Line Corporation
CAG-27.
Docket Nos. RP84-113-000 and 001, North Penn Gas Company v. Consolidated Gas Transmission Corporation
CAG-28.
Docket Nos. RP84-146-000 and 001, Transcontinental Gas Pipe Line Corporation
CAG-29.
Docket No. RP85-28-000, Consolidated Gas Transmission Corporation
CAG-30.
Docket Nos. RP84-88-000 and 001, Transwestern Pipeline Company
Docket No. RP84-89-000, Texas Eastern Transmission Corporation
CAG-31.
Docket No. TA84-2-37-006 and 007, Northwest Pipeline Corporation
CAG-32.
Docket No. TA84-2-46-000, Kentucky West Virginia Gas Company
CAG-33.
Docket No. ST84-1104-000, Exxon Gas System, Inc.
CAG-34.
Docket No. CI84-573-002, TBP Offshore Company
CAG-35.
Docket No. CI75-78-001, Arco Oil and Gas Company, Division of Atlantic Richfield Company
CAG-36.
Docket No. G-4579-028, Cities Service Oil and Gas Corporation (Operator), et al.
CAG-37.
Docket No. CP84-14-051, Northern Natural Gas Company, Division of Internorth, Inc.
CAG-38.
Docket No. CP83-73-002, K N Energy, Inc.
CAG-39.
Omitted
CAG-40.
Omitted
CAG-41.
Docket No. CP84-571-000, Northwest Pipeline Corporation
CAG-42.
Docket No. CP84-657-000, El Paso Natural Gas Company
CAG-43.
Docket No. CP84-724-000, Natural Fuel Gas Supply Corporation

I. Licensed Project Matters

P-1.
Project No. 2761-000, El Dorado Irrigation District and El Dorado County Water Agency
P-2.
Project No. 7269-003, James B. Boyd and Janet A. Boyd
P-3.
Discussion of Proposed Cumulative Environmental Studies of Clustered Hydroelectric Projects

II. Electric Rate Matters

ER-1.
Docket No. EL84-32-000, Plains Electric Generation and Transmission Cooperative, Inc. v. Public Service Company of New Mexico
Docket No. EL84-35-000, Public Service Company of New Mexico
Docket No. EL84-36-000, Texas-New Mexico Power Company v. Public Service Company of New Mexico
ER-2.
Docket No. EL84-19-000, South Carolina Electric & Gas Company

**Miscellaneous Agenda**

M-1.
Reserved
M-2.
Reserved
M-3.
Docket No. RM84-14-001, et al., Deregulation and Other Pricing Changes on January 1, 1985, Under the Natural Gas Policy Act
M-4.
Docket Nos. RM83-72-001, 002, 003, 004, 005, 006, 007, 008 and 009, First Sales of Pipeline Production Under Section 2(21) of the Natural Gas Policy Act of 1978
Docket Nos. RM82-16-001, 002, 003, 004, 005, 006, 007, 008 and 009, First Sales by Affiliates
M-5.
Omitted
M-6.
Docket No. RM84-6-003 through 014, refunds resulting from Btu measurement adjustment

I. Pipeline Rate Matters

RP-1.
Reserved

II. Producer Matters

CI-1.
Docket No. RI76-28-003, Arkansas Louisiana Company v. Frank J. Hall, et al.
CI-2.
Docket No. CI85-29-000, Odeco Oil & Gas Company
CI-3.
Docket No. CI85-36-000, Texas Gas Exploration Corporation

III. Pipeline Certificate Matters

CP-1.
Docket No. CP82-355-000, Natural Gas Pipeline Company of America
CP-2.
Docket No. CP82-322-000, Lone Star Gas Company, a Division of Enserch Corporation
CP-3.
Docket Nos. CI83-269-000, and CI83-269-024 through 034, Tenneco Oil Company, Houston Oil & Minerals Corporation, Tenneco Exploration, Ltd., Tenneco

Exploration II, Ltd., Tinco, Ltd., and Tenneco West, Inc.
Docket Nos. RP83-11-027 through 035 and RP83-30-023 through 031, Transcontinental Gas Pipe Line Corporation
Docket Nos. CP83-279-013, 014 and CP83-340-016 through 025, producer-suppliers of Transcontinental Gas Pipe Line Corporation
Docket Nos. CP83-340-014, 015 and CP83-340-017 through 025, Producer-suppliers of Transco Gas Supply Company
Docket Nos. CP83-428-022, 023 and CP83-428-025 through 033, Producer-suppliers of Transco Supply Company and Transcontinental Gas Pipe Line Corporation
Docket Nos. CP83-452-000 and CP83-452-017 through 027, Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company
Docket Nos. CP83-502-015 through 021, Tennessee Gas Pipe Line Company, a division of Tenneco Inc.
Docket Nos. CP83-333-019 through 026, Panmark Gas Company
Docket Nos. CP83-342-002 and 003, Trunkline Gas Company
Docket Nos. CP83-343-003 and 004, Panhandle Eastern Pipe Line Company
Docket Nos. CP83-354-021, Trunkline Gas Company and Panmark Gas Company
Docket Nos. CP83-355-002, Panhandle Eastern Pipe Line Corporation and Panmark Gas Company
Docket Nos. CP84-244-002 through 008, Texas Eastern Transmission Corporation and Producer-suppliers of Texas Eastern Transmission Corporation
Docket Nos. CI84-332-004 through 012, Cities Service Oil and Gas Corporation, Cities Offshore Production Company and Oxy Petroleum, Inc.
Docket Nos. CI84-374-003 through 011, TXP Operating Company
Docket Nos. CI84-485-003 through 013, Amoco Production Company
Docket Nos. CP84-539-003 through 011, El Paso Natural Gas Company
CP-4.
Docket Nos. CP84-379-003, United Gas Pipe Line Company
CP-5.
Docket Nos. CP84-393-000, Panhandle Eastern Pipe Line Company

**Kenneth F. Plumb,**

*Secretary.*

[FR DOC. 89-32904 Filed 12-13-84; 3:55 pm]

BILLING CODE 6717-01-M

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3

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

December 19, 1984.

**TIME AND DATE:** 10:00 a.m., Wednesday, December 19, 1984.

**PLACE:** Room 600, 1730 K Street, NW, Washington, D.C.

**STATUS:** Part Open, Part Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

**MATTERS TO BE CONSIDERED:** The Commission will consider and act upon the following in an open meeting:

1. United States Steel Corporation, Docket No. LAKE 82-35-M, LAKE 82-6-RM; Petition for Discretionary Review. (Issues include whether the administrative law judge erred in concluding that the operator's volation of a mandatory safety standard was caused by an unwarrantable failure to comply with the standard.)

2. Mineral Coal Sales, Inc., Docket No. VA 83-26, etc. (Issues include whether a coal-loading operation is a "mine" subject to the Mine Act.)

**MATTTER TO BE CONSIDERED:** The Commission will consider and act upon the following in a closed meeting:

3. Disciplinary Proceeding, Docket No. D 85-1 (Issues include appropriate action to be taken in this disciplinary matter.)

It was determined by a unanimous vote of Commissioners that this part of the meeting be closed.

Any person intending to attend this meeting who requires special accessibility features and/or any auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Thus, the Commission may, subject to the limitations of 29 CFR 2706.150(a)(3) and 2706.160(e), ensure access for any handicapped person who gives reasonable advance notice.

**CONTRACT PERSON FOR MORE INFO:** Jean Ellen (202) 653-5632.

**Jean H. Ellen,**

*Agenda Clerk.*

[FR Doc. 84-32858 Filed 12-13-84; 12:17 pm]

BILLING CODE 6735-01-M

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4

**FEDERAL TRADE COMMISSION**

**TIME AND DATE:** 10:00 a.m., Thursday, December 20, 1984.

**PLACE:** Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

**STATUS:** Open.

**MATTER TO BE CONSIDERED:** Discussion of staff recommendation that the Commission tentatively adopt a trade regulation rule for the advertising and labeling of protein supplements.

**CONTACT PERSON FOR MORE INFORMATION:** Susan B. Ticknor, Office of Public Affairs: (202) 532-1892, Recorded Message: (202) 523-3806.

**Emily H. Rock,**

*Secretary.*

[FR Doc. 84-32869 Filed 2-13-84; 1:22 pm]

BILLING CODE 6750-01-M

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5

**INTERSTATE COMMERCE COMMISSION**

**TIME AND DATE:** 10:00 a.m., Thursday, December 20, 1984.

**PLACE:** Hearing Room A, Interstate Commerce Commission, Building, 12th & Constitution Ave., NW., Washington, D.C. 20423.

**STATUS:** Open Special Conference.

**MATTER TO BE DISCUSSED:** Finance Docket No. 28640 (Sub-No. 9), Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Reorganization—Acquisition by Grand Trunk Corporation, et al.

**CONTACT PERSON FOR MORE INFORMATION:** Robert R. Dahlgren, Office of Public Affairs, Telephone: (202) 275-7252.

**James H. Bayne,**

*Secretary.*

[FR Doc. 84-32839 Filed 12-13-84; 11:49 am]

BILLING CODE 7035-01-M

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6

**TENNESSEE VALLEY AUTHORITY**

**TIME AND DATE:** 10:15 a.m., Tuesday, December 18, 1984.

**PLACE:** TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

**STATUS:** Open.

*Agneda Items*

Approval of minutes of meeting held on December 3, 1984.

*Discussion Items*

1. Principles of the TVA floodplain management program.

2. Cost classification approaches in the methodology used by TVA in developing cost-of-service studies which are utilized by TVA in the establishment of electric power rates.

*Action Items*

New Business Items:

A—Budget and Financing
- A1. Amendment to fiscal year 1985 capital budget for the power program—Replacement of horizontal reheater elements at Cumberland Steam Plants units 1 and 1.
- A2. Amendment to fiscal year 1985 capital budget for the power program—Construction of ash settling pond within existing ash disposal area at Kingston Fossil Plant.
- A3. Amendment to fiscal year 1985 capital budget for the power program—Browns Ferry Nuclear Plant Training Center.

B—Purchase Awards
- *B1. Negotiation 33-836088—Turnkey rehabilitation of the electostatic fly ash

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* Items approved by individual Board members. This would give formal ratification to the Board's action.

collectors and associated fly ash removal systems at Gallatin Fossil Plant.

B.2 Invitation 68–835922—Radioactive waste solidification system for Bellefonte Nuclear Plant.

B3. Cancellation of contracts with Chicago Bridge and Iron Company, contracts 77K61–822043–1, 77K61–822043–2, for containment vessels; 80K70–827166–1, 81K73–827710, and 81K72–828034 for field erected tanks for Yellow Creek Nuclear Plant.

C—Power Items

C1. Letter agreement between TVA and Central Illinois Public Service Company, Illinois Power Company, and Union Electric Company, supplementing Interconnection Agreement TV–32882A, to provide for TVA and the Companies to share equally the expenses of the Shawnee 345–kV reactor.

*C2. Authorization of the Manager of Power and Engineering to dispose of or acquire certain Dalton Pass Project property interests located in McKinley County, New Mexico, covered by Contract No. TV–37878A between TVA and United Nuclear Corporation.

C3. Letter Agreement No. TV–65470A between TVA and the Atomic Industrial Forum, Inc., covering arrangements for participation in the National Environmental Studies Project Program.

C4. Supplement to Contract No. TV–62311A with Tennessee Emergency Management Agency for cooperation in the development and implementation of radiological emergency plans as required by the Nuclear Regulatory Commission and the Federal Emergency Management Agency.

C5. Cooperative Agreement No. TV–65583A with Combustion Engineering, Inc., Covering Arrangements for Participation in the 160–MW Atmospheric Fluidized Bed Combustion Plant Project.

C6. Agreement No. TV–65581A with the U.S. Department of Energy covering arrangements for participation in the 160–MW Atmospheric Fluidized Bed Combustion Demonstration Project.

C7. Cooperative Agreement No. TV–65507A with Duke Power Company for Phase III engineering services for the Atmospheric Fluidized Bed Combustion Demonstration Project.

C8. Cooperative Agreement No. TV–65580A with Fluor Constructors, Inc., for erection services for the 160–MW Atmospheric Fluidized Bed Combustion Demonstration Plant Project.

E—Real Property Transactions

E1. Exchange of coal land between TVA and Exxon Coal Resources USA, Inc., within the Ewing-Northern Coal Association property boundary in Southern Illinois.

F—Unclassified

F1. Amendments to TVA Retirement System's rules and regulations and savings plan's terms and conditions to (1) incorporate in rules and regulations the actuarial assumptions used for benefit calculations as provided in the Retirement Equity Act of 1984 and (2) modify the savings plan's terms and conditions to close the existing savings plan interest fund to additional employee contributions and to establish a new interest fund.

**CONTACT PERSON FOR MORE INFORMATION:** Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: December 11, 1984.

**John G. Stewart,**

*Manager of Corporate Administration and Planning.*

[FR Doc. 84–32858 Filed 12–13–84; 11:49 am]

BILLING CODE 8120–01–M

federal register

Monday
December 17, 1984

Part II

# Office of Management and Budget

## Cumulative Report on Budget Rescissions and Deferrals; Notice

## OFFICE OF MANAGEMENT AND BUDGET

### Cumulative Report on Rescissions and Deferrals

December 1, 1984.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of December 1, 1984, of 37 deferrals contained in the first three special messages of FY 1985. These messages were transmitted to the Congress on October 1, October 31, and November 29, 1984.

**Rescissions (Table A and Attachment A)**

As of December 1, 1984, there were no rescission proposals pending before the Congress.

**Deferrals (Table B and Attachment B)**

As of December 1, 1984, $10,641.7 million in 1985 budget authority was being deferred from obligation and $6.3 million in 1985 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1985.

**Information From Special Messages**

The special messages containing information on the rescission proposals and deferrals covered by this cumulative report are printed in the Federal Registers listed below:

Vol. 49, FR p. 39464, Friday, October 5, 1984
Vol. 49, FR p. 44870, Friday, November 9, 1984
Vol. 49, FR p. 47804, Thursday, December 6, 1984

**David A. Stockman,**

*Director, Office of Management and Budget.*

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1985 RESCISSIONS

| | Amount (In millions of dollars) |
|---|---|
| Rescissions proposed by the President | $ 0 |
| Accepted by the Congress | 0 |
| Rejected by the Congress | 0 |
| Pending before the Congress | $ 0 |

**********

TABLE B

STATUS OF 1985 DEFERRALS

| | Amount (In millions of dollars) |
|---|---|
| Deferrals proposed by the President | $ 12,207.8 |
| Routine Executive releases through November 1, 1984 (OMB/ Agency Releases of $1,559.8 million and cumulative adjustments of $0 million) | -1,559.8 |
| Overturned by the Congress | 0 |
| Currently before the Congress | $ 10,648.0 |

a/ This amount includes $6.3 million in outlays for a Department of the Treasury deferral (D85-13).

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1985

| As of December 1, 1984<br>Amounts in Thousands of Dollars<br>Agency/Bureau/Account | Rescission Number | Amount Previously Considered by Congress | Amount Currently before Congress | Date of Message | Amount Rescinded | Amount Made Available | Date Made Available | Congressional Action |
|---|---|---|---|---|---|---|---|---|
| NONE | | | | | | | | |

Attachment B - Status of Deferrals - Fiscal Year 1985

| As of December 1, 1984<br>Amounts in Thousands of Dollars<br>Agency/Bureau/Account | Deferral Number | Amount Transmitted Original Request | Amount Transmitted Subsequent Change | Date of Message | Cumulative OMB/Agency Releases | Congressionally Required Releases | Congressional Action | Cumulative Adjustments | Amount Deferred as of 12-1-84 |
|---|---|---|---|---|---|---|---|---|---|
| FUNDS APPROPRIATED TO THE PRESIDENT | | | | | | | | | |
| Appalachian Regional Development Programs | | | | | | | | | |
| Appalachian regional development programs.. | D85-1 | 10,000 | | 10-1-84 | | | | | 10,000 |
| International Security Assistance | | | | | | | | | |
| Foreign military sales credit..... | D85-24 | 4,939,500 | | 11-29-84 | | | | | 4,939,500 |
| Economic support fund..... | D85-2 | 280,500 | | 10-1-84 | | | | | |
| | D85-2A | | 3,826,000 | 11-29-84 | -1315560 | | | | 2,790,940 |
| Military assistance..... | D85-3 | 18,500 | | 10-1-84 | | | | | |
| | D85-3A | | 782,770 | 11-29-84 | | | | | 801,270 |
| International military education and training..... | D85-25 | 55,521 | | 11-29-84 | -55521 | | | | 0 |
| DEPARTMENT OF AGRICULTURE | | | | | | | | | |
| Forest Service | | | | | | | | | |
| Timber salvage sales..... | D85-4 | 9,704 | | 10-1-84 | | | | | 9,704 |
| Expenses, brush disposal..... | D85-5 | 55,850 | | 10-1-84 | | | | | 55,850 |
| DEPARTMENT OF DEFENSE - MILITARY | | | | | | | | | |
| Military Construction | | | | | | | | | |
| Military construction, all services..... | D85-6 | 300,008 | | 10-1-84 | | | | | |
| | D85-6A | | 906,322 | 11-29-84 | -9437 | | | | 1,196,893 |
| Family Housing | | | | | | | | | |
| Family housing, all services..... | D85-26 | 230,790 | | 11-29-84 | | | | | 230,790 |
| DEPARTMENT OF DEFENSE - CIVIL | | | | | | | | | |
| Wildlife Conservation, Military Reservations | | | | | | | | | |
| Wildlife conservation..... | D85-7 | 1,127 | | 10-1-84 | -150 | | | | 977 |

Attachment B - Status of Deferrals - Fiscal Year 1985

| As of December 1, 1984<br>Amounts in Thousands of Dollars<br>Agency/Bureau/Account | Deferral Number | Amount Transmitted Original Request | Amount Transmitted Subsequent Change | Date of Message | Cumulative OMB/Agency Releases | Congressionally Required Releases | Congressional Action | Cumulative Adjustments | Amount Deferred as of 12-1-84 |
|---|---|---|---|---|---|---|---|---|---|
| DEPARTMENT OF ENERGY | | | | | | | | | |
| Energy Programs | | | | | | | | | |
| Fossil energy research and development | D85-27 | 4,871 | | 11-29-84 | | | | | 4,871 |
| Fossil energy construction | D85-28 | 2,165 | | 11-29-84 | | | | | 2,165 |
| Naval petroleum and oil shale reserves | D85-29 | 23 | | 11-29-84 | | | | | 23 |
| Energy conservation | D85-30 | 3,398 | | 11-29-84 | | | | | 3,398 |
| Strategic petroleum reserve | D85-31 | 401 | | 11-29-84 | | | | | 401 |
| Energy security reserve and alternative production | D85-32 | 852 | | 11-29-84 | | | | | 852 |
| Power Marketing Administrations | | | | | | | | | |
| Southeastern Power Administration, Operation and maintenance | D85-16 | 12,467 | | 10-31-84 | | | | | 12,467 |
| Southwestern Power Administration, Operation and maintenance | D85-17 | 7,260 | | 10-31-84 | | | | | 7,260 |
| Western Area Power Administration, Construction, rehabilitation, operation and maintenance | D85-18 | 3,000 | | 10-31-84 | | | | | 3,000 |
| DEPARTMENT OF HEALTH AND HUMAN SERVICES | | | | | | | | | |
| Office of Assistant Secretary for Health | | | | | | | | | |
| Scientific activities overseas (special foreign currency program) | D85-8 | 424 | | 10-1-84 | | | | | 424 |
| Social Security Administration | | | | | | | | | |
| Limitation on administrative expenses (construction) | D85-9 | 15,488 | | 10-1-84 | | | | | 15,488 |
| DEPARTMENT OF THE INTERIOR | | | | | | | | | |
| Bureau of Land Management | | | | | | | | | |
| Payments for proceeds, sale of water, Mineral Leasing Act of 1920, sec. 40 (d) | D85-10 | 49 | | 10-1-84 | | | | | 49 |
| Bureau of Indian Affairs | | | | | | | | | |
| Construction | D85-33 | 8,918 | | 11-29-84 | | | | | 8,918 |
| DEPARTMENT OF JUSTICE | | | | | | | | | |
| Federal Prison System | | | | | | | | | |
| Buildings and facilities | D85-19 | 44,534 | | 10-31-84 | | | | | 44,534 |
| DEPARTMENT OF LABOR | | | | | | | | | |
| Employment and Training Administration | | | | | | | | | |
| State unemployment insurance and employment service operations | D85-34 | 3,767 | | 11-29-84 | | | | | 3,767 |
| Bureau of Labor Statistics | | | | | | | | | |
| Salaries and expenses | D85-35 | 5,000 | | 11-29-84 | | | | | 5,000 |
| DEPARTMENT OF STATE | | | | | | | | | |
| Other | | | | | | | | | |
| United States emergency refugee and migration assistance fund | D85-20 | 32,928 | | 10-31-84 | | | | | 32,928 |
| DEPARTMENT OF TRANSPORTATION | | | | | | | | | |
| Federal Aviation Administration | | | | | | | | | |
| Facilities and equipment (airport and airway trust) | D85-11 | $37,205 | | 10-1-84 | -163000 | | | | 374,205 |
| DEPARTMENT OF THE TREASURY | | | | | | | | | |
| Office of Revenue Sharing | | | | | | | | | |
| Local government fiscal assistance trust fund | D85-12 | 55,400 | | 10-1-84 | -2557 | | | | 52,843 |
| | D85-13 | 19,900 | | 10-1-84 | -13561 | | | | 6,339 |
| GENERAL SERVICES ADMINISTRATION | | | | | | | | | |
| National Archives and Records Service | | | | | | | | | |
| Operating expenses | D85-36 | 4,700 | | 11-29-84 | | | | | 4,700 |

Attachment B - Status of Deferrals - Fiscal Year 1985

| As of December 1, 1984<br>Amounts in Thousands of Dollars<br>Agency/Bureau/Account | Deferral Number | Amount Transmitted Original Request | Amount Transmitted Subsequent Change | Date of Message | Cumulative OMB/Agency Releases | Congressionally Required Releases | Congressional Action | Cumulative Adjustments | Amount Deferred as of 12-1-84 |
|---|---|---|---|---|---|---|---|---|---|
| OTHER INDEPENDENT AGENCIES | | | | | | | | | |
| Board for International Broadcasting | | | | | | | | | |
| Grants and expenses | D85-21 | 4,408 | | 10-1-84 | | | | | 4,408 |
| Panama Canal Commission | | | | | | | | | |
| Operating expenses | D85-37 | 6,346 | | 11-29-84 | | | | | 6,346 |
| Pennsylvania Avenue Development Corporation | | | | | | | | | |
| Land acquisition and development fund | D85-14 | 14,300 | | 10-1-84 | | | | | 14,300 |
| Railroad Retirement Board | | | | | | | | | |
| Milwaukee railroad restructuring, administration | D85-15 | 108 | | 10-1-84 | | | | | 108 |
| U. S. Information Agency | | | | | | | | | |
| Salaries and expenses | D85-22 | 2,433 | | 10-31-84 | | | | | 2,433 |
| Salaries and expenses, special foreign currency program | D85-23 | 852 | | 10-31-84 | | | | | 852 |
| TOTAL, DEFERRALS | | 6,692,696 | 5,515,092 | | -1,559,786 | 0 | | 0 | 10,648,002 |

Notes: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D85-13) of outlays only.

[FR Doc. 84-32730 Filed 12-14-84; 8:45 am]
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Federal Register

Monday
December 17, 1984

Part III

# Environmental Protection Agency

40 CFR Part 463

**Plastics Molding and Forming Point Source Category Effluent Limitations Guidelines; Pretreatment Standards and New Source Performance Standards; Final Regulation**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 463**

**[FRL-2716-4]**

# Plastics Molding and Forming Point Source Category Effluent Limitations Guidelines; Pretreatment Standards and New Source Performance Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final regulation.

**SUMMARY:** This regulation establishes effluent limitations guidelines and standards that limit the discharge of pollutants into navigable waters by existing and new sources engaged in plastics molding and forming. The Clean Water Act and a consent decree require EPA to issue this regulation.

EPA is promulgating effluent limitations guidelines attainable by the application of "best practicable technology currently available" (BPT), "best available technology economically achievable" (BAT), and "best conventional pollutant control technology" (BCT) and new source performance standards (NSPS) attainable by the application of "best available demonstrated technology." In addition, the Agency considered whether to promulgate pretreatment standards for existing and new indirect dischargers (PSES and PSNS, respectively).

**DATES:** The regulations are effective January 30, 1985. In accordance with 40 CFR 100.01 (45 FR 26048), this regulation shall be considered issued for purposes of judicial review at 1:00 p.m. Eastern time on January 2, 1985. Under section 509(b)(1) of the Clean Water Act, judicial review of this regulation can be made only by filing a petition for review in the United States Court of Appeals within 90 days after the regulation is considered issued for purposes of judicial review. Under section 509(b)(2) of the Clean Water Act, the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

**ADDRESSES:** The basis for this regulation is detailed in four major documents. See Section XV—Availability of Technical Information for a discussion of those documents. Copies of the technical and economic documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161 (Phone: (703) 487–4600). For additional technical information, contact Mr. Robert M. Southworth, Industrial Technology Division (WH–552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 (Phone (202) 382–7150). For additional economic information, contact Ms. Ann M. Watkins, Office of Analysis and Evaluation (WH–586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 (Phone (202) 382–5387).

On February 20, 1985, the complete public record for this rulemaking, including the Agency's responses to comments on the proposed regulations, will be available for review in EPA's Public Information Reference Unit, Room 2404 (Rear) (EPA Library), 401 M Street, SW., Washington, D.C. The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert M. Southworth at (202) 382–7150.

**SUPPLEMENTARY INFORMATION:**

## Overview

This preamble describes the legal authority, background, the technical and economic bases, and other aspects of the final regulation. The abbreviations, acronyms, and other terms used in the Supplementary Information sections are defined in Appendix A to this notice.

### Organization of This Notice

I. Legal Authority
II. Scope of This Rulemaking
III. Background
IV. Methodology and Data Gathering Efforts
V. Summary of Changes To Proposed Regulation
VI. Control and Treatment Options and Technology Basis for the Final Regulation
VII. Pollutants Excluded From Regulation
VIII. Economic Considerations
IX. Non-Water Quality Aspects of Pollution Control
X. Best Management Practices (BMPs)
XI. Upset and Bypass Provisions
XII. Variances and Modifications
XIII. Relationship to NPDES Permits
XIV. Public Participation and Response to Major Comments
XV. Availability of Technical Information
XVI. Office of Management and Budget (OMB) Review
XVII. List of Subjects
XVIII. Appendices
A—Abbreviations, Acronyms And Other Terms Used In This Notice
B—Toxic Pollutants Not Regulated At BAT Because They Are Effectively Controlled By Technologies Upon Which Are Based Other Effluent Limitations Guidelines
C—Toxic Pollutants With A Concentration Greater In The Source Water Than The Concentration In The Wastewater Samples
D—Toxic Pollutants Not Detected Or Detected At Or Below The Analytical Detection Limit
E—Toxic Pollutants Detected In The Effluent From Only A Small Number Of Sources
F—Toxic Pollutants Present In Amounts Too Small To Be Effectively Reduced By Technologies Known To The Administrator

## I. Legal Authority

This regulation is promulgated under 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 U.S.C. 1251 *et seq.* as amended by the Clean Water Act of 1977, Pub. L. 95–217), also referred to as "the Act". It is also promulgated 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 Orders dated October 26, 1982; August 2, 1983; January 6, 1984; and July 5, 1984.

## II. Scope of This Rulemaking

This final regulation, which was proposed on February 15, 1984 (49 FR 5862), establishes effluent limitations guidelines and standards for existing and new plastics molding and forming processes. Plastics molding and forming processes (PM&F) include processes that blend mold, form, or otherwise process a wide variety of plastic materials into intermediate or final plastic products.

For the purpose of this final rule, the PM&F category is divided into three subcategories. They are:

Subpart A—Contact Cooling and Heating Water Subcategory
Subpart B—Cleaning Water Subcategory
Subpart C—Finishing Water Subcategory

BPT effluent limitation guidelines are established for each of the three subcategories to control the discharge of conventional polluntants. Biochemical oxygen demand (BOD5), oil and grease (O&G), total suspended solids (TSS), and pH are controlled in the contact cooling and heating water subcategory and in the cleaning water subcategory. For the finishing water subcategory, TSC and pH are controlled by the BPT effluent limitations guidelines.

With the exception of certain toxic polluntants (i.e., phthalates) in the contact cooling and heating water subcategory and in the finishing water subcategory, EPA is promulgating BAT effluent limitations guidelines equal to the BPT effluent limitations for each subcategory. EPA is not promulgating BAT effluent limitations guidelines for phthalates for the contact cooling and heating water subcategory and the

finishing water subcategory at this time. BAT effluent limitations guidelines for those pollutants are reserved pending completion of a treatability study of the phthalates found in wastewaters discharged from processes in the contact cooling and heating water subcategory and in the finishing water subcategory.

The Agency is promulgating BCT effluent limitations guidelines equal to the BPT effluent limitations guidelines for the contact cooling and heating water subcategory because EPA could not identify any technology that further reduces the concentration of conventional pollutants in contact cooling and heating water. BCT effluent limitations guidelines for the cleaning water subcategory and the finishing water subcategory are reserved until the promulgation of the final BCT methodology.

NSPS are established equal to the BPT/BAT effluent limitations guidelines for each subcategory with the exception of NSPS for phthalates for both the contact cooling and heating water subcategory and the finishing water subcategory. NSPS for the phthalates are reserved pending the completion of the phthalate treatability study mentioned above. NSPS for both the contact cooling and heating water subcategory and the cleaning water subcategory control BOD5, O&C, TSS, and pH.

The Agency is not promulgating pretreatment standards for the plastics molding and forming point source category for the reasons discussed below. Pretreatment standards for phthalates are reserved in two subcategories pending completion of the phthalate treatability study. Indirect dischargers in the PM&F category have to comply with 40 CFR Part 403—General Pretreatment Regulations.

## III. Background

### *A. The Clean Water Act*

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 Water." (Section 101(a)). To implement the Act, EPA was required to issue effluent limitations guidelines, pretreatment standards, and new source performance standards for industrial dischargers.

The Act included a timetable for issuing these standards. However, EPA was unable to meet many of the deadlines and, as a result, in 1976, it was sued by several environmental groups. In settling this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement" that was approved by the Court. This agreement required EPA to develop a program and adhere to a schedule for controlling 65 "priority" toxic compounds and classes of compounds. In carrying out this program, EPA must promulgate BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 21 major industries. See *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979), *modified* by Orders dated October 26, 1982; August 2, 1983; January 6, 1984; and July 5, 1984.

Many of the basic elements of the Settlement Agreement were incorporated into the Clean Water Act of 1977. Like the Agreement, the Act stressed control of toxic pollutants, including the 65 "priority" toxic compounds and classes of compounds. In addition to strengthening the toxic control program, section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" (BMPs) to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

Under the Act, the EPA is to establish several different kinds of effluent limitations guidelines. These are discussed in detail in the preamble and in the technical development document for the proposed regulation. They are summarized briefly below:

#### 1. Best Practicable Control Technology (BPT)

BPT effluent limitations guidelines are generally based on the average of the best existing performance by plants of various sizes, ages, and unit processes within the category or subcategory for control of familiar (i.e., classical) pollutants.

In establishing BPT effluent limitations guidelines, EPA considers the total cost in relation to the effluent reduction benefits, the age of equipment and facilities involved, the processes employed, process changes required, engineering aspects of the control technologies, and non-water quality environmental impacts (including energy requirements). The Agency balances the category-wide cost of applying the technology against the effluent reduction benefits.

#### 2. Best Available Technology Economically Achievable (BAT)

BAT effluent limitations guidelines, in general, represent the best existing performance in the category or subcategory. The Act establishes BAT as the principal national means of controlling the direct discharge of toxic and nonconventional pollutants to navigable waters.

In establishing BAT, the Agency considers the age of the equipment and facilities involved, the processes employed, the engineering aspects of the control technologies, process changes, the cost of achieving such effluent reduction, and non-water quality environmental impacts. The Agency retains considerable discretion in assigning the weight to be accorded these factors.

#### 3. Best Conventional Pollutant Control Technology (BCT)

The 1977 Amendments to the Clean Water Act added section 301(b)(2)(E), establishing "best conventional pollutant control technology" (BCT) for the discharge of conventional pollutants from existing industrial point sources. Section 304(a)(4) designated the following as conventional pollutants: BOD, TSS, fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease a conventional pollutant on July 30, 1979 (44 *FR* 44501).

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in section 304(b)(4)(B), the Act requires that the BCT effluent limitations guidelines be assessed in light of a two part "cost-reasonableness" test. *American Paper Institute* v. *EPA*, 660 F.2d 954 (4th Cir. 1981). The first test compares the cost for private industry to reduce its discharge of conventional pollutants with the costs to publicly owned treatment works for similar levels of reduction in their discharge of these pollutants. The second test examines the cost-effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent than BPT.

EPA published its methodology for carrying out the BCT analysis on August 29, 1979 (44 *FR* 50732). In the case mentioned above, the Court of Appeals ordered EPA to make certain revisions. A revised methodology for the general development of BCT effluent limitations guidelines was proposed on October 29, 1982 (47 *FR* 49176). On September 20, 1984, the Agency issued a major notice of data availability for the BCT methodology (49 *FR* 37046).

In today's rulemaking, EPA is establishing BCT effluent limitations guidelines for the contact cooling and heating water subcategory equal to the BPT effluent limitations guidelines for that subcategory because EPA has not identified any technology which further reduces the discharge of conventional pollutants in this subcategory. Therefore, whatever the Agency's final BCT methodology, BCT effluent limitations guidelines for this subcategory would be equal to the BPT effluent limitations guidelines. When the final BCT methodology is promulgated, EPA will use this methodology to determine whether BCT effluent limitations guidelines should be established for the other two subcategories of the plastics molding and forming category.

4. New Source Performance Standards (NSPS)

NSPS are based on the performance of the best available demonstrated technology (BDT). New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies.

5. Pretreatment Standards for Existing Sources (PSES)

PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of publicly owned treatment works (POTW). They must be achieved within three years of promulgation. The Clean Water Act of 1977 requires pretreatment standards for toxic pollutants that pass through POTWs in amounts that would violate direct discharger effluent limitations guidelines or interfere with either the POTW's treatment process or chosen sludge disposal method. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based, analogous to the BAT effluent limitations guidelines for removal of toxic pollutants. EPA generally determines that there is pass through of toxic pollutants if the nation-wide average percentage of toxic pollutants removed by a well-operated POTW achieving secondary treatment is less than the percent removed by the BAT model treatment system. The General Pretreatment Regulations, which serve as the framework for categorical pretreatment standards, are found at 40 CFR Part 403; 46 FR 9404, January 28, 1981).

6. Pretreatment Standards for New Sources (PSNS)

Like PSES, PSNS are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of a POTW. PSNS are to be issued at the same time as NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate in their plant the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating PSES.

*B. Overview of the Industry*

The plastics molding and forming industry is a large and diversified industry with many different types of production processes that use various combinations of raw materials. Plants in the plastics molding and forming category are generally included within SIC 3079 of the *Standard Industrial Classification Manual* prepared in 1972 and supplemented in 1977 by the Office of Management and Budget, Executive Office of the President.

EPA estimates there are 10,260 plastics molding and forming (PM&F) plants distributed throughout the United States. EPA further estimates that 1,898 of the 10,260 plants have 2,587 PM&F processes that use process water (i.e., they are wet.) The 1,898 wet plants have an estimated 810 wet PM&F processes with direct discharges, 1,145 wet processes with indirect discharges, and 632 wet processes with no discharge.

The plastics molding and forming category consists of plants that blend, mold, form, or otherwise process a wide variety of plastic materials into intermediate or final plastic products. There are nine generic processes used to process plastic materials. They are: Extrusion, molding, coating and laminating, thermoforming, calendering, casting, foaming, cleaning, and finishing. These processes are described in the preamble to the proposed PM&F regulation (49 FR 5862; February 15, 1984).

Process water is used in PM&F processes to cool or heat the plastic products; to clean the surfaces of both the plastic products and the equipment used to produce those products; and to finish plastic products. The conventional and nonconventional pollutants found in PM&F wastewaters are: (1) Conventional pollutants—biochemical oxygen demand (BOD5), oil and grease (O&G), total suspended solids (TSS), and pH; and (2) nonconventional pollutants—total organic carbon (TOC), chemical oxygen demand (COD); and total phenols. The priority toxic pollutants found in treatable concentrations in PM&F wastewaters are: bis (2-ethylhexyl) phthalate, di-n-butyl phthalate, dimethyl phthalate, phenol, and zinc.

*C. Applicability*

For the purpose of this final rule, process water is defined as any raw, service, recycled, or reused water that contacts the plastic product or contacts shaping equipment surfaces, such as molds and mandrels, that are or have been in contact with the plastic product. Only process water discharges are covered by this regulation.

Non-contact cooling water (i.e., water that does not contact either the plastic product or equipment surfaces that have contacted the plastic product) is not process water and thus is not controlled by this regulation. Permitting and control authorities will establish effluent limitations for pollutants found in non-contact cooling water and other non-process wastewater on a case-by-case basis.

In several instances, particular PM&F processes and the wastewater generated by these processes may fall within this and other industrial categories for which the Agency has or will establish categorical effluent limitations guidelines and standards. Thus, for the purpose of regulatory coverage, the Agency has separated each process to ensure that it is clearly subject to one set of effluent limitations guidelines and standards.

Processes that coat a plastic material onto a substrate may fall within the definition of electroplating and metal finishing as defined in 40 CFR Parts 413 and 433 (see 48 FR 32485; July 15, 1983). As explained in the final electroplating and metal finishing regulations, wastewater from these coating operations is specifically excluded from the effluent limitations guidelines and standards for the electroplating and metal finishing point source category. See 40 CFR 433.10(b). Accordingly, it is subject to the PM&F effluent limitations guidelines. Coating of a plastic material onto a formed metal substrate is also covered by the PM&F effluent limitations guidelines and standards and is not covered by the specific metal forming effluent limitations guidelines such as those for aluminum forming (40 CFR Part 467 (48 FR 49126; October 24, 1983)), copper forming (40 CFR Part 468 (48 FR 36942; August 15, 1983)), and nonferrous metals forming (40 CFR Part 471 (proposed 49 FR 8112, March 5, 1984)). However, the PM&F regulation applies only to wastewater discharged

from the coating process; wastewater discharged from the prior metal forming operations is subject to the specific metal forming regulation.

Some molding and forming processes (e.g., extrusion and pelletizing) are used by plastic resin manufacturers to process crude intermediate plastic material. For the purpose of this regulation, plastics molding and forming processes used by plastic resin manufacturers to process crude intermediate plastic materials for shipment off-site are excluded from this regulation and are to be regulated under the organic chemicals, plastics, and synthetic fibers category (48 FR 11828; March 21, 1983). Plastics molding and forming processes used by plastic resin manufacturers to process crude intermediate plastic materials, which are then further processed on-site into intermediate or final plastic products by molding and forming, are controlled by the effluent limitations guidelines and standards for the plastics molding and forming category in this Part.

Plants in the PM&F category may have processes that generate only one type of wastewater and thus fit within one subcategory. However, many plants have more than one PM&F process and those processes may be in different subcategories. In this instance, plants must comply with the effluent limitations guidelines and standards that apply to each process.

Wastewater is generated by the solvent recovery operation in the solution or solvent casting process. However, this wastewater does not result from the blending, molding, forming, or any processing of the plastic material and is not a process water. It is generated when steam condensate from the solvent casting process is distilled to recover acetone. Data from the analysis of samples of this wastewater indicate that its pollutant characteristics are different from the characteristics of PM&F process wastewaters. In addition, the Agency estimates that only eight plants in the category generate solvent recovery wastewater. For these reasons, the Agency believes that solvent recovery wastewater is best controlled on a case-by-case basis by the permit writer or control authority. Analytical data for this type of wastewater are presented in the technical development document for the PM&F proposal and may be used as a guide by the permit writer or control authority.

Commenters on the PM&F proposal indicated that research and development (R&D) laboratories and technical centers may use PM&F processes to produce plastic products. They questioned the applicability of the PM&F regulation to the R&D processes because those processes usually produce a low annual mass of plastic products. This final rule applies to PM&F processes that discharge process water regardless of the mass of plastic products produced by a process. Therefore, PM&F processes at R&D laboratories must meet the PM&F effluent limitations guidelines and standards if those processes discharge process water. Section 463.01 has been revised to add a new paragraph (e) that makes clear the application of this regulation to R&D facilities.

This rule does not apply to wastewater generated during the reticulation of polyurethane foam. Reticulation can be done by either a chemical process or a thermal process. In the chemical process, the foam is passed through a bath of sodium hydroxide and then is quenched in a series of water baths to stop the chemical reaction. In thermal reticulation, the foam is reticulated by controlled explosions inside the foam structure. Products of combustion are removed from the foam by a vacuum pump and are absorbed in the water inside the pump. Process water used in chemical and thermal reticulation is not cooling water because it is not used for heat transfer; it is not cleaning water because it does not clean the surface of either the plastic product or the equipment that contacts the plastic product; and it is not finishing water because the process water is not used to finish a plastic product. For these reasons, the PM&F effluent limitations guidelines and standards do not apply to the processes that reticulate polyurethane foam. Section 463.01 has been revised to add a new paragraph (f) specifically excluding these processes from the PM&F regulation. These processes will be addressed in the effluent limitations guidelines and standards for the organic chemicals, plastics, and synthetic fibers category. If the reticulated foam is further processed in a molding and forming process, that process is subject to the PM&F regulation.

This regulation does not apply to processes used to produce regenerated cellulose for two reasons. First, cellulose is a natural organic material, not a "plastic material" as defined by EPA. In this regulation, a plastic material is defined as "a *synthetic* organic polymer . . ." [emphasis added]. See 40 CFR 463.02(f). Second, the final step in the xanthate process used to regenerate cellulose is to wash the regenerated cellulose to remove dissolved salts and sulfur compounds from within the cellulose. Process water used in this final step is not cleaning water as defined in this regulation because it cleans more than just the surface of the regenerated cellulose. See 40 CFR 463.02(d). For these reasons, the manufacturing process for regenerated cellulose is not subject to the PM&F regulation. However, it is subject to the effluent limitations guidelines and standards for the organic chemicals, plastics, and synthetic fibers category.

Similarly, this regulation does not apply to molding and forming operations that process regenerated cellulose because regenerated cellulose is not a plastic material as defined in this regulation (40 CFR 463.02(f)). This regulation does apply, however, to molding and forming processes that use cellulose derivations (e.g., cellulose acetate) because cellulose derivatives are plastic materials as defined in this regulation.

## IV. Methodology and Data Gathering Efforts

The methodology and data gathering efforts used in developing the proposed PM&F regulation were summarized in the preamble to the proposed regulation (49 FR 5862; February 15, 1984) and were described in detail in the *Development Document for Effluent Limitations Guidelines and Standards for the Plastics Molding and Forming Point Source Category—Proposal* (U.S. EPA, February 1984).

In summary, EPA studied the plastics molding and forming category to determine whether differences in the raw materials, final products, manufacturing processes, equipment, age and size of plants, water use, wastewater characteristics, or other factors required the development of separate effluent limitations guidelines and standards for different segments (or subcategories) of the category. This study included the identification of raw waste characteristics, sources and volumes of water used, processes employed, and sources of wastewater. Sampling and analysis of specific wastewaters enabled EPA to determine the presence and concentration of pollutants in wastewater discharges.

EPA also identified actual and potential wastewater control and treatment technologies for the PM&F category. The Agency analyzed data on the performance, operational constraints, and reliability of these technologies. In addition, EPA considered the impacts of these technologies on air quality, solid waste generation, water scarcity, and energy requirements.

The Agency estimated the costs of each control and treatment technology considered using cost equations based on standard engineering analyses. EPA derived control technology costs for 112 PM&F plants in the Agency's data base. The Agency then evaluated the potential economic impacts of these costs on the category.

The Agency also developed a financial profile for 112 plants in the data base using information from questionnaire surveys and publicly available data. Using plant specific financial information and compliance cost estimates, the impacts of this final regulation on plants with a direct discharge were determined. Those impacts were extrapolated to the estimated total number of plants in the PM&F category that discharge wastewater directly to navigable waters.

On the basis of this information, EPA identified various control and treatment technologies to use as the basis for the effluent limitations guidelines and standards established by this final rule.

In addition to the data gathering efforts discussed in the preamble and development document for the proposed rule, the Agency collected additional samples of wastewater discharged by contact cooling and heating water processes subsequent to proposal to respond to comments submitted by industry. Contact cooling and heating water samples were collected at nine processes and analyzed for conventional pollutants. The analytical results were then used with data from previous sampling episodes to calculate the average concentration of conventional pollutants in untreated contact cooling and heating water.

Additionally, finishing water samples were collected at two finishing processes and analyzed for conventional, selected nonconventional, and priority toxic pollutants. The analytical results were used with data from a pre-proposal sampling episode to characterize wastewater discharges from finishing processes.

The Agency has also gathered additional information since proposal through a telephone survey of five PM&F plants on the feasibility of 100 percent recycle for low flow rate contact cooling and heating water processes. Results of the evaluation of that information are discussed in the next section of this preamble.

The Agency's post-proposal data gathering activities were intended primarily to obtain information necessary to evaluate fully and respond to industry's comments on the proposed rule. For several aspects of the proposed rule, EPA recognized that additional information may be needed and specifically requested additional data and information. EPA then used the data and information submitted by commenters and collected by EPA to evaluate the regulatory decisions for the proposed rule and to consider whether such decisions were still appropriate for the final rule. To the extent new information confirmed arguments made by commenters, EPA revised certain regulatory options and performed further analyses to evaluate the revised options. Because the new data and information were used primarily to evaluate and respond to public comments, EPA determined that further public notice and comment were unnecessary. For the most part, new information supported the positions taken by commenters and the regulation has been revised accordingly.

## V. Summary of Changes to Proposed Regulation

### *A. Definitions*

#### 1. Plastic Material

In the proposed rule, plastic material was defined as:

> * * * an organic polymeric material of large molecular weight that can be shaped by flow. The material can be either homogenous polymeric resins or resins combined with fillers, plasticizers, pigments, stabilizers, or other additives.

In response to several comments requesting clarification as to whether this definition included materials like regenerated cellulose, the Agency has revised the definition of plastic material to make it clear that the PM&F regulation does not apply to the processing of natural organic materials. Plastic material is now defined by the final rule as:

> * * * a synthetic organic polymer (i.e., a thermoset polymer, a thermoplastic polymer, or a combination of a natural polymer and a thermoset or thermoplastic polymer) that is solid in its final form and that was shaped by flow. The material can be either a homogeneous polymer or a polymer combined with fillers, plasticizers, pigments, stabilizers, or other additives. (40 CFR 463.02).

#### 2. Average Process Water Usage Flow Rate

Average process water usage flow rate was defined in the proposed rule as:

> * * * equal to the volume of process water (gallons) used per year by a process divided by the total time (minutes) per year the process operates.

The average process water usage flow rate was used to determine which portion of the proposed rule applied to a contact cooling and heating water process. In the proposed regulation, processes in the contact cooling and heating water subcategory with an average process water usage flow rate of 35 gallons per minute (gpm) or less would have had to comply with effluent limitations guidelines and standards that were different from the effluent limitations guidelines and standards for contact cooling and heating water processes with an average process water usage flow rate of greater than 35 gpm. The purpose of the definition was to specify how to calculate an average process water usage flow rate, which, in turn was determinative of the applicable effluent limitations guidelines.

The Agency redefined average process water usage flow rate in this final rule because an average process water usage flow rate is now used in each subcategory to calculate pollutant mass limitations for a process instead of being used to determine which effluent limitations guidelines apply to a contact cooling and heating water process. It is now defined as:

> * * * equal to the volume of process water (liters) used per year by a process divided by the number of days per year the process operates.

The permit writer multiplies the average process water usage flow rate, which is obtained from the permittee, by the pollutant concentration promulgated in this final rule to obtain the mass of the pollutant that can be discharged from a process.

### *B. Industry Subcategorization*

In developing the proposed regulation, the Agency, studied the PM&F category to determine if different effluent limitations guidelines and standards were appropriate for different segments (subcategories) of the category. The major factors considered during this review included: Waste characteristics, raw materials used, manufacturing processes, products manufactured, water use, applicable water pollution control technologies, treatment costs, solid waste generation, size of plant, age of plant, number of plant employees, total energy requirements, non-water quality characteristics, and unique plant characteristics. Section V of the technical development document supporting the proposed rule contains a detailed discussion of these factors.

The PM&F category was subdivided into two subcategories at proposal: (1) Contact cooling and heating water subcategory and (2) cleaning and finishing water subcategory. This

subcategorization scheme was based on water use and wastewater characteristics.

For the final rule, EPA has further subdivided the PM&F category to create a separate subcategory for cleaning water and one for finishing water. At proposal, the Agency had limited data on finishing water characteristics. Accordingly, EPA solicited data from the industry and collected more sampling data to characterize finishing water. Those data indicate that cleaning water and finishing water have different wastewater characteristics. Cleaning water contains treatable concentrations of BOD5, O&G, TSS, COD, TOC, total phenols, phenol, and zinc while only TSS and three phthalates were found in treatable concentrations in finishing water. EPA has determined that these differences require separate subcategories for each type of wastewater.

Accordingly, the subcategorization scheme for the final regulation includes three subcategories. They are:

- Contact cooling and heating water subcategory;
- Cleaning water subcategory; and
- Finishing water subcategory.

The contact cooling and heating water subcategory includes those processes where process water contacts raw materials or plastic products for the purpose of heat transfer during plastics molding and forming. As discussed later in this preamble, the only toxic pollutant found in wastewater discharged by contact cooling and heating water processes in a treatable concentration is bis(2-ethylhexyl)phthalate. No conventional or nonconventional pollutants are found in treatable concentrations.

The cleaning water subcategory includes those processes that use process water to clean the surface of the plastic product or to clean the surfaces of shaping equipment that are or have been in contact with the formed plastic product. Process water used to clean the surfaces of either the plastic product or shaping equipment includes water used in the detergent wash cycle and water used in the rinse cycle to remove detergents and other foreign matter. Pollutants found in cleaning water in treatable concentrations are: BOD5, O&G, TSS, COD, TOC, total phenols, phenol, and zinc.

The finishing water category includes those processes involved in the finishing of a plastic product. Finishing water consists of water used to carry away waste plastic materia[1] or to lubricate the product during the finishing operation. TSS, bis(2-ethylhexyl)phthalate, di-n-butyl phthalate, and dimethyl phthalate are the pollutants identified in finishing water in treatable concentrations.

### *C. Types of Effluent Limitations Guidelines and Standards*

In the PM&F proposal, the effluent limitations guidelines and standards were production-based. They were calculated by multiplying an effluent concentration by a subcategory production-normalized flow (i.e., liters discharged per 1000 kilograms of plastic product produced). Mass of plastic product was selected as the production-normalizing parameter because there is a theoretical correlation between the mass of plastic product produced and the amount of water used to cool, clean, or finish the product. This correlation is supported to a certain extent by the raw wastewater data available to EPA. EPA recognized, however, that other data in the Agency's data base showed a wide variation in the amount of water used to process similar plastic products with no apparent basis for that variation. For this reason, the Agency solicited comments on the use of mass of plastic product produced as the production-normalizing parameter.

Several commenters on the proposed rule stated that production-based effluent limitations guidelines and standards are not appropriate for the PM&F category because water use varies by type of material processed and by product quality requirements. For example, they stated that some processes produce several different types of plastic products with different quality requirements. The amount of water used to process those products depends on the desired quality of the product. Commenters recommended that production-based limitations not be used for the PM&F category.

EPA considered subdividing the PM&F category based on either the plastic materials processed or on product quality to account for the variability in water use caused by the different plastic materials. Such a subcategorization scheme would be extremely complex because of the large number of plastic materials and the combinations of plastic materials that are used. In addition to being extremely complex, the Agency has determined that such an approach is not feasible because many plants produce several different plastic products, each having different individual water use requirements, using the same process equipment. Accordingly, the PM&F category cannot be subcategorized to account for the wide variation in water use and EPA has determined that production-based effluent limitations guidelines and standards are not appropriate for the PM&F category.

The effluent limitations guidelines and standards in this final rule are mass-based. They are calculated using the following equation:

Effluent Mass = (Concentration) (Average Process Water Usage Flow Rate)

The pollutant concentrations are based on the performance of the selected treatment technology and are promulgated in this final rule. The average process water usage flow rate is the process water, including recycle, that flows through a process and contacts the plastic product. A permit writer uses the concentration values established in this rule and the average process water usage flow rate, which is obtained from the permittee, to calculate the effluent pollutant mass that can be discharged.

If a plant has more than one PM&F process in the same subcategory, the average process water usage flow rate for those processes is the sum of the average process water usage flow rates for each process. This sum is used to calculate the allowable pollutant mass discharge level for the processes at the plant in the same subcategory.

Using the above equation to calculate effluent pollutant mass assures that processes with the same average process water usage flow rate, whether water is recycled or used on a once-through basis, have the same mass limitations. If only concentration limitations were employed, EPA believes that facilities that recycle process water may be penalized because their discharges would likely have higher concentrations than the concentrations in discharges from processes that use once-through process water.

### *D. Subcategory Average Pollutant Concentrations*

In response to comments, EPA made several changes with respect to the subcategory average pollutant concentrations calculated for the final rule. Following proposal, EPA reviewed all existing raw waste data, gathered some additional data, and revised its methodology for calculating subcategory average pollutant concentrations. EPA used the average concentrations to determine which pollutants must be regulated and to select the various control and treatment options available to control these pollutants. Changes made with respect to the calculation of average concentrations are discussed below.

First, in its review of existing data, the Agency found that data from one plant process had been incorrectly included in the raw waste data base for the contact cooling and heating water subcategory. Information relative to that plant process indicates that these data were from a cleaning process (i.e., removal of glycerol from the surface of the plastic product) rather than from a contact cooling and heating water process. To correct this error, EPA transferred the data from that process to the cleaning water subcategory data base and deleted it from the contact cooling and heating water subcategory data base. EPA also transferred data for one process from the data base for the finishing water subcategory to the data base for the contact cooling and heating water subcategory because those data were incorrectly placed in the finishing water data base at proposal.

Second, as explained above, EPA further divided the category for the final rule to include three subcategories, thus establishing a separate subcategory for cleaning process wastewaters and another for finishing process wastewaters. Accordingly, the Agency recalculated average pollutant concentrations for each subcategory. Subsequent to proposal, the Agency collected additional finishing water samples at two plants. These new data, together with existing finishing water data that were previously combined with cleaning water data, form the data base for the finishing water subcategory average pollutant concentrations used to develop this final rule.

Third, the Agency revised its method of calculating the subcategory average pollutant concentrations. For development of the proposed rule, the Agency calculated subcategory average pollutant concentrations by obtaining an arithmetic average of the pollutant concentrations found in PM&F process water during several sampling episodes without regard to the process water flow rate at the time of sampling. Several commenters stated that the Agency's estimated average pollutant concentrations derived by this method tended to overstate the actual concentration of pollutants found in PM&F wastewaters. Also, in reviewing the data used at proposal to calculate subcategory average pollutant concentrations, the Agency observed wide variation in the amount of water discharged by the sampled processes. Therefore, to account for the wide variation in discharge rates and thus obtain (as suggested by commenters) more accurate subcategory average pollutant concentration estimates, EPA recalculated the estimates on a flow-weighted basis. These flow-weighted estimates give more weight to high flow rate processes than to low rate processes. EPA then relied on the flow-weighted pollutant averages to estimate the average pollutant concentrations found in wastewater discharged from processes in each subcategory.

Similarly, the Agency proportioned the flow-weighted concentrations for the contact cooling and heating water subcategory by the number of types of contact cooling and heating water processes in the Agency's questionnaire data base. This gave more weight to extrusion processes because the largest number of processes in the data base for this subcategory are extrusion processes. As asserted by commenters, extrusion processes have the highest water use in that subcategory and the wastewater generated by those processes does not contain pollutants in high concentrations. By adjusting the average pollutant concentrations for the contact cooling and heating water subcategory to reflect the large number of extrusion processes in the subcategory, the Agency believes its average pollutant concentrations more accurately reflect the nature of the wastewaters discharged by processes in this subcategory.

## VI. Control and Treatment Options and Technology Basis for the Final Regulation

Prior to publication of the proposed PM&F regulation, EPA considered a wide range of control and treatment technology options including both in-process controls and end-of-pipe treatment. These options are discussed in detail in the preamble to the proposed PM&F regulation and in the technical development document suppporting the proposed rule. EPA made changes in both the in-process controls and end-of-pipe treatment options considered as the basis for this final rule based on information obtained subsequent to the proposal, including data supplied by commenters on the proposed regulation.

### *A. Contact Cooling and Heating Water Subcategory*

#### 1. Control and Treatment Options

The proposed effluent limitations guidelines and standards for this subcategory were based on: (1) For processes with an average process water usage flow rate of 35 gpm or less—zero discharge by 100 percent recycle of the process water using either a tank or chiller; and (2) for processes with an average process water usage flow rate greater than 35 gpm—recycle through a cooling tower and treatment of the recycle unit discharge in a package activated sludge plant.

Based on EPA's review of all available data and evaluation of these data in light of comments, the only technologies identified as appropriate for the basis for the final effluent limitations guidelines and standards for the contact cooling and heating water subcategory are good housekeeping practices and the activated carbon process. As discussed above, subsequent to proposal, the Agency calculated flow-weighted subcategory average pollutant concentrations. Our analysis indicates that only one pollutant, bis(2-ethylhexyl)phthalate, is present in contact cooling and heating water in treatable concentrations. The only technology identified to control bis(2-ethylhexyl)phthalate, is the activated carbon process. To maintain the low concentrations of other pollutants currently discharged in contact cooling and heating water, the Agency considered effluent limitations guidelines based on the application of good housekeeping practices.

The Agency rejected the package activated sludge plant as a technology basis for the final effluent limitations guidelines and standards for this subcategory because the typical BOD5 concentrations in contact cooling and heating water are too low to support operation of biological treatment. The average concentration of BOD5 in contact cooling and heating water is 1 mg/l.

The Agency rejected zero discharge as the basis for the final effluent limitations guidelines and standards for this subcategory because it has determined that it is unlikely that 100 percent recycle is feasible for processes in the contact cooling and heating water subcategories even for low flow rate processes. EPA made this determination based, in part, on comments that 100 percent recycle cannot be achieved by low flow rate contact cooling and heating water processes because the increase in the dissolved solids concentrations in the recycle water may affect the quality of the plastic product. Commenters explained that the amount of process water that can be recycled, if any, depends on the desired quality of the PM&F product. Commenters also stated that EPA incorrectly assumed that 100 recyle was feasible because all recycle units have to be cleaned periodically, thus resulting in some discharge from the recycle unit. Several commenters asserted that, given the many different products and raw materials that may be processed in the

same equipment at the same plant, 100 percent recycle is not feasible.

To evaluate the comments regarding the feasibility of 100 percent recycle, the Agency contacted eight PM&F plants to verify whether they did in fact have 100 percent recycle units as reported on their survey questionnaires. EPA found that in all cases there was a discharge from the recycle unit. Thus, based on this information and information submitted in comments, EPA rejected 100 percent recycle as a basis for the final effluent limitations guidelines and standards for this subcategory.

EPA also rejected recycle at less than 100 percent as the basis for this final regulation. The selected technologies on which the proposed effluent limitations guidelines and standards for the high flow rate processes were based included flow reduction by recycle. A range of recycle percentages was selected and flows for processes in the Agency's data base that had a recycle percentage within that range were used to calculate the subcategory production-normalized flow (PNF). The PNF was subsequently used to calculate the mass of a pollutant that could be discharged.

Several commenters stated that a subcategory recycle percentage could not be established for this subcategory because of the wide variation in the amount of water used by contact cooling and heating water processes, the different types of materials processed, and the varying requirements for product quality. They asserted that some processes can recycle process water to varying degrees while others cannot.

The Agency reviewed available flow data and agrees that there is wide variation in recycle rates within this subcategory. EPA considered subdividing this subcategory based on the type of plastic material processed to account for the variation in recycle rates. This approach is not feasible because of the large number and the many combinations of plastic materials processed. This is particularly true for plants that produce many different products (i.e., a custom PM&F plant) using the same process equipment.

Because the Agency cannot subdivide this subcategory to account for the variation in recycle percentages, EPA has determined that recycle should not be part of the technology basis for the final effluent limitations guidelines and standards for this subcategory. Accordingly, the Agency did not include recycle as part of the technology option on which the final regulation for this subcategory is based.

2. Technology Basis for the Final Regulation

A brief summary of the technology basis for the final regulation for the contact cooling and heating water subcategory is presented below. A more more detailed discussion is presented in the final technical development document.

*BPT:* The BPT effluent limitations guidelines are based on the application of good housekeeping practices. During plant visits and various sampling episodes, the agency found that good housekeeping practices are commonly employed within this subcategory. Raw materials and lubricating oils are routinely segregated from the cooling and heating water, which keeps pollutants not generated during the PM&F operation out of the cooling and heating water. The final BPT effluent limitations guidelines ensure continuation of those practices because they are based on the pollutant concentrations currently discharged by processes at plants employing good housekeeping techniques.

EPA is promulgating BPT effluent limitations guidelines for this subcategory on the basis of a statistical evaluation of the raw waste concentrations of BOD5, O&G, and TSS in contact cooling and heating water samples collected during several sampling episodes. A detailed discussion of this evaluation is presented in Appendix D of the final development document. One day maximum concentrations are promulgated for BOD5, O&G, and TSS. Monthly maximum concentrations are not being promulgated for this subcategory because there is no effluent variability attributed to the performance of a treatment technology since effluent limitations guidelines and standards are based on raw waste concentrations when good housekeeping techniques are employed rather than the application of a treatment technology.

EPA anticipates that implementation of the final BPT effluent limitations guidelines for this subcategory will result in only minimal removal of conventional, nonconventional, or priority toxic pollutants. All of the contact cooling and heating water processes in the Agency's data base can meet the BPT effluent limitations guidelines in this final rule either incurring only minimal costs or without incurring any incremental costs. The agency has determined that the costs, if any, are justified by the effluent reduction benefits.

*BAT:* Except for bis(2-ethylhexyl)phthalate, there are no toxic pollutants present in treatable concentrations in the raw wastewaters discharged by contact cooling and heating water processes. Therefore, EPA is promulgating BAT equal to BPT for this subcategory, except for bis(2-ethylhexyl)phthalate. The BAT effluent limitations guidelines for all pollutants except bis(2-ethylhexyl)phthalate are the same as the BPT effluent limitations guidelines.

The toxic pollutant bis(2-ethylhexyl) phthalate was found in treatable concentrations (ranging from 0.017 mg/l to 1.006 mg/l) in about 50 percent of the contact cooling and heating water samples collected and analyzed. However, the only technology considered during development of the proposed rule that would control this pollutant was the activated sludge process. EPA has determined that this technology cannot be applied to contact cooling and heating water because of the low concentrations of organic pollutants in the process water. Accordingly, EPA is reserving the BAT effluent limitations guidelines for bis(2-ethylhexyl)phthalate pending further study.

The Agency has identified one technology (i.e., the activated carbon process) that it believes will effectively control bis(2-thylhexyl)phthalate, but at this time does not have phthalate treatability data for that treatment process. EPA plans to study the treatment of phthalates by the activated carbon process and, after reviewing the results of that study, to propose and promulgate BAT effluent limitations guidelines for bis(2-ethylhexyl)phthalate, if they are warranted. During the period prior to promulgation of BAT effluent limitations guidelines for bis(2-ethylhexyl)phthalate, the permit writer should determine whether that pollutant warrants control on a case-by-case basis. The permit writer can use information presented in the technical development document for this final rule to help make that determination.

Because the BAT effluent limitations guidelines for all pollutants except bis(2-ethylhexyl)phthalate are the same as the BPT effluent limitations guidelines for those pollutants, there are no additional pollutant removals achieved by implementation of the final BAT effluent limitations guidelines and no additional costs.

*BCT:* The Agency was unable to identify a technology that reduces the concentrations of conventional pollutants found in contact cooling and heating water. For this reason, EPA is promulgating BCT effluent limitations

guidelines equal to the BPT effluent limitations guidelines. Since there are no technologies available to reduce conventional pollutants in this subcategory, EPA has no reason to await promulgation of the final BCT methodology before promulgating BCT effluent limitations guidelines for this subcategory.

*NSPS:* The Agency is promulgating NSPS for this subcategory equal to the BPT effluent limitations guidelines. The NSPS control BOD5, O&G, TSS, and pH.

NSPS are being promulgated equal to the BPT effluent limitations guidelines because the Agency believes that the characteristics of wastewaters generated by new sources will be substantially the same as the characteristics of wastewaters generated by existing sources in this subcategory. Accordingly, the Agency considered the same technologies as the basis for NSPS that were considered for BPT/BAT. EPA was unable to identify additional technologies that are capable of reducing the concentrations of pollutants found in raw wastewater discharges from contact cooling and heating water processes at new sources. The technology on which the proposed NSPS were based (i.e., the activated sludge process) was rejected because the extremely low BOD5 levels (i.e., average concentration of 1 mg/l) in raw contact cooling and heating water will not support the operation of biological treatment.

The Agency believes that the concentrations of bis(2-ethylhexyl) phthalate in contact cooling and heating water that would be discharged by new sources will be similar to the concentrations of that pollutant discharged by existing sources. As discussed earlier, the Agency found treatable concentrations of bis(2-ethylhexyl)phthalate in about 50 percent of the contact cooling and heating water samples collected. Because no previously-studied technologies effectively control this pollutant, NSPS for bis(2-ethylhexyl)phthalate are reserved pending completion of the phthalate treatability study discussed above.

NSPS were derived based on a statistical evaluation of the conventional pollutant concentrations in raw wastewaters discharged by existing contact cooling and heating water processes. They ensure that the same good housekeeping practices employed at existing sources will be employed at new sources.

EPA has defined a "normal" new source plant for this subcategory as a plant that only contains a contact cooling and heating water process. The average process water usage flow rate for the contact cooling and heating water process at this "normal" plant is 35 gpm and the pollutant concentrations in the wastewater discharged from that process are assumed to be equal to the subcategory average pollutant concentrations. The Agency anticipates that 14 kilograms per year of toxic pollutants will be discharged from a "normal" new source plant. A "normal" new source plant is described in detail in Section XII of the technical development document for this final regulation.

Although implementation of NSPS will result in only minimal pollutant removals, they will assure that only low levels of pollutants are discharged from plants employing contact cooling and heating water processes. New sources are expected to achieve the NSPS without incurring additional costs. Because existing sources must comply with effluent limitations guidelines that are the same as NSPS, the Agency does not believe that applying these standards to new sources, including major modifications of existing sources, creates a barrier to entry into the category.

*PSES:* For all pollutants except bis(2-ethylhexyl)phthalate, the Agency is not promulgating PSES; PSES for bis(2-ethylhexyl)phthalate are being reserved pending further study. EPA has determined that the average percentage of toxic pollutants removed nation-wide by well-operated POTWs meeting secondary treatment requirements (ranging from 35 to 99 percent) is greater than the percentage of pollutant removals achieved by direct dischargers meeting BAT (i.e., zero percent removal). Therefore, the pollutants do not pass through a POTW. Even though categorical pretreatment standards are not being promulgated, indirect dischargers in this subcategory must comply with the General Pretreatment Regulations—40 CFR Part 403.

PSES for bis(2-ethylhexyl)phthalate are reserved pending proposal and promulgation of the BAT effluent limitations guidelines for bis(2-ethylhexyl)phthalate. When BAT is selected, EPA will determine if that pollutant passes through a POTW.

*PSNS:* For all pollutants except bis(2-ethylhexyl)phthalate, the Agency is not promulgating PSNS; PSNS for bis(2-ethylhexyl)phthalate are being reserved. The Agency believes that new and existing indirect discharge sources in this subcategory will discharge the same pollutants in similar amounts. As discussed in the preceding section, the average percentage of removals of toxic pollutants (ranging from 35 to 99 percent) nation-wide by well-operated POTWs meeting secondary treatment requirements is greater than the average percent removal by direct dischargers complying with BAT/NSPS for this subcategory (i.e., zero percent). Therefore, the toxic pollutants do not pass through a POTW. Even though the Agency is not promulgating categorical pretreatment standards, indirect discharging new sources in this subcategory must comply with the General Pretreatment Regulations—40 CFR Part 403.

The Agency believes that the concentrations of bis(2-ethylhexyl)phthalate in contact cooling and heating waters discharged from new indirect sources will be similar to the concentrations of that pollutant discharged from existing indirect sources. For this reason, the Agency is reserving PSNS for bis(2-ethylhexyl)phthalate until completion of the phthalate treatability study. When the technology basis for NSPS for that pollutant is selected, EPA will determine if bis(2-ethylhexyl)phthalate passes through a POTW.

*B. Cleaning Water Subcategory*

1. Control and Treatment Options

EPA proposed effluent limitations guidelines and standards for cleaning water processes based on in-process controls consisting of recycle of process water through a sedimentation tank and end-of-pipe treatment of the discharge from the recycle unit in a package activated sludge plant. The package plant included an equalization unit and pH adjustment. The sedimentation tank was designed to remove the suspended solids so the process water could be recycled.

EPA considered the same end-of-pipe treatment technology (i.e., the package activated sludge plant) as the basis for the final effluent limitations guidelines and standards for cleaning water processes that was selected for the proposed rule. As discussed earlier, the Agency made two significant changes to the raw waste data base for cleaning water. First, EPA further subdivided the PM&F category to create a separate subcategory for cleaning water and another for finishing water. Accordingly, to select a treatment option for this subcategory, the Agency considered only data from cleaning water processes. Second, the Agency recalculated flow-weighted average pollutant concentrations for the cleaning water subcategory. Notwithstanding these changes, the data indicate that there are three conventional, three

nonconventional, and two priority pollutants present in treatable concentrations in cleaning water. The conventional pollutants (i.e., BOD5, O&G, and TSS) and the nonconventional pollutants (i.e., COD, TOC, and total phenols) are the same as the conventional and nonconventional pollutants considered for control at proposal. Furthermore, the conventional pollutants were found in concentrations sufficiently high to support biological treatment. For this reason, the activated sludge process, on which the proposed effluent limitations guidelines and standards were based, is the only technology the Agency relied on for this subcategory in this final rule.

Based on further evaluation of existing data and comments on the proposed rule, EPA rejected recycle of process water as part of the final treatment technology option. Commenters asserted that a subcategory recycle percentage could not be established for the cleaning water subcategory because, as with the contact cooling and heating water subcategory, the amount of water that can be recycled varies widely. They suggested two reasons for this variation: (1) The type of cleaning process used dictates water use; and (2) product quality considerations require some products to be cleaned with potable water to achieve the desired quality while others can be cleaned with recycled water. EPA reviewed the data and agrees there is wide variation in recycle flows.

The Agency considered subdividing the cleaning water subcategory based on either the type of cleaning process or the type of plastic material processed to account for the variation in recycle rates. However, if the subcategory was subdivided based on the type of cleaning process, it would have to be further subdivided to account for the different plastic materials used. The Agency believes that neither approach is feasible because of the large number and the many combinations of plastic materials that can be processed in the different cleaning processes. For these reasons, EPA has determined that recycle is not feasible as part of the technology basis for the final effluent limitations guidelines and standards for this subcategory.

2. Technology Basis for the Final Regulation

A brief summary of the technology basis of the final regulation for the cleaning water subcategory is presented below. A more detailed discussion is presented in the technical development document for the final regulation.

*BPT:* The Agency is promulgating BPT effluent limitations guidelines for this subcategory based on the performance of a package activated sludge plant with pH adjustment. The final BPT effluent limitations guidelines control BOD5, O&G, TSS, and pH. This is the same end-of-pipe treatment technology selected as the basis for the proposed effluent limitations guidelines for this subcategory. However, the selected technology for the final regulation does not include recycle. As discussed earlier in this preamble, the Agency has determined that a subcategory recycle percentage is not feasible for the cleaning water subcategory.

EPA has determined that treatable concentrations of BOD5, O&G, and TSS are discharged in cleaning water. These are the same pollutants considered during development of the proposed BPT effluent limitations guidelines. Unlike the contact cooling and heating water subcategory, BOD3 levels are sufficient in cleaning water to support the operation of biological treatment.

Data available to the Agency indicate that, where cleaning waters are treated by biological treatment, wastewaters from other manufacturing processes are commingled with the cleaning water discharges. Therefore, data are not available on the application of biological treatment to cleaning waters only. As at proposal, EPA found that treatment at plants that treat cleaning waters separately is uniformly inadequate because those plants indicated in their questionnaire responses that they use only sedimentation and oil skimming to treat cleaning water. These technologies do not remove the dissolved pollutants in the cleaning water. Thus, the Agency has determined that the PM&F industry has uniformly inadequate treatment of wastewater discharges resulting from only cleaning processes. Accordingly, the Agency has relied on the transfer of biological treatment (i.e., the activated sludge process) from the organic chemicals, plastics, and synthetic fibers category to establish effluent limitations guidelines for this subcategory. The Agency believes that such a transfer is appropriate because of the similarities between wastewaters discharged by the PM&F category and wastewaters discharged by the organic chemicals, plastics, and synthetic fibers category. As at proposal, to evaluate fully these two types of wastewaters, the Agency conducted a statistical comparison of the raw wastewater conventional pollutant concentrations in PM&F wastewaters and the concentrations of those pollutants in raw wastewaters generated at plants in the plastics only subcategory in the organic chemicals, plastics, and synthetic fibers category. This comparison was revised to support the final rule using the flow-weighted subcategory average concentrations discussed earlier in the preamble. After reviewing the results of the updated analysis, the Agency has concluded that the raw wastewater conventional pollutant concentrations in PM&F cleaning waters are neither significantly greater nor more variable than the conventional pollutant concentrations characteristic of the raw wastewaters discharged by plants in the plastics only subcategory. This conclusion supports the Agency's determination that the activated sludge treatment technology can be transferred from the organic chemicals, plastics and synthetic fibers category and that the technology will perform at the same level on PM&F cleaning waters.

Performance data for the activated sludge process were also transferred from the organic chemicals, plastics, and synthetic fibers category to the PM&F category. The transferred concentration values in this final rule are the same as the concentration values used to calculate the proposed production-based limits. One day maximum and monthly maximum concentrations for BOD5, O&G, and TSS are established in the final rule. The transfer of the activated sludge process and performance data for that process are discussed in more detail in Appendix D of the technical development document for this final rule. The Agency believes the toxic pollutants found in treatable concentrations in cleaning water are effectively controlled when the effluent limitations guidelines for the above pollutants are met.

The model technology basis for the final BPT effluent limitations guidelines does not include recycle. As discussed earlier, information submitted by commenters indicates that recycle at an established percentage is not feasible for this subcategory because of diverse product quality requirements and because of specific product water use considerations. Therefore, recycle of process water is not part of the final BPT model treatment technology. To account for this change, the Agency sized the package activated sludge plant to handle the entire discharge from a production process instead of just the discharge from the recycle unit. Cost estimates were developed on a plant-by-plant basis for these larger treatment systems.

Implementation of the BPT effluent limitations guidelines for this

subcategory is expected to result in an annual removal of 217,500 kilograms of conventional pollutants, 136,700 kilograms of nonconventional pollutants, and 155 kilograms of priority toxic pollutants. EPA estimates that investment costs for the plants that will incur costs to implement these effluent limitations guidelines are $6.9 million and that annual costs will be $4.4 million in 1984 dollars, including depreciation and interest. The Agency has determined that the costs of compliance are justified by the effluent reduction benefits.

*BAT:* The Agency is establishing BAT effluent limitations guidelines based on the same treatment technology option as the basis for the final BPT effluent limitations guidelines. This technology (i.e., the activated sludge process) is discussed in the preceding section of this preamble. Recycle was not considered as part of this technology for the reasons discussed earlier.

The Agency is not promulgating BAT effluent limitations guidelines for this subcategory more stringent than the BPT effluent limitations guidelines because there are insignificant quantities of toxic pollutants remaining in cleaning water discharges after compliance with the final BPT effluent limitations guidelines. The Agency estimates that the BPT effluent limitations guidelines will result in the removal of 155 kilograms per year of toxic pollutants from the current discharge of 237 kilograms per year of toxic pollutants by plants in this subcategory. Thus, 83 kilograms per year of toxic pollutants would be discharged after application of the BPT effluent limitations guidelines. This equates to less than 0.01 kilograms per day of toxic pollutants discharged per direct discharger. The Agency has determined that the amount and toxicity of these pollutants do not justify establishing more stringent BAT effluent limitations guidelines for toxic pollutants. Accordingly, for this subcategory, EPA is excluding toxic pollutants from further national regulation under paragraph 8(a)(i) of the Settlement Agreement in *NRDC* v. *Train, supra.*

No additional toxic pollutant removals are achieved by the BAT effluent limitations guidelines for this subcategory and there are no additional costs.

*BCT:* The Agency has identified at least one technology (i.e., filtration) that can reduce the concentration of conventional pollutants remaining after the application of BPT for this subcategory. Thus, EPA Is reserving promulgation of BCT effluent limitations guidelines for this subcategory pending promulgation of the final BCT methodology. Once that methodology is promulgated, EPA will apply it to the filtration technology to determine if additional controls for conventional pollutants are justified.

*NSPS:* The Agency believes that characteristics of wastewaters discharged by new sources in the cleaning water subcategory will be the same as the characteristics of wastewaters discharged by existing sources. Thus, the technology option considered for new sources is the same as the technology option considered for existing sources in this final rule.

The Agency is promulgating NSPS for this subcategory based on the model treatment technology for the final BPT/BAT effluent limitations guidelines. EPA is not promulgating NSPS more stringent than the effluent limitations guidelines for existing sources because the amount and toxicity of the toxic pollutants remaining after treatment in the BPT/BAT model treatment technology do not justify more stringent controls. EPA estimates that after application of BPT/BAT, less than 0.01 kilograms per day of toxic pollutants per direct discharger will be discharged.

The model treatment technology for NSPS for this subcategory is a package activated sludge plant with pH adjustment. As discussed earlier in this preamble, the activated sludge process and performance data for that process were transferred from the organic chemicals, plastics, and synthetic fibers category.

Pollutants controlled by NSPS includes BOD5, O&G, TSS, and pH. The Agency believes that the toxic pollutants in cleaning water (i.e., phenol and zinc) are effectively controlled when the NSPS for the above controlled pollutants are met.

The Agency anticipates that 2,100 kilograms per year of conventional pollutants will be removed from the discharges from a "normal" new source plant. EPA defines a "normal" plant as one that employs a cleaning process only. The cleaning process has an average process water usage flow rate of 13.5 gpm and the pollutant concentations in the cleaning water are assumed to be the same as the average pollutant concentrations for this subcategory.

The Agency considered a model treatment technology for NSPS for this subcategory that included a package activated sludge plant followed by a filter. However, EPA did not propose NSPS based on this more stringent technology and the Agency has no performance data for the treatment of cleaning water only using that technology. Also, EPA did not receive any comments on the proposed PM&F regulation suggesting that a filter should be included in the model technology for NSPS. This may be because, based on the normal plant, the Agency estimates that 2180 kilograms per year of conventional pollutants would be removed by the activated sludge process followed by a filter. This is only 80 kilograms per year or 0.32 kilograms per day per direct discharger more than would be removed by a package activated sludge plant without a filter. For these reasons, EPA is not including a filter in the NSPS model technology for this subcategory at this time. However, after further study of filtration technology for the BCT effluent limitations guidelines, if the Agency finds that additional conventional pollutant removals based on the application of a filter are justified for NSPS, EPA may revise NSPS for this subcategory using a model technology that consists of a package activated sludge plant with pH adjustment and a filter.

Data relied on for selection of NSPS were primarily data developed for existing sources, which include costs on a plant-by-plant basis along with retrofit costs, where applicable. The estimated total investment costs and total annual costs for a "normal" treatment facility at a new source are $267,000 and $83,000, respectively.

The Agency does not believe that applying the BPT/BAT level of treatment to new sources, either greenfield operations or existing sources making major modifications to their PM&F processes, creates a barrier to entry into the category because new sources will expend an amount equal to or possibly less than the amount required by existing sources to comply with this final rule.

*PSES:* EPA is not promulgating PSES for the cleaning water subcategory because the priority toxic pollutants (i.e., phenol and zinc) found in cleaning water in treatable concentrations do not pass through a POTW. The Agency compared the percent removals of phenol and zinc (i.e., 75 percent and 62 percent, respectively) by a direct discharger applying BAT to the average percentage removal of those pollutants nation-wide by well-operated POTWs meeting secondary treatment requirement (99 percent for phenol and 77 percent for zinc). Because the percent removals in a POTW are greater than the BAT percent removals, phenol and zinc do not pass through a POTW. Therefore, categorical pretreatment standards are not required for phenol and zinc.

Even though no categorical pretreatment standards are being promulgated for existing sources for this subcategory, indirect dischargers must comply with the General Pretreatment Regulations—40 CFR Part 403.

*PSNS:* The Agency is not promulgating PSNS for this subcategory. The Agency believes that new and existing indirect discharging sources will discharge the same pollutants in similar amounts. As discussed in the preceding section, the average toxic pollutant percentage removals achieved by well-operated POTWs nation-wide meeting secondary treatment requirements is greater than the percentage of toxic pollutants removed by a direct discharger in this subcategory in compliance with BAT/NSPS. Therefore, the toxic pollutants do not pass through a POTW.

Even though new indirect dischargers are not subject to categorical pretreatment standards, they must comply with the General Pretreatment Regulations—40 CFR Part 403.

*C. Finishing Water Subcategory*

1. Control and Treatment Options

In the proposed PM&F regulations, cleaning processes and finishing processes were in the same subcategory. The technology basis for the proposed effluent limitations guidelines and standards for that subcategory was recycle and treatment of the discharge from the recycle unit in a package activated sludge plant.

As discussed earlier, EPA has gathered additional data and reviewed existing data for finishing water since proposal and has determined that finishing water processes should be considered in a separate subcategory. Accordingly, using all available finishing water data, EPA calculated flow-weighted average pollutant concentrations for the finishing water subcategory. The calculations indicate that the only pollutants present in treatable concentrations in finishing water are total suspended solids (TSS) and three phthalates. The only technology the Agency identified in this final rule for the removal of TSS was a settling unit. This technology was considered and discussed in the preamble and technical development document for the proposed rule, but was not selected because it does not remove dissolved pollutants (e.g., BOD5). However, because EPA has further divided the PM&F category to provide a separate subcategory for finishing water and because finishing water alone does not contain treatable concentrations of BOD5, settling for removal of TSS was considered as the basis for the final effluent limitations guidelines and standards for this subcategory.

The only technology identified for removal of the phthalates present in finishing water is activated carbon. The activated sludge process (which was the basis for the combined cleaning and finishing water subcategory effluent limitations guidelines and standards in the proposed rule) does remove phthalates, but was rejected as the basis for the final rule for finishing water because the typical BOD5 concentrations found in finishing water alone will not support the operation of biological treatment.

EPA rejected recycle as part of the treatment technology options considered for the finishing water subcategory because, as discussed earlier with respect to the other subcategories, the Agency does not believe that all processes can reduce flows by any given regulatory percentage. Again, this conclusion is based on the wide variation in recycle rates as noted by commenters. Commenters stated that potable water must be used in some finishing processes to achieve the product quality, while recycled water can be used to finish other products. In addition, commenters pointed out that plants may process a variety of products, each having different product quality specifications, through one set of process equipment at different times, thus making the establishment of a single process recycle rate impossible.

As with the cleaning water subcategory, the Agency considered subdividing the finishing water subcategory based on the plastic material processed to account for the variability in attainable recycle rates. The Agency has determined that this approach is not feasible because of the large number and the many combinations of plastic materials processed.

2. Technology Basis for the Final Rule

A brief summary of the technology basis for the finishing water subcategory is presented below. A more detailed discussion is presented in the technical development document for the final rule.

*BPT:* The Agency is promulgating BPT effluent limitations guidelines for this subcategory based on the performance of a settling unit. The BPT effluent limitations guidelines control TSS and pH.

The selected technology for the proposed BPT effluent limitations guidelines for this subcategory was recycle, pH adjustment, and treatment of the recycle unit discharge in a package activated sludge plant. The package activated sludge plant was not selected as the technology basis for this final rule because, when the Agency estimated the pollutant concentrations in finishing water, only TSS was found at treatable concentrations. The BOD5 concentration (averaging 6 mg/l) is very low and will not support the operation of biological treatment. Recycle was not included as part of the option that serves as the basis for this final rule for the reasons discussed earlier in this preamble.

The Agency selected a settling unit as the technology basis for the final BPT effluent limitations guidelines because it effectively removes TSS from the wastewater. This technology is demonstrated in the PM&F category. Based on questionnaire responses, EPA has determined that at least nine plants in this category have settling/clarification units in place to treat PM&F wastewaters. A settling unit was considered for the proposed rule and was discussed in the technical development document for the proposal. It has been used as the technology basis for the final rule because it effectively removes TSS, which is the only conventional pollutant found in treatable concentrations in finishing waters.

The effluent limitations guidelines for TSS in this final rule were obtained using the subcategory average concentration for TSS (i.e., 91 mg/l) and a TSS percent removal (i.e., 82 percent) reported in the technical development document for the proposed rule. The long-term average TSS value was obtained by applying this removal percentage to the subcategory average raw wastewater concentration. Variability factors, which are based on the variability of the raw wastewater TSS concentrations for finishing water processes sampled to develop this regulation, were applied to the long-term average to obtain the one day maximum and monthly maximum concentration values. Calculation of the variability factors is discussed in detail in Appendix D of the technical development document for this final rule.

The Agency estimates that the BPT effluent limitations guidelines for this subcategory will remove 2,520 kilograms per year of conventional pollutants from the raw wastewater. The estimated total investment costs and total annual costs for the BPT effluent limitations guidelines for this subcategory are $91,000 and $67,500 in 1984 dollars, respectively. The Agency has determined that the costs are justified by the effluent reduction benefits.

*BAT:* Except for three phthalates, EPA is promulgating BAT equal to BPT for this subcategory. The BAT effluent limitations guidelines are the same as the BPT effluent limitations guidelines. There are no additional pollutant removals achieved by implementation of the BPT/BAT effluent limitations guidelines for this subcategory.

EPA was only able to identify one technology (i.e., the activated carbon process) for the removal of the three phthalates found in treatable concentrations in finishing water. However, the Agency does not have treatability data for phthalates for the activated carbon process. As discussed in the contact cooling and heating water subcategory section, the Agency plans to study the treatment of phthalates by the activated carbon process. After reviewing the results of that study, EPA will propose and promulgate BAT effluent limitations guidelines for the three phthalates in finishing water, if they are warranted. For this reason, the BAT effluent limitations guidelines for this subcategory for bis(2-ethylhexyl) phthalate, di-n-butyl phthalate, and dimethyl phthalate are reserved. During the period prior to promulgation of BAT effluent limitations guidelines for the three phthalates, permit writers should determine whether those pollutants need to be controlled on a case-by-case basis. The permit writer can use information presented in the technical development document for this final rule to help make that determination.

*BCT:* EPA was able to identify at least one technology (i.e., filtration) that could reduce the concentration of TSS in finishing water after the application of BPT. Accordingly, BCT effluent limitations guidelines for this subcategory are reserved pending promulgation of the final BCT methodology. That methodology will be used to determine if additional controls for conventional pollutants are justified. During the phthalate treatability study, EPA intends to obtain additional conventional pollutant data for the finishing water subcategory.

*NSPS:* The Agency believes that characteristics of wastewaters discharged from finishing processes at new sources will be the same as the characteristics of wastewaters discharged by those processes at existing sources. Thus, the technology option considered for new sources is the same as the one considered for existing sources.

The Agency is promulgating NSPS based on the same model treatment technology as for the BPT effluent limitations guidelines. EPA is not establishing NSPS more stringent than the effluent limitations guidelines for existing sources because, except for three phthalates, there are no toxic pollutants found in finishing waters in treatable concentrations. The Agency believes that the concentrations of the three phthalates in finishing waters discharged by new sources will be similar to the concentrations of those phthalates found in finishing waters discharged by existing sources. For this reason, the Agency is reserving NSPS for bis(2-ethylhexyl) phthalate, di-n-butyl phthalate, and dimethyl phthalate for this subcategory.

The model technology basis for NSPS for this subcategory is a settling unit. The Agency did not select the proposed technology basis for NSPS (i.e., the activated sludge process) as the technology basis for this final rule because the flow-weighted subcategory average BOD*5* concentration for finishing waters is not high enough to support the operation of biological treatment.

Pollutants and pollutant properties controlled by new sources include TSS and pH. The one day maximum and monthly maximum NSPS for TSS are the same as the one day maximum and monthly maximum BPT effluent limitations guidelines.

The Agency anticipates that 363 kilograms per year of conventional pollutants will be discharged by a "normal" new source plant. A "normal" plant is one that has a finishing process with an average process water usage flow rate of 3.15 gpm. The pollutant concentrations in the finishing water are assumed to be the same as the average pollutant concentrations for this subcategory. Implementation of NSPS is expected to result in the removal of 252 kilograms per year of conventional pollutants.

The Agency considered a filter as the model technology for NSPS for this subcategory. However, EPA did not propose NSPS based on this technology and the Agency has only limited performance data for the treatment of finishing waters only by the application of filtration technology. Also, EPA did not receive any comments suggesting that a filter should be included in the model technology for NSPS (cleaning water processes and finishing water processes were in the same subcategory at proposal). This may be because, based on the "normal" plant, the Agency estimates that 272 kilograms per year of conventional pollutants would be removed by a settling unit followed by a filter. This is only 20 kilograms per year or 0.08 kilograms per day per direct discharger more than would be removed by a settling unit. For these reasons, EPA is not using a filter as the model technology for NSPS for this subcategory at this time. If the Agency finds, however, after further study of filtration for the BCT effluent limitations guidelines, that additional conventional pollutant removals based on the application of a filter are justified for NSPS, EPA may revise NSPS for this subcategory using filtration as the model treatment technology.

Data relied on for the selection of NSPS were primarily data developed for existing sources, which includes costs on a plant-by-plant basis along with retrofit costs, where applicable. The estimated total investment costs and total annual costs for a "normal" treatment facility at a new source are $9,100 and $6,800, respectively.

The Agency does not believe that applying this level of technology to new sources, including existing sources making major modifications to their finishing processes, creates a barrier to entry into the category because new sources will expend an amount equal to or possibly less than the amount required by existing sources to comply with this final rule.

*PSES:* Except for three phthalates, the Agency is not promulgating PSES at this time for any pollutant; PSES for bis(2-ethylhexyl) phthalate, di-n-butyl phthalate, and dimethyl phthalate are reserved. EPA has determined that the average percentage (ranging from 35 to 99 percent) of the toxic pullutants removed nation-wide by well-operated POTWs meeting secondary treatment requirements is greater than the average percent removal by direct dischargers complying with the BAT effluent limitations guidelines (i.e., zero percent). Therefore, the toxic pollutants do not pass through a POTW. Even though the Agency is not promulgating categorical pretreatment standards, indirect discharges at existing sources in this subcategory must comply with the General Pretreatment Regulations—40 CFR Part 403.

PSES for bis(2-ethylhexyl)phthalate, di-n-butyl phthalate, and dimethyl phthalate are reserved pending proposal and promulgation of the BAT effluent limitations guidelines for these pollutants. When BAT is selected, EPA will determine if these three pollutants pass through POTWs.

*PSNS:* For all pollutants except three phthalates, the Agency is not promulgating PSNS; PSNS for bis(2-ethylhexyl)phthalate, di-n-butyl phthalate, and dimethyl phthalate are reserved. The Agency believes that new and existing indirect discharging sources in this subcategory will discharge the

same pollutants in similar amounts. As discussed in the preceding section, the average percentage of removals of toxic pollutants (ranging from 35 to 99 percent) nation-wide by well-operated POTWs meeting secondary treatment requirements is greater than the average percent removal by direct dischargers complying with BAT/NSPS for this subcategory. Therefore, the toxic pollutants do not pass through a POTW. Even though the Agency is not promulgating categorical pretreatment standards, indirect dischargers at new sources in this subcategory must comply with the General Pretreatment Regulation—40 CFR Part 403.

The Agency believes that the concentration of the three phthalates in finishing waters discharged from new sources will be similar to the concentrations of those pollutants discharged from existing indirect sources. For this reason, the Agency is reserving PSNS for bis(2-ethylhexyl)phthalate, di-n-butyl phthalate, and dimethyl phthalate until completion of the phthalate treatability study.

## VII. Pollutants Excluded From Regulation

The Settlement Agreement in *NRDC* v. *Train, supra* contains provisions authorizing the exclusion from regulation in certain instances of toxic pollutants and industry subcategories. These provisions have been rewritten in a Revised Settlement Agreement that was approved by the District Court for the District of Columbia on March 9, 1979. See *NRDC* v. *Costle*, 12 ERC 1833 (D.D.C. 1979).

The Agency has deleted the following three pollutants from the toxic pollutant list: (49) trichlorofluoromethane and (50) dichlorofluoromethane (46 FR 79692; January 8, 1981) and (17) bis(chloromethyl)ether (46 FR 10723; February 4, 1981). One hundred and twenty-three of the other 126 priority pollutants are being excluded from regulation for the PM&F category for the reasons listed below.

Paragraph 8(a)(i) of the Settlement Agreement allows the Administrator to exclude from regulation pollutants where equal or more stringent protection is already provided by effluent limitations guidelines, new source performance standards, or pretreatment standards promulgated pursuant to sections 301, 304, 306, 307(a), 307(b), or 307(c) of the Act. Appendix B contains the toxic pollutants excluded in each subcategory for this reason.

Paragraph 8(a)(ii) of the Settlement Agreement allows the Administrator to exclude from regulation pollutants found in concentrations at or below the concentration of the pollutants in the source water. Appendix C lists the toxic pollutants excluded for this reason.

Paragraph 8(a)(iii) of the Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detectable by section 304(h) analytical methods or other state-of-the-art methods. Appendix D lists the toxic pollutants excluded for this reason, including those pollutants that were detected at or below the analytical detection limit.

Paragraph 8(a)(iii) also allows the Administrator to exclude from regulation toxic pollutants detectable in the effluent from only a small number of sources within the subcategory because they are uniquely related to those sources. Appendix E lists, for each subcategory, toxic pollutants that were excluded from regulation for this reason.

Paragraph 8(a)(iii) allows the Administrator to exclude from regulation toxic pollutants present in amounts too small to be effectively reduced by technologies known to the Administrator. Appendix F lists, for each subcategory, toxic pollutants that were excluded from regulation for this reason.

## VIII. Economic Considerations

### *A. Introduction*

The Agency's economic impact assessment of this regulation is presented in the report entitled *Economic Impact Analysis of Effluent Limitations and Standards for the Plastics Molding and Forming Industry* (U.S. EPA, Washington, D.C., December 1984). This report details the investment and annualized costs of compliance with this regulation for the plastics molding and forming industry. The compliance costs are based on engineering estimates of capital and operating and maintenance costs for the effluent control systems described earlier in this preamble and in detail in Section IX of the technical development document. The economic impact analysis assesses the impact of these effluent control costs on the PM&F industry in terms of price changes, production cost changes, plant closures, employment effects, and balance of trade effects. The economic impact analysis reflects revisions in estimates of treatment costs that have occurred since proposal as discussed in Section IX of the technical development document.

In addition, EPA has conducted an analysis of the incremental removal cost per pound equivalent for each of the technology options. A pound equivalent is calculated by multiplying the number of pounds of a toxic pollutant discharged by a weighting factor for that pollutant. The weighting factor is equal to the water quality criterion for a standard pollutant (copper), 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 than if a less toxic pollutant is removed. This analysis is included in the record of this rulemaking, and is entitled "Cost Effectiveness Analysis of Effluent Limitations and Standards for the Plastics Molding and Forming Industry." (Refer to the address section at the beginning of this preamble for information on obtaining copies of these reports.)

### *B. Impacts*

#### 1. Universe

EPA estimates there are 10,260 plastics molding and forming plants. The Agency also estimates that 1,898 of those plants have plastics molding and forming processes that use process water. Of the plants that use water, 558 are estimated to be direct dischargers. Because EPA is not establishing pretreatment standards for reasons discussed earlier in this preamble, direct facilities are the only facilities that will incur costs.

#### 2. Aggregate Costs and Impacts

Total investment for the final BPT effluent limitations guidelines for all three subcategories is projected to be $7.0 million with annual costs of $4.5 million, including depreciation and interest. These costs, as well as subsequent costs, are expressed in 1984 dollars and take into account treatment-in-place. No plant closures are projected as a result of compliance costs for this regulation. However, the regulation is projected to result in 25 job losses due to the closure of the PM&F process lines at five plants. The PM&F operations at these five plants include both cleaning and finishing PM&F processes. The closures occur because of the impact of the costs of treating the cleaning process wastewater. However, the PM&F process lines in these five plants are secondary to other manufacturing operations. Thus, although the PM&F process lines are projected to close, the plants are projected to remain open. Production cost increases would be less than 0.3 percent. If all costs were passed on to consumers, price increases would

be less than 0.3 percent. Balance of trade effects are insignificant.

Because EPA is not promulgating BAT effluent limitations guidelines more stringent than BPT effluent limitations guidelines, there are no additional impacts for BAT compliance. For reasons explained elsewhere in this preamble, the Agency is not promulgating PSES or PSNS at this time. Thus, there is no economic impact on indirect dischargers as a result of the regulation.

3. Methodology

The methodology for the economic impact analysis is detailed in Section 3 of the Economic Impact Analysis Report. The economic impacts were analyzed for four groups of direct dischargers in the plastics molding and forming industry: (1) Those plants that have only contact cooling and heating water processes; (2) those plants that have only cleaning water processes; (3) those plants that have cleaning water processes and contact cooling and heating water processes; and (4) those plants that have cleaning water processes and finishing water processes.

Economic and financial data were available for 381 of the plants that completed survey questionnaires. Data from 112 direct discharging plants were used in the closure analysis. Of the remaining 269 plants in the economic data base, data were not used in the closure analysis for 100 plants because they do not discharge wastewater and for another 169 plants because they are indirect dischargers and are not affected by this regulation. A financial profile was developed for each of the 112 plants included in the closure analysis, using the questionnaire data and publicly available data. Key variables analyzed for each plant included present profitability and salvage value of the plant.

The costs of implementing the regulation were estimated for each of the 112 direct dischargers. Variables considered in developing plant-by-plant costs included plant size and treatment-in-place. Using these compliance costs and sales information from each plant, the Agency performed a discounted cash flow analysis and plant closure analysis.

The estimated cost of the treatment technology was subtracted from the plant's cash flow. If the plant's current cash flow exceeds the annual treatment costs, it was assumed that the plant could afford the pollution control. Implicitly, then, that plant could obtain financing for the pollution control investment. In the plant closure analysis, closures were assumed to occur if the expected discounted cash flow of the plant, less the investment cost of the pollution control equipment, was less than the terminal salvage value of the plant's assets. If the PM&F employees were less than 50 percent of the total employees at a plant, the closure was assumed to affect only the PM&F operation, not the entire plant. If PM&F employees were 50 percent or more of the total plant employment, the entire plant was assumed to close. The results of the closure analysis on 112 plants responding to the questionnarie surveys were extrapolated to the estimated 558 plastics molding and forming plants that are direct dischargers.

*C. BPT*

The final BPT effluent limitations guidelines are expected to affect all direct discharging plants in all three subcategories. However, costs for plants in the contact cooling and heating water subcategory to comply with the BPT effluent limitations guidelines will be minimal; EPA has found that good housekeeping practices are already commonly employed at plants in this subcategory. The costs to comply with the BPT effluent limitations guidelines for the cleaning water subcategory and finishing water subcategory are projected to be $7.0 million for investment and $4.5 million in annual costs (including depreciation and interest).

Based on EPA's analysis of economic impacts, no plant closures are expected to result from compliance with the BPT effluent limitations guidelines. However, 25 job losses are expected to result from the closure of only the PM&F operations in five plants that employ both cleaning and finishing PM&F processes as secondary operations to other manufacturing processes (e.g., a plant that makes both glass and plastic lenses, most of which are glass). Production costs are expected to increase less than 0.3 percent. If all costs were passed on to consumers, price increases would be less than 0.3 percent. The Agency has determined that the effluent reduction benefits associated with compliance with the BPT effluent limitations guidelines justify the costs.

*D. BAT*

Because the Agency is promulgating BAT effluent limitations guidelines equal to BPT effluent limitations guidelines (except for the phthalates in the contact cooling and heating water subcategory and in the finishing water subcategory), there are no additional costs or impacts associated with the BAT effluent limitations guidelines for this category. The BAT effluent limitations guidelines for the phthalates in the contact cooling and heating water subcategory and in the finishing water subcategory are reserved.

*E. NSPS*

The versatility of molded and formed plastics products and the availability of relatively inexpensive oil supplies, from which plastic resins are synthesized, contributed to the rapid growth of the plastics molding and forming industry in the last four decades. EPA believes that demand for molded and formed plastics products will continue to increase in the years ahead. This projected increase in demand should result in the opening of new plants.

EPA is promulgating NSPS (except for phthalates in the contact cooling and heating water subcategory and in the finishing water subcategory, which are reserved) based on the performance of BPT/BAT for each subcategory. The Agency developed a "normal" plant for each of the three subcategories. A normal plant is a theoretical plant that has the operations covered by the subcategory and production that is the average level of production in the subcategory. Section XII of the technical development document presents in detail the composition of the plastics molding and forming "normal" plants.

The Agency estimates that NSPS costs for the normal plant with only cleaning processes will be $267,000 in investment costs and $83,000 in annual costs; for the normal plant with finishing processes only, $9,100 in investment costs and $6,800 in annual costs. As a result of NSPS, production costs at new sources are estimated to increase 1.3 percent for plants with cleaning processes only and 0.6 percent for plants with finishing processes only. These estimated costs apply to all new sources regardless of whether the new sources result from major modifications of existing facilities or are constructed as greenfield sites. The Agency believes that the NSPS will not deter entry into the plastics molding and forming industry because new sources will incur costs equal to or less than those costs incurred by existing plants to comply with the final PM&F regulation.

*F. Special Impacts*

No plant closures in the plastics molding and forming industry are projected to result from this regulation. However, the PM&F operations in five plants that use process water in both cleaning and in finishing PM&F processes are projected to close. (As discussed previously, the PM&F operations are the secondary

manufacturing operations of these five plants.) The closure of these PM&F operations is expected to result in 25 associated job losses. The community impact of these 25 jobs losses will be minimal.

*G. Regulatory Flexibility Analysis*

Public Law 95–354 requires EPA to prepare and Initial Regulatory Flexibility Analysis for all 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 required.

*H. SBA Loans*

The Agency continues to encourage small plants to use Small Business Administration (SBA) financing as needed for the purchase of pollution control equipment. The three basic programs are: (1) The Pollution Control Bond Program (tax exempt), (2) the Section 503 Program, and (3) the Regular Business Loan Program. Eligibility for SBA programs varies by industry. Generally, a company must be independently owned; not dominant in its field; the employee size ranges from 250 to 1,500 employees (dependent upon industry); and annual sales revenue ranges from $275,000 to $22 million (varies by industry). The estimated economic impacts for this category do not include consideration of financing available through these programs.

For further information and specifics on the Pollution Control Bond Program, contact: U.S. Small Business Administration, Office of Pollution Control Financing, 4040 North Fairfax Drive, Suite 500, Arlington, Virginia 22203, (703) 235–2920.

The Section 503 Program, as amended in July 1980, allows long-term loans to small and medium sized businesses. These loans are made by SBA approved local development companies. These companies are authorized to issue Government-backed debentures that are bought by the Federal Financing Bank, an arm of the U.S. Treasury.

Through SBA's Regular Business Loan Program, loans are made available by commercial banks and are guaranteed by the SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Business Loan and Section 503 Programs, contact your local SBA Office. The financial assistance coordinator at EPA headquarters is Ms. Frances A. Desselle who may be reached at (202) 382–5373.

In addition to the SBA programs described above, the EPA has developed a series of fact sheets (entitled "Assistance Program for Pollution control Financing") on available assistance programs for long-term financing of pollution control equipment. Federal, State and private financing programs are described in this series of fact sheets. Copies may be obtained from Ms. Frances A. Desselle at the following:

U.S. Environmental Protection Agency, 401 M Street, SW. (WH–586), Washington, D.C. 20460

or

(202) 382–5373

*I. Executive Order 12291*

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. Major rules are those that 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 $4.5 million is less than $100 million and it meets none of the other criteria specified in section 1 paragraph (b) of the Executive Order. The economic impact analysis prepared for this rulemaking meets the requirements for non-major rules.

## IX. Non-Water Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may cause other environmental problems. Therefore, sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impact (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of this regulation on air pollution, solid waste generation, water scarcity, and energy consumption. This rule was circulated to and reviewed by EPA personnel responsible for non-water quality environmental programs. While it is difficult to balance pollution problems against each other and against energy utilization, EPA is promulgating a regulation that it believes best serves often competing national goals.

The following are the non-water quality environmental impacts (including energy requirements) associated with this final regulation:

*A. Air Pollution*

Technologies used as the basis for the effluent limitations guidelines and standards settle or biologically oxidize pollutants found in PM&F wastewater. Some volatile organic compounds may be emitted to the air from these treatment technologies. However, those emissions are not expected to cause air pollution problems. Accordingly, the effluent limitations guidelines and standards will not create any substantial air pollution problems.

*B. Solid Waste*

EPA believes that only very small amounts of wastewater treatment sludges are currently generated by PM&F plants because of the limited use of treatment technologies in the PM&F category. EPA estimates that the BPT effluent limitations guidelines will increase the production of solid wastes by 7,300 metric tons (or kkg) per year beyond that now generated by plants in this category. These wastes are comprised of treatment process sludges containing biological solids, skimmed oil, and, in some cases, settled solids that may contain toxic metals. The BAT effluent limitations guidelines result in no additional solids production because BAT is the same as BPT.

EPA believes that the amount of solid wastes generated by a new source will be approximately the same as the amount generated by an equal-sized existing source at BPT. Therefore, for equal-sized facilities, the estimated annual average plant production of solid wastes generated in compliance with NSPS would be about the same as the annual average plant production for BPT. EPA projects that this would be about 40 metric tons per year per new source in the cleaning water subcategory and about 10 metric tons per year per new source in the finishing water subcategory. EPA anticipates that only minimal quantities of solid wastes would be generated at new sources in the contact cooling and heating water subcategory because of the characteristically low levels of TSS contained in raw wastewater discharges from existing sources in this subcategory. Because the Agency is not promulgating categorical pretreatment standards at this time, no additional solid wastes will be generated by indirect dischargers as a result of this regulation.

The Agency examined the solid wastes that would be generated by PM&F processes using the model treatment technologies and believes they are not hazardous under section 3001 of the Resource Conservation and Recovery Act (RCRA). This judgment is based on a review of the results of the Extraction Procedure (EP) toxicity tests that were conducted on PM&F solid

wastes. None of the pollutants for which the extracts in the EP test are analyzed were found in PM&F sludges above the allowable concentration (i.e., the concentration that makes the waste hazardous). PM&F wastes are also not currently listed as hazardous under 40 CFR 261.11 (45 FR 33121, May 19, 1980; as amended by 45 FR 76624, November 19, 1980). For the above reasons, EPA has not developed estimates of the costs to dispose of solid wastes generated in treating plastics molding and forming wastewaters in accordance with RCRA hazardous waste requirements.

Although it is the Agency's view that solid wastes generated as a result of these guidelines are not expected to be classified as hazardous under the regulations implementing Subtitle C of the Resource Conservation and Recovery Act (RCRA), generators of these wastes must test the waste to determine if they meet any of the characteristics of hazardous wastes. See 40 CFR 262.11 (45 FR 12732–12733, February 26, 1980). As more information becomes available, it is possible that certain sludges could be listed as hazardous pursuant to 40 CFR 261.11.

If any plastics molding and forming wastes are identified as hazardous, they will come within the scope of RCRA's "cradle to grave" hazardous waste management program, requiring regulation from the point of generation to the point of final disposition. EPA's generator standards require generators of hazardous wastes to meet containerization, labeling, recordkeeping, and reporting requirements. If plastics molders or formers dispose of hazardous wastes off-site, they would have to prepare a manifest that tracks the movement of the wastes from the generator's premises to an appropriate off-site treatment, storage, or disposal facility. See 40 CFR 262.20 (45 FR 33142, May 19, 1980; as amended at 45 FR 86973, December 31, 1980). The transporter regulations require transporters of hazardous wastes to comply with the manifest system to ensure that the wastes are delivered to a permitted facility. See 40 CFR 263.20 (45 FR 33142, May 19, 1980; as amended at 45 FR 86973, December 31, 1980). Finally, RCRA regulations establish standards for hazardous waste treatment, storage, and disposal facilities allowed to receive such wastes. See 40 CFR 264 and 265 (46 FR 2802, January 12, 1981; 47 FR 32274, July 26, 1982).

Even if plastics molding and forming wastes are not identified as hazardous, they still must be disposed of in a manner that will not violate the open dumping prohibition of section 4005 of RCRA. The Agency has calculated, as part of the costs for wastewater treatment, the cost of hauling and disposing of these wastes in accordance with this requirement. For more details, see section IX of the technical development document.

*C. Consumptive Water Loss*

The selected treatment technologies are not expected to cause a water loss. Therefore, this final regulation is not expected to result in a consumptive water loss.

*D. Energy Requirements*

The Agency estimates that the achievement of BPT effluent limitations guidelines will result in a net increase in electrical energy consumption of approximately 4.1 million kw-hr/yr, which is significantly less than one percent of the estimated total current energy usage for the PM&F category. Because the Agency is not promulgating BAT or BCT effluent limitations guidelines more stringent than BPT, no additional electrical energy is required to comply with BAT and BCT effluent limitations guidelines. There is no additional electrical energy consumption associated with pretreatment standards because the Agency is not promulgating PSES and PSNS at this time.

EPA believes that the energy used by a new direct discharging plant will be approximately the same amount as that used by an equal-sized existing source at BPT. Therefore, for equal-size plants, the estimated annual plant energy use for NSPS would be about the same as the annual average energy use of BPT. EPA projects that this would be about 83,000 kw-hr/yr per new source in the cleaning water subcategory and about 12,000 kw-hr/yr per new source in the finishing water subcategory. EPA anticipates that only minimal quantities of energy will be required at new sources in the contact cooling and heating water subcategory because the technology basis of NSPS (the application of good housekeeping practices) would not involve the use of significant levels of energy. These uses do not significantly add to the total energy consumption for the PM&F category. The Agency concludes that the increased energy use to comply with these effluent limitations guidelines and standards is insignificant and that effluent reduction benefits outweigh the increased energy use.

## X. Best Management Practices (BMPs)

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" (BMP). EPA is not promulgating BMPs specific to the plastics molding and forming category.

## XI. Upset and Bypass Provisions

A recurring issue of concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations guidelines during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is an unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. Industry argues that an upset provision in EPA's effluent limitations guidelines is necessary because such upsets inevitably occur even in properly operated control equipment. Because technology-based effluent limitations guidelines require only what technology can achieve, they claim that liability for such situations is improper. When confronted with this issue, courts have been divided on the question of whether an explicit upset or excursion exemption is necessary or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare, *Marathon Oil Co.* v. *EPA*, 564 F.2d 1253 (9th Cir. 1977) with *Weyerhaeuser Co.* v. *Costle*, 590 F.2d 1011 (D.C. Cir. 1978) and *Corn Refiners Association, Inc.* v. *Costle*, 594 F.2d 1223 (8th Cir. 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. 1976).

While an upset is an unintentional episode during which effluent limitations guidelines are exceeded, a bypass is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. Bypass provisions have, in the past, been included in NPDES permits.

EPA has determined that both upset and by-pass provisions should be included in NPDES permits and has promulgated NPDES regulations that include such permit provisions (40 CFR 122.41; 45 FR 14146, April 1, 1983). The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations guidelines. The bypass provision authorizes bypassing to prevent loss of life, personal injury or severe property damage. Because permittees in the plastics molding and forming category are entitled to upset and bypass provisions in NPDES permits, this final regulation does not address these issues.

## XII. Variances and Modifications

Upon the promulgation of the final regulation, the numerical effluent limitations guidelines for the appropriate subcategory must be applied in all federal and state NPDES permits thereafter issued to plastics molding and forming direct dischargers.

For the BPT effluent limitations guidelines, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. *See, E. I. duPont de Nemours and Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra*. This variance recognizes factors concerning a particular discharger that are fundamentally different from the factors considered in this rulemaking. However, the economic ability of the individual operator to meet the compliance cost for BPT effluent limitations guidelines is not a consideration for granting a variance. *See, National Crushed Stone Association* v. *EPA*, 449 U.S. 64 (1980). This variance clause was originally set forth in EPA's 1973–1976 industry regulations and will not be included in the plastics molding and forming or other specific industry regulations. See the NPDES regulations at 40 CFR Part 125 Subparts A & D for the text and explanation of the "fundamentally different factors" variance.

The BAT effluent limitations guidelines in this regulation also are subject to EPA's "fundamentally different factors" variance. New source performance standards are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. See, *duPont* v. *Train, supra*.

## XIII. Relationship to NPDES Permits

The BPT, BAT, and BCT effluent limitations guidelines and NSPS in this regulation will be applied to individual plastics molding and forming processes through NPDES permits issued by EPA or approved state agencies under section 402 of the Act. The preceding sections of this preamble discussed the binding effect of this regulation on NPDES permits, except to the extent that variances and modifications are expressly authorized. This section describes several other aspects of the interaction of this regulation and NPDES permits.

One matter that has been subject to different judicial views is the scope of NPDES permit proceedings in the absence of effluent limitations guidelines and standards. Under currently applicable EPA regulations, states and EPA Regions issuing NPDES permits before promulgation of this regulation must do so on a case-by-case basis. This regulation provides a technical and legal base for new permits.

Another noteworthy topic is the effect of this regulation on the powers of NPDES permit issuing authorities. The regulation does not restrict the power of any permit-issuing authority to act in a manner that is consistent with the law on these or any other EPA regulations, guidelines, or policy. For example, the fact that this regulation does not control a particular pollutant does not preclude the permit issuer from limiting such pollutant on a case-by-case basis when necessary to carry out the purposes of the Act. In addition, to the extent that state water quality standards or other provisions of state or Federal law require limitation of pollutants not covered by this regulation (or require more stringent effluent limitations guidelines on covered pollutants), the permit-issuing authority must apply such effluent limitations guidelines.

One additional topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which have been considered in developing this regulation. The Agency wishes to emphasize that, although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary (*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 efforts.

## XIV. Public Participation and Response to Major Comments

Industry groups and individual plastics molding and forming companies participated during the development of these effluent limitations guidelines and standards. Following the publication of the proposed rule in the **Federal Register** on February 15, 1984, the Agency provided the technical development document and the economic impact analysis that supported the proposed rule to industry, government agencies, and the public sector. On April 3, 1984, a public hearing was held in Fort Mitchell, Kentucky, on the proposed rule. Five people attended the hearing and, although no one presented testimony or comments, EPA informally answered questions on the proposed rule.

All comments received on the proposed regulation have been carefully considered and appropriate changes in the regulations have been made whenever available data and information supported those changes. Major comments on the proposal are addressed in this and other sections of the preamble. A summary of all comments received and detailed responses to those comments are included in a document entitled *Response to Public Comments, Proposed Plastics Molding and Forming Effluent Limitations Guidelines and Standards*, which is in the public record for this rulemaking.

The following is a discussion of the Agency's response to the major comments.

### *1. Research and Development Laboratories*

*Comment:* Some commenters stated that research and development (R&D) laboratories that have PM&F processes should be exempted from the PM&F regulation because they generally develop products for test marketing at quantities less than 10,000 pounds per year for each product line.

*Response:* The PM&F regulation is applicable to all PM&F processes that discharge process water. See, 40 CFR 463.01. The mass of plastic product produced is not considered when determining the applicability of the PM&F regulation to a process. Therefore, PM&F processes at a R&D laboratory are subject to the PM&F effluent limitations guidelines and standards if those processes discharge process water.

### *2. Reticulated Foam Process*

*Comment:* Commenters requested clarification that reticulated foam processes are not subject to the PM&F regulation because reticulation operations do not use process water either to cool, clean, or finish the product. In chemical reticulation, water is used to quench (i.e. stop) the chemical reaction and, in thermal reticulation, combustion products are removed by a vacuum pump and are absorbed by the water in that pump.

*Response:* The Agency agrees with the commenters that the reticulated foam process does not use water to cool, clean, or finish the plastic product. Therefore, the PM&F regulation does not apply to the processes that involve the reticulation of foam. Further discussion relative to this issue is found in section III, *supra*.

### *3. Regenerated Cellulose*

*Comment:* Several commenters stated that the PM&F regulation should not be applied to the processing of regenerated cellulose because regenerated cellulose is not a plastic material, as defined in the regulation. They also stated that the process used to regenerate cellulose is

not a PM&F process because process water is not used to cool, clean, or finish a plastic material.

*Response:* The Agency agrees with the comments that regenerated cellulose is not a plastic material. Regenerated cellulose is a natural organic material, whereas plastic materials are synthetic organic polymers. Therefore, processes that use regenerated cellulose (e.g., the manufacture of sausage casings) are not subject to the PM&F regulation. In response to this comment, the Agency has revised the proposed definition of "plastic material" to make it clear that natural organic materials are not covered by this regulation. See Section V, *supra,* and 40 CFR 463.02.

The Agency also agrees with the commenters that the process used to produce regenerated cellulose is not a PM&F process because process water is not used to cool, clean, or finish the product. That process is subject to the regulation for the organic chemicals, plastics, and synthetic fibers (OCPSF) category.

*4. Subcategorization Scheme*

*Comment:* The subcategorization scheme for the PM&F regulation is too broad. PM&F processes employ many different plastic materials and combinations of plastic materials. As a result, the characteristics of the wastewaters generated by those processes are different. The current subcategorization scheme does not consider these different wastewater characteristics.

*Response:* The Agency agrees that the PM&F category encompasses a wide range of processes and many different plastics materials are processed in those processes. However, this diversity does not lead to random inequities in the application of the regulation.

The major factor considered when the Agency developed the subcategorization scheme for the proposed regulation was water use. The Agency looked at data from many processes that used water for the same purpose (e.g., cooling) and found that wastewaters discharged by those processes had similar characteristics. Therefore, the subcategorization scheme for this regulation does consider the characteristics of wastewaters discharged from different PM&F processes that use water for the same purpose (i.e., cooling and heating, cleaning, or finishing).

Although the Agency does not believe that separate subcategories for different products or processes are necessary or appropriate, EPA has revised the subcategorization scheme since proposal. For purposes of the final rule, EPA has further subdivided the category to include a separate subcategory for cleaning water processes and another for finishing water processes. The reasons for this decision are fully explained in Section V.B., *supra,* of this preamble.

*5. Data Averaging Methodology*

*Comment:* Several commenters urged revisions of the methodology used by EPA to calculate subcategory average concentrations. Commenters suggested that EPA calculate flow-weighted subcategory averages as opposed to arithmetic averages.

Comments also stated that, for the contact cooling and heating water subcategory, separate flow-weighted pollutant concentrations should be calculated for the extrusion processes because those processes generate most of the wastewater discharged by processes in that subcategory.

*Response:* EPA reviewed the variation in the amount of water discharged by contact cooling and heating water processes. As a result of that review, EPA agrees that there is a wide variation in the amount of water discharged by processes sampled during the development of this regulation. EPA also agrees that flow-weighted pollutant averages address the impact of that variation better than the arithmetic averages calculated for the proposed rule. Flow-weighted averages give more weight to high flow processes and less weight to low flow processes. An arithmetic average gives the same weight to all processes regardless of their flow rate. The Agency used flow-weighted averages in this final rule to estimate the average pollutant concentrations for each subcategory.

To respond to the comment about separate flow-weighted concentrations for extrusion processes, the Agency proportioned the subcategory average concentrations for the contact cooling and heating water subcategory by the number of the types of PM&F processes. This gave more weight to extrusion processes because extrusion processes represent the largest number of processes in the Agency's data base for that subcategory.

Additional changes to the average pollutant concentrations since proposal are discussed in Section V.D. of this preamble.

*6. Production-Based Effluent Limitations Guidelines and Standards*

*Comment:* Several commenters suggested that production-based effluent limitations guidelines and standards are not appropriate for the PM&F category because of the wide variation in the amount of water used to process the various plastic materials and because of varying requirements for product quality.

*Response:* On the basis of information submitted by commenters and further review of existing data, the Agency has determined that production-based mass limitations cannot be applied to this category. Although some data support a correlation between the mass of product processed and the amount of wastewaster generated, this correlation could not be consistently demonstrated. Information submitted by commenters indicates that variations in water use and mass of plastic products produced can be attributed to several factors, such as product quality requirements and type of products being produced. The Agency considered the option of further subcategorization to account for these factors as a means of retaining production-based mass limitations. However, given the number of possible products, product quality requirements and water use variations, and the complexity of a subcategorization based on these variations, the Agency does not believe further subcategorization is feasible. Thus, absent a consistent correlation between water use and mass of plastic products produced, the Agency is unable to establish production-based limitations in this final rule.

The final rule does require, however, that permit limitations be expressed in terms of mass. EPA is today promulgating a concentration basis for each pollutant and a formula by which permit writers use process water use flow rates, which are obtained from the permittee, and the promulgated concentration value to calculate a mass limitation for each pollutant.

*7. 100 Percent Recycle*

*Comment:* Several commenters asserted that zero discharge by 100 percent recycle is not feasible for contact cooling and heating water processes with a flow rate of 35 gpm or less as required by the proposed rule because they stated that the increase in dissolved solids concentrations in the recycled water may affect the quality of the plastic product. Additionally, they asserted that there are no 100 percent recycle units because all recycle units have to be cleaned periodically, which results in a discharge.

*Response:* In response to this comment, EPA conducted a survey of eight plants that reported zero discharge by 100 percent recycle of contact cooling and heating water. EPA found that all eight of the plants that reported 100

percent recycle on their questionnaires actually discharged wastewater. In most cases, the discharge resulted from cleaning the recycle unit.

The Agency agrees with the comment that product quality may be affected by the increase in dissolved solids in recycled water. The number of times that water can be recycled depends on the desired quality of product and the dissolved solids concentration in the recycle water and in any make-up water.

Because zero discharge by 100 percent recycle requires that all of the process water be recycled regardless of the product quality requirements and because results of our investigation indicated that plants that reported 100 percent recycle actually had a discharge, the Agency has determined that 100 percent recycle is not feasible for the low flow rate contact cooling and heating water processes. Therefore, 100 percent recycle was not considered as a basis for final regulations for the contact cooling and heating water subcategory.

*8. Subcategory Recycle Percentage*

*Comment:* Several commenters stated that recycle percentages cannot be established for the PM&F subcategories because of the large variation in the water used to process different plastic materials and because of varying product quality requirements. They asserted that this is particularly true for a process that employs many different plastic materials or combinations of plastic materials.

*Response:* As discussed earlier in this preamble, the Agency considered subdividing the PM&F category based on plastic material processed to account for the variation in the amount of water used. This is an extremely complex approach for subcategorization and is not considered feasible by the Agency. For this reason, the Agency has determined that subcategory recycle percentages cannot be established for the PM&F category. Recycle was rejected as a basis for the technology options considered for this final rule.

## XV. Availability of Technical Information

The major documents on which this regulation is based are: (1) *Development Document for Effluent Limitations Guidelines, New Source Performance Standards, and Pretreatment Standards for the Plastics Molding and Forming Point Source Category (Final)* (USEPA, Washington, D.C., December 1984), (2) *Economic Impact Analysis of Effluent Limitations and Standards for the Plastics Molding and Forming Industry* (USEPA, Washington, D.C., December 1984), (3) *Response to Public Comments, Proposed Plastics Molding and Forming Effluent Limitations Guidelines and Standards* (USEPA, Washington, D.C., December 1984), and (4) *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants* (USEPA, Cincinnati, Ohio, April 1977).

On January 31, 1985, copies of the technical development document and the economic analysis will be available for public review in EPA's Public Information Reference Unit, Room 2404 (Rear) (EPA Library), 401 M Street, SW., Washington, D.C. On February 20, 1985, the complete Record, including the Agency's responses to comments on the proposed regulation, will be available for review at the Public Information Reference Unit. The EPA information regulation (40 CFR Part 2) allows the Agency to charge a reasonable fee for copying.

Copies of the technical development document and the economic analysis may also be obtained from the National Technical Information Service (NTIS), Springfield, Virginia 22161 (703/487-6000). A notice will be published in the **Federal Register** announcing the availability of these documents from NTIS. (This should occur within 60 days of publication of this regulation.)

## XVI. Office of Management and Budget (OMB) Review

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Written comments made by OMB are in the record for this final rulemaking.

## List of Subjects in 40 CFR Part 463

Plastic molded and formed products, Waste treatment and disposal, Water pollution control.

Dated: December 4, 1984.

**William D. Ruckelshaus,**

*Administrator.*

### 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) 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 (Pub. L. 95-217).

Direct Discharger—A plant that discharges or may discharge pollutants into waters of the United States.

Indirect Discharger—A plant that introduces or may introduce 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 indirect discharges under section 307(b) and (c) of the Act.

RCRA—Resource Conservation and Recovery Act (Pub. L. 94-589) of 1976, as amended.

### Appendix B—Toxic Pollutants Not Regulated at BAT Because They Are Effectively Controlled by Techologies Upon Which Are Based Other Effluent Limitations Guidelines

*Cleaning Water Subcategory*

65. phenol
128. zinc

### Appendix C—Toxic Pollutants With a Concentration Greater in the Source Water Than the Concentration in the Wastewater Samples

*Contact Cooling and Heating Water Subcategory*

47. bromoform (tribromomethane)
87. trichloroethylene

*Cleaning Water Subcategory*

23. chloroform
121. cyanide (total)

### Appendix D—Toxic Pollutants Not Detected or Detected at or Below the Analytical Detection Limit

*PM&F Point Source Category*

1. acenaphthene
2. acrolein
3. acrylonitrile
5. benzidine
6. carbon tetrachloride
7. chlorobenzene
9. hexachlorobenzene
10. 1,2-dichloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. chloroethane
18. bis(2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6—trichlorophenol
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
29. 1,1-dicholoroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,2-dichloropropylene (1,2-dichloropropene)

34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
39. fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. bis(2-chloroisopropyl) ether
43. bis(2-chloroethoxy) methane
45. methyl chloride (chloromethane)
46. methyl bromide (bromomethane)
51. chlorodibromomethane
52. hexachlorobutadiene
53. hexachlorocyclopentadiene
54. isophorone
56. nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
63. N-nitrosodi-n-propylamine
64. pentachlorophenol
67. butyl benzyl phthalate
72. benzo(a)anthracene (1,2-benzanthracene)
74. 3,4-benzofluoranthene
75. benzo(k)fluoranthene (11,12-benzofluoranthene)
76. chrysene
77. acenaphthylene
78. anthracene
79. benzo(ghi)perylene (1,12-benzoperylene)
80. flourene
81. phenanthrene
82. dibenzo(a,h)anthracene (1,2,5,6-dibenzanthracene)
83. indeno(1,2,3-cd)pyrene(2,3-o-phenylenepyrene)
84. pyrene
88. vinyl chloride (chloroethylene)
91. chlordane (technical mixture and metabolites)
95. a-endosulfan (Alpha)
106. PCB-1242 (Arochlor 1242)
107. PCB-1254 (Arochlor 1254)
108. PCB-1221 (Arochlor 1221)
109. PCB-1232 (Arochlor 1232)
110. PCB-1248 (Arochlor 1248)
111. PCB-1260 (Arochlor 1260)
112. PCB-1016 (Arochlor 1016)
113. toxaphene
116. asbestos
129. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

*Contact Cooling and Heating Water Subcategory*

8. 1,2,4-trichlorobenzene
28. 3,3'-dichlorobenzidine
38. ethylbenzene
48. dichlorobromomethane
62. N-nitrosodiphenylamine
114. antimony
115. arsenic
121. cyanide (total)
125. selenium

*Cleaning Water Subcategory*

8. 1,2,4-trichlorobenzene
12. hexachloroethane
28. 3,3'-dichlorobenzidine
30. 1,2-trans-dichloroethylene
38. ethylbenzene
47. bromoform (tribromomethane)
55. naphthalene
69. di-n-octyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
73. benzo(a)-pyrene(3,4-benzopyrene)
85. tetrachloroethylene
87. trichloroethylene
90. dieldrin
92. 4,4'-DDT
93. 4,4'-DDE(p,p'-DDX)
94. 4,4'-DDD(p,p'-TDE)
96. b-endosulfan-Beta
97. endosulfan sulfate
99. endrin aldehyde
101. heptachlor epoxide
117. beryllium
118. cadmium
122. lead
127. thallium

*Finishing Water Subcategory*

4. benzene
12. hexachloroethane
22. parachlorometa cresol
23. chloroform (trichloromethane)
30. 1,2-trans-dichloroethylene
44. methylene chloride (dichloromethane)
47. bromoform (tribromomethane)
48. dichlorobromomethane
55. naphthalene
62. N-nitrosodiphenylamine
69. di-n-octyl phthalate
70. diethyl phthalate
73. benzo(a)pyrene (3,4-benzopyrene)
85. tetrachloroethylene
86. toluene
89. aldrin
90. dieldrin
92. 4,4'-DDT
93. 4,4'-DDE (p,p'-DDX)
94. 4,4'-DDD (p,p'-TDE)
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
99. endrin aldehyde
100. heptachlor
101. heptachlor epoxide
102. alpha-BHC
103. beta-BHC
104. gamma-BHC (lindane)
105. delta-BHC
117. beryllium
118. cadmium
126. silver
127. thallium

**Appendix E—Toxic Pollutants Detected in the Effluent From Only a Small Number of Sources**

*Contact Cooling and Heating Water Subcategory*

12. hexachloroethane
30. 1,2-trans-dichloroethylene
55. naphthalene
69. di-n-octyl phthalate
70. diethyl phthalate
71. dimethyl phthalate
73. benzo(a)pyrene(3,4-benzopyrene)
85. tetrachloroethylene
92. 4,4'-DDT
93. 4,4'-DDE (p,p'-DDX)
94. 4,4'-DDD (p,p'-TDE)
96. b-endosulfan-Beta
97. endosulfan sulfate
98. endrin
100. heptachlor
101. heptachlor epoxide

*Cleaning Water Subcategory*

11. 1,1,1-trichlorethane
48. dichlorobromomethane
68. di-n-butyl phthalate
98. endrin

**Appendix F—Toxic Pollutants Present in Amounts Too Small To Be Effectively Reduced by Technologies Known to the Administrator**

*Contact Cooling and Heating Water Subcategory*

4. benzene
11. 1,1,1-trichloroethane
22. parachlorometa cresol
23. chloroform (trichloromethane)
44. methylene chloride (dichloromethane)
65. phenol
68. di-n-butyl phthalate
86. toluene
89 aldrin
90. dieldrin
99. endrin aldehyde
102. alpha-BHA
103. beta-BHC
104. gamma-BHC (lindane)
105. delta-BHC
117. beryllium
118. cadmium
119. chromium
120. copper
122. lead
123. mercury
124. nickel
126. silver
127. thallium
128. zinc

*Cleaning Water Subcategory*

4. benzene
22. parachlorometa cresol
44. methylene chloride (dichloromethane)
62. N-nitrosodiphenylamine
66. bis(2-ethylhexyl) phthalate
86. toluene
114. antimony
115. arsenic
119. chromium
120. copper
123. mercury
124. nickel
125. selenium
126. silver

*Finishing Water Subcategory*

8. 1,2,4-trichlorobenzene
11. 1,1,1-trichloroethane
28. 3,3'-dichlorobenzidine
38. ethylbenzene
65. phenol
87. trichloroethylene
89. aldrin
100. heptachlor
102. alpha-BHC
103. beta-BHC
104. gamma-BHC
105. delta-BHC
114. antimony
115. arsenic
119. chromium
120. copper
121. cyanide (total)
122. lead

123. mercury
124. nickel
125. selenium
128. zinc

Accordingly, Title 40, Chapter I, of the Code of Federal Regulations is amended by adding new Part 463 to read as set forth below:

## PART 463—PLASTICS MOLDING AND FORMING POINT SOURCE CATEGORY

### General Provisions

Sec.
463.1 Applicability.
463.2 General definitions.
463.3 Monitoring and reporting requirements.

### Subpart A—Contact Cooling and Heating Water Subcategory

463.10 Applicability; description of the contact cooling and heating water subcategory.
463.11 Specialized definitions.
463.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
463.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
463.14 New source performance standards.
463.15 Pretreatment standards for existing sources.
463.16 Pretreatment standards for new sources.
463.17 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the besf conventional pollutant control technology.

### Subpart B—Cleaning Water Subcategory

463.20 Applicability; description of the cleaning water subcategory.
463.21 Specialized definitions.
463.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
463.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
463.24 New source performance standards.
463.25 Pretreatment standards for existing sources.
463.26 Pretreatment standards for new sources.
463.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved]

### Subpart C—Finishing Water Subcategory

463.30 Applicability; description of the finishing water subcategory.
463.31 Specialized definitions.
Sec.
463.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
463.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
463.34 New source performance standards.
463.35 Pretreatment standards for existing sources.
463.36 Pretreatment standards for new sources.
463.37 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved]

**Authority:** Secs. 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307, 308, and 501, Clean Water Act (Federal Water Pollution Control Act Amendments of 1972, as amended by Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e) and (g), 1316 (b) and (c), 1317 (b) and (c), 1318, and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

### General Provisions

#### § 463.1 Applicability.

(a) This part applies to any plastics molding and forming process that discharges or may discharge pollutants to waters of the United States or that introduces pollutants into a publicly owned treatment works. Plastics molding and forming processes include processes that blend, mold, form, or otherwise process plastic materials into intermediate or final plastic products. They include commonly recognized processes such as extrusion, molding, coating and laminating, thermoforming, calendering, casting, foaming, cleaning, and finishing.

(b) Plastics molding and forming processes (e.g., extrusion and pelletizing) used by plastics resin manufacturers to process crude intermediate plastic material for shipment off-site are excluded from this regulation and regulated under the organic chemicals, plastics, and synthetic fibers category. Plastics molding and forming processes used by plastic resin manufacturers to process crude intermediate plastic materials, which are further processed on-site into intermediate or final plastics products in molding and forming processes, are controlled by the effluent limitations guidelines and standards for the plastics molding and forming category in this part.

(c) Processes that coat a plastic material onto a substrate may fall within the definition of electroplating and metal finishing as defined in 40 CFR Parts 413 and 433. These coating processes are excluded from the effluent limitations guidelines and standards for the electroplating and metal finishing point source categories and are subject to the plastics molding and forming regulation in this part.

(d) Coating of plastic material onto a formed metal substrate is also covered by the plastics molding and forming effluent limitations guidelines and standards and is not covered by the specific metal forming guidelines such as aluminum forming (40 CFR Part 467) copper forming (40 CFR Part 468) and nonferrous metals forming (40 CFR Part 471). However, the plastics molding and forming effluent limitations guidelines and standards in this part apply only to the coating process; the metal forming operations are subject to the specific metal forming regulation.

(e) Research and development laboratories that produce plastic products using a plastics molding and forming process are subject to the effluent limitations guidelines and standards in this part if the plastics molding and forming process discharges process water. The mass of plastic product produced in the plastics molding and forming process is not considered when determining the applicability of the plastics molding and forming regulation in this part to plastics molding and forming processes at research and development laboratories.

(f) Chemical and thermal reticulation processes for polyurethane foam are not subject to the effluent limitations guidelines and standards in this part. Water used in those processes is not considered to be process water as defined in this regulation. Processes used to further mold or form the reticulated foam are subject, however, to this regulation if they discharge process water.

(g) Processes used to regenerate cellulose and to produce a product (e.g., rayon) from the regenerated cellulose are not subject to the effluent limitations guidelines and standards in this part. They are subject to the effluent limitations guidelines and standards for the organic chemicals, plastics, and synthetic fibers category. Processes that mold or form cellulose derivatives (e.g., cellulose acetate) are subject to the effluent limitations guidelines and standards in this part if they discharge process water.

#### § 463.2 General definitions.

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) "Plastics molding and forming" is a manufacturing process in which plastic

materials are blended, molded, formed, or otherwise processed into intermediate or final products.

(b) "Process water" is any raw, service, recycled, or reused water that contacts the plastic product or contacts shaping equipment surfaces such as molds and mandrels that are, or have been, in contact with the plastic product.

(c) "Contact cooling and heating water" is process water that contacts the raw materials or plastic product for the purpose of heat transfer during the plastics molding and forming process.

(d) "Cleaning water" is process water used to clean the surface of an intermediate or final plastic product or to clean the surfaces of equipment used in plastics molding and forming that contact an intermediate or final plastic product. It includes water used in both the detergent wash and rinse cycles of a cleaning process.

(e) "Finishing" water is processed water used to remove waste plastic material generated during a finishing process or to lubricate a plastic product during a finishing process. It includes water used to machine or to assemble intermediate or final plastic products.

(f) "Plastic material" is a synthetic organic polymer (i.e., a thermoset polymer, a thermoplastic polymer, or a combination of a natural polymer and a thermoset or thermoplastic polymer) that is solid in its final form and that was shaped by flow. The material can be either a homogeneous polymer or a polymer combined with fillers, plasticizers, pigments, stabilizers, or other additives.

(g) "Crude intermediate plastic material" is plastic material formulated in an on-site polymerization process.

(h) "Mass of pollutant that can be discharged" is the pollutant mass calculated by multiplying the pollutant concentration times the average process water usage flow rate.

**§ 463.3 Monitoring and reporting requirements.**

The "monthly average" regulatory values shall be the basis for the monthly average effluent limitations guidelines and standards in direct discharge permits. Compliance with the monthly average effluent limitations guidelines and standards is required regardless of the number of samples analyzed and averaged.

## Subpart A—Contact Cooling and Heating Water Subcategory

**§ 463.10 Applicability; description of the contact cooling and heating water subcategory.**

This subpart applies to discharges of pollutants from processes in the contact cooling and heating water subcategory to waters of the United States and the introduction of such pollutants into publicly owned treatment works. Processes in the contact cooling and heating water subcategory are processes where process water comes in contact with plastic materials or plastic products for the purpose of heat transfer during plastics molding and forming.

**§ 463.11 Specialized definitions.**

For the purpose of this subpart:

(a) The "average process water usage flow rate" of a contact cooling and heating water process in liters per day is equal to the volume of process water (liters) used per year by a process divided by the number of days per year the process operates. The "average process water usage flow rate" for a plant with more than one plastics molding and forming process that uses contact cooling and heating water is the sum of the "average process water usage flow rates" for the contact cooling and heating processes.

(b) The "volume of process water used per year" is the volume of process water that flows through a contact cooling and heating water process and comes in contact with the plastic product over a period of one year.

**§ 463.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the effluent limitations guidelines (i.e., mass of pollutant discharged) representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available, which are calculated by multiplying the average process water usage flow rate for the contact cooling and heating water processes at a point source times the following pollutant concentrations:

SUBPART A

[Contact cooling and heating water]

| Concentration used to calculate BPT effluent limitations | |
|---|---|
| Pollutant or pollutant property | Maximum for any 1 day (mg/l) |
| BOD5 | 26 |
| Oil and grease | 29 |
| TSS | 19 |
| pH | (1) |

[1] Within the range of 6.0 to 9.0 at all times.

The permit authority will obtain the average process water usage flow rate for the contact cooling and heating water processes from the permittee.

**§ 463.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

(a) The BAT effluent limitations guidelines for bis(2-ethylhexyl) phthalate are reserved.

(b) The Agency has determined that, with the exception of bis(2-ethylhexyl) phthalate, there are no toxic pollutants in treatable concentrations in contact cooling and heating water. Accordingly, the Agency is promulgating BAT effluent limitations guidelines equal to the BPT effluent limitations guidelines.

**§ 463.14 New source performance standards.**

(a) NSPS for bis(2-ethylhexyl) phthalate are reserved.

(b) Any new source subject to this subpart must achieve performance standards (i.e., mass of pollutant discharged), which are calculated by multiplying the average process water usage flow rate for the contact cooling and heating water processes at a new source times the following pollutant concentrations:

SUBPART A

[Contact cooling and heating water]

| Concentration used to calculate NSPS | |
|---|---|
| Pollutant or pollutant property | Maximum for any 1 day (mg/l) |
| BOD5 | 26 |
| Oil and grease | 29 |
| TSS | 19 |
| pH | (1) |

[1] Within the range of 6.0 to 9.0 at all times.

The permit authority will obtain the average process water usage flow rate for the new source contact cooling and heating water processes from the permittee.

**§ 463.15 Pretreatment standards for existing sources.**

(a) PSES for bis(2-ethylhexyl) phthalate are reserved.

(b) Any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403—General Pretreatment Regulations.

**§ 463.16 Pretreatment standards for new sources.**

(a) PSNS for bis(2-ethylhexyl)phthalate are reserved.

(b) Any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403—General Pretreatment Regulations.

**§ 463.17 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.**

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the effluent limitations guidelines (i.e., mass of pollutant discharged) representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology, which are calculated by multiplying the average process water usage flow rate for the contact cooling and heating water processes at a point source times the following pollutant concentrations:

SUBPART A

[Contact cooling and heating water]

| Concentration used to calculate BCT effluent limitations | |
|---|---|
| Pollutant or pollutant property | Maximum for any 1 day (mg/l) |
| BOD5 | 26 |
| Oil and grease | 29 |
| TSS | 19 |
| pH | (1) |

[1] Within the range of 6.0 to 9.0 at all times.

The permit authority will obtain the average process water usage flow rate for the contact cooling and heating water processes from the permittee.

## Subpart B—Cleaning Water Subcategory

**§ 463.20 Applicability; description of the cleaning water subcategory.**

This subpart applies to discharges of pollutants from processes in the cleaning water subcategory to waters of the United States and the introduction of such pollutants into publicly owned treatment works. Processes in the cleaning water subcategory are processes where water comes in contact with the plastic product for the purpose of cleaning the surface of the product and where water comes in contact with shaping equipment, such as molds and mandrels, that contact the plastic material for the purpose of cleaning the equipment surfaces.

**§ 463.21 Specialized definitions.**

For the purpose of this subpart:

(a) The "average process water usage flow rate" of a cleaning water process in liters per day is equal to the volume of process water (liters) used per year by a process divided by the number of days per year the process operates. The "average process water usage flow rate" for a plant with more than one plastics molding and forming process that uses cleaning water is the sum of the "average process water usage flow rates" for the cleaning processes.

(b) The "volume of process water used per year" is the volume of process water that flows through a cleaning process and comes in contact with the plastic product over a period of one year.

**§ 463.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the effluent limitations guidelines (i.e., mass of pollutant discharged) representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available, which are calculated by multiplying the average process water usage flow rate for the cleaning water processes at a point source times the following pollutant concentrations:

SUBPART B

[Cleaning water]

| Concentration used to calculate BPT effluent limitations | | |
|---|---|---|
| Pollutant or pollutant property | Maximum for any 1 day (mg/l) | Maximum for monthly average (mg/l) |
| BOD5 | 49 | 22 |
| Oil and grease | 71 | 17 |
| TSS | 117 | 36 |
| pH | (1) | (1) |

[1] Within the range of 6.0 to 9.0 at all times.

The permit authority will obtain the average process water usage flow rate for the cleaning water processes from the permittee.

**§ 463.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

The Agency has determined that there are insignificant quantities of toxic pollutants in cleaning process wastewaters after compliance with applicable BPT effluent limitations guidelines. Accordingly, because the BPT level of treatment provides adequate control, the Agency is establishing BAT effluent limitations guidelines equal to the BPT effluent limitations guidelines.

**§ 463.24 New source performance standards.**

Any new source subject to this subpart must achieve performance standards (i.e., mass of pollutant discharged) calculated by multiplying the average process water usage flow rate for cleaning processes at a new source times the following pollutant concentrations:

SUBPART B

[Cleaning water]

| Concentration used to calculate NSPS | | |
|---|---|---|
| Pollutant or pollutant property | Maximum for any 1 day (mg/l) | Maximum for monthly average (mg/l) |
| BOD5 | 49 | 22 |
| Oil and Grease | 71 | 17 |
| TSS | 117 | 36 |
| pH | (1) | (1) |

[1] Within the range of 6.0 to 9.0 at all times.

The permit authority will obtain the average process water usage flow rate for the new source cleaning water processes from the permittee.

**§ 463.25 Pretreatment standards for existing sources.**

Any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 409 CFR Part 403—General Pretreatment Regulations.

**§ 463.26 Pretreatment for new sources.**

Any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403—General Pretreatment Regulations.

**§ 463.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved]**

## Subpart C—Finishing Water Subcategory

**§ 463.30 Applicability; description of the finishing water subcategory.**

This subpart applies to discharges of pollutants from processes in the finishing water subcategory to waters of the United States and the introduction of such pollutants into publicly owned treatment works. Processes in the finishing water subcategory are processes where water comes in contact with the plastic product during finishing.

**§ 463.31 Specialized definitions.**

For the purpose of this subpart:

(a) The "average process water usage flow rate" of a finishing water process in liters per day is equal to the volume of process water (liters) used per year by a process divided by the number of days per year the process operates. The "average process water usage flow rate" for a plant with more than one plastics molding and forming process that uses finishing water is the sum of the "average process water usage flow rates" for the finishing processes.

(b) The "volume of process water used per year" is the volume of process water that flows through a finishing water process and comes in contact with the plastics product over a period of one year.

**§ 463.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the effluent limitations guidelines (i.e., mass of pollutant discharged) representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available, which are calculated by multiplying the average process water usage flow rate for the finishing water processes at a point source times the following pollutant concentrations:

SUBPART C

[Finishing water]

| Concentration used to calculate BPT effluent limitations | | |
|---|---|---|
| Pollutant or pollutant property | Maximum for any 1 day (mg/l) | Maximum for monthly average (mg/l) |
| TSS | 130 | 37 |
| pH | (1) | (1) |

[1] Within the range of 6.0 to 9.0 at all times.

The permit authority will obtain the average process water usage flow rate for the finishing water processes from the permittee.

**§ 463.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

(a) The BAT effluent limitations guidelines for bis(2-ethylhexyl) phthalate, di-n-butyl phthalate, and dimethyl phthalate are reserved.

(b) The Agency has determined that, with the exception of bis(2-ethylhexyl) phthalate, di-n-butyl phthalate, and dimethyl phthalate, there are no toxic pollutants in treatable concentrations in finishing waters. Accordingly, the Agency is promulgating BAT effluent limitations guidelines equal to BPT effluent limitations guidelines.

**§ 463.34 New source performance standards.**

(a) NSPS for bis(2-ethylhexyl) phthalate, di-n-butyl phthalate, and dimethyl phthalate are reserved.

(b) Any new source subject to this subpart must achieve performance standards (i.e., mass of pollutant discharged), which are calculated by multiplying the average process water usage flow rate for the finishing water processes at a new source times the following pollutant concentrations:

SUBPART C

[Finishing water]

| Concentration used to calculate NSPS | | |
|---|---|---|
| Pollutant or pollutant property | Maximum for any 1 day (mg/l) | Maximum for monthly average (mg/l) |
| TSS | 130 | 37 |
| pH | (1) | (1) |

[1] Within the range of 6.0 to 9.0 at all times.

The permit authority will obtain the average process water usage flow rate for the new source finishing water processes from the permittee.

**§ 463.35 Pretreatment standards for existing sources.**

(a) PSES for bis(2-ethylhexyl) phthalate, di-n-butyl phthalate, and dimethyl phthalate are reserved.

(b) Any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403—General Pretreatment Regulations.

**§ 463.36 Pretreatment standards for new sources.**

(a) PSNS for bis(2-ethylhexyl) phthalate, di-n-butyl phthalate, and dimethyl phthalate are reserved.

(b) Any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403—General Pretreatment Regulations.

**§ 463.37 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. [Reserved]**

[FR Doc. 84–32614 Filed 12–14–84; 8:45 am]

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Monday
December 17, 1984

Part IV

# Department of Energy

Office of Fossil Energy

## Amendment to Program Announcement for Information Regarding Emerging Clean Coal Technologies; Notice

## DEPARTMENT OF ENERGY

### Office of Fossil Energy

### Amendment to Program Announcement; Information Regarding Emerging Clean Coal Technologies

**AGENCY:** Office of Fossil Energy, DOE.
**ACTION:** Amendment to Program Announcement for Information Regarding Emerging Clean Coal Technologies.

**Introduction**

On November 27, 1984, the United States Department of Energy (DOE), Office of Fossil Energy (FE), published in the **Federal Register** (49 FR 46696) a Program Announcement for Information Regarding Emerging Clean Coal Technologies. The present Notice amends that Program Announcement as follows below.

**Objective**

The date for the Departmental submission of the report to Congress is amended to May 1, 1985.

**Statements of Interest and Informational Proposals**

The limitation of submission length to a total of fifty (50) 8½" x 11" doublespaced pages does not include or restrict appendices and other such supplementary material or attachments.

**DATE:** The deadline date for receipt for submissions at the addresses identified in the Program Announcement is amended to 3:30 p.m., e.s.t., on February 15, 1985.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jack S. Siegel, Deputy Director for Coal Utilization, Advanced Conversion and Gasification, Department of Energy, FE–20, GTN, Washington, DC, 20545, (301) 353–3965.

Issued in Washington, DC December 11, 1984.

**William A. Vaughan,**

*Assistant Secretary, Fossil Energy.*

[FR Doc. 84–32808 Filed 12–14–84; 8:45 am]
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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1984. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).




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